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DOMESTIC VIOLENCE AND MANDATORY ARREST LAWS: TO WHAT EXTENT DO THEY INFLUENCE POLICE ARREST DECISIONS?

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DON FAGGIANI*

Current research on domestic violence indicates that intimate partner violence arrest rates have risen as a direct result of the implementation of mandatory and preferred arrest domestic violence laws. However, this research also suggests that part of this increase can be attributed to an increase in the arrest rate of females in cases of domestic assault. In addition, the arrest of both parties involved in an incident, also known as a "dual arrest," appears to have contributed to the rising rates of domestic assault arrest. This study analyzes assault and intimidation data from a calendar year 2000 National Incident Based Reporting System ("NIBRS") dataset that includes information from 2819 police departments in nineteen states. The study examines the differential arrest outcomes in intimate partner and other domestic, acquaintance, and stranger assaults, and the effect that the statutory framework has on the likelihood of arrest, with an added emphasis on female arrests. We found that mandatory and preferred arrest statutes have significant effects on arrest practices for intimate partner as well as other victim-offender relationship categories. The nature of the impact of laws varies depending upon offender and offense characteristics.

I. INTRODUCTION

In an effort to combat intimate partner violence, state laws governing the warrantless arrest powers of the police in domestic violence cases have been greatly expanded over the past thirty years. All states have

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empowered the police to make warrantless arrests in cases of domestic violence, and some state statutes have sought to reduce police discretion by mandating specific actions be taken when responding to such incidents. The extent to which states have permitted the police to retain discretion varies considerably. While some states allow police a great deal of discretion, many states require more aggressive intervention. While a mandatory arrest law states that an officer *must* make an arrest if (s)he finds probable cause to believe that an offense has been committed, a preferred arrest law instructs the responding officer that arrest is the preferred response.

Current research indicates that the passage of mandatory and preferred arrest domestic violence laws has resulted in an increase in arrests for intimate partner violence as well as other relationships included under such statutes.¹ This research also suggests that the increased arrest rate is in part attributable to a disproportionate increase in arrests for females either as a single offender or as part of what is known as a “dual arrest,” the situation that occurs when the police arrest both parties involved in an incident for offenses committed against each other. The findings from these studies are limited in that they often include a single jurisdiction or small sample sizes.²

There may also be a “net widening” of domestic violence arrest practices because more recent legislation has considerably expanded the scope of relationships covered under such statutes. While initial domestic violence statutes typically only addressed violence between married couples, definitions have been expanded to encompass a broader range of domestic relationships, such as couples with a child in common,³ persons in

¹ See, e.g., MUNICIPALITY OF ANCHORAGE, ANALYSIS OF POLICE ACTION AND CHARACTERISTICS OF REPORTED DOMESTIC VIOLENCE IN ANCHORAGE, ALASKA TEN YEAR STUDY, 1989-1998 (2000); OFFICE OF THE ATT’Y GEN., STATE OF CALIF., REPORT ON ARREST FOR DOMESTIC VIOLENCE IN CALIFORNIA, 1998 (1999); JOAN ZORZA & LAURIE WOODS, MANDATORY ARREST: PROBLEMS AND POSSIBILITIES 12 (1994); Frances Lawrenz, James F. Lembo & Thomas Schade, *Time Series Analysis of the Effect of a Domestic Violence Directive on the Number of Arrests Per Day*, 16 J. CRIM. JUST. 495 (1988); Marion Wanless, *Mandatory Arrest: A Step Towards Eradicating Domestic Violence, but Is It Enough?*, 2 U. ILL. L. REV. 533, 558-59 (1996).

² See, e.g., EVE BUZAWA & GERALD HOTALING, THE POLICE RESPONSE TO DOMESTIC VIOLENCE CALLS FOR ASSISTANCE IN THREE MASSACHUSETTS TOWNS: FINAL REPORT (2000) (describing research conducted in Massachusetts); David A. Jones & Joanne Belknap, *Police Responses to Battering in a Progressive Pro-Arrest Jurisdiction*, 15 JUST. Q. 249 (1999) (describing research conducted in Boulder, Colorado); Margaret Martin, *Double Your Trouble: Dual Arrest in Family Violence*, 12 J. FAM. VIOLENCE 139 (1997) (describing research conducted in Connecticut).

³ See, e.g., ALASKA STAT. § 18.66.990(5)(G) (2007); ARIZ. REV. STAT. ANN. § 13-3601(A)(2) (2007); COLO. REV. STAT. § 18-6-803.3(2) (2007); CONN. GEN. STAT. § 46b-

a dating relationship,⁴ and adults related by blood or marriage.⁵ No research has yet evaluated the impact of the new laws on these other types of domestic violence cases. The question to be addressed in cases of non-domestic violence is whether the increased attention legislation gives to intimate partner violence has a similar impact on non-domestic assaults, or, alternatively, limits the resources or willingness needed to provide a similarly aggressive response to those cases.

In this study we investigate the impact of domestic violence legislation on arrest practices in police agencies in nineteen states. In the sections that follow, we: (1) describe what is currently known about arrest practices; (2) describe our research approach; (3) present research findings; and (4) discuss the policy implications and future research needs as a result of these findings.

II. THE INCREASE IN DOMESTIC VIOLENCE ARRESTS

Beginning in the 1970s, political pressure exerted by women's groups, lawsuits brought against police departments for negligence and failure to provide equal protection to female victims in domestic violence situations,⁶ and the findings reported by the Minneapolis domestic violence experiment,⁷ resulted in a nationwide movement toward arrest as the

38a(2) (2007); IOWA CODE § 236.2 (2006); ME. REV. STAT. ANN. tit. 19-A, § 4002(4) (2007); MASS. GEN. LAWS ANN. ch. 209A, § 1.1(d) (West 2007); N.J. STAT. ANN. § 2C:25-19(d) (West 2007); N.Y. CRIM. PROC. LAW § 530.11 (McKinney 2007); N.D. CENT. CODE § 14-07.1-01 (2007); OHIO REV. CODE ANN. § 3113.31(A)(3) (LexisNexis 2007); OR. REV. STAT. § 135.230(4)(f) (2005); R.I. GEN. LAWS § 12-29-2(b) (2007); S.C. CODE ANN. § 16-25-10 (2006); S.D. CODIFIED LAWS § 25-10-1(2) (2007); TENN. CODE ANN. § 36-3-601(5) (2007); UTAH CODE ANN. § 30-6-1(d) (2005); VA. CODE ANN. § 16-1-228 (2007); WASH. REV. CODE § 26.50.010(2) (2007).

⁴ See, e.g., ALASKA STAT. § 18.66.990(5)(C); ME. REV. STAT. ANN. tit. 19-A, § 4002(4); MASS. GEN. LAWS ANN. ch. 209A, § 1.1(e); N.J. STAT. ANN. § 2C:25-19(d); N.D. CENT. CODE § 14-07.1-01; OR. REV. STAT. § 135.230(4)(e); R.I. GEN. LAWS § 12-29-2(b); TENN. CODE ANN. § 36-3-601(5); WASH. REV. CODE § 26.50.010(2-3).

⁵ See, e.g., ALASKA STAT. § 18.66.990(5)(F); ARIZ. REV. STAT. ANN. § 13-360(A)(4-5); ARK. CODE ANN. § 16-81-113 (2007); CONN. GEN. STAT. § 46b-38a(2); IOWA CODE § 236.2; ME. REV. STAT. ANN. tit. 19-A, § 4002(4); MASS. GEN. LAWS ANN. ch. 209A, § 1.1(c); N.J. STAT. ANN. § 2C:25-19(d); N.Y. CRIM. PROC. LAW § 530.11; N.D. CENT. CODE § 14-07.1-01; OHIO REV. CODE ANN. § 3113.31(A)(3); OR. REV. STAT. § 135.230(4); R.I. GEN. LAWS § 12-29-2(b); S.C. CODE ANN. § 16-25-10; S.D. CODIFIED LAWS § 25-10-1(2); TENN. CODE ANN. § 36-3-601(5); UTAH CODE ANN. § 30-6-1(c); VA. CODE ANN. § 16-1-228; WASH. REV. CODE § 26.50.010(2).

⁶ See, e.g., *Thurman v. City of Torrington*, 595 F. Supp. 1521 (D. Conn. 1984); *Bruno v. Codd*, 396 N.Y.S.2d 974 (Sup. Ct. 1977); *Scott v. Hart*, No. 6-76-2395 (N.D. Cal. 1976).

⁷ LAWRENCE W. SHERMAN & RICHARD A. BERK, *THE MINNEAPOLIS DOMESTIC VIOLENCE EXPERIMENT* (1984) [hereinafter SHERMAN & BERK, MINNEAPOLIS]; Lawrence W. Sherman

preferred response to domestic violence.⁸ At the core of this movement have been legislative mandates aimed at modifying police behavior. The fulfillment of legislative goals has been evidenced by research reporting increased rates of arrests, prosecution, and conviction, as well as improved responsiveness to victims.⁹

Prior research indicates that the raw numbers of domestic violence arrests increased in many police departments after the implementation of mandatory or pro-arrest laws and policies. Arrest rates from data collected in the 1970s and 1980s were generally in the 7% to 15% range.¹⁰ More recently, however, these rates have been observed to be 30% or greater.¹¹

Legislative mandates can be expected to promote the desired change, but compliance may impact organizational behavior in unexpected ways.¹²

& Richard A. Berk, *The Specific Deterrent Effects of Arrest for Domestic Assault*, 49 AM. SOC. REV. 261 (1984).

⁸ For a more detailed history of the law enforcement response to intimate partner violence, see EVE S. BUZAWA & CARL G. BUZAWA, DOMESTIC VIOLENCE: THE CRIMINAL JUSTICE RESPONSE (2003); DAVID HIRSCHTEL & D.J. DAWSON, DEPARTMENT OF JUSTICE RESEARCH REPORT: VIOLENCE AGAINST WOMEN: SYNTHESIS OF RESEARCH FOR LAW ENFORCEMENT OFFICIALS (2000); J. David Hirschel, Ira W. Hutchison, Charles W. Dean & Anne-Marie Mills, *Review Essay on the Law Enforcement Response to Spouse Abuse: Past, Present, and Future*, 9 JUST. Q. 247 (1992); Elizabeth Pleck, *Criminal Approaches to Family Violence 1640-1980*, in CRIME AND JUSTICE: A REVIEW OF RESEARCH 19 (L. Ohlin & M. Tonry eds., 1989).

⁹ NAT'L RESEARCH COUNCIL, ADVANCING THE FEDERAL RESEARCH AGENDA ON VIOLENCE AGAINST WOMEN (2004).

¹⁰ See, e.g., WILLIAM M. HOLMES & DANIEL BIBEL, POLICE RESPONSE TO DOMESTIC VIOLENCE: FINAL REPORT (1988); David H. Bayley, *The Tactical Choices of Police Patrol Officers*, 14 J. CRIM. JUST. 329 (1986); Donald Dutton, *The Criminal Justice Response to Wife Assault*, 11 LAW & HUM. BEHAV. 189 (1984); Robert E. Wordon & Alissa A. Pollitz, *Police Arrests in Domestic Disturbances: A Further Look*, 18 LAW & SOC'Y REV. 383 (1984).

¹¹ BUZAWA & HOTALING, *supra* note 2; Sherrie Bourg & Harley V. Stock, *A Review of Domestic Violence Statistics in a Police Department Using a Pro-Arrest Policy: Are Pro-Arrest Policies Enough?*, 9 J. FAM. VIOLENCE 177 (1994); David Eitle, *The Influence of Mandatory Arrest Policies, Police Organizational Characteristics, and Situational Variables on the Probability of Arrest in Domestic Violence Cases*, 51 CRIME & DELINQ. 573 (2005); Donna Hall, *Domestic Violence Arrest Decision Making: The Role of Suspect Availability in the Arrest Decision*, 32 CRIM. JUST. & BEHAV. 390 (2005); Truc-Nhu Ho, *The Influence of Suspect Gender in Domestic Violence Arrests*, 27 AM. J. CRIM. JUST. 183 (2003); Jones & Belknap, *supra* note 2; Sylvia I. Mignon & William H. Holmes, *Police Response to Mandatory Arrest Laws*, 41 CRIME & DELINQ. 430 (1997); Amanda L. Robinson & Meghan S. Chandek, *Philosophy into Practice? Community Policing Units and Domestic Violence Victim Participation*, 23 POLICING: INT'L J. POLICE STRATEGIES & MGM'T 280 (2000); Sally S. Simpson et al., *The Influence of Legal Reform on the Probability of Arrest in Domestic Violence Cases*, 23 JUST. Q. 297 (2006).

¹² BUZAWA & BUZAWA, *supra* note 8; PETER MANNING, POLICE WORK: THE SOCIAL ORGANIZATION OF POLICING (1997); NAT'L RESEARCH COUNCIL, *supra* note 9.

There is an acknowledged need to determine how change impacts police behavior both in intended and unintended ways.¹³ Of particular concern has been research suggesting that domestic violence laws have resulted in an increase in female arrests.

A. THE INCREASE IN FEMALE ARRESTS

An increase in the number of females arrested for assault accompanied the general increase in domestic violence arrests following the implementation of a preferred or mandatory arrest law.¹⁴ Part of the increase in female arrests may be the result of the increase in cases where the police arrest both parties.¹⁵ The first detailed study of dual arrests examined the disposition of domestic violence cases handled by the criminal courts in Connecticut just after implementation of a mandatory arrest policy in 1988; the study found the dual arrest rate in adult intimate family violence cases to be 33%.¹⁶ More recent research has shown wide variations in dual arrest rates. Where statewide data are available for domestic violence cases, dual arrest rates are as high as 23% in Connecticut,¹⁷ are as low as 4.9% in neighboring Rhode Island,¹⁸ and are 8% in Arizona.¹⁹ The percentage of domestic violence offenders arrested

¹³ See, e.g., Meda Chesney-Lind, *Criminalizing Victimization: The Unintended Consequences of Pro-Arrest Policies for Girls and Women*, 2 CRIMINOLOGY & PUB. POL'Y 81 (2002).

¹⁴ MEDA CHESNEY-LIND & LISA J. PASKO, *THE FEMALE OFFENDER* (1998); ELIZABETH COMACK ET AL., *MEAN STREETS? THE SOCIAL LOCATIONS, GENDER DYNAMICS, AND PATTERNS OF VIOLENT CRIME IN WINNIPEG* (2000); SUSAN MILLER, *VICTIMS AS OFFENDERS: WOMEN'S USE OF VIOLENCE IN RELATIONSHIPS* (2005); William DeLeon-Granados et al., *Arresting Developments: Trends in Female Arrests for Domestic Violence and Proposed Explanations*, 12 VIOLENCE AGAINST WOMEN 355 (2006).

¹⁵ See, e.g., S.D. EPSTEIN, *THE PROBLEM OF DUAL ARREST IN FAMILY VIOLENCE CASES* (1987) (citing Philip Kassel, *Ironic Consequences of Domestic Violence Law*, 1 NAT'L LAW. GUILD ANTI-SEXISM NEWSL. 4 (1985)); MARY HAVILAND ET AL., *THE FAMILY PROTECTION AND DOMESTIC VIOLENCE ACT OF 1995: EXAMINING THE EFFECTS OF MANDATORY ARREST IN NEW YORK CITY* (2001); VICTIM SERVS. AGENCY, *THE LAW ENFORCEMENT RESPONSE TO FAMILY VIOLENCE: A STATE BY STATE GUIDE TO FAMILY VIOLENCE LEGISLATION* (1988); ZORZA & WOODS, *supra* note 1; Martin, *supra* note 2; Daniel G. Saunders, *The Tendency to Arrest Victims of Domestic Violence*, 10 J. INTERPERSONAL VIOLENCE 147 (1995).

¹⁶ Martin, *supra* note 2, at 147.

¹⁷ Telephone interview with Y. Peng (July 10, 2002).

¹⁸ DOMESTIC VIOLENCE TRAINING & MONITORING UNIT, *DV CASES ARRESTS; DUAL ARREST & MULTIPLE INVOLVEMENT, DOMESTIC VIOLENCE AND SEXUAL ASSAULT REPORTS FROM 01/01/99-12/31/00, DV #02* (2001), available at http://courts.state.ri.us/domesticnew/dvsa/reports_dloads.htm.

¹⁹ GOVERNOR'S DIV. FOR PREVENTION OF FAMILY VIOLENCE, *FISCAL YEAR 2001 ANNUAL REPORT* (2001).

who are women also varies. In these three jurisdictions, the percentages are 30.8%,²⁰ 17.4%,²¹ and 28% respectively.²²

In some cases, dual arrests may be the result of legislation, department policies, or both failing to require officers to identify the primary aggressor. In addition, when such provisions are present, police may lack the training or information needed to identify the primary aggressor when responding to a domestic violence assault. This situation may be compounded by batterers who have become increasingly adept at manipulating the criminal justice system, and may make efforts to “pre-empt” victims from notifying police in order to further control or retaliate against them.²³

Current political and organizational pressure may discourage officers from arresting women as aggressors, and, unsure what to do, the officers may arrest both parties. This observation is supported by some of the existing research. A 1999 study conducted in Boulder found that male victims were three times more likely than female victims to be arrested along with the offender.²⁴ Similarly, a study of three Massachusetts towns revealed that male victims were five times more likely than female victims to be the subjects of a dual arrest.²⁵

There are other possible explanations for high rates of female single and dual arrests. Police officers, inclined to assume that adult male against female violence involves a male primary aggressor, may find that they are in a situation where the female (according to both parties’ admissions and evidence upon arrival) is the primary aggressor. Research suggests that women do in fact commit a considerable number of violent acts in intimate relationships that do not constitute self defense; the same research has emphasized that the women’s rates of violence are considerably lower and their acts are less severe than those perpetrated by males.²⁶ In addition, a comparison of 1980 through 2003 Uniform Crime Reports (“UCR”) arrest and National Crime Victimization Survey (“NCVS”) data leads to the

²⁰ CONNECTICUT DEP’T OF PUB. SAFETY, CRIME IN CONNECTICUT: 2000 ANNUAL REPORT (2000).

²¹ DOMESTIC VIOLENCE TRAINING AND MONITORING UNIT, DV CASES ARRESTS BY GENDER; DOMESTIC VIOLENCE AND SEXUAL ASSAULT REPORTS FROM 01/01/99–12/31/00, DV #04 (2001), available at http://courts.state.ri.us/domesticnew/dvsa/reports_dloads.htm.

²² GOVERNOR’S DIV. FOR PREVENTION OF FAMILY VIOLENCE, *supra* note 19.

²³ BUZAWA & BUZAWA, *supra* note 8; ANDREW R. KLEIN, THE CRIMINAL JUSTICE RESPONSE TO DOMESTIC VIOLENCE (2004); Chesney-Lind, *supra* note 13.

²⁴ Jones & Belknap, *supra* note 2, at 265-66.

²⁵ BUZAWA & HOTALING, *supra* note 2; Eve Buzawa & Gerald Hotaling, *The Impact of Relationship Status, Gender, and Minor Status in the Police Response to Domestic Assaults*, 1 VICTIMS & OFFENDERS 323 (2006).

²⁶ TERRIE E. MOFFIT ET AL., SEX DIFFERENCES IN ANTISOCIAL BEHAVIOR: CONDUCT DISORDER, DELINQUENCY, AND VIOLENCE IN THE DUNEDIN LONGITUDINAL STUDY (2001).

conclusion that women have not become more violent.²⁷ While the UCR data showed that females constituted an increasingly higher percentage of arrests for both simple and aggravated assault, the NCVS data did not reveal a concomitant increase in female offending.

B. ARREST IN NON-DOMESTIC CASES

In cases of domestic and non-domestic assault, arrest has generally been infrequent and considered a last resort.²⁸ Statutes mandating arrest in cases of domestic assault are likely to result in an increase in a more “legalistic” approach to domestic assault resulting in a greater likelihood for arrest in a domestic compared to a non-domestic assault. Because the vast majority of domestic violence incidents involve a female as one of the parties while the majority of non-domestic assaults involve males only, there may be a disproportionate increase in the proportion of females arrested for assault overall as a result.

Research regarding leniency toward domestic violence compared to non-domestic violence cases has resulted in mixed findings. While some studies indicate that the police are less likely to arrest in domestic violence cases,²⁹ other studies show a consistent police response to domestic and non-domestic violence cases.³⁰ A critique of this research is beyond the scope of this Article, but it should be noted that major differences in

²⁷ Darrell Steffensmeier et al., *Gender Gap Trends for Violent Crimes, 1980 to 2003: A UCR-NCVS Comparison*, 1 FEMINIST CRIMINOLOGY 72 (2006).

²⁸ DONALD BLACK, *THE MANNERS AND CUSTOMS OF THE POLICE* (1980); MANNING, *supra* note 12; JEROME H. SKOLNICK, *JUSTICE WITHOUT TRIAL* (1996); JAMES Q. WILSON, *VARIETIES OF POLICE BEHAVIOR: THE MANAGEMENT OF LAW AND ORDER IN EIGHT COMMUNITIES* (1968); Egon Bittner, *Florence Nightingale in Pursuit of Willie Sutton: A Theory of the Police*, in *THE POTENTIAL FOR REFORM OF CRIMINAL JUSTICE* (H. Jacob ed., 1974); Delbert S. Elliott, *Criminal Justice Procedures in Family Violence Crimes*, in *FAMILY VIOLENCE* (Michael Tonry & Norval Morris eds., 1989); Raymond I. Parnas, *The Police Response to Intra-Family Violence*, 2 WIS. L. REV. 914 (1967).

²⁹ Edem F. Avakame & James J. Fyfe, *Differential Police Treatment of Male-on-Female Spousal Violence*, 7 VIOLENCE AGAINST WOMEN 22 (2001); Eve Buzawa et al., *Responding to Crimes of Violence Against Women: Gender Differences vs. Organizational Imperatives*, 41 CRIME & DELINQ. 443 (1995); Helen M. Eigenberg et al., *Contributory Factors Affecting Arrest in Domestic and Non-Domestic Assaults*, 15 AM. J. POLICE 27 (1996); Richard B. Felson & Jeff Ackerman, *Arrests for Domestic and Other Assaults*, 39 CRIMINOLOGY 655 (2001); James J. Fyfe et al., *Differential Police Treatment of Male-on-Female Spousal Violence*, 35 CRIMINOLOGY 455 (1997).

³⁰ See, e.g., Lynette Feder, *Police Handling of Domestic Violence Calls: Is There a Case for Discrimination?*, 44 CRIME & DELINQ. 335 (1998); David Klinger, *Policing Spousal Assault*, 32 J. RES. CRIME & DELINQ. 308 (1995); Nan Oppenlander, *Coping or Copping Out: Police Service Delivery in Domestic Disputes*, 20 CRIMINOLOGY 449 (1982).

methodological strategies make it difficult to draw any conclusive results.³¹ Further, research attempting to examine data nationally has relied on NCVS data,³² an approach that cannot account for potentially major, and possibly conflicting, practices among police departments. Moreover, prior research suggests that dual arrest may occur less frequently in intimate partner relationships than in other types of domestic violence situations, such as disputes between siblings or a parent and child.³³

In sum, there are several explanations suggested for the increase in domestic arrests observed in the literature. Most hinge on changes in domestic violence legislation. In this Article, we elaborate on prior research by undertaking a more in-depth examination of domestic violence legislation and by conducting a large-scale empirical analysis of police arrest practice and investigating how the structure of domestic violence arrest laws impacts the decision to arrest.

III. RESEARCH APPROACH

The primary focus of this study is to examine the police response to intimate partner violence and the impact of mandatory and preferred arrest legislation on the police response. However, examining arrest decisions in intimate partner cases without reference to what is occurring in other domestic, and in non-domestic, violence situations poses the risk of concluding that particular arrest patterns are unique to intimate partner violence. We made the decision to limit the study to incidents in which the most serious offense reported to the police was aggravated assault, simple assault, or intimidation³⁴ because the vast majority of domestic violence cases involve assault.³⁵ In order to understand patterns and variations unique to domestic violence more fully, we included all cases of assault and

³¹ Some studies use police data (see, e.g., Buzawa et al., *supra* note 29; Eigenberg et al., *supra* note 29; Feder, *supra* note 30; Fyfe et al., *supra* note 29; Klinger, *supra* note 30; Oppenlander, *supra* note 30); others use victim survey data (see, e.g., Avakame & Fyfe, *supra* note 29; Felson & Ackerman, *supra* note 29). Even among those using police data, different methods of data collection are employed: some researchers use official police data (see, e.g., Buzawa et al., *supra* note 29; Eigenberg et al., *supra* note 29; Feder, *supra* note 30; Fyfe et al., *supra* note 29), and others conduct observational studies (see, e.g., Klinger, *supra* note 30; Oppenlander, *supra* note 30).

³² Avakame & Fyfe, *supra* note 29; Felson & Ackerman, *supra* note 29.

³³ See, e.g., BUZAWA & HOTALING, *supra* note 2.

³⁴ The NIBRS codes are as follows: 13A (aggravated assault), 13B (simple assault), and 13C (intimidation).

³⁵ See, e.g., LAWRENCE GREENFELD ET AL., VIOLENCE BY INTIMATES: ANALYSIS OF DATA ON CRIMES BY CURRENT OR FORMER SPOUSES, BOYFRIENDS, AND GIRLFRIENDS (1998); CALLIE M. RENNISON, INTIMATE PARTNER VIOLENCE: 1993-2001 (2003).

intimidation, regardless of relationship. The period chosen for the study was calendar year 2000.

Our primary objective in this Article is to examine the effect of state arrest laws on the police decision to arrest. Consequently, we begin by examining the statutory framework under which the nineteen states included in the database operate and how the statutory framework may affect the police response to both domestic and non-domestic calls. Next, we discern the percentage of cases to which the police respond that result in either arrest or dual arrest, and the circumstances under which such arrests occur. These two tasks are accomplished in the following two sections. The descriptive analysis in those sections provides the background for subsequent multivariate analysis which focuses on the following four questions:

Are arrests, dual arrests, or both more likely to be made in intimate partner violence cases compared to other victim-offender relationship categories (i.e., other domestic, acquaintance, stranger)?

To what extent do mandatory and preferred arrest laws influence the likelihood of arrest and dual arrest in intimate partner cases controlling for other agency, situational, and offender characteristics?

How have domestic violence laws affected arrest outcomes for females after controlling for other agency, situational, and offender characteristics?

Does the impact of domestic violence laws affect arrest circumstances for intimate partner cases only or do effects extend to other victim-offender relationship types?

IV. POLICE DATA SOURCE

The police data for this study are taken from NIBRS. NIBRS provides a rich data source for addressing the goals of this research as it contains incident-based, victim-based, and offender-based information obtained by the police in every jurisdiction that contributes to the NIBRS. As a result, we are able to analyze how the characteristics of incidents, as well as those of the involved parties, impact the decision to arrest one of the involved parties, both of the involved parties (dual arrests), or none of the involved parties.

The non-legal data elements required for this study are contained in various data segments of the hierarchical NIBRS structure. The nested structure of the NIBRS allows up to six segments of information (administrative, offense, property, victim, offender, and arrestee) on each

incident reported to the police.³⁶ The hierarchical structure of NIBRS allows for the study of different units of analysis. For example, it is possible to examine victims and offenders in separate data files with the victim data file including each victim as a case, and the offender data file including each offender as a case. It is also possible to examine the interaction between victims and offenders as the unit of analysis.

In the NIBRS data, a single incident can have multiple records in all of the segments except the administrative data segment. For example, the offense data segment can contain up to ten types of offenses, each of which will have a separate offense segment record. The FBI's UCR hierarchy rule for selecting only the most serious offense in an incident for summary reporting is not used in NIBRS. Therefore, in multiple crime incidents all offenses (up to a maximum of the ten most serious) are reported. The victim data segment in an incident report can contain up to 999 records with each record including detailed information pertinent to each victim. Similarly, the offender segment can contain up to ninety-nine unique offender records, and the arrestee segment can have up to ninety-nine unique arrestee records.

As with any relational database, the hierarchical structure of NIBRS permits linkages between segments. For instance, offenders can be linked with victims and victims can be linked with details related to the offense segment or property segment and so on. These links are important for developing a better understanding of the circumstances associated with intimate partner violence. For example, incident circumstance information, contained within the offense segment, can be linked with the victim-offender relationship details in the victim segment. The victim segment also provides details on race, injury, and specific offenses committed against each victim in the incident. For dual arrest incidents, this detail becomes important for examining the different types of offenses and weapons used on one partner against the other. The linkages between all segments within the NIBRS data also provide details on additional victims and additional offenses within the incident that can help in defining a typology of intimate partner dual arrest incidents.

The victim segment of the NIBRS data provides the offender-victim relationship codes for defining both intimate partner relationships and dual arrests. NIBRS includes a special code to define if the victim is also arrested. When this code is used, a second offender-victim relationship code is also included indicating the actual relationship between the offender

³⁶ For more detail about the history and structure of NIBRS, see Donald Faggiani & David Hirschel, *Impact of IT on Crime Reporting*, in INFORMATION TECHNOLOGY AND THE CRIMINAL JUSTICE SYSTEM 101 (A. Pattavina ed., 2005).

and the victim. Consequently, identifying dual arrest intimate partner incidents involves selecting those incidents where the "victim was offender" code is used with one of several codes for defining intimate partners. In incidents involving multiple offenders or victims the closest victim-offender relationship is used for analytic purposes.

V. STATUTORY FRAMEWORK

State law provides the outside parameters within which the police must operate within a particular state by prescribing general police powers and duties. In order to understand the variations that exist among states in police policy and practice, it is important to examine the guidelines provided by individual state laws. As discussed above, there has been a major move toward states enacting mandatory and preferred arrest laws in domestic violence cases since the 1980s. These laws seek to govern police practice in responding to domestic violence calls and enforcing suspected violations of restraining orders.

The NIBRS database was supplemented by variables taken from analysis of state statutes. The variable upon which this article focuses is the authority that state law gives police officers to make warrantless arrests in a domestic violence case: whether under state law an officer *must* make an arrest if (s)he finds probable cause to believe that an offense has been committed (mandatory arrest); whether state law instructs the responding officer that arrest is the preferred response (preferred arrest); or whether state law leaves the decision of whether to make an arrest up to the responding police officer (discretionary arrest). The interrelationship between state law, departmental policy, and actual police practice is not as clear-cut as this categorization suggests. Detailed discussion of this issue is, however, outside the ambit of this Article.

Nineteen states contributed assault and intimidation cases to the NIBRS calendar year 2000 assault and intimidation database. Eight (42.1%) of the states had statutory provisions that mandated warrantless arrest in domestic violence cases.³⁷ All of these states included current and former spouses, current and former cohabitants, and couples with a child in common in the relationships covered by the mandatory arrest statute; this is illustrated in Table 1.

³⁷ An analysis of the laws of all fifty states and Washington, D.C. revealed that in 2000 a total of twenty-three (45.1%) of the jurisdictions had mandatory, six (11.8%) had preferred, and twenty-two (43.1%) had discretionary arrest statutory provisions.

Table 1
States with Mandatory Arrest Provisions

State	Statutory Provision	Circumstances	Relationships Included	Offenses Included
Colorado	Colo. Rev. Stat. § 18-6-803.6(1)	Probable cause to believe a crime of domestic violence was committed	A, B, C	1, 2, 3
Connecticut	Conn. Gen. Stat. § 46b-38b(a)	Speedy information that family violence was committed in jurisdiction	A, B, C, E	1, 2, 3
Iowa	Iowa Code § 236.12(2)	Probable cause to believe that domestic abuse assault committed that resulted in bodily injury, <i>or</i> was committed with intent to inflict serious injury, <i>or</i> with use or display of dangerous weapon	A, B, C, E	1, 2
Ohio	Ohio Rev. Code Ann. § 2935.032(A)(1)(a)(i)	Reasonable cause to believe that offender committed felonious assault	A, B, C, E	1
South Carolina	S.C. Code Ann. § 16-25-70(B)	If physical injury is present and probable cause to believe person is committing or has freshly committed a misdemeanor/felony assault or battery	A, B, C, E	1, 2
South Dakota	S.D. Codified Laws § 23A-3-2.1	Probable cause to believe that within previous 4 hours,* there has been an aggravated assault, an assault resulting in bodily injury, or an attempt by physical menace to place in fear of imminent serious bodily injury	A, B, C, E	1, 2

Table 1 (continued)
States with Mandatory Arrest Provisions

State	Statutory Provision	Circumstances	Relationships Included	Offenses Included
Utah	Utah Code Ann. § 77-36-2.2(2)(a)	Probable cause to believe that an act of domestic violence was committed <i>and</i> there will be continued violence or evidence perpetrator has recently caused serious bodily injury or used a dangerous weapon	A, B, C, E	1, 2, 3
Virginia	Va. Code Ann. § 19.2-81.3	Probable cause to believe assault and battery on family or household member	A, B, C, E	1, 2

Relationships: (A) current/former spouse, (B) current/former cohabitant, (C) child in common, (D) dating relationship, (E) related by marriage or blood
Offenses: (1) Aggravated Assault, (2) Simple Assault, (3) Intimidation
* Amended in 2001 to 24 hours

All but Colorado included persons related by blood or marriage.³⁸ None included persons in dating relationships. Arrest was mandated for aggravated assault in all states, and for simple assault in all states but Ohio.³⁹ Mandatory arrest applied to intimidation in three of the eight states.⁴⁰

Four (21.1%) of the states had preferred arrest laws.⁴¹ All of these states included current and former spouses, current and former cohabitants,

³⁸ COLO. REV. STAT. § 18-6-800.3(2) (2000); CONN. GEN. STAT. § 46b-38a (2000); IOWA CODE § 236.2(4) (1997); OHIO REV. CODE ANN. § 3113.31 (2000); S.C. CODE ANN. § 16-25-10 (2000); S.D. CODIFIED LAWS § 23A-3-2.1 (2000); UTAH CODE ANN. § 30-6-1 (2000); VA. CODE ANN. tit. 11, § 16.1-228 (2000).

³⁹ COLO. REV. STAT. § 18-6-803.6; CONN. GEN. STAT. § 46b-38b(a); IOWA CODE § 236.12; OHIO REV. CODE ANN. § 2935.032(A)(1)(a)(i); S.C. CODE ANN. § 16-25-70(b); S.D. CODIFIED LAWS § 23A-3-2.1; UTAH CODE ANN. § 77-36-2.2(2)(a); VA. CODE ANN. § 19.2-81.3(B).

⁴⁰ COLO. REV. STAT. § 18-6-803.6; CONN. GEN. STAT. § 46b-38b(a); UTAH CODE ANN. § 77-36-2.2(2)(a).

⁴¹ ARK. CODE ANN. § 16-81-113 (1998); MASS. GEN. LAWS ANN. ch. 209A, § 6(7) (1998); N.D. CENT. CODE § 14-07.1-10(1) (2000); TENN. CODE ANN. § 36-3-619 (1999).

and persons related by blood or marriage in these laws.⁴² All states but Arkansas included persons in dating relationships, and Massachusetts and North Dakota included couples with a child in common. This is demonstrated in Table 2.

Table 2
States with Preferred Arrest Provisions

State	Statutory Provision	Circumstances	Relationships Included	Offenses Included
Arkansas	Ark. Code Ann. § 16-81-113	Preferred action when evidence indicates that domestic abuse has occurred	A, B, E*	1, 2
Massachusetts	Mass. Gen. Laws Ann. ch. 209A § 6 (7)	Preferred response whenever the officer has witnessed or has probable cause to believe that a person has committed a felony, a misdemeanor involving abuse, or an assault and battery	A, B, C, D, E	1, 2, 3
North Dakota	N.D. Cent. Code § 14-07.1-10(1)	If probable cause to believe that a person has committed a crime involving domestic violence, whether the offense is a felony or misdemeanor, and whether or not the crime was committed in the presence of the officer, then the law enforcement officer shall presume that arresting the person is the appropriate response	A, B, C, D, E	1, 2

⁴² ARK. CODE ANN. § 16-81-113; MASS. GEN. LAWS ANN. ch. 209A, § 1; N.D. CENT. CODE § 14-07.1-01; TENN. CODE ANN. § 36-3-601.

Table 2 (continued)
States with Preferred Arrest Provisions

State	Statutory Provision	Circumstances	Relationships Included	Offenses Included
Tennessee	Tenn. Code Ann. § 36-3-619	Preferred response when probable cause to believe that a crime committed involving domestic abuse within or outside presence of the officer	A, B, D, E	1, 2, 3

Relationships: (A) current/former spouse, (B) current/former cohabitant, (C) child in common, (D) dating relationship, (E) related by marriage or blood
Offenses: (1) Aggravated Assault, (2) Simple Assault, (3) Intimidation
 * C added 2001, D added 2005

The preferred arrest law applied to aggravated and simple assault in all of the states, and it also applied to intimidation in Massachusetts and Tennessee.⁴³ The remaining seven (36.8%) of the nineteen states had discretionary arrest provisions.⁴⁴

A total of eight (42.1%) of the nineteen states had primary aggressor laws.⁴⁵ These statutory provisions are presented in Table 3. Seven of the states with primary aggressor laws had mandatory arrest laws,⁴⁶ and one had a preferred arrest law.⁴⁷ None of the seven states with discretionary arrest provisions had a primary aggressor law.

⁴³ ARK. CODE ANN. § 16-81-113; MASS. GEN. LAWS ANN. ch. 209A, § 6(7); N.D. CENT. CODE § 14-07.1-10(1); TENN. CODE ANN. § 36-3-619.

⁴⁴ These states were Idaho, Kentucky, Michigan, Nebraska, Texas, Vermont, and West Virginia.

⁴⁵ These states were Colorado, Iowa, Ohio, South Carolina, South Dakota, Tennessee, Utah, and Virginia.

⁴⁶ Connecticut is the only mandatory arrest state that did not have a primary aggressor law in 2000.

⁴⁷ This state was Tennessee.

Table 3
States with Primary Aggressor Statutes

State	Primary Aggressor Law	Instructions for Applying the Law
Colorado	Colo. Rev. Stat. § 18-6-803.6(2)	Upon receipt of complaint of domestic violence from two or more opposing persons, shall evaluate each complaint separately to determine if crime was committed by one or the other. Shall consider: 1) prior complaints of domestic violence, 2) relative severity of injury inflicted, 3) likelihood of future injury, 4) self-defensive actions.
Iowa	Iowa Code § 236.12(3)	Shall arrest the person whom the officer believes to be the primary physical aggressor. Shall consider: 1) need to protect victims, 2) relative degree of injury or fear inflicted, 3) history of domestic abuse.
Ohio	Ohio Rev. Code Ann. § 2935.032(A)(1)(a)(ii) & 2935.03(B)(3)(d)	If reasonable cause to believe that one or more persons committed offenses against each other, the officer shall determine who is the primary physical aggressor. Shall consider in addition to any other relevant circumstance: 1) history of DV or other violent acts by either person, 2) self defensive actions, 3) fear of physical harm resulting from threatened use of force or use or history of use of force against any person and reasonableness of that fear, 4) comparative severity of injuries.
South Carolina	S.C. Code Ann. § 16-25-70 (D)	If conflicting complaints of domestic or family violence from two or more household members involving an incident of domestic or family violence, officer shall evaluate each separately to determine primary aggressor. Shall consider: 1) prior complaints of DV, 2) relative severity of injuries inflicted, 3) likelihood of future injury, 4) self-defensive actions, 5) individual accounts regarding history of DV.

Table 3 (continued)
States with Primary Aggressor Statutes

State	Primary Aggressor Law	Instructions for Applying the Law
South Dakota	S.D. Codified Laws § 25-10-35	If probable cause to believe there have been mutual assaults, the officer shall arrest the person whom the officer believes to be the primary physical aggressor. The officer shall make every reasonable effort to consider: (1) intent to protect the victims of DV, (2) comparative extent of injuries inflicted or serious threats creating fear of physical injury, (3) prior history of DV between persons.
Tennessee	Tenn. Code Ann. § 36-3-619 (b)&(c)	If probable cause to believe that two or more persons committed a misdemeanor or felony or if two or more make complaints, the officer shall try to determine the primary aggressor. Shall consider: 1) history of DV, 2) relative severity of injuries, 3) evidence from persons involved with DV, 4) likelihood of future injury, 5) self defensive actions, 6) witnesses.
Utah	Utah Code Ann. § 77-36-2.2	If complaints of DV from two or more opposing persons, the officer shall evaluate each complaint separately to determine the predominant physical aggressor. Shall consider: 1) prior complaints of DV, 2) relative severity of injuries inflicted, 3) likelihood of future injury, 4) self-defensive actions.
Virginia	Va. Code Ann. § 19.2-81.3(B)	The person the officer has probable cause to believe, based on the totality of circumstances was the primary physical aggressor.

VI. DESCRIPTIVE FINDINGS: THE INCIDENTS AND THE POLICE RESPONSE

A total of 577,862 incidents of assault and intimidation were reported to police in 2000. These cases involved 662,258 offenders and 650,849 victims. For analytic purposes, the category of "domestic" is subdivided

into “intimate partner” and “other domestic.”⁴⁸ The “non-domestic” category is subdivided into “non-domestic, but known to victim”⁴⁹ and “stranger.” It is acknowledged that “non-domestic” includes a number of relationships that may not be encompassed by some domestic violence statutes.

A total of 39.7% of the 577,862 incidents involved intimate partners, 14.2% other domestic situations, 36.7% non-domestic situations where the victim and offender knew each other, and 9.3% situations where the victim and offender were strangers. While 68.2% of the incidents occurred in a home or residence, 31.8% occurred elsewhere. Incidents involving intimates (85.2%) or other domestic relationships (90.1%) were, as shown in Table 4, far more likely than cases involving friends and acquaintances (51.2%) and strangers (23.2%) to occur in a home or residence.

These cases were also more likely than non-domestic cases to involve simple assault as opposed to aggravated assault or intimidation, more likely to involve personal weapons—hands, fists, feet, or the like—as opposed to deadly weapons or no weapon, and more likely to result in an apparent minor injury as opposed to a serious injury or no injury. Additionally, domestic cases were less likely than non-domestic cases to involve more than one offender or more than one victim.

The four categories of background victim and offender relationships produce complex patterns. Overall, males constituted 76.4% of the offenders and only 38.5% of the victims. While males were equally likely to be the offenders in intimate partner and stranger cases (82.3% versus 82.2% respectively), they were less likely to be the offenders in acquaintance (71.7%) and other domestic (68%) incidents. Males were most likely to be the victims in stranger (68.7%) and acquaintance (53.0%) cases, less likely to be the victims in “other domestic” (40.1%), and least likely to be the victims in intimate partner cases (17.5%). Thus, while the modal category was clearly male offender-male victim in stranger cases, and male offender-female victim in intimate partner cases, the offender-victim gender distributions were more mixed in the acquaintance and other domestic categories.

Of the offenders, 65.5% were White and 33.5% were Black; 77.5% of the victims were White and 21.5% were Black. Whites were somewhat over-represented as offenders in “other domestic” cases and victims in

⁴⁸ “Intimate partners” include spouses, common-law spouses, ex-spouses, homosexual relationships, and boyfriends/girlfriends. “Other domestics” include parent-child, child-parent, siblings, grandparents, grandchildren, and in-laws.

⁴⁹ “Non-domestic, but known to victim” incidents involve acquaintances, friends, neighbors, employer/employee, and babysitters.

stranger cases. Blacks were respectively under-represented in those two categories. The mean age of the offenders in the sample was 30 ($\sigma = 11.7$) and the mean age of the victims 29.6 ($\sigma = 12.5$). The average ages of both offenders and victims were slightly higher in intimate partner cases and lower in acquaintance cases.

Overall, 37% of the incidents resulted in the arrest of an offender.⁵⁰ Domestic violence cases were more likely than non-domestic violence cases to result in the arrest of an offender. While 49.9% of intimate partner cases and 44.5% of other domestic cases resulted in an arrest, only 35.0% of the cases in which the victim and offender were strangers, and 29.1% of the non-domestic cases in which the victim and offender knew each other, ended with an arrest. This is illustrated in Table 4.

The overall dual arrest rate was low: 1.3% of all the calls to which the police responded ended up with the arrest of two involved parties, both of whom had been classified by the responding police officers as victims and offenders.⁵¹ The dual arrest rate was higher for domestic than for non-domestic cases. While 1.9% of the cases involving intimate partners and 1.5% of the cases involving "other domestics" result in dual arrests, the figures for acquaintance and stranger cases were 1.0% and 0.4% respectively. This can be seen in Table 4.

⁵⁰ Not surprisingly, cases where the victim-offender relationship was unknown were less likely to result in arrest. Thus, when police disposition is examined by victim-offender relationship, and cases without victim-offender information relationship are omitted, the percentage of cases in which an arrest is made rises to 40.1%, as shown in Table 4.

⁵¹ Again, not surprisingly, cases where the victim-offender relationship was unknown were less likely to result in a dual arrest. Thus, when police disposition is examined by victim-offender relationship, and cases without victim-offender relationship information are omitted, the percentage of cases in which an arrest is made rises to 1.4%. This can be seen in Table 4.

Table 4
Incident, Victim, Offender, and Outcome Variables by Victim-Offender Relationship

Incident Variables	Incident Location	Home/Residence Elsewhere	Total	Victim-Offender Relationship					Total
				Intimate Partner	Other Domestic	Non-Domestic Known	Stranger		
				162,897 (85.2%)	62,073 (90.1%)	85,474 (51.2%)	9895 (23.2%)	320,339 (68.2%)	
				28,195 (14.8%)	6814 (9.9%)	81,343 (48.8%)	32,838 (76.8%)	149,190 (31.8%)	
				191,092 (100.0%)	68,887 (100.0%)	166,817 (100.0%)	42,733 (100.0%)	469,529 (100.0%)	
Most Serious Offense		Aggravated Assault		25,495 (12.9%)	11,068 (15.7%)	33,506 (18.4%)	12,311 (26.6%)	82,380 (16.6%)	
		Simple Assault		150,758 (76.5%)	52,981 (74.9%)	108,907 (59.7%)	25,768 (55.7%)	338,414 (68.2%)	
		Intimidation		20,811 (10.6%)	6658 (9.4%)	40,035 (21.9%)	8175 (17.7%)	75,679 (15.2%)	
		Total		197,064 (100.0%)	70,707 (100.0%)	182,448 (100.0%)	46,254 (100.0%)	496,473 (100.0%)	
Weapon		Deadly Weapon		13,421 (7.3%)	6255 (9.7%)	20,997 (12.4%)	7847 (18.6%)	48,520 (10.6%)	
		Personal Weapon		131,932 (71.8%)	44,151 (68.6%)	95,262 (56.4%)	23,040 (54.6%)	294,385 (64.1%)	
		No Weapon		38,281 (20.8%)	13,977 (21.7%)	52,593 (31.1%)	11,306 (26.8%)	116,157 (25.3%)	
		Total		183,634 (100.0%)	64,383 (100.0%)	168,852 (100.0%)	42,193 (100.0%)	459,062 (100.0%)	

Table 4 (continued)
Incident, Victim, Offender, and Outcome Variables by Victim-Offender Relationship

Incident Variables	Most Serious Victim Injury	Serious Physical Injury	Intimate Partner	Victim-Offender Relationship			Total
				Other Domestic	Non-Domestic Known	Stranger	
			5759 (2.9%)	2365 (3.3%)	9415 (5.2%)	3212 (6.9%)	20,751 (4.2%)
	Apparent Minor Injury		94,819 (48.1%)	31,024 (43.9%)	67,184 (36.8%)	15,453 (33.4%)	208,480 (42.0%)
	No Injury		96,486 (49.0%)	37,318 (52.8%)	105,849 (58.0%)	27,589 (59.6%)	267,242 (53.8%)
	Total		197,064 (100.0%)	70,707 (100.0%)	182,448 (100.0%)	46,254 (100.0%)	496,473 (100.0%)
Count of Offenders	1		183,132 (92.9%)	63,484 (89.8%)	154,996 (85.0%)	37,958 (82.1%)	439,570 (88.1%)
	2		13,028 (6.6%)	6302 (8.9%)	20,632 (11.3%)	5769 (12.5%)	45,731 (9.2%)
	3		704 (0.4%)	655 (0.9%)	4419 (2.4%)	1640 (3.5%)	7428 (1.5%)
	4		136 (0.1%)	168 (0.2%)	1503 (0.8%)	550 (1.2%)	2357 (0.5%)
	5 or more		64 (0.0%)	88 (0.1%)	898 (0.5%)	337 (0.7%)	1387 (0.3%)

Table 4 (continued)
Incident, Victim, Offender, and Outcome Variables by Victim-Offender Relationship

Incident Variables	Count of Victims	Victim-Offender Relationship					Total
		Intimate Partner	Other Domestic	Non-Domestic Known	Stranger		
	1	175,365 (89.0%)	60,050 (84.9%)	159,182 (87.2%)	37,111 (80.2%)	431,708 (87.0%)	
	2	19,281 (9.8%)	9038 (12.8%)	19,218 (10.5%)	7110 (15.4%)	54,647 (11.0%)	
	3	1896 (1.0%)	1221 (1.7%)	2885 (1.6%)	1470 (3.2%)	7472 (1.5%)	
	4	385 (0.2%)	271 (0.4%)	754 (0.4%)	376 (0.8%)	1786 (0.4%)	
	5 or more	137 (0.1%)	127 (0.2%)	409 (0.2%)	187 (0.4%)	860 (0.2%)	
Offender Variables	Gender						
	Male	162,123 (82.3%)	48,074 (68.0%)	130,731 (71.7%)	37,755 (82.2%)	378,683 (76.4%)	
	Female	34,865 (17.7%)	22,592 (32.0%)	51,474 (28.3%)	8164 (17.8%)	117,095 (23.6%)	
	Total	196,988 (100.0%)	70,666 (100.0%)	182,205 (100.0%)	45,919 (100.0%)	495,778 (100.0%)	

Table 4 (continued)
Incident, Victim, Offender, and Outcome Variables by Victim-Offender Relationship

Offender Variables	Victim-Offender Relationship					Total
	Intimate Partner	Other Domestic	Non-Domestic Known	Stranger		
Race						
Black	63,903 (32.8%)	19,639 (28.1%)	63,875 (35.8%)	15,835 (35.7%)		163,252 (33.5%)
White	128,870 (66.2%)	49,567 (71.0%)	112,650 (63.2%)	28,080 (63.2%)		319,167 (65.5%)
Asian/Pacific Islander	1047 (0.5%)	348 (0.5%)	862 (0.5%)	313 (0.7%)		2570 (0.5%)
American Indian/Alaskan Native	792 (0.4%)	243 (0.3%)	855 (0.5%)	176 (0.4%)		2066 (0.4%)
Total	194,612 (100.0%)	69,797 (100.0%)	178,242 (100.0%)	44,404 (100.0%)		487,055 (100.0%)
Age	Mean = 32.7 (sd=9.9)	29.2 (sd=13.0)	27.5 (sd=12.4)	29.2 (sd=11.9)		30.0 (sd=11.7)
Gender						
Male	34,503 (17.5%)	28,266 (40.1%)	96,253 (53.0%)	31,421 (68.7%)		190,443 (38.5%)
Female	162,306 (82.5%)	42,289 (59.9%)	85,372 (47.0%)	14,311 (31.3%)		304,278 (61.5%)
Total	196,809 (100.0%)	70,555 (100.0%)	181,625 (100.0%)	45,732 (100.0%)		494,721 (100.0%)

Table 4 (continued)
Incident, Victim, Offender, and Outcome Variables by Victim-Offender Relationship

Victim Variables	Victim-Offender Relationship					Total
	Intimate Partner	Other Domestic	Non-Domestic Known	Stranger		
Race						
Black	56,351 (29.0%)	19,202 (27.6%)	51,903 (29.1%)	9594 (21.5%)		137,050 (28.2%)
White	135,855 (70.0%)	49,756 (71.6%)	125,083 (70.2%)	34,626 (77.5%)		345,320 (71.0%)
Asian/Pacific Islander	1076 (0.6%)	341 (0.5%)	737 (0.4%)	354 (0.8%)		2508 (0.5%)
American Indian/Alaskan Native	714 (0.4%)	220 (0.3%)	568 (0.3%)	100 (0.2%)		1602 (0.3%)
Age	31.4 (sd=9.8)	30.1 (sd=16.4)	27.3 (sd=13.1)	29.9 (sd=12.3)		29.6 (sd=12.5)
Outcome Variables						
Arrest	Yes					
	98,311 (49.9%)	31,464 (44.5%)	53,171 (29.1%)	16,202 (35.0%)		199,148 (40.1%)
Dual Arrest	Yes					
	3796 (1.9%)	1041 (1.5%)	1827 (1.0%)	177 (0.4%)		6841 (1.4%)
Total	197,064 (100.0%)	70,707 (100.0%)	182,448 (100.0%)	46,254 (100.0%)		496,473 (100.0%)

VII. MULTIVARIATE ANALYSIS

For the year 2000, the structure of our database includes 412,065 single-offender and single-victim incidents of intimidation, simple assault, and aggravated assault nested in 2357 police agency jurisdictions located in nineteen states.⁵² It is becoming a standard practice to use hierarchical modeling statistical techniques when using nested data to estimate multilevel effects on outcomes. Hierarchical linear modeling ("HLM") is desirable with nested data since each level in the structure can be represented by its own sub-model. Moreover, HLM modeling allows for examining how variables at one level affect relationships occurring at another level.⁵³

A major challenge for hierarchical model-building is determining the appropriate groups to include in the analysis. This process must be guided by theoretical, practical, and methodological considerations. Because we identified domestic violence arrest laws through examination of state-level statutes, we initially considered the state as a group-level variable in the model. Our preliminary analysis revealed that there was no significant variation in arrest levels for our selected incidents across states.⁵⁴ There may be several explanations for this finding. The first may have to do with our limited number of states ($n = 19$). While there is no agreement on the number of groups necessary for reliable hierarchical analyses, a rule of thumb of thirty or more groups has been suggested to ensure accurate results.⁵⁵

A second explanation is that mandatory and preferred arrest laws do not have the impact that one might expect. For example, domestic violence laws are intended to increase the likelihood of arrest in intimate partner cases. The expected outcome in this case is that the overall level of arrests should be higher in those states if all else remains equal. If this were the case, then we would have expected there to be significant variation in overall arrests across states when mandatory and discretionary states are examined. It is possible, however, that domestic violence laws are having an impact in more subtle ways. For example, although arrest estimates may

⁵² We included only incidents with two parties involved as victims and offenders. Because of the different dynamics involved, and the added complexities presented for analysis, we excluded incidents with multiple victims, offenders, or both.

⁵³ ANTHONY S. BRYK & STEPHEN W. RAUDENBUSH, *HIERARCHICAL LINEAR MODELS* (1992).

⁵⁴ The preliminary analysis included an empty model including only an intercept with random effects.

⁵⁵ Ita G. Kreft, *Are Multilevel Techniques Necessary? An Overview, Including Simulation Studies* (1996) (unpublished manuscript, on file with California State University, Los Angeles).

not vary significantly across states, domestic violence laws may influence the circumstances under which arrests are likely to occur.

A third possibility is that our original consideration of state as our level-two group may not be reliable, both from the statistical standpoint described earlier, and from a more practical consideration of policy variation that may exist at the agency level. Police agency policies do not always align with state laws. Among possible explanations for such variation is the fact that police agency policies can always promote stricter standards than state law requires. A survey of forty-one police departments in two states with discretionary domestic violence arrest laws revealed that six of the departments (15%) had preferred arrest policies and one department (1.4%) had a mandatory arrest policy.⁵⁶ Given these methodological, theoretical, and practical issues associated with using the state as our group-two level, we chose to use police agency as our group-two level for the analysis.

The independent variables reflect the *legal context* (as indicated in state domestic violence warrantless arrest law), *agency characteristics*, *victim and offender demographics*, and *incident characteristics*. At the agency level, or group-two level of our analysis, we included a dichotomous variable indicating if the police agency was in a state with a mandatory state arrest law for domestic violence incidents (coded 1 for yes) or if the agency was in a preferred arrest state (coded 1 for yes). Discretionary state laws are the reference category. We also included other agency level measures to reflect agency characteristics, namely the number of officers per 1000 population, a female-to-male officer ratio, and the total number of aggravated assault, simple assault, and intimidation cases reported in the jurisdiction. The total number of aggravated assault, simple assault, and intimidation cases represents a measure of the jurisdiction's caseload. It might reasonably be projected that heavier caseloads would be associated with fewer arrests. On the other hand, the number of officers per 1000 population is indicative of the resources allocated for processing caseloads, and a higher ratio of officers per 1000 population would be expected to be associated with more arrests. The female-to-male officer ratio was included because prior research indicates that female police

⁵⁶ DAVID HIRSCHTEL ET AL., EXPLAINING THE PREVALENCE, CONTEXT, AND CONSEQUENCES OF DUAL ARREST IN INTIMATE PARTNER VIOLENCE CASES: FINAL REPORT 105 (2007), available at <http://www.ncjrs.gov/pdffiles1/nij/grants/218355.pdf>.

officers tend to be more supportive than male police officers of arrest policies.⁵⁷

At the incident level (level one), we included the following victim and offender demographic variables: victim and offender age (coded 0 for under twenty-one and 1 for twenty-one and over); victim and offender sex (coded 0 for female, 1 for male); and victim and offender race (coded 0 for white and 1 for minority). These are standard demographic variables included in arrest research and found to be associated with the decision to arrest.⁵⁸ Additional incident-level data included the incident characteristic of offense seriousness as categorized by the officers who responded to the incident, measured as aggravated assault and intimidation offense dummy variables with simple assault serving as the reference category. Two other indicators of seriousness, use of weapon (coded as weapon, personal weapon, and no weapon) and injury (coded as serious physical injury, apparent minor injury, and no injury), were also initially considered for the multivariate analysis but were found to covary significantly with most serious offense.⁵⁹

The location of incident was also included as an incident characteristic, indicating whether the offense occurred in a home or residence (coded as 1), or in a public or other place (coded as 0). The logic for including a location variable is that offenses occurring in public may be significantly different from those occurring in a residence in terms of police response. Incidents occurring in public places may have more witnesses and may make arrest more likely. This is a proxy measure of potential for witnesses since NIBRS does not include information on whether witnesses were present.

Using hierarchical modeling, we explored the extent to which the observed variation in our variables of interest is influenced by domestic violence laws in terms of arrest odds. By estimating hierarchical models separately for each victim-offender relationship category, we were able to examine the extent to which domestic laws affect arrest levels among

⁵⁷ Kathleen Ferraro, *Policing Woman Battering*, 36 SOC. PROBS. 61 (1989); Robert J. Homant & Daniel Kennedy, *Police Perceptions of Spouse Abuse: A Comparison of Male and Female Police Officers*, 13 J. CRIM. JUST. 29 (1985).

⁵⁸ Eitle, *supra* note 11, at 582.

⁵⁹ A bivariate analysis revealed that all of the incidents in which a weapon (gun, knife, blunt object, etc.) was used were categorized as aggravated assaults. Similarly, no weapons, personal or otherwise, were reported in any intimidation incidents. Injuries (serious and minor) were reported in two-thirds of the aggravated assault incidents and more than half of the simple assault incidents. No injuries were reported in close to 100% of the intimidation cases. Given the covariation in the measures of offense seriousness and our specific interest in examining official handling of intimate partner violence cases, we used offense seriousness as reported by the responding police officer for the multivariate analyses.

agencies, as well as the effects domestic violence laws have on the relationships that exist between offense circumstances, offense seriousness, and victim and offender demographics and arrest outcomes within agencies. Given that our outcome variable is dichotomous, we used hierarchical generalized linear model (“HGLM”) analysis, which is a variation of HLM that adjusts for dichotomous dependent variables.⁶⁰

We constructed preliminary models including only a random intercept for each victim-offender relationship category. There was significant random variation in the log-odds of arrest at the agency level for each victim-offender relationship category. To examine the impact of laws on the relationship between individual level characteristics and arrest in each victim-offender category, we employed an intercept and slopes-as-outcomes model. A slopes-as-outcomes model allows for the slopes of the independent variable effects on arrest at the individual level to vary across agencies net of other model effects.

For each victim-offender relationship category, the following model was estimated for case *i* in agency *j*:

Level One Model

$$\text{Prob}(\text{arrest} = 1/\beta) = \varphi$$

$$\text{Log}[\varphi/(1-\varphi)] = \eta$$

$$\eta = \beta_{0j} + \beta_{1j}(\text{offender age}) + \beta_{2j}(\text{offender sex})_{ij} + \beta_{3j}(\text{offender race})_{ij} + \beta_{4j}(\text{location})_{ij} + \beta_{5j}(\text{agg. assault})_{ij} + \beta_{6j}(\text{intimidation})_{ij}$$

Level Two Model

$$\beta_{0j} = \gamma_{00} + \gamma_{01}(\text{mandatory})_j + \gamma_{02}(\text{preferred})_j + \gamma_{03}(\text{officers})_j + \gamma_{04}(\text{incidents})_j + \gamma_{05}(\text{f/m officer ratio})_j \mu_{0j}$$

$$\beta_{1j} = \gamma_{10} + \gamma_{11}(\text{mandatory})_j + \gamma_{12}(\text{preferred})_j + \mu_{1j}$$

$$\beta_{2j} = \gamma_{20} + \gamma_{21}(\text{mandatory})_j + \gamma_{22}(\text{preferred})_j + \mu_{2j}$$

$$\beta_{3j} = \gamma_{30} + \gamma_{31}(\text{mandatory})_j + \gamma_{32}(\text{preferred})_j + \mu_{3j}$$

$$\beta_{4j} = \gamma_{40} + \gamma_{41}(\text{mandatory})_j + \gamma_{42}(\text{preferred})_j + \mu_{4j}$$

$$\beta_{5j} = \gamma_{50} + \gamma_{51}(\text{mandatory})_j + \gamma_{52}(\text{preferred})_j + \mu_{5j}$$

$$\beta_{6j} = \gamma_{60} + \gamma_{61}(\text{mandatory})_j + \gamma_{62}(\text{preferred})_j + \mu_{6j}$$

We initially considered both victim and offender characteristics. However, there were significant bivariate correlations among the victim and

⁶⁰ STEVEN RAUDENBUSH ET AL., HLM6: HIERARCHICAL LINEAR AND NONLINEAR MODELING (2005).

offender characteristics, particularly in the intimate partner group. Out of concern that multicollinearity might influence model estimation, we included only offender characteristics in this analysis. All of the level one variables were centered around their group means.

VIII. FINDINGS: IMPACT OF INDEPENDENT VARIABLES ON ARREST (FOR INTIMATE PARTNER CASES)

Table 5 includes the results of the full hierarchical model with intercept and slopes as outcomes using the offender measures. Model 1 presents the results for intimate partner cases.

A. LEGAL CONTEXT

The intercept coefficient (B0) is the expected log-odds for an arrest in an intimate partner incident occurring in a typical police agency with a discretionary law. This coefficient converts to an average arrest probability of 0.523. Domestic violence laws have a significant main effect on this outcome. The expected log-odds of arrest are higher in both mandatory and preferred agencies compared to discretionary agencies net of other model effects. In mandatory agencies, the odds of arrest are increased by 97% compared to discretionary and by about 177% in preferred law agencies compared to discretionary. The total number of cases has a small significant negative impact on the log-odds of arrest for the typical agency as does the rate of officers per 1000.

B. OFFENDER DEMOGRAPHICS

Several offender characteristics also have significant effects on the log-odds of arrest. Offender age has a significant main effect on the log-odds of arrest. In the typical police agency with a discretionary arrest policy, an arrest is more likely to occur for offenders twenty-one years of age and older controlling for other variables in the model. Since offenders twenty years old and younger include juveniles, this finding could be a result of the historic increased police leniency and informal responses to juveniles.⁶¹

Offender race also significantly influences the log-odds of arrest. In the typical police agency with discretionary law, the log-odds of arrest for incidents involving a minority offender are -0.175. This relationship is significantly weaker in preferred law agencies with the log-odds of arrest at -0.036 or $[(-0.175)+1(0.139)]$. The odds ratio indicates that the odds of arrest of a minority offender in a preferred law agency are reduced by 15%.

⁶¹ BLACK, *supra* note 28.

Sex does not have an effect on the log-odds of offender arrest. Controlling for the other variables in the model, females were no more likely than males to be arrested in cases of intimate partner violence. This analysis does not provide support for the hypothesis that the increase in both the number and proportion of female arrests for intimate partner violence cited in the earlier literature review is attributable to a predisposition on the part of the police to arrest females without taking other situational factors into account.

C. INCIDENT CHARACTERISTICS

Offense location has significant level-one effects on the log-odds of arrest. An arrest is more likely to occur for incidents occurring in residences versus public places in agencies with discretionary laws net of other model effects. The log-odds of arrest for incidents occurring in a residence for discretionary law agencies are 0.313. This relationship is significantly weakened by domestic violence laws favoring arrest. In mandatory and preferred arrest agencies, the slopes are significantly weaker than in discretionary agencies. In mandatory agencies, the odds of arrest are reduced by about 12% and 18% in preferred law agencies.

Offense classification for aggravated assault compared to simple assault has a significant positive effect on the log-odds of arrest (.161). This relationship is significantly stronger in mandatory and preferred agencies compared to discretionary agencies. The odds of arrest for aggravated assaults occurring in mandatory agencies are 25% higher than agencies in discretionary agencies and 32% higher in preferred agencies. Intimidation cases have a significant negative effect on the log-odds of arrest (-2.291), but the effects are significantly lower in mandatory agencies where the odds of arrest are reduced by 136%. Although intimidation incidents are significantly less likely than simple assault to end in arrest, this effect is significantly weaker in mandatory arrest agencies.

In sum, domestic violence arrest laws have significant effects on agency level arrests in intimate partner cases. At the agency level, or level two, arrests are significantly more likely to occur in mandatory and preferred agencies independent of other agency and individual factors included in the model. At the incident level, domestic violence laws influence arrest practices for certain offense characteristics such as incident location and offense seriousness and, to a lesser extent, offender characteristics. However, these laws do not significantly increase the log-odds of females being arrested.

Table 5
HGLM Results Predicting Arrest

	Model 1: Intimate Partner		Model 2: Other Domestic		Model 3: Acquaintance		Model 4: Stranger	
	Coefficient	Odds Ratio	Coefficient	Odds Ratio	Coefficient	Odds Ratio	Coefficient	Odds Ratio
Arrest Intercept (B0)	0.093	1.097*	-0.269	0.763**	-1.297	0.273**	-0.677	0.508**
Mandatory Law	0.671	1.966**	0.484	1.62**	1.075	2.931**	0.589	1.803**
Preferred Law	1.019	2.771**	0.949	2.583**	1.154	3.171**	0.808	2.244**
Officers per 1000	-0.004	0.997*	-0.005	0.995*	-0.002	0.998	-0.001	0.999
Number of Incidents	-0.0003	0.999**	-0.0002	0.999**	0	1**	0	1**
Female/Male Officers	-0.506	0.602	-0.232	0.792	-0.29	0.748	-1.237	0.29*
Offender Age (1=21+)								
Intercept (B1)	0.29	1.337**	-0.383	0.682**	0.133	1.142**	0.143	1.153
Mandatory Law	-0.035	0.965	0.239	1.271**	-0.227	0.797**	-0.086	0.917
Preferred Law	-0.078	0.925	0.019	1.019	0.058	1.059	-0.195	0.823
Offender Sex (1=male)								
Intercept (B2)	0.06	1.059	0.28	1.312**	0.1	1.105*	-0.061	0.941
Mandatory Law	-0.09	0.914	-0.116	0.89*	-0.111	0.895*	-0.027	0.973
Preferred Law	-0.112	0.894	-0.222	0.8**	-0.115	0.891	-0.045	0.956

Table 5 (continued)
HGLM Results Predicting Arrest

	Model 1: Intimate Partner		Model 2: Other Domestic		Model 3: Acquaintance		Model 4: Stranger	
	Coefficient	Odds Ratio	Coefficient	Odds Ratio	Coefficient	Odds Ratio	Coefficient	Odds Ratio
Offender Race (1=minority)								
Intercept (B3)	-0.175	0.839**	-0.086	0.917	-0.022	0.978	-0.117	0.89
Mandatory Law	-0.006	0.994	-0.03	0.97	0.013	1.013	0.07	1.073
Preferred Law	0.139	1.15*	0.113	1.12	0.224	1.251**	0.184	1.202
Location (1=inside)								
Intercept (B4)	0.313	1.368**	0.377	1.46**	0.209	1.233**	0.205	1.228*
Mandatory Law	-0.124	0.883**	-0.129	0.878	-0.246	0.782**	-0.25	0.779*
Preferred Law	-0.198	0.82**	-0.189	0.828	-0.264	0.768**	-0.226	0.798
Aggravated Assault (1=aggravated assault)								
Intercept (B5)	0.161	1.175*	0.501	1.651**	0.828	2.288**	0.665	1.944**
Mandatory Law	0.226	1.254**	-0.076	0.926	-0.393	0.675**	-0.488	0.614**
Preferred Law	0.278	1.32**	0.035	1.035	0.066	1.068	-0.169	0.844

Table 5 (continued)
HGLM Results Predicting Arrest

	Model 1: Intimate Partner		Model 2: Other Domestic		Model 3: Acquaintance		Model 4: Stranger	
	Coefficient	Odds Ratio	Coefficient	Odds Ratio	Coefficient	Odds Ratio	Coefficient	Odds Ratio
Intimidation (1=intimidation)								
Intercept (B6)	-2.291	0.101**	-1.64	0.194**	-1.257	0.285**	-1.002	0.367**
Mandatory Law	0.86	2.365**	0.881	2.415**	0.437	1.548**	0.053	1.054
Preferred Law	0.244	1.276	-0.045	0.956	0.389	1.476**	-0.162	0.851
Variance Components	Variance	Chi Square	Variance	Chi Square	Variance	Chi Square	Variance	Chi Square
Arrest Intercept, Uo	1.546	35479.22**	0.998	7752.86**	1.866	16579.534**	1.09129	3519.085**
Offender Age, U1	0.012	682.154	0.378	938.309**	0.465	2484.898**	0.1503	371.581*
Offender Sex, U2	0.119	1034.23**	0.017	375.561	0.041	852.629	0.07344	310.102
Offender Race, U3	0.034	769.507**	0.008	338.432	0.026	806.924	0.04494	328.168
Location, U4	0.046	788.555**	0.061	395.162	0.109	1108.536**	0.06745	295.418
Aggravated Assault, U5	0.314	1210.57**	0.126	443.039*	0.318	1390.593**	0.40663	484.05**
Intimidation, U6	0.785	1570.831**	0.41	517.535**	0.573	1579.034**	0.56931	455.209**

*p<0.05 **p<0.01

IX. FINDINGS: IMPACT OF INDEPENDENT VARIABLES ON ARREST (FOR NON-INTIMATE PARTNER CASES)

We were also interested in the extent to which there may be spillover effects of domestic violence laws on arrest in incidents involving other types of victim-offender relationships. The model intercepts (B_0), when converted to probabilities, suggest that the chances of being arrested are higher in other domestics (0.433), followed by stranger (0.337), and acquaintance cases (0.216). This compares with an arrest probability of 0.523 in intimate partner violence cases.

A. LEGAL CONTEXT

As with intimate partner violence cases, domestic violence laws have a significant main effect on this outcome. The expected log-odds of arrest are significantly higher for all relationship categories in both mandatory and preferred agencies compared to discretionary agencies net of other model effects. This is illustrated in Table 5.

B. OFFENDER DEMOGRAPHICS

The impact of arrest laws on outcomes for other relationship categories differs in some ways from the intimate partner model results. Offenders twenty-one and older are significantly less likely to be arrested in other domestic incidents. In mandatory agencies, this effect is significantly reduced by 27%. Those twenty-one and older are at higher risk for arrest in incidents with acquaintances, but the effect is significantly smaller in mandatory agencies. Mandatory laws serve to create more equity in the impact of age on arrest outcomes for other domestics and acquaintances.

A similar effect is observed for offender sex. For both other domestics and acquaintances, males are at significantly higher log-odds of arrest than females. Again in both models, mandatory arrest laws significantly reduce these effects. Preferred arrest laws significantly reduce these effects for other domestics. No such effects are observed for strangers.

C. INCIDENT CHARACTERISTICS

Offense characteristics also reveal important differences in effects across relationship categories. While the main effects for location, aggravated assault, and intimidation for the other relationship categories are significant and similar to those for intimate partner cases, differences emerge when the cross-level interactions between these effects and domestic violence laws are considered. For other domestics, the only significant cross-level interaction was for intimidation cases, where the

existence of mandatory laws tempered the negative main effect intimidation had on the likelihood of arrest.

For acquaintances, there were significant cross-level interaction effects for location, and for aggravated assault and intimidation. The effects for location and intimidation operated in a direction similar to that observed in the intimate partner cases; the effects were again mitigated in mandatory and preferred agencies. Mandatory arrest effects also mitigated the main effects for aggravated assault. For stranger cases, these mitigating effects were observed for location and aggravated assaults in mandatory law agencies.

In sum, these results suggest several noteworthy findings. First, mandatory and preferred arrest statutes have significant effects on the expected log-odds of arrest at the agency level for all relationship categories net of other model effects. For intimate partner cases, the effects of domestic violence laws (both mandatory and preferred) appear to have more of an impact on arrest practices involving offense characteristics (location, aggravated assault, and intimidation) than those involving offender characteristics (only race). They enhance arrest odds for cases involving aggravated assaults and weaken the effects on arrest for intimidation and location incidents.

For acquaintances, cross-level interactions are also observed for both preferred and mandatory laws for the offense characteristics, but the offender characteristics (age and sex) are also significantly influenced by mandatory arrest laws. Other domestics also reveal cross-level interactions for offender characteristics including age and sex, but the offense characteristics are less affected by arrest laws with the exception of intimidation incidents. Stranger cases have important cross-level interactions only for mandatory laws and location and aggravated assault.

The variance components section of Table 5 shows significant unexplained variance in the agency or level-two random intercepts, which suggests that there are other important factors that may help to explain arrests. Variance components for many of the level-one slopes also suggest that there is significant unexplained variation. Future research could further attempt to account for these variations by including other variables.

X. FINDINGS: IMPACT OF INDEPENDENT VARIABLES ON DUAL ARREST (FOR ALL RELATIONSHIP TYPES)

We also examined the impact of domestic violence laws on the log-odds of dual arrest. This variable was coded 1 for dual arrest and 0 for single arrest. The difference in model specification from the arrest analysis reported in Table 5 is that the level-one effects are treated as fixed across agencies. This decision was made after a preliminary analysis revealed no

significant random variation in the slopes for these variables across models. Under these circumstances, a more parsimonious model specification was appropriate. Offenses involving strangers were omitted from this analysis due to the lack of dual arrest cases in such incidents.

The results are reported in Table 6. The intercept indicates the expected odds of dual arrest for a typical police agency with discretionary arrest law. The probability equivalents for models 1 through 3 are 0.018, 0.018, and 0.014, respectively, suggesting that there are only minor differences in the probability of dual arrest across relationship categories. Mandatory arrest laws show a significant positive association with log-odds of arrest for each of the relationship categories, which means the log-odds of dual arrest increase in mandatory compared to discretionary agencies.

Table 6
HGLM Results Predicting Dual Arrest

	Model 1: Intimate Partner		Model 2: Other Domestic		Model 3: Acquaintance	
	Coefficient	Odds Ratio	Coefficient	Odds Ratio	Coefficient	Odds Ratio
Level Two						
Dual Arrest Intercept (B0)	-3.997	0.018**	-4.019	0.018**	-4.244	0.014**
Mandatory Law	0.628	1.874**	0.674	1.962**	0.632	1.881**
Preferred Law	-0.247	0.781	-0.135	0.874	-0.301	0.740
Officers per 1000	0.003	1.003	0.013	1.013**	0.010	1.010**
Number of Incidents	0.000	1.000	0.000	1.000	0.000	1.000
Female/Male Officers	-0.389	0.678	-0.170	0.843	0.122	1.130
Level One						
Offender Age (1=21+)	-0.184	0.832**	0.246	1.279**	-0.370	0.691**
Offender Sex (1=male)	-1.435	0.238**	-0.555	0.574**	-0.581	0.560**

Table 6 (continued)
HGLM Results Predicting Dual Arrest

	Model 1: Intimate Partner		Model 2: Other Domestic		Model 3: Acquaintance	
	Coefficient	Odds Ratio	Coefficient	Odds Ratio	Coefficient	Odds Ratio
Level One (continued)						
Offender	0.045	1.046	0.058	1.060	-0.017	0.984
Race (1=minority)						
Location (1=inside)	0.149	1.161**	0.260	1.297	-0.257	0.774**
Aggravated Assault (1=agg as'lt)	-0.292	0.747**	-0.158	0.853	-0.643	0.526**
Intimidation (1=intimid.)	-1.904	0.149**	-2.044	0.130**	-2.301	0.100**
Variable Components						
		Chi Square		Chi Square		Chi Square
Dual Arrest	1.26	6379**	1.169	2061**	1.21	3280**
Intercept U0						

*p<0.05 **p<0.01

In intimate partner cases, there are significant main effects for offender age and sex, where dual arrest is less likely if one of the involved offenders is identified as a male or over twenty-one years old. Dual arrest is also less likely to occur in cases involving aggravated assaults or intimidation compared to simple assault. Dual arrest log-odds are higher for incidents occurring in a residence. There are no cross-level interaction effects with arrest laws.

In other domestic cases, dual arrest is more likely if an offender is twenty-one years old or older, and it is less likely if an offender is male. Intimidation incidents are less likely to result in arrest than simple assaults for this group. In cases involving acquaintances, dual arrest is less likely if an offender is male or under twenty-one years old. A dual arrest is less likely to be made in a residence or if the offense is classified as either an aggravated assault or intimidation compared to simple assault.

XI. DISCUSSION

In accordance with prior research conducted after the passage of mandatory and preferred arrest statutes for incidents of domestic violence,⁶² we found the overall arrest rate for assault and intimidation to be well in excess of 30%: 49% for intimate partner violence cases and 44% for other domestic violence cases.⁶³ Most significantly, our HGLM analysis revealed that mandatory and preferred arrest laws are having the intended effect of producing higher domestic violence arrest rates in these states compared to states with discretionary arrest laws.

There are several possible explanations for the higher arrest rates observed in these jurisdictions. First, it can be expected that state legislation is reflective of public sentiment. States not making arrest the preferred or required police response may not place as high a priority on domestic violence as a societal problem compared to states with preferred or mandatory legislation. At an aggregate level, this may help explain the overall higher rates.

Second, states with more aggressive legislation may have also received additional state funding and resources for their implementation. A great deal of federal support has been provided under the Violence Against Women Act to jurisdictions with proactive and innovative responses. As a result, many of these departments have been able to afford a dedicated domestic violence officer or to establish a domestic violence unit, neither of which would have been possible without the additional funding. These added resources may not only increase arrests in cases of domestic assault, but they may also free up other department resources which can be used to target other offenses more aggressively.

Third, there may have been concurrent inter-organizational effects to domestic violence legislation including changes in prosecutorial practices, judicial behavior, and programs for batterers. The increased probability of a police arrest going forward through the system is likely to positively impact police arrest practices.

These higher arrest rates are to be observed not only in intimate partner and other domestic violence cases, but in acquaintance and stranger cases as well. Thus, although the mandatory and preferred arrest provisions only apply to domestic violence cases, there appears to be a spillover effect with officers in these states more likely than their counterparts in the other states to arrest offenders in both domestic and non-domestic violence cases.

⁶² Cf. BUZAWA & HOTALING, *supra* note 2; Bourg & Stock, *supra* note 11; Eitle, *supra* note 11; Hall, *supra* note 11; Ho, *supra* note 11; Mignon & Holmes, *supra* note 11; Jones & Belknap, *supra* note 2; Robinson & Chandek, *supra* note 11.

⁶³ See *supra* Table 4.

Removing officer discretion and requiring mandatory arrest in domestic violence cases may have implications with regard to the manner in which officers perceive their role in general. Mandatory arrest may lead officers to believe there has been a shift in both their role and their organization's role, conforming more with the definition of a legalistic department with a focus on enforcing the law.⁶⁴ Officers may believe it inappropriate (or unacceptable) to exercise discretion, instead following a legalistic, somewhat mechanistic, style in applying the law. In addition, increased concerns for both individual and organizational liability have also served as an impetus for increased arrest rates.⁶⁵

The key legal variables in these analyses affecting the arrest decision are those relating to offense seriousness. As expected, we found that, in all relationship categories, aggravated assault cases are more likely than simple assault cases to result in arrest. However, we uncovered interesting variations when we considered the effect of state laws on arrest practices. The existence of a mandatory or preferred arrest law enhanced even more the likelihood of arrest when intimate partners were involved, while for acquaintance and stranger cases the existence of these laws diminished, though by no means negated, the positive association between aggravated assault and the likelihood of arrest. Thus, officers responding to intimate partner violence cases in mandatory and preferred arrest states seem to understand that the combination of seriousness of the offense and the existence of a mandatory or preferred arrest law leaves them little choice but to make an arrest. The message seems to be different when responding to acquaintance and stranger cases, which is not surprising, given that the mandatory and preferred arrest laws do not apply to these types of cases, and officers typically use low levels of authority.⁶⁶

Intimidation cases, conversely, are less likely than simple assault cases to result in arrest. Here the existence of a mandatory arrest law increased the likelihood of arrest in intimate partner, other domestic, and acquaintance cases, while the presence of a preferred arrest law enhanced the likelihood of arrest in intimate partner and acquaintance cases. It appears that officers follow the letter of the law and may treat seemingly less serious cases in a serious manner when directed.

As discussed, the results show that mandatory and preferred arrest laws are clearly producing the desired effect of encouraging arrest in

⁶⁴ WILSON, *supra* note 28.

⁶⁵ BUZAWA & BUZAWA, *supra* note 8.

⁶⁶ BLACK, *supra* note 28; MANNING, *supra* note 12; Klinger, *supra* note 30; Robert E. Worden, *Situational and Attitudinal Explanations of Police Behavior: A Theoretical Reappraisal and Empirical Assessment*, 23 LAW & SOC'Y REV. 667 (1989).

intimate partner violence cases. For other domestics, the effect is far weaker. This may be a result of the wide range of relationship categories (parent-child, siblings, etc.) and offense circumstances included in this relationship category. For acquaintances, the effect is perhaps stronger than anticipated. This may reflect the inclusion of some significant relationships in the "other domestic" category.

In all relationship categories, offenses occurring in residences were more likely to result in arrest than those taking place in public. This result appears counterintuitive, as it runs counter to what occurred prior to the development of the pro-arrest movement in intimate partner violence cases, when, because of public nuisance concerns, intimate partner violence cases occurring in public were more likely than those occurring in private to result in arrest. In addition, a historic criticism of the "classic" police response is that police do not want to become involved in incidents residents have "behind closed doors."⁶⁷ Increasing public awareness and concern for domestic assault may result in increased reporting by neighbors or other bystanders.⁶⁸ For example, the vast majority of calls to the police for domestic assault in the State of Rhode Island did not come from the victim.⁶⁹

Conversely, the increase in arrest rate for assaults in residential locations could be a function of the increased powers of police in all states to make warrantless misdemeanor arrests. Prior to these changes in the law, police were unable to make warrantless misdemeanor arrests for offenses they did not witness. In addition, police may be more likely to have a suspect to arrest in incidents that occur in residences. Further research as to whether the suspect was present at the time police arrived and efforts made by police to locate and arrest suspects who had left the scene might provide a better understanding of variations in police response.

As noted above, the presence of mandatory and preferred arrest laws mediates the effect of offense location on the likelihood of arrest. The likelihood of arrest is significantly equalized by the presence of both mandatory and preferred arrest laws in intimate partner and acquaintance cases, and by mandatory arrest laws in stranger cases. Thus, the existence

⁶⁷ BLACK, *supra* note 28; SUSAN M. EDWARDS, *POLICING DOMESTIC VIOLENCE: WOMEN, LAW AND THE STATE* (1989); MANNING, *supra* note 12; MILDRED D. PAGEDOW, *FAMILY VIOLENCE* (1984); JOAN ZORZA, *WOMAN BATTERING: HIGH COSTS AND THE STATE OF THE LAW* (1994).

⁶⁸ M. Cassidy et al., *The Victim's View: Domestic Violence and the Police Response*, 4 *LAW ENFORCEMENT EXECUTIVE FORUM* 135 (2004); Robinson & Chandek, *supra* note 11.

⁶⁹ ANDREW R. KLEIN & A. CROWE, *FINDINGS FROM AN OUTCOME EXAMINATION OF RHODE ISLAND'S SPECIALIZED DOMESTIC VIOLENCE PROBATION SUPERVISION PROGRAM: DO SPECIALIZED SUPERVISION PROGRAMS OF BATTERERS REDUCE REABUSE?* (2006).

of these laws results in more even application of the law whether the offense occurs in a residence or in public.

Cases involving intimate partners and acquaintances are more likely to result in arrest if the offender is twenty-one or older. However, in other domestic cases, arrest is more likely if the offender is under twenty-one years old. Clearly, there appear to be some dynamics shared by intimate partner and acquaintance cases that differ from those in other domestic cases. As discussed above, the wide range of relationships and accompanying age distributions of the involved parties in other domestic cases may explain this. Prior research supports the hypothesis of a disproportionate arrest rate of juveniles in domestic cases.⁷⁰ The presence of a mandatory arrest law significantly mediates the effect of age on the likelihood of arrest in both other domestic and acquaintance cases.

Of great interest is the impact of gender on the odds for arrest. In this study, gender had no significant effect on the response to intimate partner or stranger cases. Thus, no support is provided for the hypothesis that the increase in the number of female arrests in intimate partner violence cases can be attributed to their disproportionate arrest rate for minor offenses. However, the fact that males and females are equally likely to be arrested may be evidence of an increase in female arrests, assuming in the past males were more likely to be arrested. No longer are females treated more leniently. Faced with similar circumstances, responding officers are as likely to arrest a female offender as they are a male offender. However, arrests were more likely in other domestic and acquaintance cases if the offender was male. Thus, in these cases, there is some evidence that females are treated more leniently than males. The presence of a mandatory arrest law again had a mediating effect, equalizing to a great extent the response whether the offender was male or female; the presence of a preferred arrest law had a similar effect in other domestic cases.

Offender race had a significant effect on the response to intimate partner and stranger cases. Arrest was more likely if the offender was white. While this finding indicates that the police response is affected by the racial composition of the involved parties, it is unclear what factors account for this. Factors such as victim preference and the presence of the suspect may account for the observed difference in response. Mandatory arrest and preferred arrest laws were observed to have a mediating effect. In intimate partner violence cases, the existence of a preferred arrest law, and in stranger cases the existence of a mandatory arrest law, helped provide more equal treatment of both black and white offenders.

⁷⁰ BUZAWA & HOTALING, *supra* note 2; CHESNEY-LIND & PASKO, *supra* note 14; Buzawa & Hotaling, *supra* note 25.

These results show that mandatory and preferred arrest laws are having the desired effect of producing higher arrest rates in these states compared to states with discretionary arrest laws. This effect may be observed not just in intimate partner and other domestic violence cases, but in acquaintance and stranger cases as well. Where significant main effects were observed at level one (the individual case), the presence of mandatory and preferred arrest laws tended to mediate these effects, such as by increasing the likelihood of arrest in intimidation cases and by making the likelihood of arrest less dependent on where the incident took place or on the race of the offender.

Prior research has raised concerns that the enactment of mandatory and preferred arrest laws has produced high rates of dual arrest.⁷¹ However, until now, there has been no large-scale study that has examined the extent of dual arrest. Our examination of police action in 2819 jurisdictions in nineteen states revealed a low overall dual arrest rate: 1.3%. However, the dual arrest rate was higher for domestic than for non-domestic cases. While 1.9% of the cases involving intimate partners and 1.5% of the cases involving "other domestics" resulted in dual arrests, the figures for acquaintance and stranger cases were 1.0% and 0.4% respectively.⁷² Although the overall dual arrest rates were low, there was considerable variation in the dual arrest rates both among and within states.

Our analyses of the effect of mandatory and preferred arrest laws on the likelihood of officers making dual arrests produced some striking results. First, the existence of a mandatory arrest law significantly increased the likelihood of arrest for all three of the relationship categories (intimate partner, other domestic, and acquaintance) examined. Thus, this study provides support for the hypothesis that mandatory arrest laws produce higher rates of dual arrest in intimate partner and other domestic violence cases. The laws also have a spillover effect in acquaintance cases

As noted above, mandatory arrest laws may lead officers to adopt a legalistic orientation.⁷³ Considering it inappropriate to use discretion, they apply the law in a mechanistic style. Thus, when faced with a situation that appears to involve two mutual combatants, they opt to arrest both, leaving it to the prosecutor, and perhaps the court, to determine culpability. The impact of primary aggressor legislation on the decision to arrest in such circumstances would appear to constitute an issue that merits further examination. However, because seven of the eight mandatory arrest states

⁷¹ See, e.g., HAVILAND ET AL., *supra* note 15; VICTIM SERVS. AGENCY, *supra* note 15; Martin, *supra* note 2.

⁷² See *supra* Table 4.

⁷³ WILSON, *supra* note 28.

involved in this study had primary aggressor laws, the passage of a primary aggressor law clearly does not negate the relationship between mandatory arrest laws and higher dual arrest rates. It is important to note that Connecticut, the only mandatory state that did not have a primary arrest law at the time of the study, also had by far the highest dual arrest rate.

Interestingly, the existence of a preferred arrest law did not significantly increase the likelihood of arrest in either intimate partner or other domestic cases. Such an effect was observed only for cases involving acquaintances. Tennessee was the only one of the preferred arrest states involved in this study with a primary aggressor law. Leaving the responding officers some discretion when responding to domestic calls is clearly associated with lower dual arrest rates, but it is not totally clear what factors prompt officers to use this discretion.

With regard to this issue, the HGLM analysis produced one striking finding that was consistent among the three relationship categories examined: dual arrests were less likely in intimate partner, other domestic, and acquaintance cases when the primary offender was male. Thus, in intimate partner violence cases, 98% of which in this study had heterosexual couples as the involved parties, a dual arrest was more likely if the female was designated as the primary offender than if the male was designated as the primary offender. Though this suggests that females may be being treated more leniently than males, this conclusion hinges on the assumption that the designation by NIBRS of an offender as the first offender accurately depicts who has primary culpability for the incident. This is an issue that requires further investigation.

XII. CONCLUSIONS

These findings suggest that laws have an effect on police operations, and that the domestic violence laws influence a broader range of cases than intended. Both higher overall arrest rates and higher dual arrest rates are associated with mandatory domestic violence arrest laws. Higher dual arrest rates do not, however, accompany the higher overall arrest rates found in states with preferred arrest laws. For those interested in simply increasing overall arrest rates without increasing dual arrest rates, the initial message appears clear: adopt a preferred arrest policy. At this stage, however, such a policy recommendation would constitute a case of proceeding too far on the basis of too little evidence. More detailed examination is needed of the factors that lead to arrest, whether of one or both parties to the incident, and of what happens to cases after arrests have been made. We also need to examine the variation that exists both among and within states in arrest rates. Finally, we need to examine whether

higher arrest rates are associated with increased victim safety and reduced re-offending.