Title:
Impact of Mandatory Arrest Laws on Domestic Violence

Abstract:
In the past 30 years the legal approach towards domestic violence has significantly transformed from reluctance to intervene to the enactment of mandatory responses (Iyengar 2007). Police power to make warrantless arrests in domestic violence cases has been expanded significantly. These changes have criminalized domestic violence and assumed the effect of deterrence (Fagan 1996). However, research on the effectiveness of these laws has yielded mixed results. For instance, one study has shown that states with these laws have as much as a 54% increase in intimate partner homicides (Iyengar 2007:12). This is of concern since over half the country has mandatory arrest laws in place (Lisenring 2008). Therefore, the objective of this thesis is to understand the impact of these laws on domestic violence through quantitative analysis of secondary data.

Description of the Project:
There is significant debate about the implementation of mandatory arrest polices on domestic violence. These policies allow an officer to make a warrantless arrest without witnessing a crime based on probable cause that violence has occurred (Lisenring 2008). One side of this debate claims that such reforms in policy are needed to combat domestic violence and are thought to be a solution to the leniency and indifference that has long been practiced throughout our legal history. Traditionally police officers often took on the role as mediator or peacemaker rather than as an enforcer of the law when dealing with domestic disputes (Mordini 2004). As a result of this inadequate police response, a number of successful multi-million dollar verdicts arose that got the attention of actors in the legal system (Mordini 2004). Thus, as attitudes
began to change and reform expanded, there was a significant shift in legal approach that emphasized the criminalization of domestic violence (Fagan 1996).

One significant shift in legal approach was with the implementation of mandatory arrest policies, which answered the desire to control police behavior as well as combat domestic violence. This punitive solution was strongly supported by Sherman and Berk’s Minneapolis Domestic Violence Experiment in 1984. This study found that arrest reduces and deters future violence (Sherman and Berk 1984). The enactment of mandatory arrest laws are based on the assumption that the certainty of arrest as a consequence of domestic violence will be enough of a threat and a perceived cost to discourage the sanctioned behavior (Pate & Hamilton 1992). However, the applicability of this study has been unclear. Despite the policy’s good intentions, a significant amount of evidence has found that the implementation of these laws has not actually produced the intended outcomes. Furthermore, subsequent research has even led Sherman himself to conclude that mandatory arrest policies are inadvisable (Fagan 1996). This and other inconclusive evidence sparks the other side of the debate on whether these policies are an adequate response to address domestic violence.

In response to this debate there will be three main objectives of this thesis project in attempt to get a more comprehensive understanding on the impact of mandatory arrest policies on domestic violence. The first objective will be to observe the impact of these laws on intimate partner homicide rates since their implementation. Based on prior research I hypothesize that if these laws have the claimed deterrent effect they will decrease the rates, or if they have perverse effects they will do the opposite. The second objective will be to look at the relationship between different measures of domestic violence, such as fatal and non-fatal incidents, and whether these measures seem to be impacted by policy in similar or different ways. The final and third objective
will be to introduce variables or cases to test these analyses as well as paint a clearer picture of what these outcomes might suggest about victim and offender behavior.

**Previous Work:**

According to Fagan, “For every study that shows promising results, one or more show either no effect or even negative results that increase risk to the victims” (Fagan 1996:1). Since the implementation of mandatory arrest laws, research has yielded significant data that often contradicts or adds to the complexity of what’s already been accomplished. This has resulted in significant debate in regards to who should have the decision-making power: the victim or the state? What are the effects on police, victim and offender behavior, and most importantly on domestic violence outcomes? In trying to address these issues, researchers have produced all a plethora of studies presenting reputable evidence, new ideas, and theories of causation. Studies have shown that mandatory arrest laws may only deter certain types or groups of offenders, or that are only effective in conjunction with other policies (Fagan 1996). While other research has shown that such laws may actually have a number of unintended consequences and outcomes (Dayton 2003). Amidst all the inconsistencies, the accomplishments in research so far seem to suggest that the only consistency among researchers on this debated topic is their agreement of the sheer complexity of domestic violence crimes and that such incidents can’t be adequately addressed by a blanket approach or policy.

The most influential study in previous literature has been Sherman and Berk’s 1984 Minneapolis Domestic Violence Experiment. This was a randomized, scientifically controlled study that tested the effects of arrest on misdemeanor crimes of domestic violence (Sherman and Berk 1984). This study found that arrest was the most effective out of other standard methods
police use to reduce domestic violence (Sherman and Berk 1984). This is rooted in deterrence theory, which is based on the idea that human behavior is rational and therefore can be influenced by incentives, specifically negative incentives such as those in formal sanctions like arrest (Pate and Hamilton 1992). Sherman and Berk’s Minneapolis study was significant because it was the first to test the effect of arrest on crime, and it was paramount in reinforcing and establishing the enactment of mandatory arrest policy across the United States. Since this study, replication studies were conducted in six other cities, however the findings haven’t been consistent with the original study (Fagan 1996).

As far as other accomplishments in this area, the replication studies of the Minneapolis Experiment are worth mentioning. These studies not only questioned the original experiment, but they also introduced a new interaction. These studies contrasted with the original because they consistently found that arrest reduces intimate partner violence in some cities but increases it in others, and that arrest reduces intimate partner violence in the short term but may increase it in the long run (Lisenring 2008). These studies were also significant because researchers found an interaction with arrest and measures of arrestees’ “stake-in-conformity” (Pate & Hamilton 1992). This is an aspect of control theory, which predicts that inclusion in social networks at work or in the community decreases the likelihood an individual will commit crimes (Schutt 2006). Zimring and Hawkins (1971) argue that the deterrent effect of formal sanctions can be enhanced if they are associated with informal sanctions (Pate & Hamilton 1992). The replication studies that examined this hypothesis consistently found that arrest reduces intimate partner violence among employed people but increases it among unemployed people (Pate & Hamilton 1992). This suggests that stigma, attachment costs, and commitment costs (like employment) are significant factors that make formal sanctions effective (Pate & Hamilton 1992).
Since these early studies the amount of research that has found adverse outcomes or new problems to be considered is exhaustive. Some scholars attribute the inconsistencies in research largely to problems with definitions and measures of domestic violence (Leisenring 2008). Some of these problems with measures are rooted in reporting problems because the majority of available data is based on police reported crimes, which only come to their attention through victim reporting. This makes it difficult to distinguish the total number of incidents of domestic violence (Iyengar 2006). However, a recent study done by Harvard scholar Radha Iyengar has been unique and intriguing in both her approach to tackle this problem, and also in the results of her research. Iyengar used the FBI Supplementary Homicide Reports, which provide data on all homicides in the United States that took place in the years 1976-2003 (Iyengar 2006: 9). She chose to look at intimate partner homicide as a measure of domestic violence because these crimes are more accurately reported. The results of her analyses found that although overall homicide rates have been on the decline, states with mandatory arrest policies had a significant increased rate of intimate partner homicides (Iyengar 2006). She further reinforced her findings by looking at a number of covariates for demographics, economic conditions, and social policies, which she found had no significant effect (Iyengar 2006).

Iyengar’s accomplishments are important because they suggest that mandatory arrest laws have “perverse effects”, influencing victim behavior rather than offender behavior (Iyengar 2006:2). She hypothesizes that this increase in homicides is due to an effect of mandatory policy on victim reporting (Iyengar 2006). She suggests that these laws have resulted in decreased reporting, which results in a decrease in police intervention. This connection is based on the premise that police intervention at any level prevents violence from reaching a certain threshold, and that lack of reporting results in reduced deterrence (Iyengar 2006). Iyengar tested this theory
by looking at familial homicides, particularly of school age children because the reporting of this form of domestic abuse is usually from a third party such as a teacher (Iyengar 2006). In her comparison she found that states with mandatory arrest laws had about 42% less familial homicide, and 75% less familial homicides of school age children (Iyengar 2006:16). Based on her study, I plan on doing my own evaluation of homicides, and further contributing to her work by looking at the relationship between homicide and non-fatal incidents of domestic violence.

**Significance:**

Often times, social problems are combated with good intentions. Unfortunately, despite these good intentions, the outcomes of such efforts are not always foreseeable. It is these perverse and unintended consequences that raise significant debate and concern about the implementation of mandatory arrest policies. Therefore I hope to contribute to understanding of the impact of mandatory arrest laws on domestic violence by taking prior accomplishments in research and applying that knowledge to my quantitative analysis of secondary datasets. In relation to existing literature my project will conduct analyses on previously established correlations, thus either reinforcing or weakening their theories of causation. As far as new contributions, I plan on contributing to Iyengar’s analysis by looking at the relationship between fatal and non-fatal domestic violence because that was left open to question. In addition I plan on testing the correlation between homicide rates and mandatory arrest laws with a criterion of non-spuriousness with measures of “place” (Gallup-Black 2005). This is based on data that found intimate partner homicides increased in rural areas in comparison to urban areas (Gallup-Black 2005). Although all of the factors regarding the complexity of this problem are not solvable in one thesis, this project will hopefully contribute to and build on the research in this area. Developing this research is significant because understanding the impacts of these policies are
imperative for domestic violence victims in the 31 states that have passed these laws, as well as for successful policy-making in the future (Leisenring 2008).

**Methodology:**

This project will build a comprehensive understanding of the impact of mandatory arrest laws on domestic violence outcomes by drawing on previous literature and research. As of now, I have read a significant amount of material that has been done to date on this topic and I have acquired an adequate understanding of the evolution of domestic violence law through a previous gender and law class research project. I also have an understanding of the ironies of policy and social control through a number of courses in which my advisor Professor Kathryn Fox specializes. Through continued reading I will continue to build my understanding of the topic and apply this knowledge to my analyses.

To conduct my quantitative analysis I will potentially use two different datasets, both from the Inter-University Consortium for Political and Social Science Research. My unit of analysis will be each state, in which I will create a variable for whether or not the state has a mandatory arrest policy in place. I will collect data on state statutes by using Westlaw. The first dataset is an ICPSR study that was created for the analysis of rural and urban trends of domestic homicides in the United States between the years 1980-1999 (Gallup-Black 2005). By conducting my own analysis of the effect of mandatory arrest laws on intimate partner homicides I hope to observe if my findings are consistent with prior research or if they suggest that policy has a deterrent effect. I also plan on looking at variables that suggest a “stake-in-conformity” to test prior research theories that suggest the importance of informal sanctions. If my findings are
consistent with Iyengar’s, I will also address her hypothesis that these laws are effective for non-intimate partner domestic violence due to the influence these laws may have on victim reporting. I chose this study because it has variables that provide adequate operational definitions for the items I’m concerned with and it was done across a 20 year time period in which I can observe changes over time.

The second dataset that I will be using is the National Incident-Based Reporting System, 2005, Extract Files. This dataset is an incident-based reporting system for crimes known to the police that include data on crime incidents, and on characteristics of both the victim(s) and offender(s) (ICPSR Study 20303). This dataset was chosen because of the ability to look at the relationship between the victim and offender as well as the different types of offenses. Using this data I will be able to look at the relationship between fatal and non-fatal incidents of domestic violence in different states. However, it is important to note that these data are not representative of all crimes or of the total population in the state because it is based on voluntary agency reporting. In order to conduct this analysis I will have to use data on agency participation and population to standardize my results. Despite the inability to generalize these results, I hope to be able to observe whether fatal and non-fatal domestic violence incidents are positively or negatively correlated. The analyses of these datasets will all be done using SPSS statistical software.