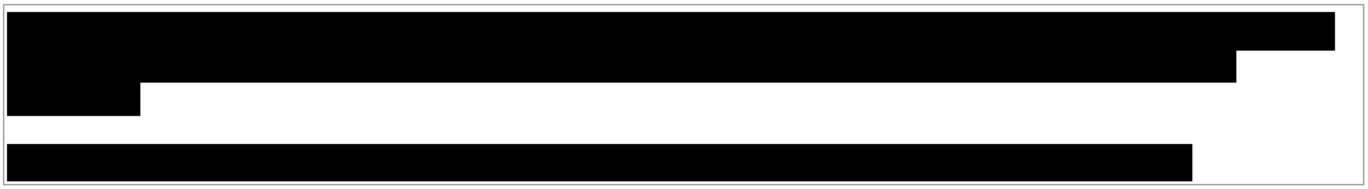
Domestic Violence Cases: What Research Shows About Arrest and Dual Arrest Rates

Published July 25, 2008

by David Hirschel



Police have been making more arrests in domestic violence cases, and researchers want to know why. Sometimes, when police cannot determine who is at fault for a domestic offense, they arrest both people involved, in what is known as a dual arrest. To examine the factors that have increased arrests and dual arrests in domestic violence cases, NIJ commissioned a comprehensive, nationwide study. This NIJ ePub describes the study's results.

Table of Contents

- Home
- Introduction
  - I-1. Domestic Violence Arrest Laws and Policies Today
  - I-2. Past Research on Dual Arrest
- Chapter 1. Nationwide Dual Arrest Study: Analysis of National Incident-Based Reporting System Data - Introduction
  - 1-1. Findings From the Analysis of NIBRS Data
    - How many incidents resulted in arrest?
    - How many incidents resulted in dual arrest?
    - How did domestic violence legislation impact arrest practices?
    - What effect did domestic violence legislation have on dual arrest?
    - How did victim, offender and incident characteristics affect arrest practices?
    - How did victim, offender and incident characteristics impact dual arrest practices?
    - Did a person's sexual orientation affect arrests rates?
  - Sidebar. Why was NIBRS developed?
- Chapter 2. In-Depth Survey of Police Departments - Introduction
  - 2-1. Findings From the In-Depth Survey
    - How did department arrest policies comply with state arrest laws?
    - What factors affected arrest rates?
    - What factors affected dual arrest rates?
    - Did arrests lead to convictions? What circumstances surrounding an arrest affected conviction rates?
    - Did arrestees reoffend?
- Chapter 3. What Does This Study Tell Us About Arrests and Dual Arrests in Domestic Violence Cases?
  - On Arrests
  - On Dual Arrest
  - On Convictions
  - On Improving Police Response
- Exhibits and Tables
  - Exhibit 1. Arrests by Victim-Offender Relationship: Intimate Partners
  - Exhibit 2. Arrests by Victim-Offender Relationship: Other Domestic Relationships
  - Exhibit 3. Arrests by Victim-Offender Relationship: Non-Domestic Relationships
  - Exhibit 4. Arrests by Victim-Offender Relationship: Strangers
  - Exhibit 5. Factors Affecting Arrest Rates
  - Exhibit 6. Factors Affecting Dual Arrest Rates

- Exhibit 7. Factors Affecting the Likelihood of Conviction
- Exhibit 8. Factors Affecting the Likelihood an Offender Would be Subsequently Arrested
- Table 1. States With Mandatory Arrest Provisions
- Table 2. States With Preferred Arrest Provisions
- Table 3. States With Discretionary Arrest Provisions

Introduction

Police are making more arrests in domestic violence incidents. When they cannot determine which person in an incident is at fault, or think both people are guilty, they sometimes arrest them both. This is called a dual arrest. Despite increased overall arrest rates, recent research by NIJ shows that dual arrest rates are low, and more than half of arrests made do not result in conviction. Dual arrest can be influenced by state laws and policies, the characteristics of the people involved in the incident, the victim's relationship with the offender, and whether the offender remained at the crime scene.

Past research suggested that the increased arrest rate was a result of state mandatory and preferred arrest laws that require or strongly recommend that officers make an arrest in a domestic violence incident. Some studies showed that officers were more likely to arrest women. **However, these studies were limited by small sample sizes.** Many examined only a single police department or several departments in one state.

Researchers funded by NIJ recently addressed the small sample size problem, completing a comprehensive, nationwide study. The study was conducted in two parts:

Part 1. Nationwide Study

In the first part of the study, researchers:

- Examined how often domestic and non-domestic violence arrests occur nationwide.
- Determined common characteristics of offenders (e.g., race, gender).
- Assessed how state laws affect whether police make an arrest and whom they arrest.
- Examined the factors that affect who is arrested.

Part 2. Detailed Examination of 25 Police Departments

In the second part of the study, researchers:

- Examined case records from 25 police departments in 4 states.
- Conducted a more detailed investigation of the factors that affect who is arrested in domestic violence cases.
- Assessed whether police department policies on domestic violence are consistent with state laws on domestic violence.
- Examined the factors that lead to conviction.
- Investigated the factors associated with reoffending.

Introduction

Section 1. Domestic Violence Arrest Laws and Policies Today

In the 1970s, women's rights groups and a number of domestic violence lawsuits accusing police of negligence began to have an effect on legislation. Laws were passed to enable police to make arrests in domestic violence incidents without a warrant.

Currently, state laws take one of three approaches to an arrest in domestic violence cases:

- Arrest is mandatory.
- Arrest is preferred.
- Arrest is at the officer's discretion.

Each state also has laws that surround the circumstances in which officers can make an arrest. For instance, laws might say an officer can only make an arrest:

- In cases of felonies.
- Within a certain number of hours of the incident.
- If the couple is married, blood related, living together or has a child together.

Officers' decisions to make an arrest are governed by the policies of their jurisdiction. The policy in a jurisdiction may require more of the police than state law. For example, a state law may say that an arrest is preferred in domestic violence cases, but a jurisdiction may choose to make an arrest mandatory.

For more information on state laws, see:

- Table 1. States With Mandatory Arrest Provisions (see pages 19 - 20)
- Table 2. States With Preferred Arrest Provisions (see page 21)
- Table 3. States With Discretionary Arrest Provisions (see page 22-23)

Introduction

Section 2 — Past Research on Dual Arrests

Previous research has provided a number of theories about why arrest rates in domestic violence incidents have increased and why women are being arrested more frequently.

However, these studies have been limited by:

- Small sample sizes. Past studies only include data from one jurisdiction or several jurisdictions in one state.
- Lack of comprehensive research. Past studies have not compared the police response in domestic to non-domestic violence cases or examined the many factors that influence the police's decision to make an arrest.

Past theories about why domestic violence arrest rates have increased examine state laws and jurisdiction policies and the way officers and victims react to domestic violence incidents. For instance, laws have expanded so that officers no longer have to witness the crime to make a warrantless arrest. Also, these laws cover many types of domestic relationships, including married couples, couples who live together, blood relatives, couples with a child together, and couples who are dating. A number of other
theories to explain increases in arrest are described in the full report (pdf, 207 pages) (http://www.ncjrs.gov/pdffiles1/nij/grants/218355.pdf#page=20) .

Past theories also suggest that officers are more likely to arrest women, either as primary offenders or in dual arrests. The reasons officers may arrest more women are unclear, but studies say this may have to do with the fact that officers want to make fair, unbiased arrests, and choose to arrest all violent parties in a domestic dispute. A number of other theories on why officers are more likely to arrest women either as primary offenders or in dual arrests are described in the full report (pdf, 207 pages) (http://www.ncjrs.gov/pdffiles1/nij/grants/218355.pdf#page=23) .

Past studies suggest dual arrests occur because officers fail to identify a primary offender. A number of other theories on increases in dual arrest rates are described in the full report (pdf, 207 pages). (http://www.ncjrs.gov/pdffiles1/nij/grants/218355.pdf#page=25)

Chapter 1. Nationwide Dual Arrest Study: Analysis of National Incident-Based Reporting System Data

Introduction

In the first part of the study, researchers:

- Examined how frequently arrest and dual arrest occur nationwide in domestic and non-domestic violence cases.
- Examined how incident variables (e.g., the seriousness of the offense), offender and victim characteristics (e.g., sexual orientation, gender), and state laws influence arrest rates.

All data used in the first part of the study came from a nationwide crime reporting database called the National Incident-Based Reporting System (NIBRS). All the cases collected:

- Occurred in the year 2000.
- Occurred in one of 2,819 jurisdictions in 19 states.
- Involved a violent offense or violent threat.

Why is NIBRS the best data source for studying dual arrests?

NIBRS provides information about each incident reported to the police nationwide. Researchers can use this information to analyze the unique factors that result in arrest, dual arrest or no arrest.

Sidebar — Why Was NIBRS Developed?

The nation's first crime reporting system was developed in 1927 by the International Association of Chiefs of Police and was called the Uniform Crime Reports (UCR). The UCR provide data on eight crimes — murder and non-negligent manslaughter, robbery, rape, aggravated assault, burglary, theft, vehicle theft and arson. The UCR is managed by the FBI. Data collection began in 1930.

The FBI revised the UCR in the 1980s. Their revision was called the National Incident-Based Reporting System (NIBRS). NIBRS allows law enforcement to record case information from about 46 types of criminal activity. Data collection began in 1991.

How NIBRS Advances the UCR System

Uniform Crime Reports	National Incident-Based Reporting System
Tracks eight crimes.	Tracks 46 crimes.
Does not provide information on each reported incident. Provides only a tally of the incidents reported.	Provides information on each incident reported to police, including: • Characteristics of victim(s) and offender(s). • Relationship between the victim and offender. • Crimes committed. • Injuries at the incident. • Weapons used. • Arrests made. • Incident location.
Does not provide information about simple assault, which is the most commonly reported domestic violence offense.	Provides information about cases involving simple assault.
Reports only the most serious crime committed in a single incident (e.g., if a murderer has raped his victim, only murder is reported.)	Requires officers to report multiple offenses, victims and offenders. This allows researchers to compare and analyze multiple incidents.
Does not account for whether an arrest was made in a specific incident	Provides information about arrests in each incident.

Chapter 1. Nationwide Dual Arrest Study: Analysis of National Incident-Based Reporting System Data

Section 1 — Findings From the Analysis of NIBRS Data

Analysis of NIBRS data revealed the following information on the police response to domestic and non-domestic violence incidents. The important findings are highlighted below.

- How many incidents resulted in arrest?
- How many incidents resulted in dual arrest?
- How did domestic violence legislation impact arrest practices?
- What effect did domestic violence legislation have on dual arrest?
- How did victim, offender and incident characteristics affect arrest practices?
- How did victim, offender and incident characteristics impact dual arrest practices?
- Did a person's sexual orientation affect arrest rates?

How many incidents resulted in arrest?

- Approximately 37 percent of all intimidation, simple assault and aggravated assault incidents resulted in arrest.
- Arrest rates were higher when cases involved intimate partners (about 50 percent) and other situations of domestic violence (44.5 percent).

How many incidents resulted in dual arrest?

- Slightly more than 1 percent of all cases resulted in dual arrest.
- Dual arrest rates were higher when cases involved intimate partners (about 2 percent) and other situations of domestic violence (1.5 percent).

View exhibits showing arrest rates based on victim-offender relationship (see pages 15-16):

- Exhibit 1. Arrests by Victim-Offender Relationship: Intimate Partners
- Exhibit 2. Arrests by Victim-Offender Relationship: Other Domestic Relationships
- Exhibit 3. Arrests by Victim-Offender Relationship: Non-Domestic Relationships
- Exhibit 4. Arrests by Victim-Offender Relationship: Strangers

How did domestic violence legislation impact arrest practices?

- Officers in states with mandatory and preferred arrest laws were more likely to make arrests than officers in states with discretionary arrest laws. This was true for all types of relationships.
- Arrest rates varied among the jurisdictions within each state.
- Arrest rates in intimate partner cases were 97 percent higher in states with mandatory arrest laws, compared to states with discretionary arrest laws.
- Arrest rates in intimate partner cases were 177 percent higher in states with preferred arrest laws, compared to states with discretionary arrest laws.

What effect did domestic violence legislation have on dual arrest?

- Mandatory, but not preferred, arrest laws increased the likelihood that police would arrest both parties.
- Connecticut had the highest dual arrest rate. It has a mandatory arrest law and at the time of the study had no law stating that officers should arrest only the primary offender.

For more information, see Table 5.2 "HGLM Results Predicting Arrests" (pdf, 207 pages) (http://www.ncjrs.gov/pdffiles1/nij/grants/218355.pdf#page=86) and and Table 5.3 "HGLM Results Predicting Dual Arrest" (pdf, 207 pages) (http://www.ncjrs.gov/pdffiles1/nij/grants/218355.pdf#page=91) in "Explaining the Prevalence, Context, and Consequences of Dual Arrest in Intimate Partner Cases: Final Report."

How did victim, offender and incident characteristics affect arrest practices?

- Men and women were equally likely to be arrested in incidents involving intimate partners or strangers as long as the circumstances were similar (e.g., equally serious offenses were committed).
- Men were more likely to be arrested in domestic violence incidents that did not involve intimate partners and incidents involving acquaintances.
- The more serious the incident, the more likely the offender would be arrested. Incidents of aggravated assault resulted in arrest more frequently than incidents of simple assault. Incidents of simple assault resulted in arrest more frequently than incidents of intimidation.
- Arrest occurred more frequently in cases involving intimate partners if the offender was white. This effect was weaker in states with preferred arrest laws.
- Cases involving intimate partners and acquaintances were more likely to result in arrest if the offender was 21 or older. In other domestic cases, arrest was more likely if the offender was under 21.
- Offenses that occurred in residences were more likely to result in arrest than those that occurred in public.

How did victim, offender and incident characteristics impact dual arrest practices?

- Dual arrest was more common in intimate partner cases that involved simple assault, as opposed to cases that involved aggravated assault or intimidation.
- Dual arrest was more common in intimate partner cases if the primary offender was female and/or 21 or older.

For more information, see Table 5.2 "HGLM Results Predicting Arrests" (pdf, 207 pages) (http://www.ncjrs.gov/pdffiles1/nij/grants/218355.pdf#page=86) and and Table 5.3 "HGLM Results Predicting Dual Arrest" (pdf, 207 pages) (http://www.ncjrs.gov/pdffiles1/nij/grants/218355.pdf#page=96) in "Explaining the Prevalence, Context, and Consequences of Dual Arrest in Intimate Partner Cases: Final Report."

Did a person's sexual orientation affect arrest rates?

- Police were equally likely to make an arrest in incidents involving same-sex and heterosexual couples.
- Dual arrest rates for same-sex couples were 10 times the rate observed in cases with male victims and female offenders and 30 times the rate observed in cases with female victims and male offenders.
- Dual arrests involving lesbian couples (about 12 percent) occurred at twice the rate of those involving gay male couples (about 6 percent). Lesbian couples were most likely to be arrested in incidents that took place outside their homes.
- Dual arrests were three times more likely in heterosexual incidents when the primary victim was male.

For more information, see Table 6.2 "Police Disposition by Victim-Offender Sex by Victim Offender Relationship" (pdf, 207 pages) (http://www.ncjrs.gov/pdffiles1/nij/grants/218355.pdf#page=103) and Table 6.3 "Intimate Partner Violence Cases: Police Disposition by Victim-Offender Sex Controlling for Seriousness of Offense" (pdf, 207 pages) (http://www.ncjrs.gov/pdffiles1/nij/grants/218355.pdf#page=105) in "Explaining the Prevalence, Context, and Consequences of Dual Arrest in Intimate Partner Cases: Final Report."

Chapter 2. In-Depth Survey of Police Departments

Introduction

In the second part of the study, researchers conducted a survey of police departments. They determined whether jurisdiction policies were the same as state laws and identified the factors that led to arrests. They selected four states for detailed analysis:

- Connecticut (Mandatory arrest law)
- Virginia (Mandatory arrest law)
- Tennessee (Preferred arrest law)
- Idaho (Discretionary arrest law)

How did researchers determine what factors led to arrest?

Researchers selected two medium to large jurisdictions in each state, and at least one smaller jurisdiction near each of the larger cities. All these jurisdictions provided police records on their arrests in domestic violence incidents.

How did researchers compare state laws and jurisdiction policies?

Researchers surveyed 479 departments from the four selected states and Michigan (discretionary arrest law). The survey included all jurisdictions in Connecticut and Idaho. All jurisdictions with a population of 50,000 or more, and a random sample of the smaller jurisdictions, were surveyed in the other three states.

Chapter 2. In-Depth Survey of Police Departments

Section 1 — Findings From the In-Depth Survey

In the second part of the study, researchers:

- Surveyed police departments to examine whether jurisdiction policies correspond with state law.
- Assessed factors at an incident that may have affected whether or not police made an arrest (e.g., was the offender on scene when the police arrived, were alcohol or drugs involved, were children present).
- Assessed whether the criminal histories of victims and offenders affect arrests, prosecutions and convictions.

The major findings are highlighted below.

- How did department arrest policies comply with state arrest laws?
- What factors affected arrest rates?
- What factors affected dual arrest rates?
- Did arrests lead to convictions? What circumstances surrounding an arrest affected conviction rates?
- Did arrestees reoffend?

How did department arrest policies comply with state arrest laws?

- The vast majority of police departments in states with mandatory arrest laws had mandatory arrest policies.
- Some police departments in states with preferred or discretionary arrest laws had mandatory arrest policies.
- Jurisdictions with primary aggressor department policies or state laws reported one-fourth the number of dual arrests as jurisdictions without such policies or laws. Primary aggressor laws state that officers should identify and arrest only the main offender in an incident.

For more information, see
Table 8.7 "Arrest Proportions ANOVA Comparing State Primary Aggressor by Agency Primary Aggressor Instruction" (pdf, 207 pages) (http://www.ncjrs.gov/pdffiles1/nij/grants/218355.pdf#page=130) from "Explaining the Prevalence, Context, and Consequences of Dual Arrest in Intimate Partner Cases: Final Report."

What factors affected arrest rates?

- Arrest rates increased when:
  - A victim was injured (about 2 times more likely).
  - A minor was present at the incident (1.2 times more likely).
  - An offender stayed at the incident (about 4 times more likely).
  - The incident involved intimate partners as opposed to other domestic relationships (1.3 times more likely). (Other domestic relationships include, for example, brother-sister, father-son.)
  - The incident took place in one of the larger cities surveyed (about 1.5 times more likely).
- A person's gender did not affect whether he or she would be arrested.
- Arrest rates increased when an offender stayed at the incident. This explains the finding from the first part of the study that suggests that arrest occurred more frequently when the offense was committed in a residence. Offenders who committed their offenses in a residence were more likely to remain on the scene than offenders who committed their offenses elsewhere.

What factors affected dual arrest rates?

Dual arrest rates increased when:

- The incident involved violence between intimate partners (about 2 times more likely).
- The offender stayed at the scene of a crime (20 times more likely).
- The incident took place in one of the larger cities surveyed (3 times more likely).

Dual arrest rates decreased when:

- The officers knew the offender had been violent in the past (40 percent less likely). In these instances, officers were more likely to arrest a single offender.
- The offender was white (40 percent less likely).
- The primary offender was male (60 percent less likely).

See Exhibit 5: Factors Affecting Arrest Rates and Exhibit 6: Factors Affecting Dual Arrest Rates. See page 17.

Did arrests lead to convictions? What circumstances surrounding an arrest affected conviction rates?

- Less than half (about 43 percent) of arrests or citations resulted in convictions.
- Arrests were 60 percent less likely to result in conviction in states with mandatory arrest laws versus states with discretionary arrest laws.
- Arrests were 30 percent less likely to result in conviction if the defendant was white.
- Arrests in intimate partner violence cases were about 70 percent more likely to result in conviction than arrests in other domestic violence cases.
- Arrests were about 1.5 times more likely to result in conviction if the victim was injured.
- Arrests were about 2.5 times more likely to result in conviction if the offender had previously been arrested.
- A person's gender did not influence whether he or she would be convicted.
- A victim or offender's use of alcohol did not affect whether the arrestee would be convicted.

See Exhibit 7: Factors Affecting the Likelihood of Conviction. See page 18.

Did arrestees reoffend?

- If an offender had a prior arrest record, he or she was seven times more likely to be rearrested than an offender with no prior arrest record.
- Men were twice as likely as women to reoffend.
- If an offender used alcohol or drugs in the initial incident, he or she was about 25 percent more likely to be arrested again.
- Arrest and conviction for the initial offense did not affect whether an offender would be arrested again.

See Exhibit 8: Factors Affecting the Likelihood an Offender Would be Subsequently Arrested. See page 18.

Chapter 3. What Does This Study Tell Us About Arrests and Dual Arrests in Domestic Violence Cases?

Current state arrest laws have led to a more severe and consistent police response to domestic violence. This study's findings can help researchers understand the effects of domestic violence policies and design a plan for the future.

Discussing the Study

The study's findings provoke a variety of questions and topics for discussion. A number of relevant discussions are presented below. All answers represent the opinions and analysis of the researchers who conducted the study.

- On Arrest
- On Dual Arrest
- On Conviction
- On Improving Police Response

On Arrest

Question: Does gender affect arrest rates in intimate partner violence cases?
Answer: No. Men and women were equally likely to be arrested as long as both committed equally serious offenses.

On Dual Arrest

Question: Do mandatory arrest laws increase dual arrest rates?
Answer: Yes, though the overall dual arrest rate still remains low. If states want to increase arrest rates and avoid making unnecessary dual arrests, they should consider passing a preferred arrest law and enhancing police departments' policies and training.

Question: Why do mandatory arrest laws increase dual arrest rates?
Answer:
Officers are required to make an arrest and consider discretion inappropriate. They may choose to arrest both people involved in an incident and let a court decide who is guilty.

Question: How does gender affect dual arrest rates in intimate partner violence cases?
Answer:
In situations with a female offender, officers are three times more likely to make a dual arrest. Additionally, officers are more likely to make a dual arrest when the incident involves a homosexual couple. These rates may be related to sex role stereotyping.

On Conviction

Question: Why did less than half of the cases that reached a prosecutor's office result in conviction?
Answer:
With the increasing number of arrests in domestic violence cases, prosecutors may be forced to choose cases with the best chance of conviction—cases that involve injuries or offenders with a criminal history are more likely to be convicted.

Question: If the police were more likely to make arrests when children were present at an incident, why did this not lead to higher rates of conviction?
Answer:
Police are aware that witnessing violence can harm child development, and make an arrest. However, a child's presence at the incident may not factor prominently in courtroom prosecution.

Question: If police were more likely to arrest white offenders than minorities, why were white offenders convicted less frequently than minority offenders?
Answer:

Law enforcement officers may consider violence among minorities more common than violence among white populations, which may lead to fewer minority arrests. Cases involving minorities may then constitute the stronger cases for prosecution. However, other factors such as social status, type of legal presentation, victim willingness to proceed and access to diversion programs may explain why whites are convicted less frequently.

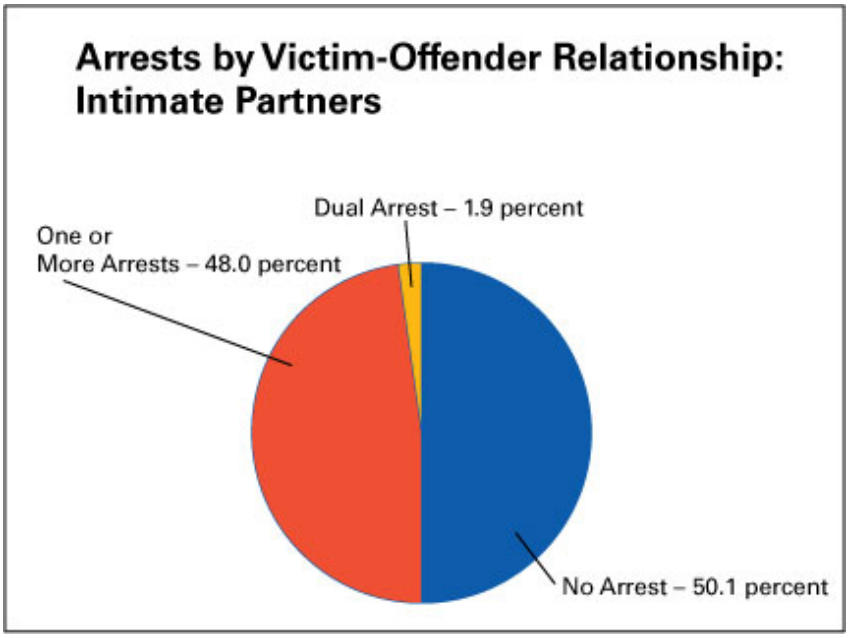
On Improving Police Response

Question: How can we make it more likely that offenders who have left the scene will be arrested?
Answer:
Officers could increase arrest rates by conducting more thorough follow-up investigations to find offenders who have left the crime scene.

Question: How can we lower dual arrest rates?
Answer:
Dual arrest rates are highest in states with mandatory arrest laws and no policies that require officers to arrest only the primary offender. These policies are called primary aggressor provisions. States who wish to lower dual arrest rates may wish to institute primary aggressor laws. Police departments may wish to institute primary aggressor policies.

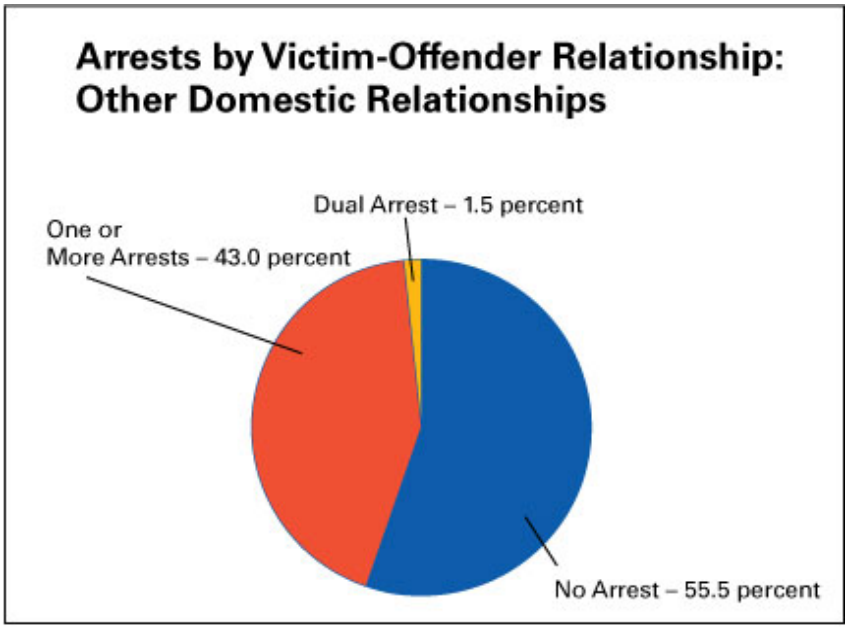
Question: How can we lower dual arrest rates in incidents involving same sex couples?
Answer:
By training officers to better identify abuse in same sex relationships. It is important that both policies and training address potential sex role stereotyping and the significance of victimization for both genders.

Exhibit 1



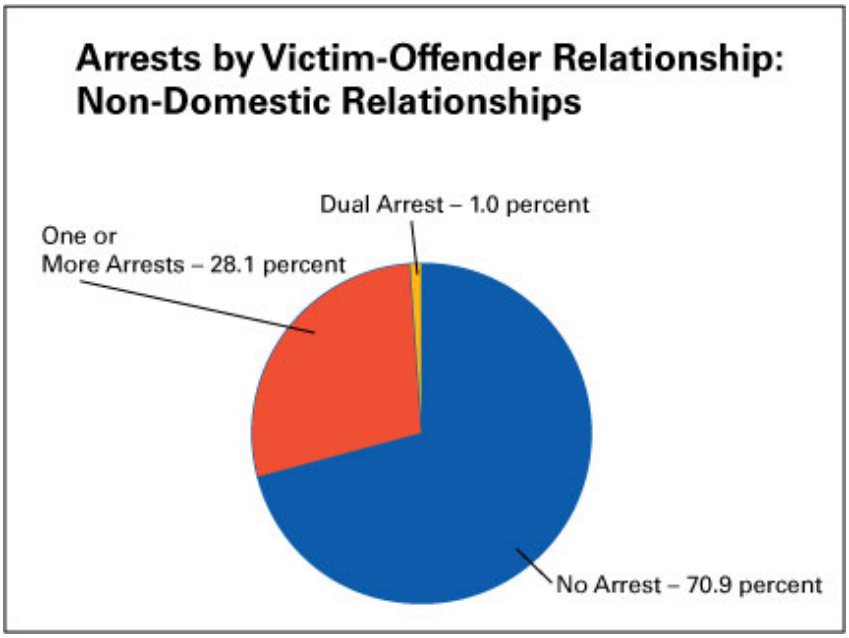
Back to the text.

Exhibit 2



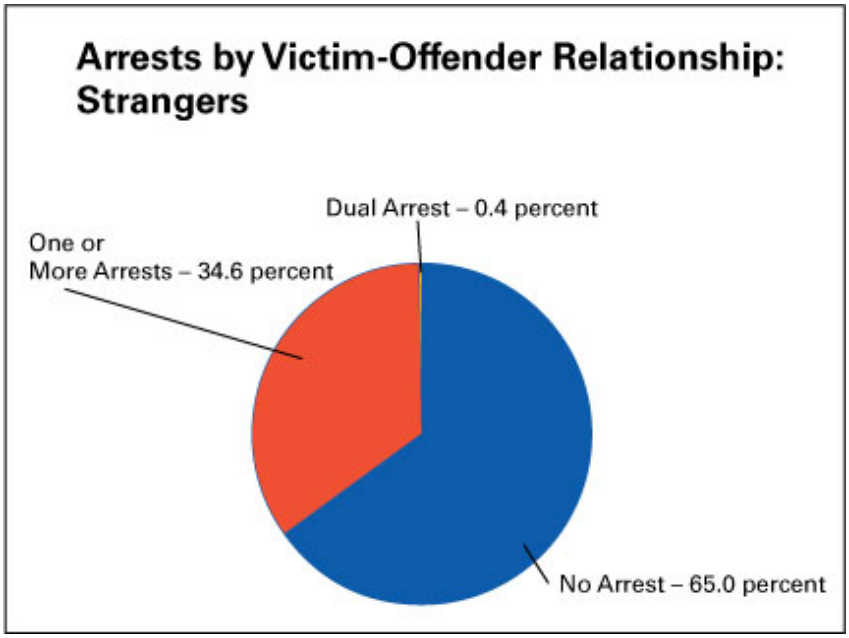
Back to the text.

Exhibit 3



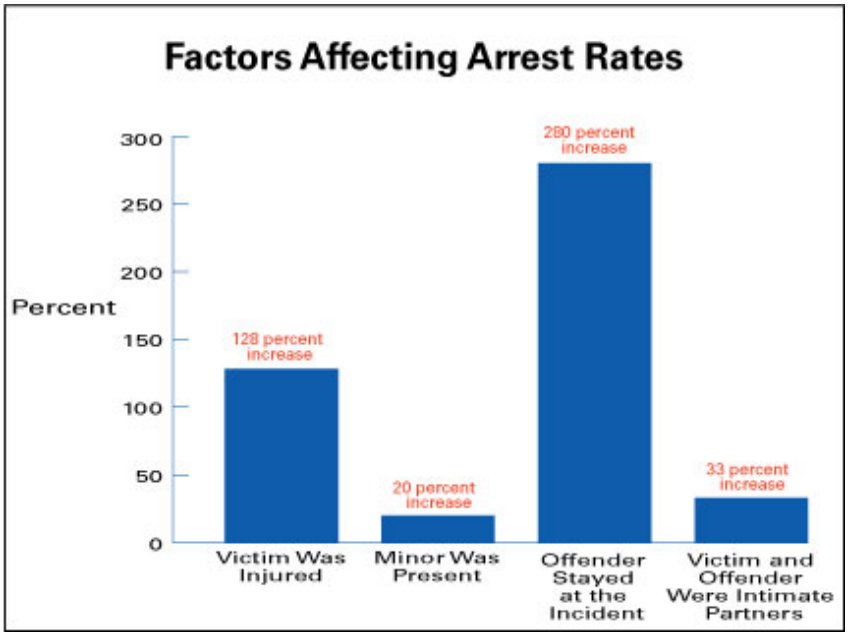
Back to the text.

Exhibit 4



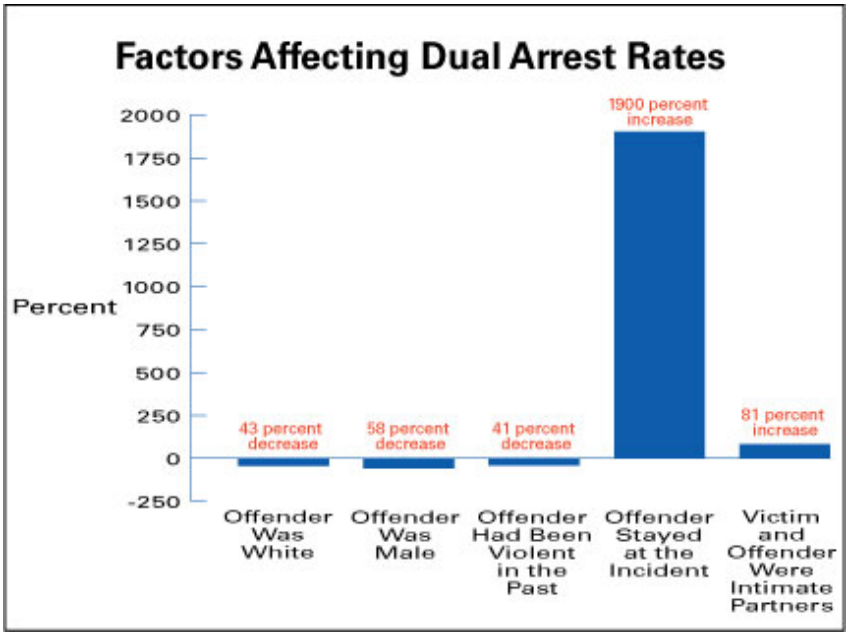
Back to the text.

Exhibit 5



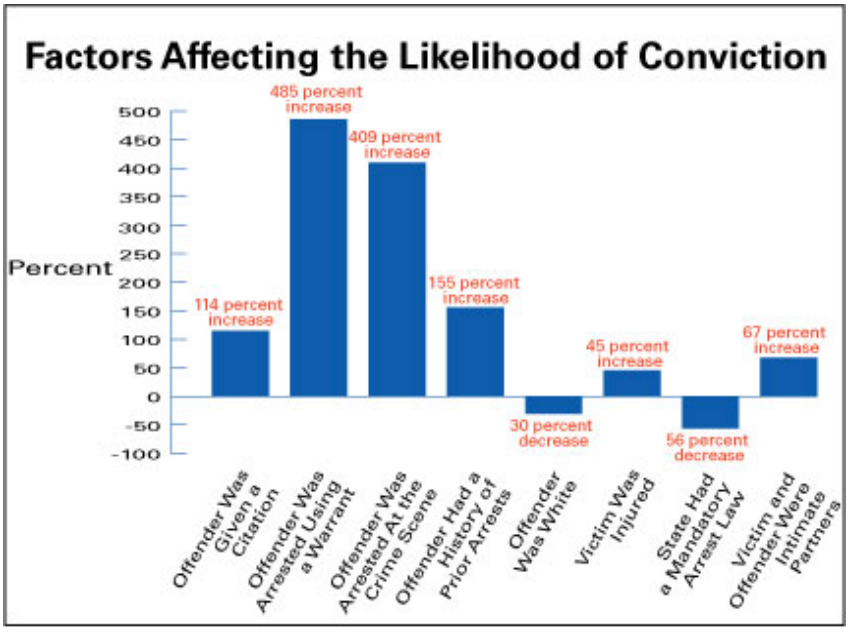
Back to the text.

Exhibit 6



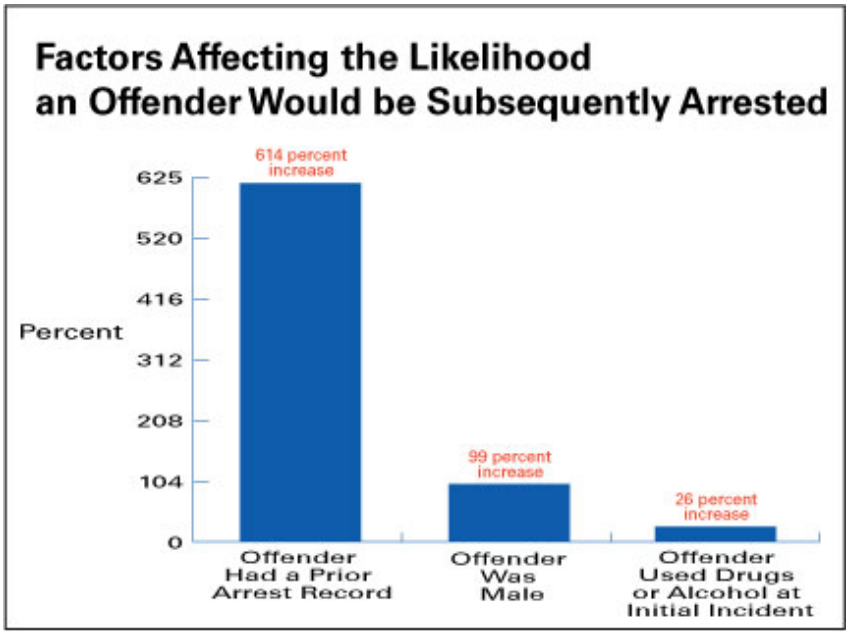
Back to the text.

Exhibit 7



Back to the text.

Exhibit 8



Back to the text.

Table 1. States With Mandatory Arrest Provisions

State	Mandatory Arrest for Crime	Circumstances	Coded Relationships [1]
Alaska	Alaska Stat. § 18.65.530(a)	Probable cause to believe that a crime of domestic violence was committed within past 12 hours.	A,B,C,D,E,
Arizona	Ariz. Rev. Stat. Ann. § 13-3601(B)	Domestic violence involving infliction of physical injury or use/threatening use deadly weapon.	A, B, C, E
Colorado	Colo. Rev. Stat. § 18-6-803.6(1)	Probable cause to believe a crime of domestic violence was committed.	A, B, C
Connecticut	Conn. Gen. Stat. § 46b-38b(a)	Speedy information that family violence was committed in jurisdiction.	A, B, C, E
District Of Columbia	D.C. Code Ann. § 16-1031	Probable cause to believe that an intrafamily offense was committed that resulted in physical injury including pain or illness or caused or was intended to cause reasonable fear of imminent serious physical injury or death.	A, B, C, D, E
Iowa	Iowa Code § 236.12(2)	Probable cause to believe that domestic abuse assault committed that resulted in bodily injury, or was committed with intent to inflict serious injury, or with use or display of dangerous weapon.	A, B, C, E
Kansas	Kan. Stat. Ann. § 22-2307(b)(1)	Probable cause to believe a crime has been committed.	A,B, C, E
Louisiana	La. Rev. Stat. Ann. § 46:2140 ; Ch. C. Art. 1573(1)	Reason to believe family or household member has been abused and (1) probable cause exists to believe that aggravated/second degree battery was committed or (2) aggravated or simple assault or simple battery committed and reasonable belief in impending danger to abused.	A,B, E
Maine	Me. Rev. Stat. Ann. tit. 19-A, § 4012(5)	Probable cause to believe there has been a violation of title 17-A, section 208 (aggravated assault statute) between members of same family or household.	A, B, C, D, E
Mississippi	Miss. Code Ann. § 99-3-7(3)	Probable cause to believe that within 24 hours offender knowingly committed a misdemeanor act of domestic violence.	A, B, E
Missouri	Mo. Rev. Stat. § 455.085	Called to same address within 12 hours and probable cause to believe same offender has committed abuse or assault against same or other family/household member.	A, B, E
Nevada	Nev. Rev. Stat. Ann. § 171.137(1)	Probable cause to believe that within 24 hours battery was committed.	A, B, C, D, E
New Jersey	N.J. Stat. Ann. § 2C:25-21(a)	Probable cause to believe that domestic violence has occurred and either victim shows signs of injury or probable cause that a weapon was involved.	A, B, C, D, E
New York	N.Y. Crim. Proc. Law § 140.10(4)(a)	Probable cause to believe a felony has been committed against a member of the same family or household or, unless victim requests otherwise, a misdemeanor family offense committed.	A, C, E
Ohio	Ohio Rev. Code Ann. § 2935.032(A)(1)(a)(i)	Reasonable cause to believe that offender committed felonious assault.	A,B.C, E
Oregon	Or. Rev. Stat. § 133.055(2)(a)	Probable cause to believe that a felonious assault or an assault resulting in injury occurred or action has placed another to reasonably fear imminent serious bodily injury or death.	A, B, C, D, E

State	Mandatory Arrest for Crime	Circumstances	Coded Relationships [1]
Rhode Island	R.I. Gen. Laws § 12-29-3(c)(1)	Probable cause to believe the following: felonious assault: assault resulting in injury: action was intended to cause fear of imminent serious bodily injury or death.	A, B, C, D, E
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
South Dakota	S.D. Codified Laws § 23A-3-2.1	Probable cause to believe that within previous 4 hours [2], 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
Utah	Utah Code Ann. § 77-36-2.2(2)(a)	Probable cause to believe that an act of domestic violence was committed and there will be continued violence or evidence perpetrator has recently caused serious bodily injury or used a dangerous weapon.	A, B, C, E
Virginia	Va. Code Ann. § 19.2-81.3(B)	Probable cause to believe assault or battery on family or household member.	A, B, C, E
Washington	Wash. Rev. Code § 10.31.100(2)(c)	Probable cause to believe a person 16 years or older within the previous 4 hours assaulted a family or household member and believes (1) felonious assault occurred, or (2) assault resulting in bodily injury occurred whether injury is visible or not, or (3) any physical action occurred which was intended to cause reasonable fear of imminent serious bodily injury or death.	A, B, C, D, E
Wisconsin	Wis. Stat. § 968.075 (2)(a)	Reasonable cause to believe that offender committing or has committed domestic abuse and either evidence of physical injury or reasonable basis for believing continued abuse is likely.	A, B, E

[1] Coded Relationships: (A) current/former spouse, (B) current/former cohabitant, (C) child in common, (D) Dating relationship,(E) related by marriage or blood

[2] Amended in 2001 to 24 hour

Back to the text.

Table 2. States With Preferred Arrest Provisions

State	Statute	Circumstances
Arkansas	Ark. Code Ann.§ 16-81-113	Preferred action when evidence indicates that domestic abuse has occurred.
California	Cal. Penal Code § 13701 (b)	The written policies shall encourage the arrest of domestic violence offenders if there is probable cause that an offense has been committed.
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.
Montana	Mont. Code Ann.§ 46-6-311(2)(a)	Preferred response in partner or family member assault cases involving injury to the victim, use or threatened use of a weapon, … or other imminent danger to the victim.
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.
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 office

Back to the text.

Table 3. States With Discretionary Arrest Provisions

State	Discretionary Statute	Circumstances
Alabama	Ala. Code § 15-10-3 (a)(8)	An officer may arrest a person without a warrant, on any day and at anytime in any of the following instances: When an offense involves domestic violence as defined by this section, and the arrest is based on probable cause, regardless of whether the offense is a felony or misdemeanor.
Delaware	Del. Code Ann. tit.11§1904(a)(4)	Whenever a law enforcement officer has reasonable grounds to believe a person has committed a misdemeanor involving physical injury or the threat thereof or any misdemeanor involving illegal sexual contact or attempted sexual contact.
Florida	Fla. Stat. ch. 741.29 (3)	Whenever a law enforcement officer determines upon probable cause that an act of domestic violence has been committed within the jurisdiction the officer may arrest the person or persons suspected of its commission and charge such person or persons with the appropriate crime. The decision to arrest and charge shall not require consent of the victim or consideration of the relationship of the parties.
Georgia	Ga. Code Ann. § 17-4-20 (a)	An arrest for a crime may be made by a law enforcement officer either under a warrant or without a warrant if the offense is committed in such officer's presence or within such officer's immediate knowledge if the officer has probable cause to believe that an act of family violence has been committed.
Hawaii	Haw. Rev. Stat §709-906 (2)	Any police officer, with or without a warrant, may arrest a person if the officer has reasonable grounds to believe that the person is physically abusing, or has physically abused, a family or household member and that the person arrested is guilty thereof.
Idaho	Idaho Code §19-603 (6)	A peace officer may make an arrest when upon immediate response to a report of a commission of a crime there is probable cause to believe that the person arrested has committed a violation of section 18-902 (assault), 18-903 (battery),18-918 (domestic assault or battery).
Illinois	725 Ill. Comp. Stat. 5/112A-30	Whenever a law enforcement officer has reason to believe that a person has been abused by a family or household member, the officer shall immediately use all reasonable means to prevent further abuse, including arresting the abusing party, where appropriate.
Indiana	Ind. Code Ann. § 35-33-1-1 (a)(5)(C)	A law enforcement officer may arrest a person when the officer has probable cause to believe the person has committed a domestic battery under IC 35-42-2-1.3.
Kentucky	Ky. Rev. Stat. Ann. § 431.005(2)(a)	Any peace officer may arrest a person without a warrant when he has probable cause to believe that the person has intentionally or wantonly caused physical injury to a family member or member of an unmarried couple.
Maryland	Md. Code Ann. § 2-204	A police officer without a warrant may arrest a person if (s)he has probable cause to believe that:(i) the person battered the person's spouse or another person with whom the person resides; (ii) there is evidence of physical injury; and, (iii) unless the person is arrested immediately, the person: 1 may not be apprehended; 2.may cause physical injury or property damage to another; or 3. may tamper with, dispose of, or destroy evidence; and a report to the police was made within 48 hours of the alleged incident.
Michigan	Mich. Comp. Laws § 764.15a	A peace officer may arrest an individual regardless of whether (s) he has a warrant or whether the violation was committed in presence of the peace officer, has or receives positive information that another peace officer has reasonable cause to believe both of the following: (a) The violation occurred or is occurring. (b) The individual has had a child in common with the victim, resides or has resided in the same household as the victim, has or has had a dating relationship with the victim, or is a spouse or former spouse of the victim.

State	Discretionary Statute	Circumstances

Back to the text.