

## **Double Your Trouble: Dual Arrest in Family Violence**

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*When arrest is mandated for domestic violence crimes the arrest of two individuals, or dual arrest, often occurs. This study examines the characteristics of the crime and the people caught in dual arrests, with a special emphasis on the women arrested. The data were drawn from a population of 4138 disposed family violence cases in the criminal court, 448 of their arrest records, and 90 prosecutor files. Thirty three percent of the 448 cases disposed were dual arrests. Persons subject to dual arrest were primarily white, young, nonurban, unmarried employed persons. The incident was likely to involve alcohol or drug use and physical beating with hands or fists. Forty percent of the women arrested were previously victimized in a domestic violence incident. Findings suggest that dual arrests may reflect both the differential use of violence in domestic relations and the over enforcement of policy by some police departments.*

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**KEY WORDS:** dual arrest; family violence.

### **INTRODUCTION**

The mandated arrest of the domestic violence offender has become common practice and an important policy solution in the public debate concerning the most equitable and effective government response to domestic violence. Arrest for domestic violence has been touted as an instrument to stop the current abuse and empower the victim (Forell, 1991), promote fair treatment (Stark, 1993; Frisch, 1992), and deter future violence, for at least some offenders (Sherman, 1992). It has also been viewed as a socially repressive and inequitable mechanism of social control

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(Stanko, 1988). The practice of dual arrest, the arrest of two parties, usually a man and a woman engaged in a "domestic dispute," has arisen in localities which employ presumptive and mandatory arrest. Such unintended consequence challenges notions of fairness and effectiveness, both identified goals of the new policies.

Because of the failure of the criminal justice system to treat domestic violence as a crime, victims of domestic violence have not been provided with the same protections available to victims not known to their abusers (Thurman v. City of Torrington, 1985). Promotion of mandatory or presumptive arrest policies proponents argued, would result in greater fairness due to uniform treatment and greater effectiveness, as the result of specific and general deterrence. Mandatory arrest policies were seen as "the solution to many of the problems found under systems in which arrest is discretionary" (Buel, 1988).

The State of Connecticut implemented a mandatory arrest policy for domestic violence offenders in 1987. This policy was part of comprehensive series of legislation which began a decade earlier. Laws provided legal relief to battered women in the form of restraining orders and marital rape legislation, and provided social services such as shelters, treatment programs for offenders and specialized court advocacy services. But Connecticut and other jurisdictions that have implemented enhanced arrest procedures in family violence cases, have experienced a phenomenon which may be an unintended or perverse consequence of the policy. Dual arrest is a common occurrence associated with such policies.

This research sought to describe the incidence and characteristics of dual arrest incidents in Connecticut following implementation of mandatory arrest legislation. Special emphasis was paid to the characteristics of women who were arrested in these incidents. Although the study could not explain the multiple determinants of dual arrests, the goal was to describe and understand the relationships between the persons arrested, the criminal incident, and the justice system response. Specifically, the study sought to describe the characteristics of the persons arrested and the co-defendants, including their previous history of violence. Second, the study intended to understand the criminal incidents producing dual arrest and to differentiate these from the group of single arrests. A further objective was to examine distribution of these arrests, their treatment in the courts, and to pose hypothesis about the meaning and causes of dual arrest. The process of hypothesis building sought to further understand how dual arrest is employed in a mandatory arrest state. Primarily, there was a working presumption that dual arrests may be the result of numerous types of interactions between individual family members and between these family members and the police.

### MANDATORY ARREST

The battered women's movement in the late 1970s indicted the criminal justice system for its failure to adequately protect women from violence within intimate relationships. Many proponents of criminal justice system intervention into this social problem demanded that police policies which promoted nonintervention in domestic disputes, or explicitly prevented arrest in domestic disputes, be eliminated. It was argued that policy which either required arrest when probable cause of a crime existed or recommended arrest under such circumstances should be implemented (U.S. Department of Justice, 1984). Dramatic change in U.S. police policy was evidenced throughout the decade of the 1980s. While ten percent of the police departments in major metropolitan areas employed pro or mandatory arrest policies in 1984, more than one-third had such policies by 1986 (Sherman and Cohn, 1986).

States too adopted new arrest policy during that decade. By 1989 80% of state legislatures had altered police powers of arrest in domestic violence cases. Fifteen states had enacted mandatory arrest for some domestic violence crime categories by 1991 (Zora, 1992). As in other states, the Connecticut legislature's unanimous endorsement of mandatory arrest reflected the strength of the advocates' lobby, the results of criminal justice experiments which suggested that arrest deterred future violence (Sherman and Berk, 1984), and the fiscal pressures invoked by a city's liability for failure to protect a battered woman (*Thurman v. City of Torrington*, 1985).

Within the political arena, domestic violence was portrayed as a clash between good and evil. Women were the victims, men the abusers, for this represented the known characteristics of most abusing relationships. Data from battered women's shelters, criminal justice agencies, other official sources and the National Crime Survey all indicate that at least 90% of the perpetrators were men and their victims women, and the most serious forms of violence were perpetrated by men (Ohlin and Tonry, 1989). Because the issue was highly politicized, there was scant recognition of atypical violent dyads, such as wives abusing husbands, girlfriends retaliating against boyfriends, and cases of true mutual violence in which both parties actively assaulted each other. There was little exploration in policy circles of cases in the gray area, in which culpability was unclear. It was not expected that mutual violence or aggressive acts of self-defense would be commonly found, or, if found, would make police decisionmaking difficult.

Although information from cities and states which have promoted arrest in domestic violence report that the majority of arrests are of individual men, dual arrests have been reported as a substantial minority of arrests. The state of Washington initially reported a dual arrest rate of 50% and

Oregon, 11% (Epstein, 1987). Ironically, in an attempt to prohibit the police from discouraging women from calling police, Connecticut's legislation restrained police from warning women that both parties in a complaint must be arrested. When complaints were received from two or more people, police were instructed to evaluate each complaint separately. The police were also held harmless from civil suits arising from a probable cause arrest for family violence (Connecticut General Statutes Section 46b-38b). But the State of Connecticut, after implementation of the mandatory arrest policy, reported that eighteen percent of the approximately 25,000 family violence arrests annually were dual arrests (Connecticut State Police, 1989). It became common knowledge in Connecticut that dual arrest was a consequence of the law, for although there were no official statistics kept, there was little evidence of this practice until policy reform. A self-help guide for battered women describes the likelihood of dual arrest in a question and answer format:

Will the police arrest me? If during the incident you hit, assaulted, or threatened the abuser in any way, you probably will also be arrested. If the police believe you were partly responsible for creating a public scene, they might arrest you for creating a public disturbance even if you were not violent. (Davies and Eppler-Epstein, 1989, p. 7)

Connecticut chose not to restrict or limit such dual arrests. Statute and case law are equivocal regarding whether self-defense is an affirmative defense against arrest. Police and prosecutors contend that strict adherence to the mandatory aspect of the domestic violence law requires arrest when any probable cause of crime is evident. They argue that it is only the courts which can ultimately determine culpability and the police role must be confined to investigation and apprehension.

In other locales, when dual arrest statistics became known, attempts were often made to reduce their incidence. Communities and states have responded by enacting administrative or legislative policies which direct police to renew their discretion within a mandatory arrest context. Eight states have enacted laws which moderate the police response, requiring them to arrest either the primary aggressor or the party who is not responding in self-defense (Zora, 1992). The city of Dallas reported a rate of 6% dual arrests when a pro-arrest policy was implemented, but reduced the incidence to under 1% when a new training policy was implemented. Dallas, similar to other states and cities, employs a series of filters through which the police decision to arrest is made. In domestic violence cases the police are instructed to arrest the person who initiated the assault but not to arrest a person who used physical force in reasonable self-defense, and if evidence of self-defense is not present but mutual injury was, to arrest the person "whose culpability is greatest" (Dallas Police Department Roll Call Training

Bulletin, 1987, p. 1). These localities attempted to eliminate dual arrest by requiring police to determine the individual who was most culpable or most dangerous.

### **Arrest: Antecedents and Correlates**

Arrest is an act of social control which requires complex decision making on the part of the officer. The actual arrest is a social artifact which reflects the behaviors of the participants in the criminal act, especially the victim and the offender; the interaction of the participants with the police officer; as well as the policy of the police organization which shapes the officer's response to individuals and situations. Dual arrest in domestic violence situations may reflect real mutual violence between parties and police policy, which urges rigid adherence to the mandates of the law or be indicative of overenforcement of mandatory arrest policy in relation to particular types of persons in particular geographic areas.

Mutual violence and aggressive acts of self-defense have been described in domestic settings. Murray Straus (1989) portrays violence as behavior on a continuum, from threatening to stabbing or shooting. He argues that both members of a couple may engage in some violent activities. Employing a very broad definition of violence, he suggests that victims of violence are likely to yell, shout, kick or smash an object. Although Straus and others have been criticized for overemphasizing mutual violence (Frieze and Browne, 1989), he also contends that much of violence employed by women is in self-defense. He suggests that three-fourths of the violence committed by women is in self-defense (Straus, 1989). Thirty percent of those who experienced minor violence and 52% of those experiencing major violence said that they fought back (Straus, 1989, pp. 258-259). Although concurring that women do fight back, Frieze and Browne suggest that it is only "mildly battered" women who fight back, citing the danger to women who are severely battered (Frieze and Browne, 1989). In examining variation in the use of violence by dating, cohabiting and married couples, Stets and Straus (1989) found that the greatest risk for mutual violence and for severe violence in which both parties actively participate is for cohabiting couples. Yllö and Straus (1981) found that interpersonal violence was greater between younger couples than older, and greater for cohabitants than married persons.

Police decision to arrest however may be based not only on the actual behavior of the parties but vary by officers' attitudes and moral judgments regarding the blameworthiness of the perpetrator or the justification for his or her actions; characteristics of the couple and incident; police organ-

izational milieu; and department as well as prosecutorial policy. Interactions with offenders and victims have been shown in numerous studies to affect arrest outcomes (Worden and Pollitz, 1984; Black, 1980). The parties' demeanor and history of crime, victims' preferences for arrest, and their demographic characteristics, play a role in the decision to arrest.

The combatants' previous history of calls to the police may affect the likelihood of arrest. Smith found that individuals who had called police previously were twice as likely to be arrested than those who had not (Smith, 1987). But Buzawa and Austin (1993) note that in domestic disputes, repeat calls are only slightly more likely to receive arrest than other calls. Certainly, the accused individual's demeanor affects police decision to arrest. Disrespectful participants in a domestic violence encounter with police are more likely to be arrested (Worden and Pollitz, 1984). Smith also documented that officers were more than twice as likely to arrest antagonistic than nonantagonistic citizens. But he also showed that use of alcohol or drugs at the time of the incident did increase the probability of arrest (Smith, 1987). Others suggest, however, that use of alcohol by male batterers increases the likelihood of arrest in domestic violence incidents (Worden and Pollitz, 1984). Preference of the victim for arrest of the offender has been consistently shown to have a positive impact on the likelihood of arrest (Buzawa, 1993; Gottfredson and Gottfredson, 1988).

Extra-legal factors, such as gender, race, age, and income, have also been shown to affect arrest decisionmaking, especially when the crime is not considered serious. Many battered women advocates fear that arrest would be disproportionately applied to racial and ethnic minorities and the poor (Forell, 1991, Schechter, 1982). Because police behavior reflects societal discrimination and prejudice there is little expectation that mandatory arrest policies will alter existing inequities. Stanko (1988) suggests that arrest policies will have little impact on the behaviors of police because the actual organizational and social milieu of police activity promote and reinforce stereotypical attitudes and behaviors toward women. In addition, the entire institution of law and justice in this nation, critics contend, promotes the interests of dominant classes and groups, and reforms, even liberal reform to protect battered women, will continue to serve those interests. As Edwards (1989) states in regard to 'policing' domestic violence: "There is no such thing as abstract equality before the law. Instead, the law in its form, content and application institutionalizes inequalities and differential treatment" (p. 48).

Women's treatment throughout the criminal justice system is unique (Sarri, 1986). Women who contradict the traditional female stereotypes may be at greater risk of arrest. Visher (1983) concludes from a study of criminal

processing of men and women that both black and younger women are more likely to be arrested.

In encounters with police officers, those female suspects who violate middle-class standards of traditional female characteristics and behaviors (i.e. white, older, and submissive) are not afforded any chivalrous treatment during arrest decisions. In these data, young, black or hostile women receive no preferential treatment, whereas older, white women who are calm and deferential toward police are granted leniency. (p. 23)

The effect of race on arrest is inconclusive. Non-Whites are shown to be at greater risk of arrest than Whites (Buzawa and Austin, 1993; Smith, 1987; Visher, 1983), but other studies suggest that police are more likely to use penal approaches with Whites and deny arrest even requested by non-Whites (Smith, 1987). Black (1980) suggests that organizational practice promotes a variety of styles in police response to low-intensity disputes such as domestic violence calls. Styles characterized as conciliatory, therapeutic, compensatory, and penal are applied in particular situations. Officers are most likely to use the conciliatory style in domestic violence incidents except in cases of serious physical violence or repetitive violence. In addition, he notes that police are more likely to use the less coercive styles with Whites and penal styles with Blacks. However, in cases of serious crime, disputes between Whites are more likely to result in arrest (Black, 1980). Class may also affect arrest decisions. Smith (1987) contends that arrest is most likely in lower income neighborhoods.

Police are street level policymakers. The decision to arrest, even within a mandatory arrest policy environment, still requires discretion in the application of administrative guidelines, departmental precedents, and prosecutorial instruction. The practice of dual arrest highlights moral and ethical dilemmas of police conduct as well as practical problems which may nullify the purpose of the domestic violence protective legislation. The practice of dual arrest may be an actual deterrent to women seeking assistance of the police. In describing the police practice of threatening dual arrest to prevent future domestic violence calls, the Buzawas note: "When this is done, the police in effect invite batterers to continue battering with a reduced risk of interference. Thus, there is the possibility that a pro-arrest policy will lead to less protection of victims" (Buzawa and Buzawa, 1990, p. 94). In fact, some studies have documented a reduction in calls for domestic violence assistance following the implementation of a mandatory arrest policy. Duluth, reported a reduction of 47% in police calls, Hartford, 28% (Buel, 1988, p. 216) and Detroit, a "noticeable decrease" (Buzawa and Buzawa, 1990, p. 93). Reduction in calls for police assistance may be the result of decreased incidence of violence (Buel, 1988), or fewer victims

who report, either because of fear of their own arrest or because of a reluctance to be responsible for their partners' arrest.

A variety of factors may shape the practice of dual arrest. One scenario is that dual arrest resulted from actual joint violence in which there was probable cause that both parties committed a crime. This would be the case whether or not one person was the initiator, primary aggressor, or person most harmed. Another reasonable possibility is that dual arrests may occur when persons, primarily women, employed self-defense strategies, which would subject them to arrest under Connecticut law. Finally dual arrest may occur simply as a matter of police or prosecutorial policy.

If dual arrests were a reflection of mutual violence within a relationship, use of self-defense strategies, or false counter charging, then it is not clear whether the incidence would be equally distributed across police jurisdictions. The first two factors may be associated with younger cohabiting persons but their presence should be relatively equally distributed across police jurisdictions. If police behavior is independently associated with dual arrest, there may be differences in the nature and incidence of dual arrests across jurisdictions. For instance, if dual arrest is the result of inadequate police training, police departments which have received the least amount of training regarding domestic violence may be the most likely to have higher incidence of dual arrest. If the practice reflects particular police or prosecutor policies which promote dual arrest, then the incidence will not be uniformly distributed throughout the state.

### **Methodology**

Our research was an analysis of a subset of a population studied to describe the factors associated with court dispositions following the implementation of a mandatory arrest policy (Martin, 1995).

### *Subjects*

All family violence cases disposed in the criminal courts in Connecticut during the first 6 months of 1988 formed the sampling frame. The state's mandatory arrest law was implemented just 3 months before the beginning of this period. Of the 4138 cases disposed, a stratified sample of equal numbers of dismissed, *nolle prosequi*, and prosecuted cases was drawn and family violence arrest records reviewed for the sample of 448 cases. Information about dual arrest incidents was garnered from police reporting forms, which detailed characteristics of this arrest and linked participants in this incident to past (up to 24 months previous) and future (up to 18



months later) domestic violence episodes. One hundred thirty four (134) dual arrest incidents were studied and compared with the remaining 314 single arrest incidents. From these subject cases, an additional random subsample of ninety cases was drawn from four courts and prosecutor records reviewed to provide contextual information about the offense and the court process. Twenty one of these sample cases were dual arrests. The interest of the victim for prosecution and the length of the relationship were determined from these records.

### *Procedure*

Data from the court, police, and prosecutors' files were matched. Analysis was primarily descriptive, demonstrating associations between dual arrest and relevant defendant, crime and court processing characteristics, and comparative, examining the differences between dual and single arrests. To examine the difference between dual and single arrests, and the differences between dual arrest by gender of the defendant with single arrests of both genders, chi square tests were conducted. The groups were weighted to eliminate the effect of stratification in sampling, therefore reflecting the characteristics of the population and providing meaningful and interpretable results.

## **RESULTS**

The State of Connecticut has reported that eighteen percent of arrests for family violence involves "dual arrest" incidents. This study, by excluding nonintimate family violence, such as child abuse and elderly abuse cases from the estimates, and by weighting the stratified samples to estimate the population, found that 33% of the adult intimate family violence arrests involved dual arrest during the study period.

There were significant differences between the offender, offense, and court outcome characteristics of persons charged with dual and single arrests. Chi square tests were performed to test the independence of nominal variables on the arrest dimension. Dual arrest defendants were more likely to be women, White, and younger than their single arrest counterparts. Dual arrested defendants were an average age of 29.7 ( $\pm 8.2$ ) and single arrested individuals 32.3 ( $\pm 10.4$ ) ( $F = 1.61, p = .002$ ). Dual arrest defendants were also more likely than other domestic violence defendants to live with the victim or codefendant and to be unmarried. They were similar to the single arrest defendants in the proportion who shared children with the victim, in

the length of their relationships (dual arrests  $\bar{X} = 5.8 \pm 10.0$ , single arrests  $\bar{X} = 7.5 \pm 7.5$ ,  $F = 1.80$ ,  $p = .171$ ,  $n = 90$ ), and contrary to expectations, in prior protective orders in place.

The typical dual arrest defendant was likely to be White (75%), unmarried (68%), and about thirty years old (see Table I). Men and women, as expected, were about equally represented in the group of dual arrest defendants. Most arrests were of heterosexual couples, although six of the subsample cases were same gender dual arrests. Four men were arrested for victimizing male partners and two women defendants had women victims. Defendants were usually living with the codefendants (76%) and had been in a relationship with them for about 6 years. Fifty six percent of the defendants had children together.

The most common (76%) of the dual arrest criminal incidents involved physical violence rather than verbal abuse or property damage (see Table II). Most involved physical hitting or beating. Nine percent involved use of guns, knives, or other weapons, but less than one percent involved serious physical injury. In half the cases (53%) drugs or alcohol were used by one or both parties at the time of the offense.

Drugs or alcohol were more likely to be involved at the time of the incident in the dual arrest than in single arrest cases (see Table II). It could not be determined from police records which of the parties or if both of the parties were using drugs or alcohol. In dual arrests, physical violence was more common than verbal altercations or property damage. Although there was no difference in prior protective orders, the dual arrest defendants were less likely to have been previously arrested for family violence than the single arrest group. Additionally, the less serious charges of disorderly conduct and breach of peace were most common in the dual arrests

Table I. Characteristics of Dual and Single Arrest Defendants

Characteristics	Arrest Type		$\chi^2$	df	p
	Dual Arrest	Single Arrest			
	n = 134	n = 314			
	%	%			
Women	44	14	48.94	1	.000**
White	75	64	5.51	1	.019*
Age under 30	59	47	5.36	1	.021*
Married	32	47	9.71	1	.001**
Lives with victim or co-defendant	76	57	15.04	1	.000**
Children with co-defendant	56	58	0.04	1	.848

\* $p \leq .05$ .

\*\* $p \leq .01$ .

Table II. Characteristics of Arrest Incidents and Court Outcomes

Characteristics	Arrest Type		$\chi^2$	df	p
	Dual Arrest	Single Arrest			
	n = 134	n = 314			
	%	%			
Prior family violence arrest	31	49	11.79	1	.000**
Prior protective order	49	53	0.495	1	.481
Prior victimization	17	2	32.72	1	.000**
Physical violence	76	62	11.72	1	.001**
Weapon	9	14	2.20	1	.138
Severe injury	0.8	0.4	0.30	1	.578
Felony or a misdemeanor	34	52	12.25	1	.000**
Assault	27	36	3.07	1	.072
Alcohol or drug use by either	53	35	13.77	1	.001**
Court outcome			8.99	2	.011**
Convicted	12	24			
Dismissed	7	7			
Nolled	81	69			

\*p ≤ .05.

\*\*p ≤ .01.

and the more serious charges of criminal trespass, assault, threatening, and criminal mischief were least evident. Dual arrestees, then, had less serious family violence histories than other defendants and less serious current charges, although this crime was more likely to involve physical violence.

Overall, these cases rarely resulted in punitive sanctions to the offender. The majority (81%) received a disposition of *nolle prosequi*, a disposition involving no current court action but which allows the case to be reopened if another offense occurs within a 13-month period. With no additional charges the record is expunged. For practical purposes, this disposition is without consequence to the offender. Seven percent of the cases were dismissed, which implies either summary dismissal or successful completion of the family violence education program, a pre-trial diversion program for first time misdemeanants. Twelve percent of the cases resulted in a conviction, producing a fine, conditional discharge, accelerated rehabilitation, and other nonincarcerative penalties. Fewer than one percent of the cases resulted in incarceration.

There were interesting differences in the treatment of the cases in court. Not surprisingly, when prosecutors' files were reviewed, none of the codefendants in the dual arrest group desired conviction of their partners, and the court often complied. Court outcomes differed in that fewer dual arrest cases resulted in conviction and more were nolled than the single

arrest. Only 12% of the dual arrest cases were convicted although 24% of the single arrests were ( $p \leq .011$ ). The sanctions resulting from conviction were generally fines and rarely incarceration or suspended sentences.

Gender differences were evident both in comparing dual arrested women to their male counterparts in double arrests as well as comparing the women to those defendants who were lone arrestees. Sixty one percent of the women arrested were arrested in dual arrest incidents, although as a group dual arrests composed only 33% of the arrests (see Table III). Women constituted only 14% of all single arrests. Women in dual arrest incidents shared similar demographic characteristics with their partners, and the courts treated the cases similarly. However, women defendants, unlike the men defendants in dual arrest cases, were less likely to have prior family violence arrests. Nineteen percent of the women and 40% of the men had prior family violence arrest records. Importantly, 40% of the dual arrested women had been victimized before in a domestic violence incident in the period up to 2 years prior to this incident. Police had not recorded any prior victimization for male dual arrestees. More women (34%) were charged with assault for this offense, however, than men (23%), who were similarly involved in a dual arrest.

When women involved in dual arrests were compared with both male dual arrests and single arrests, the broader context of arrest could be

**Table III.** Characteristics of Women and Men Dual Arrest and Single Arrest Defendants

Characteristics	Arrest Type			$\chi^2$	df	p
	Dual Arrest	Dual Arrest	Single			
	Woman n = 61 %	Male n = 73 %	Arrest n = 314 %			
Prior fam. violence arrest	19	41	49	18.61	2	.000**
Prior protective order	59	41	53	5.09	2	.078
Prior victimization	40	0.0	2	116.21	2	.000**
Physical violence	75	76	59	11.73	2	.003**
Weapon	6	11	14	2.96	2	.228
Severe injury	0.7	0.8	0.4	0.322	2	.851
Alcohol and drug use	61	48	35	16.16	2	.000**
Assault	34	23	36	5.24	2	.073
Felony or a misdemeanor	41	24	51	18.85	2	.000**
Court outcome				9.18	4	.057
Nolle	79	82	69			
Dismiss	8	7	7			
Conviction	13	11	24			

\* $p \leq .05$ .

\*\* $p \leq .01$ .

viewed (see Table III). Women arrested in dual arrests were much more likely than others to be involved in incidents in which drugs or alcohol were used at the time of the arrest. Sixty one percent of women dual arrests, 48% of male dual arrests, and 35% of single arrests involved alcohol or drugs. Women rarely had family violence criminal histories, but unlike single arrests in which only 2% of the perpetrators had previously been victimized, there was evidence of prior victimization for 40% of the women in dual arrests. This finding is striking, for the women are not "pure" perpetrators. However, in the state there is no defense against arrest for actions taken in self-defense, no mandate that only the primary aggressor be arrested, and unless the victim was personally known to the officer, data systems at the time did not permit information about prior victimization to be available at the time of arrest. It cannot be ascertained from official records whether the women's criminal activity was in self-defense; however, these women were not engaging in lethal violence. Only 6% used a weapon and fewer than 1% caused serious injury. Overall there was no difference in the seriousness of the crimes committed by women and men in dual arrest incidents. There was no difference in use of weapons, use of physical violence, or producing a serious injury. Men in dual arrest incidents were, however, more likely to have been previously arrested for domestic and other crimes and unlikely to have been ever victimized in a domestic violence crime.

Dual arrest resulted in the conviction of 13% of dual arrested women. Although 24% of single arrests resulted in prosecution, dual arrested women had a higher proportion of prosecution than male dual arrestees (11%) and singly arrested women (6%). Most dual arrest and single arrest incidents resulted in a *nolle prosequi* (no prosecution). Seventy nine percent of the women and 82% of the male dual arrestees were so treated, whereas 69% of single arrests resulted in this outcome. Although reasons for the court disposition were not always recorded, in the cases known the victim requested that the defendant not be prosecuted; the defendant was diverted to a family violence education program; or it was determined that there was insufficient evidence for prosecution to proceed. Because the victim is also a defendant in dual arrest cases, there was incentive to plead for leniency or not cooperate with prosecution because of the victim's own vulnerability to prosecution. Additionally, there are often no other witnesses to the crime other than the person who is also a defendant in the incident, creating a weak case for prosecution. In practice, a prosecutor acknowledged that he "calls it a draw," when confronted with dual arrests cases, and generally chooses to *nolle* both.

From an organizational and systemic perspective, all police departments did not uniformly employ dual arrest and all courts did not process

dual arrests similarly. Sixty nine police departments charged offenders and 20 courts disposed of the offenses. Although many of the police departments were small, which reduced the reliability of the generalizations, dual arrest rates ranged from 0 to 45% of the large department's arrests. But some departments with few arrests had even higher rates. One department recorded five arrests during the period, four of which were dual arrests. For departments with 30 or more arrests during the period, the largest nonmunicipal police force in the state, the State Police, had the highest rate, 45% dual arrests. This department also has the highest level of training in domestic violence matters. Interestingly, it was not the major urban police departments that engaged in this practice. Overall, they had lower than mean rates of dual arrest. Cities with populations of over 100,000 employed dual arrest in, 19% of the offenses, whereas medium or smaller cities had a dual arrest rate of 32% (see Table IV). Variation in police practice was reflected in the courts, with particular courts processing large numbers of dual arrests. Certainly, the prosecutor's position on the practice affects police behavior. Some prosecutors actively endorse the practice of dual arrest, instructing the police to "bring in all parties."

## DISCUSSION

The study findings suggest a pattern of dual arrests which is specific to particular demographic and family violence histories, current offenses, and specific to police department types. The profile of the dual arrested defendant is that of a young, white, employed man or woman who is unmarried but lives with the co-defendant and who has engaged in physical violence. A greater proportion of the women co-defendants in dual arrests had been previously victimized in a domestic violence incident and used alcohol and drugs at the time of this incident, than either their male dual arrested partners, or singly arrested defendants. These findings suggest that dual arrests may reflect both the differential use of violence in domestic relations and the proclivity of specific police departments for dual arrest.

Table IV. Mean Rates of Dual Arrest by Size of City  $N = 441^a$

Size of City	Dual Arrest Rate	
	<i>M</i>	<i>SD</i>
Large city: Over 100,000 population	.19	.39
Medium or small city	.32	.47

<sup>a</sup> $F = 1.44; p = .001.$

The greater tendency for younger cohabitants to be arrested in dual arrests supports previous research and suggests that this group may be more likely to engage in mutual violence or more aggressive acts of self-defense. But other aspects of the findings, especially the association of extra-legal factors with dual arrest; the clustering of cases of dual arrest by police department; and the association of dual arrest with smaller city and rural police departments, suggest that police behavior in interaction with defendant behavior may also shape the aggregate findings regarding dual arrest. Similar to other studies that suggest that less serious offenses resulted in more penal styles, persons who were subject to dual arrest were those with the least serious criminal histories and current offenses. However, it was contrary to expectations that incidents that involved physical violence were associated with dual arrest.

Drugs and alcohol were associated with arrest and may have invoked a penal response for both parties. In addition, racial and gender stereotypes may have played a role, but in a direction contrary to advocates expectations. In less serious situations, Black (1980) and Smith (1987) both suggest that Whites are more likely to be arrested than non-Whites, as was the case here. Police officers may identify with White male defendants and attempt to neutralize the effect of the arrest by arresting both parties. It would be known to the line officer that most dual arrests end in a *nolle prosequi*. The arrest of White, unmarried and employed women may also be an attempt to punish such women for fighting back, for acting contrary to expected female norms. In contrast, married women and unemployed women may evoke more sympathy or chivalry on the part of the police.

Because the victim's interest in arrest has been shown to affect arrest outcomes, especially when the victim is White, it is also possible that either White male defendants were more likely to claim abuse by their victims and/or have these claims acted upon by the police. Although expected that prior police contact would increase the likelihood of dual arrest, prior contact with the police, was only associated with dual arrests of men. It appears that many dual arrested individuals are known to the police but perhaps in no greater measure than single arrest families.

But the most problematic result is that certain police departments and certain courts are associated with the practice of dual arrest. It is plausible that police practice may be a major determiner of the disparity in charging practices. Variations in dual arrest rates may point to intradepartmental police practices which encourage or, at the least, do not discourage the practice. Police do utilize discretion, even when required to arrest in domestic violence cases. High rates of dual arrest in some jurisdictions may represent some police officers' refusal to exercise discretion. That is, because they are mandated to arrest, they choose to arrest all parties. Such

acts of overadherence to the letter of the law, or overenforcement of law, are in defiance of the policy. As Edwards (1989) notes: "Over-enforcement or under-enforcement are not arbitrary or unintended consequences of unfettered individual discretion, but the result of policy decisions or the lack of them" (p. 86).

There may also be other structural and interpersonal dynamics at play when departmental or other policy does not discourage dual arrest. Dual arrest practices are endorsed by many police spokespersons and prosecutors in Connecticut, as practices which reflect the letter of the law. Some police argue that because discretion has been reduced or eliminated by mandatory arrest policy, that they are forced to arrest any person involved in a domestic violence incident that, with probable cause, committed a crime. Prosecutors argue that the police should not make the determination of ultimate culpability but instead identify all defendants and allow the court to determine guilt, including a self-defense protection against prosecution when appropriate.

### IMPLICATIONS AND FUTURE RESEARCH

Dual arrest is an action of consequence in domestic violence. Although some prosecutors view dual arrest as a preventive action which warns the parties of the seriousness of the offense, and deters them through threat of punishment and offer of the courts' resources for referral and treatment, the arrest may be punitive, at the least, and dangerous at the worst. There is a mandate to appear in court, stigma, expense, inconvenience, and the potential loss of trust in the criminal justice system. Consequences may also provoke emotional and further physical trauma. Battered women do rely on police protection. Up to half of all battered women may call the police (Abel and Suh, 1987; Pagelow, 1981) for assistance. Police are often the first, and occasionally only resource, utilized by battered women. Arrest of women who are defending themselves against a batterer may reinforce their isolation and belief that there are no resources available to assist. Furthermore, it blames women for the battering. In contrast, Brown (1984) found that helpful police responses promoted heightened levels of victim self-worth.

But in addition to the emotional consequences, a punitive police response may endanger women who are at risk of further violence. Women involved in dual arrests are unlikely to be persistent offenders, for almost none had been previously arrested, but very likely to have been previously victimized. Abel and Suh (1987) report that when women had been previously arrested, they refrained from calling police for future assistance. In



contrast, helpful police responses may actually promote the termination of violent relationships. Pagelow (1981) found that women who spent shorter times in violent relationships were likely to have encountered helpful police responses. Receiving unhelpful responses from police was associated with longer stays in violent relationships. With substantial histories of previous victimization, many dual arrested women may be at serious risk for future injuries, perhaps fatalities.

Additional research should be conducted on the behaviors of men, women and police, that give rise to dual arrest. Moreover, it would be important to understand what factors within police departments provide legitimacy for dual arrests. Does the size or workload of the department; the level of training; the gender and racial composition of the officers; the training or attitudes of the chiefs become critical to the use of dual arrest? It would also be important to understand how the practice of dual arrest changes over time.

Most importantly, it is critical to understand if arrest deters women, especially women with a history of victimization, from calling the police. What options to end the abuse might such women employ following arrest? If dual arrest does deter a woman from using police resources for fear of her own arrest, might police also be legitimately charged with violation of women's civil rights, similar to the claims made in the Thurman case?

Dual arrest challenges the purported goals, both equity and effectiveness, of the use of arrest in domestic violence incidents. Prior to new advocacy on behalf of battered women, police response to domestic violence was reactive and law was underenforced. With policy change, the result may be proactive policing but overenforced policy. While mutual violence, which probably represents only a very small proportion of dual arrests, may be affected by legitimate police and prosecutorial practice, arrest of victims who employ physical self-defense strategies, or arrest of victims based on extra-legal criteria, may well abolish any deterrent effect of arrest and may deter victims from seeking help. Although arrest policies are preferable to the non-intervention policies of previous decades, prevention of family violence requires judicial use of police force to assure safety. It also requires curtailing overenforcement of arrest policy which ultimately may lead to continued violence without hope of protection.

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