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# Victim Arrest in Intimate Partner Violence Incidents: A Multilevel Test of Black's Theory of Law

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## Cover Page Footnote

Traditionally police officers have wielded a tremendous amount of discretion regarding arrest decisions. One problem with discretion is the potential for discriminatory misuse that leads to unwanted disparities. While legal factors such as offense seriousness or evidentiary factors should guide the decision-making process, extralegal factors including ethnicity, gender, and social class can unduly affect arrest decisions (Black, 1980; Smith, 1987; Martin 1997; Frye et al., 2007; Hirschel et al., 2007). Indeed, a classic study by the American Bar Foundation (ABF) discovered "rampant lawlessness, racism, and casual unprofessional conduct" among criminal justice officials including police officers and concluded criminal justice decisions were routinely made without reference to or reliance on formal legal guidelines (Walker, 1993, p. 9).

Intimate partner violence (IPV) cases represent one of the few areas in which government and administrative policies have been developed to control arrest discretion (Walker, 1993). Prior to the 1970s, "arrest avoidance" was the common response as officers considered incidents of domestic violence to be private family matters (Sherman, 1992; Walker, 1993; Frye et al, 2007). Furthermore, most states at the time had laws that made it impossible for officers to arrest offenders if they did not directly witness the assault. In other instances, victims were reluctant to pursue charges against their abuser resulting in few arrests for IPV cases. Spurred by the Victim's Rights Movement of the 1970s, these nonintervention approaches came under attack and calls for stronger responses led to the passage of mandatory and preferred arrest polices. In general, these mandates were enacted to offer some degree of standardization in response to IPV incidents, ensure protection of female victims, and help deter perpetrators of intimate partner violence (Sherman & Berk 1984; Sherman, 1992; Walker, 1993; Frye et al., 2007). While the intent of these new policies was altruistic, mandatory arrest polices inadvertently produced an increase in the number of victims arrested in IPV cases (Hirschel and Buzawa, 2002; Martin, 1997; Frye et al., 2007). Moreover, research continues to find that extralegal factors significantly impact arrest decisions. Specifically poor, Black, unmarried women involved in IPV incidents experience higher rates of arrest (Visher, 1983; Martin 1997; Buzawa and Austin, 1993; Frye et al., 2007; Hirschel et al., 2007).

While informative, such research has been exploratory in nature and thus theoretically underdeveloped (Frye et al., 2007). These studies have generally failed to provide a theoretical framework to help understand the underlying factors that influence police arrest decisions in IPV cases. Another omission in most of these studies is the failure to examine the extent to which departmental polices or larger cultural, political, economic, and social factors impact decisions to arrest victims (Eitle, 2005; Mastrofski, 2004; Ousey and Lee, 2008; Kirk, 2008). The current study proposes that Donald Black's theory of law (1976; 1980; 1995) provides a useful framework for rectifying these omissions. Black's

theory focuses on the "social structure of cases" wherein the application of the law varies by the characteristics of the parties involved in a dispute. At the same time, he acknowledges that the social statuses of geographical locations can also influence the application of the law. In both cases, his theory predicts that individuals or locations that occupy lower statuses would be susceptible to more law or governmental social control. By focusing on both individual and locational factors, Black's theory offers a perspective that can predict the conditions that affect discretionary decisions to arrest victims involved in IPV incidents.

What follows is an examination of the likelihood of victim arrest in IPV cases guided by Black's theory of law. First, we provide a general overview of Black's theory of law and focus more specifically on the five social statuses that he suggests influence the behavior of law. Secondly, we present multiple hypotheses derived from Black's theory that help predict the individual and contextual characteristics that influence arrest decisions. Next, we describe our methodological procedures and results. Finally, we conclude by discussing the implications of our findings, limitations, and future directions for research.

## DONALD BLACK'S THEORY OF LAW

For Donald Black (1976), law or governmental social control over its citizens is a quantitative variable. His theory of law proposes that the "social structure of a case" can predict the direction of the law including decisions to report crime, make an arrest, prosecute, and sentence offenders. The social structure includes the statuses of the parties involved in a dispute as well as the relational distance between these parties (Black, 1995; Borg and Parker, 2001; Morrill et al., 1997). Black maintains that individuals, as well as geographical locations, can be classified by where they fall along the continuums of five statuses: stratification, morphology, culture, organization, and respectability. Additionally, relational distance characterizes the similarity of positions among parties; the more congruent the statuses of the parties, the less likely legal actions will be taken. As the relational distance between people grows and they occupy vastly different statuses the presence of formal law becomes greater. Black asserts that across all criminal proceedings "downward law" is more common since individuals or locations that occupy lower statuses are subjected to greater law or a greater likelihood of arrest, prosecution, and harsh sanctions (Black, 1976, p. 21). By simultaneously accounting for the importance of both individual and locational statuses, Black's theory of law posits a useful framework to understand victim arrest in IPV cases. In general, his theory proffers that individuals with lower statuses face a greater likelihood of victim arrest. At the

same time, IPV disputes occurring in geographical locations with lower statuses are more inclined to yield victim arrests.

Next we examine each of the statuses in greater detail and offer hypotheses derived from Black's theory of law. Two key limitations should be explored, however, before we undertake this discussion. First, due to data limitations, we are unable to offer a complete test of Black's theory. Specifically we do not attempt to examine the relational distance between victims and offenders in this study. Instead, we are interested in analyzing the application of the law (arrest) and whether it is applied downward toward victims with lower statuses. As is often the case with interpersonal violence, the victims and offenders are very similar in terms of the characteristics that we have available in the NIBRS data set. Therefore, we have opted to focus only on victim characteristics since the outcome of interest is victim arrest. We are also unable to measure any individual statuses related to stratification or organization. Our discussion will therefore be limited to only the statuses we are able to empirically test.

Second, many argue that the theoretical propositions offered by Black are too vague to offer any meaningful guidance on how to operationalize the concepts (Greenberg, 1983; Mooney, 1984). Mooney, for example, argues that researchers are often left to make "subjective interpretations" about what variables to choose to operationalize concepts (pg. 744). She goes on to point out that Black, himself, uses race as both a measure of stratification and culture. While there may be some disagreement over how we have chosen to operationalize each of the statuses below, we have attempted to choose measures based on two factors: 1) how they have been used by Black, and others, in prior research, and 2) where they best fit into prior research on victim arrest in IPV incidents. Notwithstanding these limitations, we offer a robust examination of Black's theory as each of the five statuses is addressed.

STRATIFICATION

*Structural quantity of stratification.* According to Black (1976), stratification represents vertical rankings, a person's or place's wealth status compared with other persons or place. At the structural level, he anticipates that increased levels of inequality yield greater quantities of law across all social setting, but in particular "law of every kind…is more likely to have a downward direction than an upward direction (1976, p. 21)." Therefore, areas marked by concentrated poverty or unemployment would be subject to more police intervention than wealthier communities. Indeed, research has found that the likelihood of arrest tends to be greater in lower class neighborhoods (Smith, 1987; Kirk, 2008), particularly in interpersonal disputes (Smith and Klein, 1984). Similarly, areas with high unemployment or isolated poverty have higher rates of

incarceration or prison admission rates (Myers and Talarico, 1987; Jacobs and Helms, 1996). As such, we hypothesize that level of unemployment will influence likelihood of victim arrest:

$H_1$: Victim arrest will be more likely in cities with high levels unemployment.

MORPHOLOGY

*Individual radial location and relational distance.* Radial location refers to how integrated individuals are into social life. Black predicts that unmarried individuals are subjected to more law since married individuals are viewed as being more integrated than single or cohabiting individuals. In IPV incidents, those who are unmarried or cohabitating are often viewed as violating traditional gender roles and are therefore more likely to be arrested (Finn and Bettis, 2006; Frye et al., 2007; Martin, 1997). Marital status is consistently found to be a strong predictor of arrest in IPV incidents as unmarried women are more likely to be arrested than married women (Houry et al., 2006; Martin, 1997).

Relational distance reflects the extent to which people interact with other people around them (Black, 1976). Black hypothesizes that the relationship between relational distance and law is curvilinear. Specifically, Black predicts that "law is inactive among intimate," but "in the midst of strangers, law reaches its highest level (1976, p. 41)." As such, we include location of the offense as a measure of integration since Black's theory suggests that IPV incidents that occur outside of the home or in the presence of strangers will be treated more harshly since relational distance between the victim and offender, and the witnesses is increased.

$H_{2a}$: Unmarried victims will be more likely to be arrested.

$H_{2b}$: Victim arrest will be more likely when the incident occurs at a location other than a residence.

*Structural radial location and relational distance.* At the structural level, Black's theory would argue that places characterized by single-parent households and residential mobility will see greater use of law. Places with high rates of single-parent households would be marginal, or farther from the center of social life which values a traditional family model with two parents in an intact household. Additionally, residential mobility reduces the relational ties between residents creating more social distance between them. This line of reasoning coincides with social disorganization and collective efficacy theories which find that crime rates are highest in transitional communities marked by single-parent households or greater residential instability (Shaw and McKay, 1942; Sampson and Groves, 1989; Sampson et al., 1997). Furthermore, research has found that

police officers are less likely to make arrests in communities with greater residential stability (Kirk, 2008).

> $H_{2c}$: Victim arrest will be more likely in cities with high levels of single mother headed households.
>
> $H_{2d}$: Victim arrest will be more likely in cities with highly mobile populations.

## CULTURE (CONVENTIONALITY)

*Individual conventionality.* Cultural status, such as age, education and race, refers to one's level of conventionality. For Black (1976, p. 61), certain cultural statuses are more conventional simply because they appear more frequently. For example, high school graduates are considered more conventional than dropouts, Democrats and Republicans more conventional than Communists, and whites more conventional than Blacks (Black, 1976, p. 68). All else being equal, those considered unconventional in terms of cultural characteristics tend to be subject to more law. For this study, we consider older individuals (over 25) to be more conventional than younger individuals (Mooney, 1986) given that the median age at which women first married in 1998 was 25 (Spraggins, 2000). As such, we predict that women over the age of 25 in intimate relationships will be considered to be conventional and therefore will be less likely to be arrested than their younger counterparts. We also include race as a measure of conventionality. Racial and ethnic minorities have traditionally encountered harsher criminal justice outcomes than whites (Walker et al, 2007).

> $H_{3a}$: Victims under age 25 will be more likely to be arrested.
>
> $H_{3b}$: Nonwhite victims will be more likely to be arrested.

*Structural conventionality.* According to Black's theory, social settings with a greater number of unconventional groups such as ethnic minorities or uneducated would be subject to greater law. Cities or states with relatively large non-white populations generally have more police per capita, spend more for criminal justice purposes, and have higher arrest and incarceration rates (Liska and Chamlin, 1984; Greenberg and West, 2001; Weidner et al., 2005; Ousey and Lee, 2008). In terms of education, police intervention is greatest in jurisdictions with populations that have lower educational credentials (Borg and Parker, 2001). Additionally, we include a measure of culture based on the racial composition of the local police force. Disparities between the number of Black officers and the size of the Black population suggest more relational distance, and thus greater use of law.

*H$_{3b}$;* Victim arrest will be more likely in cities with low levels of high school graduates.

*H$_{3c}$:* Victim arrest will be more likely when the ratio of Black police officers to Black population is high.

## ORGANIZATION

*Structural organizational status.* According to Black (1976), the organizational status of a particular location can be measured by the formalization of its criminal justice policies. The more formalization, the less discretion can influence the application of the law. For instance, courts located in densely populated or urban areas rely more on standardized sentencing guidelines to mete out punishment compared to smaller, rural locations (Dixon, 1995; Myers & Talarico, 1986; Flemming et al., 1992; Britt, 2000). Similarly, the enactment of mandatory or preferred domestic violence arrest policies is believed to have significantly increased the number of arrests of both men and women involved in these disputes (Frye et al., 2007; Henning et al., 2006; Hirschel et al., 2007; Eitle, 2005). In a partial test of Black's theory, Eitle (2005) found that mandatory arrest policy did in fact increase the likelihood of offender arrest. In an effort to curb the increase in victims arrested in IPV incidents many law enforcement agencies developed domestic violence units to investigate and respond to disputes involving intimates. Black would predict that these units would serve to increase the level of organization of victims thereby reducing the likelihood that they are subjected to arrest

Structural:

*H$_{4a}$:* Victim arrest will be more likely in states with mandatory or preferred arrest laws.

*H$_{4b}$:* Victim arrest will be less likely when police departments have full time domestic violence units.

## NORMATIVE STATUS

*Individual Respectability.* Black measures normative status by "respectability," or the amount of social control to which a particular individual, group, or location is subjected. The more formal social control one encounters, the less respectable they are generally considered. Black therefore asserts that social deviants of all kinds including criminals, drug addicts, or the mentally ill are more vulnerable to the application of law at every stage of the criminal justice process. With respect to IPV cases, studies have found that women with lower levels of respectability were more likely to be arrested. For instance, women under the influence of alcohol or drugs at the time of the assault or who possess a weapon are more

likely to be arrested (Worden and Pollitz, 1984; Martin, 1997; Smith, 1987; Houry et al, 2006). Further, Henning et al. (2006) document the complex nature of IPV illustrating that both partners may engage in aggressive behaviors during an incident. Women, they suggest, are more likely than men to resort to the use of weapons for self-defense, and may sustain defensive wounds that are more readily apparent to police than the primary injuries sustained as a result of battering. Police officers may, interpret these defensive injuries to mean that the woman initiated, or was an equal participant, in the assault. Thus, substance use, presence of a weapon, and injury to the victim may lessen a woman's claim to being a victim, diminishing her respectability and subjecting her to an increased likelihood of arrest.

> $H_{5a}$: Victim arrest will be more likely when use of a substance is involved in the incident.
> $H_{5b}$: Victims will be more likely to be arrested when the incident involves a weapon.
> $H_{5c}$: Victims will be more likely to be arrested when she is injured.

*Structural Respectability.* Likewise, geographical locations with higher crime rates would be considered less respectable and therefore have less ability to mobilize law. Prior research has found that the crime rate of a jurisdiction does indeed impact criminal justice decisions, with areas having higher homicide rates exhibiting lower homicide clearance rates (Borg and Parker 2001). Others argue that police view residents in high-crime communities as deserving victims because their lifestyles encourage victimization (Liska and Chamlin, 1984).

> $H_{5d}$: Victim arrest will be less likely in cities with high rates of violent crime.

# DATA & METHODS

In order to examine the likelihood of victim arrest in intimate partner incidents, this study focuses on IPV incidents nested within police agencies representing cities with populations over 100,000 residents. Data for this study were constructed from several sources including the National Incident Based Reporting System, the decennial Census and the Law Enforcement Management and Administrative Statistics (LEMAS) report. Multilevel modeling was then used to analyze these data so as to take into account its nested structure.

## NIBRS

The primary data source, from which the dependent variable and all case level information was drawn, is the 2004 National Incident Based Reporting

System (NIBRS). NIBRS has several advantages over other traditional victimization surveys when exploring intimate partner violence. First, NIBRS allows us to construct a picture of an incident wherein demographic information about the victim and offender (age, race, sex, etc.) can be combined with offense characteristics (location, weapon, injury, etc.) of the incident in addition to information about whether an arrest was made in the incident. Secondly, the agency from which each incident originated is clearly identifiable allowing for the examination of structural influences on IPV incident outcomes.

Unfortunately NIBRS data still has some limitations. First and foremost, this data source remains a reactive measure of crime. This problem persists with any official measure of crime. Secondly, unlike the UCR program, NIBRS has not been fully implemented across the country. In 2004 only 29 states were certified to report to the NIBRS program (Justice Research Statistics Association, 2014). The 2004 NIBRS was chosen in order to maximize the number of agencies while remaining close enough in time to the 2000 decennial Census and LEMAS report to render those databases relevant sources of structural indicators.

For purposes of this analysis, a dataset was constructed based on incidents. In other words, the incident is the unit of analysis- not the victim or offender. While the data allow for the examination of multiple victims, offenders and offenses per incident it is often easier to limit analyses to incidents with one victim, offender and offense. The data were initially limited to those incidents involving an aggravated or simple assault between a single female victim and single male offender who were classified as spouses, common-law spouses or boyfriend/girlfriends.

DEPENDENT VARIABLE

In order to construct a measure of victim arrest, IPV incidents were further limited to instances in which either offender one or offender two of the incident was coded 'victim is offender' (see Hirschel et al., 2007). Using only these incidents, a dummy variable 'victim arrest' was constructed based on whether the victim was not arrested (victim arrest=0) or arrested on view, issued a summons, or taken into custody (victim arrest=1). Upon limiting the dataset to single victim/single offender, heterosexual intimate partners where the victim was classified as an offender 3784 incidents remained in the dataset.

MEASURES OF BLACK'S SOCIAL STATUSES

In order to examine the multilevel nature of Black's theory, both case level and city level data were used to operationalize social statues. Each measure

**Table 1. Measures of Black's Theory of Law**

| Social Status | Level | Variable | Source |
|---|---|---|---|
| Stratification | Structural | Percent unemployed | Census |
| Morphology | Structural | Percent single mother households | Census |
| | | Percent moved in past 5 years | Census |
| | Individual | Marital status (Married/Unmarried) | NIBRS |
| | | Location of offense (Residence/Other) | NIBRS |
| | Structural | Percent HS graduates | Census |
| Culture | | Black police officers/Black population | LEMAS |
| | Individual | Age of victim (25 or under/over 25) | NIBRS |
| | | Race of victim (White/Nonwhite) | NIBRS |
| Organization | Structural | Domestic violence unit (Full/Part vs. none) | LEMAS |
| | | State IPV law (mandatory/preferred) | Hirschel et al. (2007) |
| Normative Status | Structural | Log violent crime rate | UCR |
| | Individual | Substance use on part of victim or offender | NIBRS |
| | | Presence of weapon | NIBRS |
| | | Victim injury | NIBRS |

is discussed below. Also see Table 1 for a summary of each measure and the source from which it was derived.

*Individual Social Status.* Individual social status was measured at the case-level using information derived from NIBRS. Morphology was operationalized with three measures: the age of the victim (25 and under =0; over 25=1), marital status (0=unmarried; 1=married) and location of the offense (0=nonresidence; 1=residence). Culture was operationalized by the race of the victim (0=nonwhite; 1= white)[1]. Individual respectability was measured by the presence of any type of

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[1] An examination of the descriptive statistics of offender and victim race revealed that approximately **98**% of cases involved offenders and victims of the same race. Subsequent multilevel models were run with both victim and offender race yielding virtually identical results. Victim race was chosen for the final analysis since the focus is on the likelihood that this individual is arrested.

weapon in the incident (0=no weapon; 1=weapon) and whether the female victim sustained any level of injury (0=no injury; 1= injury)[2].

*Structural Social Status.* Structural social status is measured at the city-level using the 2000 Census and 2000 Law Enforcement Management and Administrative Statistics (LEMAS) report. LEMAS collects information on law enforcement agencies with 100 or more sworn officers (Hickman and Reaves, 2003). As such, we limited our dataset to cities with populations over 100,000 as these cities are more likely to employ 100 sworn officers than smaller cities. The resulting data set contained 31 cities.

Structural stratification was measured by the percent of unemployed persons as recorded in the Census. Morphology was measured by the percent divorced persons and the percent of person who had moved within the past five years. Two variables were used to measure culture at the structural level, 1) the percent of city residents with at least a high school diploma reported in the 2000 Census and 2) the percent of officers on the city police force who were non-white, gathered from the LEMAS report. Organization was also measured by two variables, 1) whether the police department reported in LEMAS that they had a full-time unit or officer dedicated to responding to or investigating domestic violence cases (0=part-time or none; 1=full time) and 2) whether the city is in a state having a mandatory, preferred or discretionary domestic violence arrest policy as reported in Hirschel et al. (2007). Two dummy variables were used in the analysis indicating mandatory (not mandatory =0; mandatory=1) or preferred (not preferred=0; preferred=1) laws with discretionary laws serving as the reference category. Finally, the city's violent crime rates were calculated from crime information in the 2004 UCR as an indicator of structural respectability.

ANALYSIS METHOD

Black's theory of law suggests that the social statues that influence the use of law operate at both the structural and individual level. Additionally, the NIBRS data are naturally structured in such a way that cases are nested by cities and cities within states. In order to appropriately test this multilevel theory using naturally nested data, we employ multilevel modeling techniques. Specifically we used HLM 6.07 to estimate hierarchical generalized linear models with a Bernoulli distribution. The following model was estimated for case *i* in city *j*:

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[2] The vast majority of incidents involving injury reported relatively minor types of injuries such as cuts and bruises.

*Level One Model*

Prob (arrest=1/$\beta$)=$\varphi$          (1)

Log [$\varphi/(1- \varphi)$]=$\eta$          (2)

$\eta = \beta_{0j} + \beta_{1j}(\text{location}_{ij}) + \beta_{2j}(\text{married}_{ij}) + \beta_{3j}(\text{victim age}_{ij}) + \beta_{4j}(\text{victim race}_{ij})$
$+\beta_{5j}(\text{weapon}_{ij}) + \beta_{6j}(\text{victim injury}_{ij})$      (3)

*Level Two Model*

$\beta_{0j}=\gamma_{00} + \gamma_{01}(\text{\% unemployed}_j) + \gamma_{02}(\text{\% singlemoms}_j) + \gamma_{03}(\text{\% moved}_j)$
$+ \gamma_{04}(\text{\% HS grad}_j) + \gamma_{05}(\text{Black officer/Black pop}_j) + \gamma_{06}(\text{DV unit}_j) +$
$\gamma_{07}(\text{mandatory}_j) + \gamma_{08}(\text{preferred}_j) + \gamma_{09}(\text{violent crime}_j) + u_{0j}$    (4)

$\beta_{1j}=\gamma_{10}$          (5)

$\beta_{2j}=\gamma_{20}$          (6)

$\beta_{3j}=\gamma_{30}$          (7)

$\beta_{4j}=\gamma_{40}$          (8)

$\beta_{5j}=\gamma_{50}$          (9)

$\beta_{6j}=\gamma_{60}$          (10)

       While Black's theory would suggest that the likelihood of victim arrest will vary across cities because of differences in structural characteristics, he provides no reason to believe that the relationship between case level predictors and likelihood of arrest will vary across cities. Therefore the slope of each case level predictor is treated as a fixed effect.

## RESULTS

       Table 2 provides univariate statistics which indicate that a victim was arrested in 22% of the intimate partner cases in this dataset. The sole measure of stratification shows that the average unemployment rate is 6.7%. The structural measures of morphology show that the average rate of single mother households is 18% and on average 54% of the cities' populations had moved in the five years prior to the 2000 census. At the case level, 81% of offenses occur in a residence,

**Table 2. Descriptive Statistics**

|  | Mean | SD | Minimum | Maximum |
|---|---|---|---|---|
| **City-Level (N=31)** | | | | |
| **Stratification:** | | | | |
| Pct Unemployed | 6.72 | 2.57 | 3.43 | 13.8 |
| **Morphology:** | | | | |
| Pct Single Mother Hslds | 19.69 | 6.88 | 11.41 | 33.87 |
| Pct Moved Past 5 Years | 52.48 | 4.79 | 44.16 | 62.14 |
| **Culture:** | | | | |
| Pct HS Grad | 80.5 | 5.53 | 68.02 | 89.54 |
| Ratio Blk Officers-Blk Pop | 1.62 | 2.06 | 0.35 | 7.76 |
| **Organization:** | | | | |
| Mandatory Law | 0.68 | 0.48 | 0 | 1 |
| Preferred Law | 0.23 | 0.43 | 0 | 1 |
| DV Unit | 0.68 | 0.48 | 0 | 1 |
| **Normative Status:** | | | | |
| Logged Violent Crime Rate | 6.65 | 0.56 | 5.42 | 7.56 |
| **Case-Level (N=3744)** | | | | |
| **Morphology:** | | | | |
| Location (1= Home) | 0.81 | 0.39 | 0 | 1 |
| Married (1= Married) | 0.33 | 0.47 | 0 | 1 |
| **Culture:** | | | | |
| Victim Age | 30.71 | 9.66 | 18 | 84 |
| Victim Race (1= Nonwhite) | 0.41 | 0.49 | 0 | 1 |
| **Normative Status:** | | | | |
| Substance Use (1=Yes) | 0.02 | 0.14 | 0 | 1 |
| Injury (1=Injury present) | 0.48 | 0.5 | 0 | 1 |
| Weapon (1=Weapon present) | 0.13 | 0.33 | 0 | 1 |

**Sources: 2000 NIBRS, LEMAS, Census**

33% of victims are married and the average age of the victim is 31 years old. At the structural level, measures of culture reveal that on average 81% of residents are high school graduates and the average ratio of Black police officers to Black city population was 1.62, meaning that on average, the percent of black police officers is just over one and a half times greater than the percentage of black population. At the case level, 41% of victims are non-white. Measures of organization at the structural level show that 68% of cities have full time, dedicated domestic violence resources, 68% of the cities are in states with

mandatory arrest law and 23% are in states with preferred arrest laws. The average violent crime rate, the sole structural measure of normative status, across cities is 892.7 per 100,000 people. At the case level, 48% of victims sustained some type of injury and a weapon was involved in 13% of cases.

STRUCTURAL SOCIAL STATUES

Table 3 presents the results of the hierarchical generalized linear model containing each of Black's social statues. The intercept coefficient ($\beta_0$) is the expected log-odds of victim arrest in a city located at the average for each level two predictor with a discretionary arrest policy. Converting the log-odds to a probability, the probability of victim arrest is .30 in a typical city with a discretionary arrest policy. At the structural level, the level of unemployment and presence of a domestic violence unit, ratio of Black officers to Black population, and violent crime rate all had the predicted impact on the probability of victim arrest. As Black's theory would predict, the odds of arrest are significantly *higher* in cities with high unemployment rates (odds ratio= 1.81), where the ratio of Black police officer to Black population is higher (odds ratio=1.29), and where violent crime rates are low (odds ratio= .19). Additionally, the odds of victim arrest (odds ratio= .28) are significantly lower in cities with a dedicated domestic violence unit. Unlike prior research, we did not find significant differences in the likelihood of victim arrest in mandatory, preferred and discretionary arrest states (see Hirschel et al. 2007).

INDIVIDUAL SOCIAL STATUES

Each of the significant case-level predictors supports Black's theory of law. Unmarried victims (odd ratio= .75), as well as incidents involving a weapon (odds ratio= 1.54), injury (odds ratio= 2.07), and substance use (odds ratio= 1.57) all produce significantly higher odds of victim arrest. Contrary to Black's theory and prior research conducted by Hirschel et al. (2007), race of the victim, location of the offense and age were not significantly related to the likelihood of victim arrest in this study.

# DISCUSSION

The goal of this study was to offer a theoretical explanation of factors that affect the likelihood of victim arrest in incidents of intimate partner violence. Specifically, we utilized Black's (1976) theory of law to understand how individual and structural social statues influence police discretionary arrest decisions.

**Table 3. Multilevel Analysis of Black's Theory of Law Predicting Victim Arrest**

|  | Coefficient | Odds Ratio |
|---|---|---|
| **Level Two** | | |
| Victim Arrest | -.83 | 0.44 |
| Intercept ($B_0$) | | |
| **Stratification:** | | |
| Pct Unemployed | .59 | 1.81** |
| **Morphology:** | | |
| Pct Single Mother Hslds | -.08 | .92 |
| Pct Moved Past 5 Years | .04 | 1.04 |
| **Culture:** | | |
| Pct HS Grad | -.04 | .96 |
| Ratio Blk Officers-Blk Pop | .25 | 1.29* |
| **Organization:** | | |
| Mandatory Law | .41 | 1.51 |
| Preferred Law | .83 | 2.28 |
| DV Unit | -1.29 | .28* |
| **Normative Status:** | | |
| Violent Crime Rate | -1.67 | .19* |
| **Level One** | | |
| **Morphology:** | | |
| Location (1= Home) | .10 | 1.10 |
| Married (1= Married) | -.29 | .75** |
| **Culture:** | | |
| Victim Age (1= Over 25) | .11 | 1.11 |
| Victim Race (1= Nonwhite) | .05 | 1.05 |
| **Normative Status:** | | |
| Substance Use (1=Yes) | .45 | 1.57† |
| Injury (1=Injury present) | .73 | 2.07** |
| Weapon (1=Weapon present) | .43 | 1.54** |
| **Variance Components** | | |
|  | Variance | Chi-Square |
| Victim Arrest | 1.56 | 259.26** |
| Intercept ($U_0$) | | |

† p<.1 *p<.05 **p<.01

Emphasizing the importance of downward law, Black predicts that victims and locations occupying lower statuses would experience a higher likelihood of arrest. We tested a total of fifteen statuses - seven individual and eight structural-hypothesized to affect the behavior of law, and found moderate support for Black's theory. At the city level, stratification (high unemployment), culture (high ratio of Black officers to Black population), organization (no DV unit), and respectability (low violent crime rate) increase the likelihood of victim arrest. Similarly, at the individual level, morphology (being unmarried) and respectability (presence of a weapon, victim injury, and substance use) also increase the likelihood of victim arrest. While each of these findings is consistent with Black's theory and is supported by prior research, we would like to highlight the findings related to organization and respectability.

In regards to structural organization, there appears to be no difference in the likelihood of victim arrest across states with mandatory, preferred, and discretionary arrest policies. In the wake of initial findings of increased victim arrest due to mandatory and preferred arrest policies, many states amended their laws to include 'primary aggressor' language (Davis, 2001; Hirschel et al., 2007; Martin, 1997). This language instructed officers to make every effort to identify the party that initiated and/or used the greatest amount of force in an incident, consider past IPV incidents, and evaluate injuries resulting from self-defensive actions. Still, research highlights that even when primary aggressor language is used in state statute, it may be incorrectly interpreted, misapplied, or ignored by officers in the field (Finn and Bettis, 2006). Training officers to correctly apply mandatory and preferred arrest policies appears to be an important element in reducing the likelihood of victim arrest. For example, Martin (1997) points out that victim arrest in Dallas rose substantially (to 6%) following the implementation of a preferred arrest policy, but fell to 1% when officers were trained to take into account who initiated the incident and whether injuries may be due to self-defense. Additionally, Morris (n.d.) found the most important predictor of dual arrest in IPV cases in Western Connecticut was whether the police department had explicit language regarding the consideration of self-defense prior to arrest. Although the state statute clearly directs officers to consider self-defense before arresting a victim, dual arrest was more likely in those departments that did not incorporate similar language in departmental operating procedures.

These findings regarding the importance of departmental level policy and training mirror our finding that the presence of a full-time domestic violence unit reduces the likelihood of victim arrest. In terms of Black's theory, domestic violence units provide increased organization for victims which insulate them from the application of law. As Dugan et al. (2003) suggest, domestic violence units are not only important mechanisms for conveying how to apply state IPV

arrest policies at the local level, but they also provide advocacy services for victims. Indeed, Finn and Bettis (2006) found that police officers often arrest both the offender and victim in IPV incidents due to their belief that the only way to end the violence between the couple is to initiate criminal justice intervention in hopes that the court system will mandate counseling. Having a full-time domestic violence unit may encourage officers to rely on the victim services available through this unit to end future violence, rather than relying on the court system. Given that research has documented that poor, less educated, and minority communities generally lack access to domestic violence victim advocacy services (Frye et al., 2007; Tiefenthaler et al. 2005), and our finding that areas with higher unemployment rates have increased likelihood of victim arrest, instituting full-time domestic violence units in police departments may be a particularly promising mechanism for preventing victim arrest.

Our second major finding of interest is related to the respectability of both the victim and location. At the individual level, we find that women who possess lower levels of respectability may compromise their claims to legitimate victimhood, and are thus more likely to be arrested. Specifically, women who possessed a weapon at the time of domestic violence incident, sustained injuries, or showed evidence of substance use had significantly higher odds of arrest. This finding is consistent with a number of previous studies (Henning et al., 2006; Houry et al., 2006; Martin, 1997; Smith, 1987; Worden and Pollitz, 1984) and may indicate that police expect victims of IPV to be passive in such incidents. For women, passivity is generally associated with traditional female gender role expectations and middle class standards of behavior (Visher, 1983). For example, Frye et al. (2007) found that dual arrest was more likely among women with higher incomes. They explain this counterintuitive finding by suggesting that when officers encounter an incident that "does not match a pre-existing schema of the typical domestic violence incident" officers may be more likely to arrest both offender and victim (p. 403). Therefore, as Black predicts, violation of these expectations by fighting back or being under the influence may trigger the use of more law.

Alternatively, the presence of a weapon, victim injury, and substance use may simply represent legitimate legal factors that increase the seriousness of the offense or make the identification of the primary aggressor difficult. Recall that research documents that not all IPV incidents involve passive female victims, rather many incidents may be classified as 'common couple violence' (Henning et al., 2006). Still, others have found that officers often use the presence of injuries on both the victim and offender to justify a decision to arrest both parties (Finn and Bettis, 2006; Morris, n.d.). Additionally, Henning et al. (2006, p. 352) suggest that increases in victim arrest may result from police officers being unhappy with mandatory arrest laws that diminish their discretion to make arrests

in IPV cases. Officers simple arrest both victim and offender, letting the court sort out the facts of the case. Unfortunately, we do not have a mechanism for determining whether or to what extent the male offender in these incidents sustained injuries.

## CONCLUSION

This study adds to the literature on intimate partner violence by using Black's theory of the behavior of law to explore structural and individual characteristics that predict victim arrest in these incidents. Using data from the National Incident Based Reporting System, 2000 decennial Census, and Law Enforcement Management and Administrative Statistic report, we tested Black's theory and found that the likelihood of victim arrest significantly increased based on where the location and victim fell in relation to five social statuses: stratification, morphology, culture, organization, and respectability. With the knowledge that victim arrest can be predicted using concepts from Black's theory, we can offer two, interrelated policy recommendation. First individuals who possess more organization are both less likely to have law used against them and more likely to use law on their behalf. In other words, victims who have the support of a full-time domestic violence unit in the local police department will be less likely to be arrested and more likely to see action taken against their attacker. Additionally, respectability insulates individuals from the use of law. Educating police officers as to what 'typical' victim and offender roles are in incidents of IPV may reduce the judgment that victims who engage in self-defense are less deserving of legal protection. Indeed Finn and Bettis (2006) and Morris (n.d.) both point to the importance of training officers to recognize self-defense and identify primary aggressors in reducing victim arrest.

It is important to note, however, that IPV incidents are often complex interactions that may not fit the classic female victim, male offender model. Although we limited our analysis to only those incidents where the female was classified by police as the only victim in the incident, it is possible that the female was indeed determined to initiate the use of violence or was the primary aggressor. As Henning et al. (2006) point out, women who are arrested for IPV cannot all be classified as passive victims and that violence between couples can sometimes be classified as 'common couple violence' where both partners equally engage in violence. Still, they find the majority of women arrested in IPV incidents were in fact using violence to defend themselves from male-initiated attacks.

While our findings offer support for Black's theory and highlight the importance of dedicated domestic violence police units, the current analysis does

suffer from two limitations.  First, since we rely on the 2000 Census to provide our structural measures, future studies should attempt to explore whether these relationships hold when using data from the 2010 Census. Second, the current study was primarily interested in understanding Black's emphasis on downward law, specifically the effect of victim statuses on likelihood of victim arrest.  As such, we did not explore the importance of relational distance between the offender and victim.  Black's theory would predict victims would be subject to more law if their level of stratification, morphology, culture, organization, and respectability were lower than the offender's. Testing the dynamic of relational distance would be a worthwhile endeavor for future research.  Additionally, researchers should seek to examine the possibility that Black's structural and individual level social statuses interact.  For example, does the level of victim respectability vary by level of respectability of place?  Numerous researchers have documented that the effect of race on arrest varies by seriousness of the offense, and structural characteristics such as crime rate and population composition (Etitle et al., 2002; Liska and Chamlin, 2004; Smith, 1997). Identifying these types of cross-level interactions would be an important advance to both Black's theory and our understanding of victim arrest in IPV incidents.

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