

A discussion on police discretion criminology essay



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Domestic violence, is associated with a series of long term physical problems alongside it will have also psychological factors which is a serious health problem. The growing concerns of violence against woman caused the increase of more police officers to take extra shifts to cover the victims of domestic violence. However, with that the police also has to implement a great deal of discretion. The police department will give the officers indirectly or clearly the choice what laws they want to enforce and when, most of the time police officers already know which cases prosecutors will keep and which ones the judge will convict. In some cases police officers have already been persuaded from many of the last cases they had to deal with, which kind of makes their decision easier. Research shows that most of the arrests are made by the officers if there was physical harm done.

Domestic violence is a growing issue and it has an impact on may different individuals such as, partners, parents, children, and extended family members. In many cases domestic violence can often be fatal , but it can also be prevented and treated. Many cases include spousal battery, sexual abuse, child abuse to name a few. The Centers for Disease Control and Prevention, also calls domestic violence “ intimate partner violence” is well defined as physical or sexual violence or even psychological and emotional abuse that is intended to hurt a spouse, or even a current spouse (CDC, 2012). The center for disease control also defines intimate partner violence spouse abuse, battering, and even marital rape (CDC, 2012).

The community and society is a perfect place and it has the ability to protect and separate the risk of such vast growing violence. Woman which is most exposed to domestic violence have two types of solutions that they are able

to use. One, police officers can arrest or charge an individual and prosecutors can follow a criminal restrictive. Secondly, victims of domestic violence can also follow civil actions against the offenders by filing for a protective order in which case it can be temporary or permanent. These kinds of order can be issued to individuals that are involved in an abusive relationship, which will keep the abuser from contacting the victim. A temporary restraining order can be issued which can last up to one to two weeks, after that a mandatory hearing is set to determine the reason why the individual needs a restraining order and for how long. In 1994 the Violence Against Women Act was passed, with that the demand for police officer also grew higher to protect domestic violence victims. At the same time more funding was passed to make it mandatory for police officers to arrest an individual based on probable cause and to determine that a crime has been committed and the person in question has committed the actual crime. Additionally, the enactment of the primary offender concept and a speedy prosecution were also ordered by the state. With that the increase in domestic violence arrest was rising to 30 percent and higher. The federal government spends a large amount of money, to encourage local areas to cure the cause of domestic violence and to treat it as a serious crime and to attack these kinds of crimes with force. There are many other states that are now passing the law to make it mandatory for police officers to arrest individuals that are under a restraining order (Holmes, Sylvia I. Mignon William M., 1995). However, under this new law the officers can use less discretion. The study showed that incidence under that new law showed the relations with arrests and the offending arrests are less and offending based on reports and victim's story.

The spectrum of the criminal justice starts with the police itself. Discretion is distinct for the officer to have the power to make his or her choice based on possible options of actions or inactions. Police officers implement a large amount of discretion that comes with their job description as a protector of the community and their safety and also for the individuals that are unable to protect themselves. There is a plethora of research that has been done on police discretion: it lists as many as 140 titles related to discretion of the police in criminal justice alone and the the way discretion is used and how it affects their decision making.

There are many factors to consider that might influence police discretion when arresting individuals such as, race ethnicity and how serious the offense is (Justice, U. S. Department of, 1999).

There has been many debates on the advantages and disadvantages of a mandatory arrest and it depends on three main questions. One, will mandatory arrests increase or decrease the violence for victims? Two, will mandatory arrests encourage or discourage victims, and lastly should domestic violence be treated the same way as a violent crime (Barata, Paula C; Schneider, Frank, 2004)? Increase or decrease, the argument in support of mandatory arrest for violence can be decreased due to the warning signs that are affected by the abuser. This means that abusers will learn to control their violent behavior due to the fact that they are afraid of future arrests. Studies have shown that mandatory arrests will control domestic violence. However, in some other studies the increase of domestic violence has been noticed when following the mandatory arrest procedure, and most of the victims were unmarried or the abuser was unemployed (Barata, Paula C; <https://assignbuster.com/a-discussion-on-police-discretion-criminology-essay/>

Schneider, Frank, 2004). In this case it led some to believe that mandatory arrests do not work on lowering the domestic violent crimes on the contrary it actually escalated the violence for some victims.

Empowerment or disempowerment, has the possibility that mandatory arrests may disempower a victim or survivor, because it take the woman's right away to make her own decision to a much more powerful court system that has not been exactly the sensitive woman's rights (Barata, Paula C; Schneider, Frank, 2004). There are also many reasons why an abused woman may not want to follow through with the abusers arrest, for the following reason; she might be afraid of retaliation, financial issues that it might cause to name a few. Certainly, a court system has the assumption that the victim does not what might be best for the family and to a victim that might come across as condescending. In some cases there was also an increase of concern that there might be a dual arrest under the mandatory arrest law. What makes matters worse is when a victim is arrested that would be a great disempowerment.

However, it has been used in the past that when the empowerment of a woman is taken away , the implementation of a mandatory arrest is placed. So by letting the victim have some empowerment it will ensure that her complaint is taken seriously, which makes her think her police is on her side. Some believe that mandatory arrests empower women by limiting police discretion and that leads to a non bias arresting. It is also noted that woman who has increased empowerment which is more likely in woman that are a minority, they are more likely to use the police services to stop violent crimes from happening.

(Barata, Paula C; Schneider, Frank, 2004) noted that for instance family violence should be categorized differently than stranger assault. Some believe that police officers should only handle only very dangerous crimes, and that the rest of the crimes should be handled outside the criminal system like private counseling. Mandatory arrest laws need to be replaced with organized police discretion, which include using the victim's decision and using it for example taking the item to a safe place like shelter or such. Some say that revoking of the mandatory arrest law would make things worse in controlling domestic violence, and would return the violence to its normal stage. Criminalizing domestic violence will send a big message to the public that this kind of behavior is unacceptable and will not be tolerated.

The mandatory arrest debate produced a lot of attention for much of the problem of policing and domestic violence. However, whether or not it is beneficial to have a mandatory arrest law for victims of domestic violence remains questionable. After carefully observing the evidence pertaining to the violence issue, it has generated inconsistent findings in the conclusion. Two of the findings on the issues of arrests whether or not it empowers or disempowers victims of domestic violence, is an issue that might be better off if it is dealt with inside/outside the criminal justice system. But it has still to be examined with research and it is mainly a speculation. There is still important information that is yet to be studied, and that is the victims themselves, and how they perceive the mandatory arrest law. Do victims of domestic violence care about the enactment of the mandatory arrest and what do they observe as being an advantage or disadvantage of the action. Whether victims feel threatened or safer with this particular law and are they

more inspired or discouraged is the question. In recent times victims of domestic violence were clearly not in a talking mood. Fortunately, there has been an outpouring of research in recent years that has studied victims and their presumption of the criminal justice system. There has been only a few studies that show the consideration for victims and the support for a mandatory arrest (Barata, Paula C; Schneider, Frank, 2004). It has shown that most of the victims are supporting the mandatory law not necessarily for them but for the other individuals benefit. Though, either one of the studies dug deep enough into the above mentioned issues that have been stressed in the debate about mandatory arrest. It is the strategic effect on the levels of violence, of empowerment and if it demonstrates that domestic violence is looked at as a serious crime. The main influence of this study is that it goes much further into the question if victims care for the mandatory arrest law and it also examines the view on the issues. This study is also useful to see how flexible as well as not so flexible the study is.

The main idea of this study is to find out what victims think of the mandatory arrest law and if it has an advantage or a disadvantage. The main point is to find out to what degree victims support this kind of law. Individuals have been asked in the study if the mandatory arrest is sufficient enough to keep violent offenders away from victims and the second question was should domestic violence be treated as other violent crimes. Additionally, the support for mandatory arrest was also measured if it was mainly for the victim's own case in terms of domestic violence or if it was measured in a general sense. Results showed which was expected that victims supported the policy for domestic violence very strongly for more general purpose than

for their own cases. It is clear that many of the participants in this above study are more interested in the benefit that it helps other individuals before it helps the victims itself.

As mentioned at the beginning domestic violence has long term physical problems alongside it will have also psychological factors which is a serious health problem. Which make police discretion a huge problem in some cases it is whether to arrest some offenders and permit others to keep taking part in criminal misconduct. It is the way police departments implement this discretion and what consequences it might have in the long run. However, when police officers have to tackle a domestic violent case it can be very stressful for an officer, because they only have a split second to think. When officers have little to no time to think it makes it very hard to determine what kind of discretion is appropriate and what is not. In many cases it is very hard to make this kind of decision on a short notice, however as mentioned above many of the officers already have a hunch from previous cases if the victim is saying things for their own personal gain or if they are telling the truth.

In conclusion all of the above main issues mentioned earlier on mandatory arrests were addressed to variable degrees in individuals that participated in the open ended response. Much of the studies that took place was very encouraging because it showed that the discussion are important for the victims' concerns. However, in recent research it was highlighted that some issues such as, the effects it had on supporting or non supporting of mandatory arrests. Domestic violence was certainly a noticeable concern for many of the victims in this study, though it was not their first priority in their

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decision to support this kind of policy. For that reason, it would be a mistake to use the study to increase or decrease in domestic violence to measure the achievement or the disappointment of the issue. Many other similar studies have been conducted, and many of the women participating in this study felt that mandatory arrests are very important. Which is quite a lucky break because in many countries and other states the mandatory arrest law is already in place. What was most important in this particular study was the fact that many of the individuals sheds light on many of the reasons why monetary arrests should be made to save the victims. Even though some have issues with the mandatory arrest laws and some do not the best way to figure out the pros and cons on this issue to have the victims of domestic violence decide what is best for the individual crime. The officer will always face issues when it comes to arrests but it is for the individual officer to decide whether to arrest an abuser or whether to listen to both parties to make the right judgement call.