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UNDERSTANDING AND INFORMING POLICY IMPLEMENTATION

A Case Study of the Domestic Violence Provisions of the Maryland Gun Violence Act

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The Maryland Gun Violence Act, enacted into law in 1996, explicitly authorized courts to order batterers to surrender their firearms through civil protective orders. It also vested law enforcement with the explicit authority to remove guns when responding to a domestic violence complaint. In order to assess how these laws were implemented, we designed a case study and collected data from in-depth, key informant interviews, court observations, and relevant documents. We present findings from this study and recommend how to increase the likelihood that policies designed to separate batterers and guns are implemented in a way that will result in greater protections for victims of domestic violence.

Keywords: *policy implementation; firearms; domestic violence*

In 1996, Maryland enacted a law designed to remove guns from people who commit intimate partner violence. The law empowered judges to issue protective orders requiring batterers to surrender their firearms (Maryland Gun Violence Act of 1996a) and vested police with the authority to remove guns when responding to a domestic violence complaint (Maryland Gun Violence Act of 1996b). Whether these provisions affect the safety of domestic violence victims depends on how they are implemented. This article reports the findings of an implementation study of the Maryland Gun Violence Act and considers the policy implications of this research.

Firearms play a large role in domestic violence, as detailed elsewhere in this special issue, and figure prominently in fatal abuse. From 1990 to 2002,

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more than two thirds of the spouse and ex-spouse victims of fatal domestic violence were killed by guns (Bureau of Justice Statistics 2004).

Since 1994, federal law prohibits individuals subject to a qualified restraining order from purchasing or possessing firearms (Violent Crime Control and Law Enforcement Act 2005). As a complement to this law, 15 states have adopted measures similar to Maryland's that explicitly authorize judges to order batterers to surrender their firearms when issuing protective orders (Frattaroli and Vernick 2006 [this issue]). There is a need to understand both the use of these gun-specific policies and the enforcement of protective orders generally. A review of California restraining orders revealed that more than half (52%) of all active orders in place at the time of data collection included a judge's order to surrender firearms (Sorenson and Shen 2005). The challenges associated with enforcing protective orders generally have been documented (Finn 1991), and an exploratory study of victims' reports of their armed abusers' compliance with judicial orders to surrender their firearms found that abusers rarely complied with such orders (D. W. Webster, co-director, Johns Hopkins Center for Gun Policy and Research, personal communication, January 4, 2006).

Seventeen states other than Maryland have laws that explicitly authorize police to remove guns from homes when responding to domestic violence complaints (Frattaroli and Vernick 2006). These laws extend state authority beyond the federal prohibition on gun purchase and possession by domestic violence misdemeanants (Gun Ban for Individuals Convicted of a Misdemeanor Crime of Domestic Violence 2005), enhancing the preventive potential of law enforcement's authority to separate batterers from guns.

Although both scholarly and legislative attention to the risks associated with guns in the hands of batterers has increased in recent years, we are unaware of any in-depth examination of how these two state policies are being implemented. We use the word *implementation* to describe all activities involved in the process of translating a law into action. These activities include, but are not limited to, promulgation of agency regulations, creation of formal agency practices and procedures, allocation of funds, and police enforcement of a law. The gun policy evaluation literature does include some discussion of the role of implementation (Vizzard 1993) and enforcement (Bendis and Balkin 1979; Sherman 1980; Kleck 1997; Zimring 1975) in affecting outcomes, and three research efforts designed to examine policy implementation (Beha 1977a, 1977b; Fennell 1990; Rossman et al. 1980). The three studies revealed problems in the implementation process for each of the policies examined. Researchers attributed the problems to inadequacies with the written policies (lack of clarity [Fennell 1990; Rossman et al. 1980]

and insufficient resources for police officer training [Sherman 1980]) and implementer characteristics (inadequate expertise [Fennell 1990]) and different charging practices [Rossman et al. 1980]).

METHODS

We used a single-case, embedded design to structure the research process. The embedded design allows for independent analysis of subunits (the court-ordered surrender and police removal provisions) within the main case (the Maryland Gun Violence Act), thereby reducing the risk that important differences within the main case will not be revealed.

STUDY SITES

The court order and police removal provisions of the Maryland Gun Violence Act affect local law enforcement. Based on census classifications of Maryland's 23 counties and Baltimore City, we selected one urban, two suburban, and one rural locality as study sites according to their proximity to the researchers (urban and rural sites) and information that instructive implementation approaches were under way (suburban sites). This sampling strategy is designed to inform theory, not to produce findings that can be generalized to a population level.

DATA SOURCES

We identified three data sources that could inform our understanding of how the court-ordered surrender and police removal laws were being implemented: semistructured key informant interviews, field notes based on observations of protective order hearings, and documents related to the implementation process. We constructed our interview sample using a combination of theoretical and snowball sampling techniques. Consistent with theoretical sampling, our initial interviewees included individuals whose positions within organizations suggested some responsibility for implementing the two domestic violence provisions. At the end of each interview based on theoretical sampling, we asked interviewees to recommend additional people for our sample (snowball sampling). We identified 32 individuals through these sampling strategies and invited all 32 to participate. Two individuals refused, stating they had no information about the topic, resulting in a final sample of

TABLE 1: Interviewees' Profession and Expertise

	<i>Police Removal</i>	<i>Court-Ordered Surrender</i>	<i>Both</i>
Judge		3	
Policy advocate	1		5
Law enforcement		3	10
Prosecutor	1		1
Victim representative		3	2
Governor's office			1

30 interviewees. One author (SF) conducted all of the interviews between April 1997 and August 1998. Most interviews were in person; however, 3 individuals were interviewed via telephone at their request. Table 1 provides additional detail about the interviewees' professions and their experience with the court-ordered surrender and the police removal policies.

We developed and used a semistructured interview protocol that provided a core set of questions across the interviews and allowed some flexibility to follow up with relevant questions as needed. The interviews ranged in length from 15 to 90 min. We tape-recorded most (26/30), transcribed the taped records, and imported the transcripts (or for those interviewees not recorded, detailed notes) into the qualitative data analysis software Ethnograph version 4.0 to facilitate analysis.

In our urban study site, one court is designated to handle all civil domestic violence cases for the jurisdiction. Between May 1997 and April 1998, we observed 48 permanent protective order hearings in this court on 11 randomly selected days for the purpose of observing how judges were using the new court-ordered surrender policy. During these direct observations, we took detailed notes of each hearing.

We collected documents related to the implementation process, some of which were revealed through the interviews. Training documents, press coverage, and informational materials were among the documents we included.

ANALYSIS

We developed a set of codes using an iterative process of reviewing the interview transcripts, and we coded the transcripts in Ethnograph. With the coding complete, we reviewed the coded data segments separately for the two laws and stratified those data by interviewees' professional affiliation, reasoning that individuals' insights would be informed by their professional experiences. This stratification informed our understanding of the different implementation phases, as most implementers were involved with one aspect of implementation. To identify the barriers and facilitators to

implementation generally, we combined the coded text for the two laws and examined the data for common themes repeatedly expressed by interviewees. We used Ethnograph to organize and manage the large volume of coded text.

We grouped the identified themes into broader categories that served to explain the implementation process using Yin's explanation building analytic approach (Yin 1994). We categorized and quantified the field notes collected through the court observations and referenced the documents we collected in order to support or challenge the explanations using different data sources (triangulation) identified from the interview data.

RESULTS

COURT-ORDERED SURRENDER POLICY

Implementation of the court-ordered surrender policy requires a multi-step process. Victims file hearing requests and specify if they are requesting the court to order the respondents (batterers) to surrender their firearms. Judges review requests, hear testimony, and upon finding clear and convincing evidence that abuse has occurred, order relief. That relief may include an order to surrender firearms. In some circumstances, law enforcement will serve the order and may receive surrendered firearms. Respondents ordered to surrender their firearms may also initiate the surrender process through contact with local law enforcement. Local law enforcement agencies maintain surrendered firearms until they are returned to the owners or otherwise disposed because respondents either fail to claim their guns or are no longer eligible to legally possess firearms.

Court Observations

During 11 days of observation in one civil domestic violence court, we witnessed 27 protective order hearings for which the firearms surrender provision was an eligible form of relief. In five of these cases, victims described firearms as part of the abuse (Table 2). All five hearings resulted in protective orders being issued, but none of the resulting protective orders required the respondents to surrender their firearms. Three different judges presided over the five cases. In a sixth case, the victim's attorney mentioned the respondent's firearm in discussing the terms of relief. Although the victim did not describe any firearm-related abuse in her testimony, the judge did order the batterer to surrender his firearms as part of the protective order.

TABLE 2: Summary of Victim Testimony Regarding Firearm-Related Violence

Case #1: Petitioner was preparing to divorce her husband of 19 years. She described how her husband recently threatened to shoot her, the criminal charges that ensued, and her refusal to testify against him. In describing the abuse over their 19 years, she explained that guns were an issue throughout their marriage and that "he has put guns to my chest."

Case #2: Petitioner (male) explained that the respondent (female) had threatened to get a gun and shoot him. Respondent denied this claim, stating she did not own any guns.

Case #3: Petitioner described an incident in which the respondent pointed a gun at her.

Case #4: Petitioner described the abuse as an assault with a gun.

Case #5: Petitioner sought a protective order after learning from a friend that the respondent had been talking about "shooting up her house." She further testified that the respondent owned a gun.

We observed seven different judges over the 11 days of observation and noted three different styles of reviewing the relief options with the petitioner. In one approach, the judge read every relief option available, including the surrender of firearms, and asked the petitioner which forms of relief she was seeking. This judge also asked respondents if they owned a firearm and explained that they are prohibited from purchasing or possessing firearms for the duration of the order and that they must surrender any firearms they own. In a second approach, the judge selected particular relief options and asked the petitioner which she would like the court to order. In the third style, without referring to available options, the judge simply asked the petitioner what forms of relief she wanted from the court.

Perspectives on Implementation

We interviewed 28 individuals who were knowledgeable about how the court-ordered surrender law was being implemented. The following summarizes their perspectives on the barriers and facilitators to obtaining a protective order with a firearm surrender provision and to ensuring the surrender of firearms.

Domestic violence victims initiate the protective order process in civil court. The standardized form required to request a protective order hearing includes a section on requested relief where the petitioner may check a box asking the judge to order the respondent to surrender his firearms. Interviewees who work

with victims described several barriers to requesting this relief, including victims' misunderstanding the provision and their decisions not to request a firearm surrender order. For example, victim representatives we interviewed relayed that some of their clients do not believe the court-ordered surrender policy can apply to illegal guns. These interviewees also shared the reasons that some of their clients deliberately chose not to pursue the firearm surrender, including the sense that the gun was needed to protect their home from outside intruders (limited to interviewees working in the urban site), the fear that the violence would escalate in response to a gun surrender order, and the realization that a gun removed could be easily replaced given the ready availability of guns. A less frequent explanation victims relayed to our interviewees was that they simply did not see guns as a potential instrument in their abuse. Interviewees cited the availability of advocates and attorneys to guide victims through the protective order application process as one strategy for addressing misunderstandings about the law and assessing the risks and benefits associated with requesting the firearms surrender provision as part of the protective order application.

The decision to order firearms surrendered ultimately rests with the judge presiding over a protective order hearing. All three judges included in our interview sample were aware of the firearm surrender provision and reported using it. Some expressed skepticism about the ability of such an order to prevent a determined batterer from committing lethal violence, and one judge was concerned that an order to surrender firearms elevated the risk to law enforcement serving the orders. The judges speculated that one factor influencing implementation of this provision is judges' personal beliefs about domestic violence, guns, and the role of the courts in adjudicating such matters. Other interviewees who work in the courts also raised this issue, specifically with reference to a minority of judges whose personal opposition to any form of gun control influences their judicial decisions or who are reluctant to consider domestic violence a crime. Some interviewees suggested that specialized domestic violence courts would address the personal beliefs challenge by allowing those who are hostile to court involvement in domestic violence cases to select out of such assignments.

We interviewed representatives from the law enforcement agencies in each of our study sites about their role in implementing the court-ordered firearm surrender policy. However, only two agencies indicated that they had sufficient experience serving orders with the firearm surrender provision to speak with authority on implementation. Interviewees from these agencies reported that their departments serve protective orders with the firearm surrender provision even when the order was served in open court and despite a change to the law in 1997 that permits orders to be served through the mail.

Interviewees described this additional step as an important strategy for increasing the likelihood that guns will be surrendered, because without such action, implementation is dependent on the respondent's initiative to ensure compliance.

The interviewees who serve these orders described several challenges associated with implementing the policy. According to interviewees, in most instances, respondents resist the order either by stating they don't own guns or by refusing to turn them over. Because the order does not confer on law enforcement the authority to search for guns, or to arrest respondents for noncompliance with this provision,¹ officers assess the situation and decide how best to proceed. Officers from one agency described the absence of search authority as the "Achilles' heel" of the law, because they have no recourse when a respondent denies possessing a gun. At the time of the interview, interviewees from this particular agency had never received a gun from a respondent under this law. In contrast, the implementation practices of the second agency involved a combination of talking respondents into compliance and returning to court for a search warrant. According to the interviewee from this agency, when guns are ordered surrendered, most of the time his agency collects those guns. Interviewees who reported taking possession of firearms noted the challenges associated with the availability of secure space for storing surrendered firearms and concerns about liability for failing to maintain guns in their possession.

Interviewees from the two law enforcement agencies with experience serving orders with the firearm surrender provision were part of specialized domestic violence units. Although their experiences receiving court-ordered surrendered guns varied dramatically, all agreed that the presence of a specialized unit within the departments results in an improved response. Other non-law-enforcement interviewees echoed this belief and expressed support for the role of specialized domestic violence law enforcement units in realizing higher quality implementation of the court-ordered firearm surrender law.

Some interviewees within law enforcement, along with several advocates, emphasized the importance of leadership within the law enforcement community to ensure implementation of the court-ordered surrender policy. From the perspective of interviewees who raised this issue, leaders not only define what is valued and rewarded but also influence the general culture of their agencies with regard to domestic violence and the appropriate response from law enforcement.

The consensus among the interviewees is that the court-ordered surrender strategy is most likely to be used in cases where a gun is an instrument of abuse or where the abuse is deemed serious. It is not being used as a preventive measure.

POLICE REMOVAL OF FIREARMS

“When responding to the scene of an alleged act of domestic violence, a law enforcement officer may remove a firearm from the scene if: (1) the law enforcement officer has probable cause to believe that an act of domestic violence has occurred; and (2) the law enforcement officer has observed the firearm on the scene during the response” (Maryland Gun Violence Act of 1996b). We interviewed 21 people who were knowledgeable about how this component of the law was being implemented.

Most interviewees expressed uncertainty about the extent of authority provided to officers through the police removal of firearms policy. From the perspective of the implementers we interviewed, the law lacks the clarity officers need to apply it to the various domestic violence situations they encounter. Interviewees speculated that as a result of this lack of clarity, implementation of the policy likely varies among jurisdictions and among officers within the same department. Interviewees also cited the same concerns with storage space that were previously described under the court-ordered surrender law, namely, the need for secure storage space and liability concerns.

Interviewees consistently described the scenarios for which the law failed to be instructive in practice. Specifically, when an officer believes that domestic violence occurred and learns the batterer owns a gun during the course of an investigation, whether the law permits removal was unclear to most interviewees. The circumstances they encounter in the field are more complex than is accounted for by the law. For example, one such scenario described by interviewees is when an officer establishes that abuse has occurred and the victim reveals that the batterer owns a gun that he keeps locked away in a place that only he can access. Although interviewees relayed concern and frustration about the written policy, they also expressed a belief that officers will generally err on the side of victim safety. Legislative or regulatory actions to clarify the law were cited by interviewees as a way to address this issue. For example, clarification of the policy by the Attorney General’s office could provide the additional guidance that officers in the field need. A legislative amendment referencing existing procedures (i.e., consensual search, search warrant) for removing guns described by witnesses but not observed at the scene could also provide more clarity. In addition, interviewees mentioned officer training as a way to ease some of the frustration associated with interpreting this law and to promote more uniform implementation.

Interviewees also described the law as unclear with regard to returning removed guns. Data collection revealed two agency-level procedures that were developed in response to the perceived need for additional guidance on returning guns. In one procedure, the agency required the person requesting the

return of a gun to provide proof of ownership and then conducted a background check to ensure that the person was eligible to take possession of the gun. A second procedure described also required proof of ownership and a background check in addition to an interview of the person requesting the gun and other individuals deemed relevant by the law enforcement agency. The purpose of the interviews was to assess the risk of domestic violence and to guard against returning guns to a potentially lethal environment.

In describing the factors that influence implementation of the police gun removal law, implementers cited the role of leadership and the general attitudes about domestic violence as two factors affecting law enforcement response. Interviewees noted how leadership, or the lack thereof, and the culture of domestic violence affect how law enforcement implements the police gun removal law.

DISCUSSION

During the 18 months following the effective date of the Maryland Gun Violence Act, implementation of the two domestic violence and gun policies varied among the study sites we examined. Our analysis of interviewees' perspectives on the implementation process and viable strategies for addressing identified challenges revealed two thematic categories: one involving qualities of the policy and the second related to the people responsible for implementation.

POLICY ATTRIBUTES

Characteristics of the written policy affect the policy's implementation. Interviewees consistently cited the lack of attention to important implementation details as a barrier to effective implementation. For example, according to many interviewees, the circumstances under which officers may remove a gun when responding to a domestic violence complaint and the process of securing court-ordered surrendered firearms are critical implementation issues that were not adequately addressed by the codified law. Legislative support, in the form of appropriated dollars, for implementer training and education is another example of a neglected policy detail with the potential to bolster the implementation process.

Whether implementers accept the rationale underlying the policy is also an issue. Although interviewees generally appreciated the risks associated with guns in the hands of batterers, several were skeptical of the ability of law enforcement to effectively remove these guns and thereby significantly reduce

the risk of a lethal outcome. Implementers' perspectives on the efficacy of a strategy are relevant to implementation, particularly when the policies are discretionary, as is the case for both the court-ordered surrender and police removal policies.

PEOPLE

The discretionary nature of the laws, combined with the lack of clarity with regard to their execution, provides implementers with an opportunity to influence whether and how these laws are being implemented. Several interviewees described specially trained domestic violence professionals, who are familiar with the dynamics of domestic violence and committed to addressing the challenges associated with this issue, as being most prepared to understand and effectively implement new policies.

Leadership within implementing organizations is a powerful factor in understanding implementation of these two laws. Leaders' values affect implementers' choices about how to best allocate scarce resources. Interviewees described the role of leaders in creating an environment where efforts aimed at separating batterers from guns are well received and serve as an incentive to address the challenges that implementers face.

The relationship between policy attributes, people, and how these two policies to separate batterers and guns were implemented in Maryland is consistent with the findings of prior implementation studies of gun violence prevention policies (Fennel 1990; Rossman et al. 1980; Sherman 1980).

RECOMMENDATIONS

This research provides important insights into the process of implementing two policies designed to remove guns from batterers. The study was not designed to produce findings that are generalizable to a population. Rather, the purpose was to provide detailed insight into specific implementation processes aimed at separating batterers and guns that have not been described in the scholarly literature. Importantly, these insights add to the implementation theory literature and can inform policy discussions about how best to ensure that policies intended to remove guns from batterers are implemented in a way that will likely result in greater protections for domestic violence victims.

Toward that end, we recommend the following:

- Legislators should include clear indications on how the policy should be implemented as part of the statutory language. For example, the "whereas"

- clauses of a bill can be used as indicators of how the problems should be addressed. Legislative history, in the form of committee reports, also can provide guidance on how the legislature believes the law should be implemented.
- Legislators should include within the language of the bill directions to administrative agencies, such as police departments, for the promulgation of regulations that will implement the purposes of the law.
 - Legislators should provide resources to train and support implementers.
 - Legislators should monitor implementation efforts and hold leaders of implementing agencies accountable for implementation failures.
 - Domestic violence and gun violence prevention advocates should track the implementation of enacted policies they support and work to ensure implementation when implementation efforts need improvement.
 - Given the influence of leaders in supporting implementation efforts, advocacy efforts to improve implementation should include a focus on leaders within implementing organizations.
 - Law enforcement agencies and the judiciary should support the allocation of resources to hire and/or train domestic violence specialists who can competently address the unique challenges associated with implementing domestic violence policies.
 - Law enforcement agencies and the judiciary, working with advocates, should produce guidelines, policies, and regulations for the effective implementation of laws designed to separate batterers and guns. The research described herein suggests that law enforcement officers' willingness to ensure a policy's implementation is directly proportional to the amount and clarity of directions for implementation given to them.
 - Researchers who evaluate policies should incorporate implementation measures into their work to assess the extent to which the policies they are examining are being implemented.

Laws designed to prevent domestic violence or reduce the severity of abuse are legislatures' expressions of policy that need proper implementation to achieve their goals. If implementation goes awry, an evaluation of the law may conclude that the law is ineffective, when the law may have been well designed but was underfunded, mismanaged, or not enforced. Attention to both the practice and science of policy implementation is needed for policy to be an effective tool for protecting domestic violence victims specifically, and the public's health generally.

NOTE

1. The formal recourse available for noncompliance with the court-ordered firearm surrender provision is a contempt hearing.

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