

ABSTRACT

Title of Document: THE UTILITY OF DETERRENCE-BASED SANCTIONS
IN THE PREVENTION OF VIOLENCE AGAINST
ABORTION PROVIDERS: TESTING A BLENDED
MODEL OF DETERRENCE AND BACKLASH

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The American abortion debate has existed since the early 19th century; however, the previous four decades have born witness to fundamental changes within the abortion opposition movement. Beginning in the 1970s, activists started to focus more of their attention on abortion providers. Soon thereafter, the traditionally peaceful protest activities of the activist movement began to share space with acts of harassment, arson, bombings, assaults, and even assassination. Today, abortion provider-related crime has become an unwelcome staple within the broader pro-life movement. In an attempt to prevent future attacks, state and federal legislatures have enacted a series of protection laws designed to raise the penalties associated with crimes against abortion providers. Despite the recent proliferation of these laws, their impact on abortion provider-related crime has seldom been the subject of rigorous empirical research.

In this dissertation, I aim to address this shortcoming by using zero-inflated negative binomial regression modeling to present the first longitudinal test of the relationship between protection laws and abortion provider-related crime using incident-level data from 1975 to 2008, collected during a year-long research project at The

National Consortium for the Study of Terrorism and Responses to Terrorism (START). The results of this study offer considerable support for the backlash hypothesis and the notion that traditional deterrence-based policy is often demonstrably unsuccessful in the prevention of this particular type of crime. Additionally, the findings suggest that not all protection laws are created equal with respect to their impact on crime. While state laws prohibiting minor forms of anti-abortion crime are shown to produce a backlash effect for crimes of harassment and vandalism, other types of state protection laws were shown to have no effect on crime whatsoever. Furthermore, the presence of the highly visible FACE Act is shown to generate similar increases for both major and minor crime types.

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VIOLENCE AGAINST ABORTION PROVIDERS: TESTING A BLENDED MODEL
OF DETERRENCE AND BACKLASH

By

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Dissertation submitted to the Faculty of the Graduate School of the
University of Maryland, College Park, in partial fulfillment
of the requirements for the degree of
Doctor of Philosophy
2012

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Acknowledgements

Support for this research was provided by Grant N00140510629 from the Department of Homeland Security through the National Consortium for the Study of Terrorism and Responses to Terrorism. Any opinions or conclusions are those of the authors and do not necessarily reflect the views of the Department of Homeland Security.

As I approach the end of this endeavor, I would like to take a moment to acknowledge those who have played an important role, not only in shaping my abilities as an educator and scientist, but also for helping me to become a better person.

I owe a great deal of thanks to Dr. Laura Dugan. She introduced me to the sub-field of terrorism studies and encouraged me to take the path less traveled. Moreover, I thank her for never being too busy to answer my questions and to help me gain a better understanding of crime research. To that end, I also owe thanks to Dr. Freilich, Dr. Graber, Dr. McGloin and Dr. Paternoster for comprising a truly outstanding dissertation committee.

Thank you to Dr. LaFree. As a professor, dissertation chair and mentor, he provided me with invaluable instruction, advice as well as the opportunity to apply these lessons in my own research. Working with Dr. LaFree, I gained invaluable experience in data collection and in the management of my own research projects. Additionally, I would like to thank Gary for always making time to talk when I had questions. I feel as though he took an interest in my development as a researcher and for that, I am grateful.

I would also like to thank my friends and family for their support and seemingly endless patience. Without you, I would not be here, and I would be a much different person. To Josh, I say thanks for being a great friend, regardless of our locations. The next round is on me. To Dave, thanks for being a great office mate and a better friend. You were always there to hear my concerns, both professional and personal. To Jaclyn, thanks for being a great running partner and friend. To Amanda, thank you for being there from the beginning and for supporting me all the way.

Thank you to my parents for all of the late night phone calls and for knowing just when to offer that crucial bit of encouragement. Through your examples, I learned the values of public service, a strong work ethic and decency. Through your love and attention, I learned the value of family. Thank you.

Thank you Marie, simply for being who you are, and for being in my life. Although this past year has proven extremely challenging in a number of ways, it has also, because of you, been one of the most joyous times in my life.

Finally, I would like to thank START interns Mike Cross, Matt Deppe, Tarra Jackson, Joseph McCully, Maroulla Plangentis and Lauren Restivo for all of your coding assistance. Additional thanks to Sasha Prokopets and Ben Rosenbaum for all of your help in ensuring the quality and consistency of these data. Thanks to Elizabeth Nash at the Allen Guttmacher Institute for providing assistance with state and local protection laws, Sharon Lau at The National Abortion Federation, Ellen Gertzog at The Planned Parenthood Federation of America and Don Robinson of the Bureau of Alcohol, Tobacco, Firearms and Explosives, for making available to us, data on abortion-related crime.

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CHAPTER 1: INTRODUCTION

The debate over a woman's choice to terminate her own pregnancy is nearly two millennia old. Early Christian documents (circa 100 A.D.) indicate that the practice of abortion was fairly common, yet controversial enough to draw public condemnation from early church elders (Blanchard, 1994)¹. Today, the topic of abortion is more controversial than ever. Nowhere is this more evident than in the United States, which over the previous 40 years has surpassed many if not all other nations in terms of the amount of abortion-related crime it has experienced (King and Husting, 2003).

Beginning in the mid-1970s, protests which had traditionally taken the form of congressional lobbying and peaceful civil disobedience would begin to share space with acts of arson, bombings, assaults, and even assassination. On May 31, 2009, Dr. George Tiller was gunned down at the Reformation Lutheran Church in Wichita, Kansas by a militant pro-life activist. Such acts provide a clear reminder that violent and illegal forms of pro-life protest remain a problem that simply will not go away. Indeed, the abortion controversy has existed in this country since the early nineteenth century and yet, the recent use of violence from within a radicalized minority represents a fundamental change within the pro-life movement. Protestors who use such tactics of violence and coercion against pro-choice advocates, abortion clinics, and clinic staff members engage

¹ Christian writings such as the *Didache*, which translates to "The Teaching" in Greek, condemn the practice of abortion. However, the church did not establish a formal doctrine on the practice of abortion until the year 450 (Blanchard, 1994).

in what is increasingly referred to as acts of anti-abortion terrorism² (Kaplan, 1993; Hewitt, 2000a; 2000b; 2000c; Baird-Windle and Bader, 2001; Mason, 2004).

Horgan (2008) recently suggested that all forms of terrorism are instrumental in that they are carried out with the express purpose of achieving a particular objective. The Irish Republican Army (IRA) for instance, carried out a series of lethal attacks against British interests in an attempt to secure national independence. For the militant pro-life activist, this objective is most often the elimination of abortion practices, whether at a particular clinic or on a national level. In this view, anti-abortion terrorism can be seen as a political resource used to eliminate the practice of abortion by driving up the costs of provision and legalization (Doan, 2007). Previous studies on the effects of violent and coercive forms of pro-life protest indicate that anti-abortion terrorists are in this sense, partially successful. Research conducted by Kahane (2000) and Medoff (2003) for example, provide evidence that these increased costs have led a substantial number of physicians to discontinue their services; effectively lowering the supply and availability of the procedure (see also Baird-Windle and Bader, 2001).

The eight fatalities resulting from anti-abortion attacks represent perhaps the most quantifiable cost of anti-abortion terrorism. However, as Kaplan (1993) notes, property damage has over the years become a hallmark of the more militant wing of the pro-life movement, and the costs associated with these crimes are considerable. In their study of pro-life property crime, Grimes et al (1991) find that the average monetary cost to abortion clinics for each of 110 arson attacks from 1977 through 1988 was \$141,000 (roughly \$269,000 adjusting for 2011 inflation rates). This amount alone represents a

² In this dissertation, the term anti-abortion terrorism refers to acts of anti-abortion protest involving the use of violence directed at clinic staff, patients and/or clinic, staff and patient property.

significant burden for most every clinic and yet, the total monetary costs are actually much higher. Indeed, this figure cannot speak to the related costs of increasing security, maintaining insurance coverage, and the loss of business during repairs.

Somewhat akin to the increase in certain property insurance premiums following a natural disaster, reproductive health centers are often beset with premium increases (Kirkwood, 2003) or even policy cancelations (Baird-Windle and Bader, 2001) following acts of terrorism. The problem has become severe enough to require the passage of state legislation in California (see Cal. Ins. Code § 676.10) and Washington (see Chapter 145, 2006 Laws) in order to minimize the potential for abuse. It is little wonder that the total monetary cost borne by reproductive health centers as a result of terrorist actions can quickly become prohibitive.

And yet, the damage estimates listed above are incomplete. Scholars posit that acts of terrorism also serve to create an atmosphere of fear and extortion (Enders and Sandler, 2002). Research into the effects of anti-abortion terrorism in particular, bears this assertion out. In fact, one of the more common assertions within the literature on anti-abortion violence is that such acts exact a psychological toll on clinic staff (Faux, 1990; Solinger, 1998; Baird-Windle and Bader, 2001; Kenny and Reuland, 2002). In their study of 71 abortion clinic workers from eight states, Fitzpatrick and Wilson (1999) find that chronic exposure to violence among clinic staff increases the risk of sustaining mental health problems. Fully 21% of their sample met the criteria for posttraumatic stress disorder; nearly three times the prevalence rate for the general population (Kessler et al., 1995). Forced into a constant state of hyper-vigilance and increased anxiety

following an attack, reproductive health care workers exist in an extremely high stress atmosphere which in turn, poses considerable risks to their mental health.

In addition to acts of personal and property violence, the majority of abortion providers in the United States report annual experiences with threats, vandalism, stalking and other forms of anti-abortion harassment (Forrest and Henshaw, 1987; Finer and Henshaw, 2003). Much like the more violent acts of anti-abortion terrorism, illegal acts of anti-abortion harassment force providers to incur sizeable fiscal and mental costs which have been empirically linked to a reduction in the number of providers (Kahane, 2000; Doan, 2007).

Although reproductive healthcare clinics and their staff are most often the targets of anti-abortion terrorism and harassment, the costs of these acts extend far beyond clinic property lines. Women seeking abortions for instance, may be forced to pay higher fees for service as increased security costs are passed down from the clinic to the customer. Women of lower socioeconomic status are particularly vulnerable to these cost increases³. Furthermore, prior research has shown that both the monetary and psychological costs associated with acts of anti-abortion crime have led to the cessation of abortion practices by a number of physicians (Kahane, 2000; Baird-Windle and Bader, 2001; Medoff, 2003) which in turn, reduces the availability of the procedure for all women (Kaplan, 1995; Risen & Thomas, 1998; Maxwell, 2002). This is all the more troubling given that fully 87% of U.S. counties have no abortion provider (Jones et al., 2008; Jones and Kooistra, 2011). Furthermore, the threat of violence may result in fewer

³ Previous studies on the prevalence of abortion procedures suggests that the market for abortion services follows a basic supply and demand structure wherein the price of the procedure is inversely related to demand as measured through the number of procedures undertaken Medoff (1988; 1997). Thus, rising costs may result in a greater number of poor women being forced to endure the physical, fiscal and psychological risks associated with unwanted pregnancies and childbirth.

medical students who are willing to replenish the rapidly aging and shrinking provider pool (Henshaw and Van Vort, 1994; Heilig and Wilson, 1999; Jones et al., 2008; Jones and Kooistra, 2011).

Law enforcement personnel are also tasked with bearing the costs of these crimes. Police officers for example, often act as both first responders to attacks as well as hired clinic security. As such, they often find themselves at risk. Officer Robert Sanderson for instance, was killed during a 1998 clinic bombing in Birmingham, Alabama. Although such instances are rare, they illustrate the potential for physical harm that is endemic to abortion clinic security. This, however, is not the only risk posed to police departments by anti-abortion activities. In her study of unconventional⁴ and illegal forms of pro-life protest, Doan (2007) notes how for one police department, each abortion-related call for service averaged a cost of \$19 and 45 minutes of an officer's time. Depending on the frequency with which a particular clinic is subject to attacks, these costs can easily become prohibitive⁵.

As the preceding paragraphs have demonstrated, the consequences associated with acts of anti-abortion terrorism and harassment are substantial. To date, such crimes within the United States alone have resulted in eight murders, (National Abortion Federation, 2010), millions of dollars in clinic and personal property damage, and in certain areas, a reduction in healthcare availability (Baird-Windle and Bader, 2001; Kaplan, 1993; Maxwell, 2002; Risen and Thomas, 1998). And yet, despite their

⁴ In this dissertation, the term unconventional protest refers to behavior that is technically considered legal in most jurisdictions, but falls outside the realm of traditionally non-confrontational pro-life protest. Such acts include sidewalk counseling, clinic demonstrations and picketing without physical contact (Doan, 2007).

⁵ Doan (2007) goes on to note that this added cost may be especially burdensome for police departments serving smaller communities with limited budgets.

destructive and sometimes violent nature, these crimes are all but ignored by criminologists. As Kenney and Reuland (2002:356) observe: It is surprising that “little systematic, objective, analysis of the nature and extent of the violence [and] its antecedents has occurred.” It is perhaps not so surprising, that the near total lack of empirical research has inhibited our understanding of anti-abortion violence. To date, we remain uncertain as to the extent and causes of anti-abortion terrorism and harassment. Moreover, we continue to know very little about the effectiveness of the various countermeasures that have been put in place to deter future attacks.

In this dissertation, I address these shortcomings in several ways. To begin, I undertake a data collection effort for the Global Terrorism Database at the University of Maryland, culminating in what I believe is the most comprehensive event-based database on anti-abortion crime currently in existence. I use these data to empirically examine whether state and federal laws aimed at coercive and violent forms of pro-life protest serve to reduce, increase or have no impact on the number of future attacks. Notably, there are several types of clinic protection laws. Certain laws prohibit the use of violence or the threat of violence against people and clinic property while others are directed solely at non-violent, but criminal acts of harassment and vandalism. My research builds upon previous attempts to measure the impact of clinic protection laws on levels of anti-abortion crime by identifying and controlling for the specific types of acts that are prohibited by each of the nation’s 24 state and federal laws. Such an examination is crucial to establishing whether or not such crimes are preventable via conventional deterrence-based policy.

However, it is not enough to simply ask whether a law deters or encourages future acts of anti-abortion crime. As Pridemore and Freilich, (2007) note, laws designed to deter violent acts of protest may serve to reduce the most violent acts only to increase the number of illegal yet non-violent forms of criminal protest. This dissertation builds upon previous efforts to examine the possibility of this substitution effect⁶ through the first ever use of a longitudinal analysis on the impact of state and federal protection laws on acts of anti-abortion terrorism and harassment.

Summary and Outline

The current study seeks to advance our understanding of anti-abortion crime in the United States by examining the impact of state and federal laws protecting access to reproductive health clinics on anti-abortion terrorism and harassment. Using a series of Zero-Inflated Negative Binomial regression models, I examine whether certain laws result in a deterrent, backlash, substitution or null effect.

The remainder of this dissertation proceeds as follows. In Chapter 2, I review the relevant literature with respect to the causes and inhibitors of anti-abortion crime in the United States. This will include a brief summary of the history of the anti-abortion movement, with a particular focus on the shift from peaceful to violent forms of protest over the previous four decades. Additionally, this chapter will outline the previous research on legislative countermeasures and the causes of this brand of political crime

⁶ Hakim and Rengert (1981) refer to this type of substitution as crime type or functional displacement. Notably, crime interventions can also produce temporal, spatial, tactical, target and perpetrator displacement effects (for a review, see Barr and Pease, 1990). However, in this dissertation, the term substitution effect refers solely to the process wherein a crime intervention causes a shift from one type of criminal behavior to another (see Enders and Sandler, 2002 for a review).

within the context of rational choice theory. Chapter 3 outlines the focus for the current research as well as the specific theoretical models to be tested. In Chapter 4, I present an in-depth description of the data collection process and the resulting strengths and weaknesses of the data used for this study while Chapter 5 describes the statistical methodology used in this dissertation. The results of the statistical models are presented in Chapter 6. Finally, Chapter 7 concludes this study with a discussion of the findings and ideas for future research.

CHAPTER 2: LITERATURE REVIEW

As noted in Chapter 1, the use of violence and other forms of illegal protest by pro-life activists is a relatively recent development within the history of the American abortion debate. The first recorded act of pro-life arson in the United States occurred less than 40 years ago (Tims, 1976). Since this time, the repertoire of militant pro-life activists has grown to include an array of coercive and illegal tactics which have come to be defined by some as anti-abortion terrorism (Kaplan, 1993; Hewitt, 2000a; 2000b; 2000c; Baird-Windle and Bader, 2001). However, as I will show in the following paragraphs, the uniform classification of all forms of illegal protest proves problematic to the study of these phenomena.

Anti-Abortion Terrorism and the Low Utility of Uniform Classification

Although the term anti-abortion terrorism has gained a certain amount of traction within the academic community in recent years (Kaplan, 1993; Hewitt, 2000a; 2000b; 2000c; Baird-Windle and Bader, 2001), its use remains controversial in both the policy and academic arenas. As recent as 1984, former FBI director William Webster declared that while the bombing of a post office or church may be considered an act of terrorism, the bombing of an abortion clinic is not considered so (Mason, 2004). According to Webster, the reason the FBI did not consider attacks on abortion clinics to be terrorism was because the intent of the act was not to overthrow the government, but rather to further a social objective (Associated Press, 1984). Notably, the FBI's stance on this

issue has changed somewhat in the wake of the terrorist attacks on 9/11/2001 and today, the Bureau includes certain types of attacks on abortion providers such as clinic bombings and anthrax threats in their annual report on terrorism (FBI, 2006).

This controversy is perhaps most evident, however, amongst academics and researchers for whom there is little agreement regarding what constitutes an act of anti-abortion terrorism. According to Baird-Windle and Bader (2001), anti-abortion terrorism includes everything from acts of lethal force such as the assassination of Dr. Tiller, to clinic bombings and the more mundane acts of clinic vandalism. Kaplan (1995) and Johnson (2007) by contrast, reserve the term solely for acts of deadly force against individuals. In his comparative study of abortion and militant animal rights activists, Johnson (2007) argues that the term terrorism should be reserved for the most severe and violent political offenses. To do otherwise in Johnson's opinion, would serve only to lump political extremists in with common criminals thereby diluting the meaning of the term and facilitating the misallocation of finite resources. Liddick (2006) and Vanderheiden (2008) offer similar arguments for keeping a clear distinction between terrorist violence and nonviolent, yet illegal forms of protest among animal rights activists. Militant animal rights activists, much like their anti-abortion counterparts, choose their targets carefully (Liddick, 2006); and although studies show that instances of anti-abortion violence outnumber those committed by animal rights activists by as much as three to one (Johnson, 2007), the fact remains that the majority of incidents involve attacks on property. Therefore, according to Vanderheisen (2008:314), to consider every type of anti-abortion crime as a terrorist act is "to ignore the crucial difference in moral

status between persons and inanimate objects, and no defensible account of the wrongness of terrorism could fail to treat these as categorically different acts.”

Although the distinction between personal and property attacks is warranted, it is arguable that a definition of terrorism excluding all attacks where civilian property is the primary target goes too far. Few would disagree with a definition of anti-abortion terrorism that included the assassination of physicians, but the inclusion of clinic arson, clinic bombings and acts of sabotage would not fit under such a rubric⁷. Even more controversial is the inclusion of minor property incidents such as clinic vandalism and butyric acid⁸ attacks. And yet, as the previous chapter indicates, the damage produced from these acts is often substantial and as such, they are no less deserving of our attention. Because the myriad of anti-abortion crime types defies uniform classification as acts of terrorism, I shall from this point forward, refer to the entirety of all such acts as anti-abortion crime. In the following section, I will illustrate the different types of anti-abortion crime and chronicle the tactical evolution within the pro-life activist movement.

A Brief History of the Anti-Abortion Movement in the United States

Public attitudes toward the practice of abortion have changed considerably since the early days of the republic. Americans in the 18th century were largely unconcerned

⁷ It is worth noting however that the definitions of terrorism are legion and although the acts mentioned above do not meet Vanderheisen’s (2008) definition, they do fit the general definition of terrorism as proposed by LaFree and Ackerman (2009:1), which includes “the threatened or actual use of illegal force, directed against civilian targets, by non-state actors, in order to obtain a political goal through fear, coercion or intimidation.”

⁸ Butyric acid is a colorless, oily and noxious compound which has been used in several attacks on reproductive health centers. The liquid and vapors of the acid are corrosive to the eyes, skin and respiratory tract (International Program on Chemical Safety, 2010). Thus, introduction of the substance into a clinic can render the building uninhabitable for a period of days or weeks (Baird-Windle and Bader, 2001).

with what was seen as a fairly common practice (Sauer, 1974). Extramarital sex, however, was disdained by a Puritan culture for both moral and economic reasons, and much like today, the Christian Church viewed sex outside the marriage as a moral failing. From an economic standpoint, children born out of wedlock were thought of as a potential liability to the community and a drain on much needed resources (Schnucker, 1975). Unmarried and pregnant women were often ostracized or subject to punishment for their sexual indiscretions. Thus, abortion provided a way for women to avoid these social and economic penalties.

The permissive nature of 18th century abortion law, which held any abortion performed before the quickening⁹ as legal, reflects this mindset. Opinions of 19th century America bear striking contrast, as nearly every state passed laws outlawing abortion¹⁰. More recent accountings suggest the presence of a middle ground with respect to modern public opinion. A recent Gallup poll suggests that while half of Americans currently view the practice as “morally wrong” (Saad, 2010a), a majority favors laws which allow for abortion under certain circumstances (Saad, 2010b).

Clearly, feelings and perspectives surrounding the topic of abortion are not fixed in time. This is perhaps best illustrated by the evolution of pro-life activism in America. Although the elimination of abortion has consistently remained the goal of pro-life activists throughout, the pro-life movement has undergone substantial demographic and tactical changes since it first came into being. For instance, the criminal abortion laws of the 19th century were largely the result of efforts from professionals within the medical

⁹ Despite the formal break with the English crown, 18th century Americans borrowed much of their legal ideas from English common law which defined the quickening as the time in which the mother first feels the fetus move (Sauer, 1974).

¹⁰ Although the restrictive nature of these statutes varied, most states included an exception for instances in which the pregnancy was deemed detrimental to the health of the mother (Tribe, 1992).

community to protect the health of the mother. By 1840, the practice of abortion had become so commonplace and lucrative as to inspire the creation of a broad provider pool (Doan, 2007). Unfortunately, the quality of the provider varied greatly due to the largely unregulated state of the medical industry. Medical training also varied greatly in quality and was often available to anyone who could afford the cost of tuition (Luker, 1984). As a result, the more established, formally trained doctors from the upper echelons of society were forced to compete with a bevy of semi-trained physicians. As Doan (2007) notes, once the American Medical Association (AMA) was established in 1847, elite physicians were finally equipped with a means to regulate both the medical profession and the practice of abortion. Soon thereafter, the AMA would begin to push for the outright criminalization of abortion.

Today, the majority of pro-life activists consist not of elite professional males, but working and middle-class men and women of various philosophical leanings (Munson, 2008). Although pro-life activists uniformly seek the end of all abortions, there is no consensus on why abortion is “wrong”. Some believe it is a sin against God (Green, 1999; McVeigh and Sikkink, 2001), while others believe abortion weakens the local and national economies and stifles medical progress (Munson, 2008).

Evolution in Protest Tactics (1973-2011)

Just as the pro-life demographic has changed over the years, so too has the nature of pro-life protest. In 1973, the Supreme Court of the United States ruled on the case of *Roe v. Wade* (1973), which involved one Norma McCorvey, a.k.a. Jane Roe, and one Henry Wade. McCorvey, an unmarried, pregnant woman in Dallas, Texas, brought suit

in 1970 against Wade (the Dallas County Prosecutor), to prevent him from enforcing the state's criminal abortion laws. Since the condition of Ms. McCorvey's pregnancy was not such that it threatened her life, Texas laws forbade her from obtaining the procedure. Seeking injunctive relief, she argued that these laws by design, infringed upon her constitutional right to personal privacy under the 14th Amendment to the Constitution. In a 7-2 decision, the court concluded that Texas criminal abortion laws violated McCorvey's constitutional right to privacy and as such, were struck down in their entirety (see Finkelman and Urofsky, 2007 for a review).

In the years following the landmark decision, pro-life activism has undergone a tactical revolution. Prior to *Roe*, pro-life organizations and individuals were fairly uniform with respect to the forms of protest that were employed. As the first organized opposition to abortion in America came from the medical community and to a lesser extent, social purists¹¹ who saw abortion as an unwelcome consequence of social and sexual vice, protest tactics first emerged in the form of the peaceful lobbying of judges, lawyers and congressmen to enact more restrictive legislation (Tribe, 1990; Doan, 2007).

In the aftermath of *Roe*, efforts to pursue political and legislative change proliferated. In 1974, pro-life activists successfully lobbied congress to introduce the right to life amendment, which would have overturned the *Roe* decision; however the legislation failed to pass. Since this time, members of congress have made several additional attempts to criminalize abortion, each of them proving unsuccessful (Tribe,

¹¹ Having evolved from the temperance movement of 19th and early 20th century America, the social purity movement centered on the ideal that virtuous sexual behavior provided the foundation for social and cultural health. Social purists were often viewed as reformers, committed to the abolition of prostitution or "white slavery", pornography and other forms of sexual vice which were seen as harmful not only to women, but to the larger social fabric. Their opposition to abortion stemmed in large part from the procedure's association with prostitution and premarital sex (Olasky, 1992).

1992; Blanchard, 1994; Doan, 2007). Ultimately, the pro-life activist movement had more success in lobbying for incremental policy change. For example, in 1976, congress passed the Hyde Amendment; effectively banning the use of Medicaid funding for abortions save those for which the pregnancy poses a significant health risk to the mother (Tribe, 1992; Blanchard, 1994; Doan, 2007). Regardless of this newfound success in the pro-life movement, additional forms of protest began to emerge. Unlike the previous efforts however, these innovations in pro-life protest portrayed an increasingly confrontational and violent tone.

The late 1970s and early 1980s witnessed the first wave of unconventional and illegal pro-life protest. Innovations such as direct action protest for example, mark a significant turning point within the pro-life movement (see Maxwell, 2002 for a review). Emphasizing the immediacy of abortion and the desire to save lives, direct action protests typically involve attempts to stop planned abortions from taking place at a specific clinic¹² through the use of several tactics such as picketing, demonstrations, vigils, blockades¹³, sidewalk counseling¹⁴ and civil disobedience (Risen and Thomas, 1998; Munson, 2008). Unlike their counterparts who seek to bring about an end to abortion

¹² As abortion became a national issue, pro-life interests became increasingly successful in pressuring local hospital administrations to abandon the procedure. As a result, fully 95% of all abortions are now conducted in clinics or private doctor's offices (Jones, Zolna, Henshaw and Finer, 2008).

¹³ The term blockade is often used to refer to a type of direct action which aims to prevent planned abortions by temporarily shutting down a specific clinic. Typically, this involves hundreds to thousands of protestors physically preventing entrance to or regress from a clinic via the construction of a human wall around the building's entrances (Doan, 2007). Although the first major blockade did not take place until 1984, this form of protest became the hallmark of certain radical pro-life organizations during the late 1980s and early 1990s (Blanchard, 1994; Baird-Windle and Bader, 2001; Doan, 2007; Munson, 2008).

¹⁴ Sidewalk counseling is a form of protest wherein protestors make verbal contact with pregnant women as they enter a clinic in an effort to persuade them to carry the pregnancy to term. Observational research of pro-life protestors indicates that sidewalk counseling can be passive and soft-spoken or verbal and aggressive; some women are physically assaulted, chased or spit upon (Munson, 2008). Research also suggests this tactic does little to actually reduce the number of abortions, however; there is evidence to suggest that it has a negative psychological impact on the woman and clinic staff (Cozzarelli and Major, 1994; Munson, 2008).

through the legislative process, direct action protestors seek to bring about change via confrontation with clinic employees and their patients.

The introduction of direct action is significant because it marks the first time in this tactical evolutionary timeline wherein a substantial number of pro-life activists routinely used both persuasion and coercion to accomplish their goals (Munson, 2008). Illustratively, the clinic blockade was designed for the express purpose of physically preventing women and clinic employees from entering a clinic, (Faux, 1990; Baird-Windle and Bader, 2001; Maxwell, 2002; Doan, 2007). Even the less physical forms of direct action protest such as sidewalk counseling often rely on confrontation with patients and clinic staff. As much, they possess a unique character which separates this form of protest from the more traditional legislative approach. Furthermore, these confrontational and sometimes illegal forms of protest have with some regularity been associated with the presence of various forms of harassment and illegal behavior (Bair-Windle and Bader, 2001; Munson, 2008). As Ziad Munson notes in his observational study of pro-life activists, these forms of confrontational protest create an atmosphere which may be more conducive to violence and harassment than more traditional forms of protest:

Attending pro-life protests in front of the clinics is the hardest part of conducting research on the movement, largely because emotions among the participants are always so high and the conflict between pro-life and pro-choice forces is so palpable. The intensity, anger, and sadness of pro-life activists is frequently combined with crying young women (or their crying mothers) entering the clinic; shouting matches between activists and those using the clinic; honking and yelled out insults from drivers of passing cars; and grim-faced, determined pro-choice volunteers who are sometimes present at the clinic to escort clients into the centers (Munson, 2008: 106).

Direct action is not the only innovation in pro-life protest to emerge from this time period. As clinic picketing and blockades grew more prevalent, so too did the number of attacks involving the physical destruction of abortion clinics. In 1975, a local protestor set fire to a Planned Parenthood clinic in Eugene Oregon (Tims, 1976). Six years later, militant activists from the pro-life organization Army of God¹⁵ successfully detonated two pipe bombs at a clinic in Virginia with the added warning that “this is just a preview of things to come” (Walsh, 1982:B6). Indeed it was. According to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), extremists over the course of the following 12 years would commit no fewer than 123 acts of arson and 37 bombings across 33 states (Goodstein and Thomas, 1995).

By the dawn of the 1990s, the destruction of clinics and clinic property had become a staple of pro-life activism (Kaplan, 1993). That said, the vast majority of these attacks were aimed solely at causing damage to clinic or staff property in lieu of bloodshed. In 1993, the movement’s prohibition of lethal force appeared to end however, when Michael Griffin; a member of the activist community, shot and killed Doctor David Gunn outside of his clinic in Pensacola, Florida. Over the course of the next 22 months, four other clinic employees would be assassinated at clinics in Florida and Massachusetts (Baird-Windle and Bader, 2001). Since then, four more murders have taken place, the most recent occurring in 2009 when Doctor George Tiller was gunned down inside his local church on Pentecost Sunday (Slevin, 2009).

¹⁵ The Army of God (AOG) is part of the militant and extremist wing of pro-life activism. Similar to other extremist groups, the AOG is a leaderless resistance movement promoting the use of violence as a means to achieve its primary objective (i.e., to end the practice of abortion). Since 1982, AOG members have claimed responsibility for a series of arson, bombings, shootings and acid attacks (Kirkwood, 2003; Mason, 2004). The AOG manual provides detailed instructions on how to manufacture weapons such as C-4 plastic explosive and promotes the execution of clinic personnel. For a review of the AOG manual, see Kirkwood (2003).

Some suggest that the use of lethal violence represents the culmination of the tactical evolution of pro-life activism (Blanchard, 1994; Kaplan, 1995; Baird-Windle and Bader, 2001; Doan, 2007). What began as a primarily homogenous and peaceful movement centered on legislative change, steadily evolved into a more diverse and confrontational movement centered on the public confrontation of clinics and individuals. As Ralph Ostrowski; former chief of ATF's arson and explosives division notes, "We have seen a consistent pattern, acknowledging the fact that people are willing to go to any means for their cause. In the past we would have acts of violence directed at property. Now we see acts of violence directed at people" (Goodstein and Thomas, 1995:A01).

The arrival of violent pro-life protest is also indicative of a gradual, yet highly significant ideological shift within the pro-life activist movement. Although the growing number of factions that comprise the pro-life movement retains the single goal of ending the practice of abortion, they differ in what they see as the most effective or appropriate means to achieve this end (Munson, 2008). The use of personal violence by the radical fringe is premised on the concept of defensive action wherein the use of lethal violence is justified through the potential gain in preventing a certain number of future abortions. As one militant activist interviewed by Luker (1984:217) stated, "even if lives were lost in violence directed at an abortion clinic, that loss would be outweighed, and justified, by the greater net saving of unborn lives." Although protests involving the use of lethal force are rare in comparison to other forms of protest, the toll exacted by these crimes is considerable and as the Tiller assassination indicates, remains a problem to this day.

Together, the increased use of criminal harassment, property destruction and personal violence has exacted a considerable toll among the reproductive healthcare

community both from a monetary (Grimes et al. 1991) and psychological sense (Faux, 1990; Solinger, 1998; Baird-Windle and Bader, 2001; Kenny and Reuland, 2002).

Although the number of violent attacks has declined since the mid-1990s, the use of illegal methods of protest continues. According to a 2008 national survey of abortion providers, 54% of responding clinics had experienced some form of anti-abortion violence in the previous year (Border, Gilligan, Kohsin-Kintigh, and Crews-Pless, 2009). These rising costs, in conjunction with the fact that violent attacks against clinics and staff have traditionally garnered a significant amount of media attention (Munson, 2008) have led to the creation of several countermeasures.

Countermeasures

Since the dawn of the post-*Roe* era, public opinion on abortion has consistently been divided along general pro-life and pro-choice lines. Even so, public polling data and survey research indicates that an overwhelming majority of Americans disapprove of unconventional protest tactics such as confronting women outside of abortion clinics, as well as illegal forms of protest such as blockades and clinic bombings (Raymond and Norrander 1990; Norrander and Raymond, 1998). Predictably, the rise in clinic bombings and arson during the 1980s combined with increases in the number of assaults and murder in the 1990s raised the awareness and outrage of the general public, which in turn prompted a response from government officials.

Beginning in the mid-1980s, several states enacted legislation designed to protect abortion clinics and staff from criminal acts associated with increasingly violent and disruptive forms of protest. Wisconsin for instance, enacted legislation in 1985 which

made the entering of any medical facility for the purpose of causing a breach in the peace a criminal offense (Criminal Trespass to a Medical Facility, 1985). In 1993, the state of Washington prohibited the use of force or threat of force to obstruct the entrance to a clinic (Interference with health care facilities or providers, 1993). State laws such as these essentially served to criminalize the use of violence, property destruction and harassment against clinics, staff and patients (Pridemore and Freilich, 2007).

Legislative response to violent protest also came at the federal level in the form of the Freedom of Access to Clinic Entrances (FACE) Act. Signed into law by President William Jefferson Clinton in May of 1994, the FACE Act serves to prohibit the threat or use of force or physical obstruction to “injure, intimidate, or interfere with providers of reproductive health services or their patients” (18 U.S.C. Sec. 48). The FACE Act also makes it a federal crime to damage clinic property, and raises the penalties for such crimes considerably (Kenney and Reuland, 2002). Whereas before, an activist engaging in such crimes would often be subject to local misdemeanor charges carrying a penalty of 30 days in jail or less, today with the presence of the FACE Act, the same activist is subject to federal prosecution resulting in a fine of up to 15 thousand dollars for a first offense and possible prison time. Enhanced criminal penalties such as these were designed to reduce anti-abortion attacks by raising the costs for potential offenders.

Although the aforementioned state and federal legislation was designed for the purpose of protecting clinics and staff members from acts of harassment and violence, scholars remain conflicted as to whether or not this goal has been attained. Traditional interpretations of deterrence and rational choice theories contend such laws will reduce the number of attacks, (Cornish and Clarke, 1986). By contrast, theories of relative

deprivation (Davies, 1962; Gurr, 1970) and psychological reactance (Brehm and Brehm, 1981) suggest these laws will create a backlash effect wherein the enactment of protective legislation leads to additional attacks.

Deterrence, Rational Choice and Crime

The idea that the state can deter crime has existed since the inception of the written law. Early illustrations of the deterrence process emphasized the importance of pain or costs associated with criminal sanctions (Beccaria, 1764). The utility principle originally put forth by Bentham (1781) posits that individuals are rational and self-interested and as such, are perpetually engaged in a series of attempts to maximize pleasure and minimize pain. Prohibited behaviors therefore are to be deterred by introducing laws which raise the severity, certainty or celerity of the sanction. Put another way, deterrence theory suggests that the fear of punishment can be used to deter crime (Nagin and Paternoster, 1993). Rational choice theory shares much in common with these classical precepts. At its core, this theory views crime as the result of the same cognitive process as that for alternative behaviors. The offender's decision to engage in crime or some alternative behavior is seen as the product of the rational calculation of the potential costs and benefits associated with the act (Cornish and Clarke, 1986). Thus, the likelihood of a crime being committed is said to be higher when the perceived benefits outweigh the perceived costs.

Throughout the years, classical notions of deterrence and choice as they relate to criminal behaviors have received a substantial amount of attention from the social sciences. As a result, these theories and many of the policies they engender have been

subject to an expansive set of empirical tests. The objective deterrence literature for example, demonstrates a consistent, if modest deterrent effect for policies which increase the certainty of punishment. Gibbs's (1968) seminal study of homicide sentences provides an early example. Using state-level data on the number of persons admitted to prison for the crime of murder, Gibbs found that increases in the certainty of punishment as measured through the number of prison commitments, resulted in significant and sizeable reductions in the annual number of murders. More recently, Pratt and Cullen (2005) conducted a meta-analysis of over 200 deterrence-based research studies. While the authors' findings point to a noticeable absence of a deterrent effect for several deterrence-based policies (increased arrest rate, additional police, etc.), they ultimately conclude that on average, policies which raise the certainty of punishment, produce a significant, albeit weak deterrent effect (see also Pratt, 2008).

Research on Sanction Severity

Studies estimating the effects of increasing punishment severity are just as numerous. Although early research efforts suggested that raising penalties for serious crimes such as homicide, significantly reduced crime rates (Gibbs, 1968), more recent studies have often failed to replicate these findings. Research on the effects of so-called three strikes laws provides an example. Briefly, in 1993, the state of Washington enacted legislation which mandated an extended period of incarceration for offenders who had been convicted of at least three serious crimes. Since this time, 24 states have followed suit and enacted their own versions of three strikes (for a review, see Zimring, Hawkins and Kamin, 2001). In 2001, Marvel and Moody estimated the impact of three strikes

laws on violent crime rates among 24 states over a 29 year period. The authors conclude that instead of producing the intended deterrent or incapacitation effects, three strikes laws actually produce a 10-12% short-term and a 23-29% long-term *rise* in homicides. Clearly, research on the utility of three strikes laws suggests that broad increases in sanction severity not only fails to act as a significant deterrent for multiple forms of personal and property crime (Kovandzic, Sloan and Vieraitis, 2004), but these policies may actually serve to increase the number of some of the crimes they are intended to prevent.

Research on the effects of capital punishment provides another substantial test of sanction severity. Ehrlich's (1975) seminal study on the effects of executions in the United States provided what was for the time, the most rigorous test on the effects of capital punishment on crime rates. Employing multiple regression analyses, Ehrlich expanded Becker's (1968) econometric model of individual choice and criminal behavior into his study of national murder rates from 1933 to 1969. Results from this study suggest that for every execution, seven or eight murders will be avoided. The author's controversial conclusion: that capital punishment serves as a deterrent for homicides, spurred additional research on capital punishment.

Contemporary research into the effects of capital punishment has led to a more nuanced understanding of sentence severity. Baily's (1984) study of executions in the District of Columbia provided evidence suggesting that not only do executions lack a deterrent value, they also produce a brutalizing effect on the local populace, which leads to an increase in murder rates. Researchers have long since puzzled over the contradictory findings that have emerged from the capital punishment literature, but in

2000, Cochran and Chamlin released results from a study of the highly publicized execution of Robert Alton Harris. Their findings indicate that executions can act as a deterrent in some instances and as a brutalizing agent in others. Specifically, the authors found that in the wake of the Harris execution, argument-based stranger homicides increased while non-stranger felony homicides decreased. This finding is notable as it indicates that simply increasing the severity of a sanction can simultaneously produce deterrent and backlash effects. I will talk more about this dual effect in the next section.

Deterrence, Rational Choice and Political Violence

The study of political violence has also enabled researchers to draw comparisons between this brand of deviance and more common street crime. Because illegal acts of pro-life protest have a discernibly political aspect, a review of both literatures is warranted. LaFree and Dugan (2004) point out several conceptual similarities between these two crime types. The authors note how crime and political violence are both socially constructed concepts that have been subjected to intensive interdisciplinary research. Additionally, they note that common street crime, much like its politically motivated counterpart, is predominantly the province of young males.

LaFree and Dugan (2004) also point out several key conceptual differences between political violence and street crime. Notably, acts of political violence often involve the violation of common criminal statutes. Abortion clinic arson for instance, is punishable in every state under pre-existing arson laws. As mentioned previously however, this crime is also recently punishable under specific clinic protection statutes such as the FACE Act, which carries a stronger penalty. Street crime and politically

motivated crime also differ in terms of motivation. Whereas street crime is often motivated by material or selfish reasons, “the intent of terrorist violence is psychological and symbolic, not material” (Crenshaw, 1983:2). Relatedly, terrorists, unlike most criminals, will often eschew efforts to avoid attention, as public exposure/media attention is often viewed as a commodity (Enders and Sandler, 2002). Despite these notable differences, LaFree and Dugan (2004:21) argue that many if not all of them can be reconciled through currently available research methods which “might make a real contribution to the study of terrorism”. Bearing this in mind, criminological theory presents a uniquely fertile context for the study of political violence in general and anti-abortion crime in particular.

In recent years, research on terrorism and politically motivated violence has increasingly focused on the rational actor perspective which rests on the assumption that terrorism (Caplan, 2005; Dugan, LaFree and Piquero, 2005; Kruglanski et al. 2008; LaFree and Ackerman, 2009) like more common types of crime (Cornish and Clarke, 1986; Paternoster and Piquero, 1995; Paternoster and Simpson, 1996; Piquero and Paternoster, 1998; McCarthy, 2002; Weisburd, Einat, and Kowalski, 2008; Paternoster and Pogarsky, 2009) is instrumental in nature. People choose to engage in crime because the act is viewed as producing some form of benefit that is greater than the perceived costs. Although some have argued that the more violent acts of terrorism and anti-abortion crime (Kaplan, 1995) tend to be the province of the mentally unstable or of marginal personalities, the bulk of the research evidence suggests otherwise. Indeed, studies have shown acts of terrorism in general (for a review, see LaFree and Ackerman,

2009) and anti-abortion violence in particular (Clarke, 1987a; Kirkwood, 2003) are more rational than psychopathological.

Research in the rational actor tradition suggests the benefits associated with these crimes can be either internal or external to the offender. For example, internal benefits from crime can arise in the form of personal economic gain (Becker, 1968; Piliavin et. al., 1986), or in the case of an abortion clinic bomber, through the satisfaction felt from knowing that a certain number of future abortions have been prevented (Blanchard and Prewitt, 1993; Blanchard, 1994; Kirkwood, 2003).

External benefits on the other hand, may manifest as the sense of political recognition or notoriety that can be accrued through acts of political violence (Enders and Sandler, 1993; Dugan, LaFree and Piquero, 2005). Scholars maintain that violent and illegal actions by pro-life activists are similarly motivated by a desire for media and public attention (Kenny and Reuland, 2002; Mason, 2004) and the hope that a front page story will focus the public's attention on their cause¹⁶. In 2002, Kenny and Reuland published results from a national three-wave survey of 512 police departments in major U.S. cities. Interestingly, police officials cited the desire to draw media or public attention and to disrupt clinic practices as the most common reasons for anti-abortion crime.

Evidence suggests these tactics have proven somewhat successful, as violent forms of pro-life protest tend to garner more media coverage than do conventional protest actions (Blanchard, 1996; Munson, 2008). Furthermore, as mentioned in the paragraphs

¹⁶ Although it is unlikely that mainstream U.S. media coverage would, in the aftermath of a violent attack on a clinic or staff member, portray the offending activist in a positive light, research suggests that many pro-life activists believe that most Americans would join the cause if they were more informed on the issues (Munson, 2008). Thus, for certain activists, any attention may be viewed as good attention.

above, anti-abortion crime often succeeds in raising operating costs for providers, leading to a reduction in provider access (Kahane, 2000; Medoff, 2003; Doan, 2007; Jacobson and Royer, 2011). A recent study by Jacobson and Royer (2011) found that clinic violence reduces both the number of abortion providers as well as the abortion rate. Further evidence suggests that these effects are not exclusive to violent acts of protest. Medoff's (2003) study of abortion clinics and abortion rates finds that certain forms of anti-abortion harassment and property crime such as stalking and clinic vandalism are also significantly related to reductions in the number of providers.

Just as offenders must consider the benefits of crime, rational choice theory also posits that they must interpret and weigh the associated costs. From this perspective, the cause of political violence is rooted in the offender's belief that violence and other illegal forms of protest represent the best available means for achieving one's goals (Crenshaw, 1990). Contemporary rational choice models predict that offenders will try to maximize their satisfaction and thus, they will refrain from crime or political violence when the perceived costs are relatively high (Becker, 1968; Cornish and Clarke, 1986; Paternoster and Pogarsky, 2009). In other words, "the choice of crime is more appealing when legal options are less rewarding, when crime is less punishing, or when crime is more rewarding" (Dugan, LaFree and Piquero, 2005:1033).

Research into the effectiveness of terrorism countermeasures provides some support for the rational actor perspective. Empirical studies evaluating the utility of airline hijacking countermeasures for instance, have routinely shown that certain target hardening policies such as the installation of airport metal detectors are successful deterrents (Dugan, LaFree and Piquero, 2005; Enders and Sandler 1993; Enders and

Sandler 2006; Landes, 1978). Dugan, LaFree and Piquero (2005) find these deterrent effects also extend to policies which seek to raise the severity of penalties for hijacking. Specifically, they found the enactment of criminal hijacking legislation had a significant deterrent effect¹⁷. In this dissertation, I ask the question of whether the enactment of abortion clinic protection legislation will have a deterrent effect for crimes against abortion providers.

From the rational actor perspective, anti-abortion offenders are less likely to engage in illegal forms of protest when they view the costs as greater than the potential gains. With this in mind, state and federal policymakers have in recent years, attempted to increase the perceived costs of anti-abortion crime through criminal legislation which raises the severity of sanctions for illegal forms of protest. For example, in 1991, the Oregon state legislature enacted legislation which made the intentional damage to a clinic's property a felony punishable by up to five years in prison and a \$125,000 fine (Criminal mischief in the first degree, 1991).

Scholars who adhere to the rational choice perspective often point to the precipitous drop in certain forms of anti-abortion violence and harassment following the implementation of the FACE Act in 1994 (Baird-Windle and Bader, 2001; Kenny and Reuland, 2002). As such, it is widely assumed that the FACE Act was largely responsible for the demise of Operation Rescue; one of the most prominent and radical activist organizations in the pro-life movement (Kaplan, 1995; Solinger, 1998; Press, 2006; Doan, 2007; Johnson, 2007). However, support for such assertions is based entirely upon case studies, as the effects of the FACE Act have yet to be empirically examined.

¹⁷ However, this deterrent effect was limited to non-terrorist hijackings (Dugan et al. 2005).

Although the effects of the FACE Act have yet to be empirically assessed, a pair of researchers has empirically tested rational choice assumptions as they relate to state protection laws. Pridemore and Freilich's (2007) study of clinic protection laws and anti-abortion violence and harassment stands as perhaps the most thoughtful and methodologically rigorous attempt to explain the causes of anti-abortion crime. Building on Nice's (1988) study of clinic bombings, the authors set out to test the effects of state protection laws on clinic bombings as well as several additional forms of violence and harassment using state-grouped clinic victimization data¹⁸. Controlling for the effects of female income levels, religious conservatism, levels of anti-female violence and abortion rates, several cross-sectional, logistic models were run to estimate the effects of state protection laws. Results from the study suggest that clinic protection laws have no discernible effect with respect to anti-abortion crime.

To summarize, theories of choice predict that policies which increase the costs associated with the commission of anti-abortion crime will serve as an effective deterrent. Although Pridemore and Freilich's (2007) null findings raises questions with regard to this hypothesis, the research community remains split over the predicted utility of clinic protection laws. As I will detail in the following section, research has also been brought to bear, suggesting that simply increasing the severity of sanctions may backfire, leading to an increase in prohibited behavior.

¹⁸ Pridemore and Freilich (2007) obtained data on the frequency of clinic attacks from a 2000 self-report victimization survey of clinics in 48 states (see Lonsway et. al., 2001 for a review of the survey).

Backlash, Substitution and Crime

Although the rational actor perspective predicts that threats of apprehension and punishment can be used to deter criminal acts, research from criminology (Becker, 1963; Braithwaite, 2005; Sherman, 1993; Tannenbaum, 1938), terrorism (LaFree, Dugan and Korte, 2009; McCauley, 2006; Nice, 1988) psychology (Baumeister et al., 2002; Brehm, 1966; Brehm and Brehm, 1981; Wicklund, 1974) and political science (Davies, 1962; Gurr, 1970), suggests such threats may not only fail to produce a deterrent effect, but in certain situations they may also may evoke an increase in violent and criminal behavior. This *backlash effect* is perhaps best conceptualized as “the extent to which government threats or imposition of punishment increases future incidents of prohibited behavior” (LaFree, Dugan and Korte, 2009:19).

Criminologists in particular have long provided support for this theoretical approach to the utility of sanctions. Early labeling theorists pointed to the interaction between actions and labels wherein the individual’s criminal actions are viewed as the product of sanctions which serve to dramatize the offense and hold the offender’s status up for public scrutiny (Becker, 1963; Tannenbaum, 1938). The stigmatizing nature of the criminal sanction was said to label the offender as deviant and the more this label is reinforced, the more likely it is the offender will begin to associate with it. Thus, the initial sanction begets the deviant label, which in turn alters one’s identity, ensuring the individual will continue to offend (Lemert, 1951). Furthermore, a number of scholars maintain that people are more likely to become outraged (Sherman, 1993) or noncompliant when the state or a particular law is seen as oppressive or unfair (Tyler, 1990; Tyler, 2000; see also Tyler, 2006 for a review).

The literature on the causes of terrorism provides additional support for the backlash perspective. Brophy-Baermann and Conybeare (1994) point to the increase in the number of attacks on Israel following the 1972 air raids on Palestinian Liberation Organization (PLO) camps in Syria. More recently, LaFree, Dugan and Korte (2009) found that half of all major British intervention strategies aimed at lowering the level of political violence in Northern Ireland from 1969 to 1992 generated increases in political violence. This research suggests that certain government-based counterterrorism measures such as military interventions (Brophy-Baermann and Conybeare, 1994) may actually “outrage participants or energize a base of potential supporters” (LaFree, Dugan and Korte, 2009:21), thus increasing the potential for future attacks. Admittedly, due to their repressive nature, military interventions have never been, nor are they likely to be used in response to domestic anti-abortion crime; however, research has shown that criminal justice-based terrorism interventions such as the mass internment of suspected Catholic terrorists in Northern Ireland from 1971 to 1975 or the subsequent Ulsterization policies¹⁹ can produce similar backlash effects. Indeed, research on the causes of terrorism suggests that state responses have often led to unintended increases in terrorist violence (for a review, see Lum, Kennedy and Sherley, 2008).

More generally, a review of the psychological literature indicates broad support for the idea that certain forms of punishment may, under the right circumstances, bring about an increase in proscribed behavior (see LaFree, Dugan and Korte, 2009 for a review). According to Brehm’s (1966) reactance theory, people desire to have freedom to choose their actions, especially from those which are viewed by the individual as

¹⁹ In 1976, British authorities enacted a policy of Ulsterization which shifted security duties in Northern Ireland from the British military to the local police. As a result, detained terrorist suspects were treated less like political prisoners and more like common criminals (LaFree, Dugan and Korte, 2009:26).

“reasonably possible” (Springer and Larson, 2008:270). This can include anything from the choice to have a cigarette, to living in a community without an abortion provider. New forms of social control which effectively limit or threaten to limit the number of available actions are often seen as a threat to these personal freedoms. This perceived threat in turn often elicits a negative reaction wherein the individual seeks to retaliate against the perceived cause of the restriction with the goal of restoring all freedoms once more.

Reactance theorists also maintain that the severity of the reaction or crime is in part, a function of how important the proscribed freedom is to the individual (Brehm, 1966; Brehm and Brehm, 1981; Wicklund, 1974; see Springer and Larsen, 2008 for a review). Thus, violent and criminal responses to state actions are said to be more likely when said action threatens those freedoms which are held most dear. Research conducted by Springer and Larson (2008) suggests that recent increases in levels of xenophobic violence in the U.S. can be explained in part by increases in terrorist activity, which represents a threat to core American values of personal freedom and the ability to live free of violence and fear. For some, violence directed at “others” represents an effort to restore this lost sense of freedom.

A substantial literature indicates that pro-life activists often see abortion as conflicting with traditional values, the moral fabric of society and ultimately their way of life (Clarke, 1987a; Clarke, 1987b; Raymond and Norrander, 1990; Blanchard, 1994; McVeigh and Sikkink, 2001; Maxwell, 2002; Munson, 2008). For example, McVeigh and Sikkink (2001) find that people are more likely to approve of contentious²⁰ protest

²⁰ The authors define contentious forms of pro-life protest as those which “may cause conflict and set people against each other” (McVeigh and Sikkink, 2001:1434).

tactics when they perceive their religious values as being threatened. It follows that the presence of abortion clinics and the laws which protect them may be seen as a direct threat to their ability to live in a world that conforms to their core beliefs. From this perspective, enforcing clinic-protection laws should lead to defiance (Braithwaite, 2005) rather than deterrence, as certain pro-life activists may feel as though they have no other recourse but to indirectly reassert their lost sense of control or freedom (Springer and Larsen, 2008) through violent and illegal forms of protest (Kaplan, 1993, 1995; Kaufman, 2000; Mason, 2004; Maxwell, 2002).

Political science research also indicates that expectations may be related to various forms of political violence. Relative deprivation theorists for instance (Davies, 1962; Gurr, 1970), argue that groups and individuals often engage in acts of adverse social comparison with other groups and individuals. These comparisons can evoke feelings of frustration, aggression (Berkowitz, 1989; Dollard, Doob, Miller, Mowrer and Sears, 1939), even discrimination and injustice among those who view themselves as socially, economically or politically worse off than other people. As LaFree and Ackerman (2009:356) note, “This apparent deviation from actual (or expected; see Davies, 1962) social equity is posited to lead to feelings of injustice and of being discriminated against that can in turn result in acts of rebellion and violence, including terrorism.”

Research on the causes of anti-abortion crime provides some support for the relative deprivation perspective. In 1993, Blanchard and Prewitt published their individual-level study of abortion clinic bombers and arsonists. Using a series of offender interviews, questionnaires and media reports, the authors conclude that the rise

in anti-abortion violence during the 1980s was in part attributable to a sense of political failure within the activist community. They go on to argue that the 1980 election of ardently pro-life president Ronald Reagan served to raise activist expectations for the criminalization of *Roe* either through the judiciary or through the enactment of a constitutional amendment. When this did not come to fruition, a number of activists became frustrated to the point of foregoing conventional means of protest in favor of more radical and violent tactics.

In Nice's seminal 1988 state-level study of abortion clinic violence, the author examines the effects of political failure, as measured through legislative action and abortion rates. Using a cross-sectional model of abortion clinic bombings from May 1982 to January 1985, the author concluded that legislative failure is significantly related to anti-abortion crime. Specifically, Nice found that states which passed legislative resolutions calling for an amendment to the U.S. Constitution banning abortions were less likely to experience clinic bombings. This finding suggests that activists may see favorable legislation (i.e. pro-life legislation) as a form of progress towards their ultimate goal whereas activists in non-resolution states may be more likely to view violence as a necessary action. As Hewitt (2000c:343) notes, "Groups that lose in the political game – particularly if they lose consistently – are likely to find the resort to violence a tempting option".

Other scholars (Kaplan, 1995; Garrow, 1999; Johnson, 2007; Kaufman, 2000; King and Husting, 2003) argue that activist perceptions of political failure are also influenced by state and federal interventions which may exacerbate political and social disparities thereby making the problem worse. Kaplan (1995) argues that state and

federal clinic protection laws represent both the erosion of pro-life interests and a lack of social equity between the pro-life and pro-choice camps. Thus, protection laws may inadvertently raise the ire and frustrations of pro-life activists, thereby increasing the number of violent attacks against abortion providers. Others argue that while clinic protection laws such as FACE may reduce minor criminal acts, they ultimately increase the number of violent attacks (Garrow, 1999; Johnson, 2007; Kaufman, 2000).

Still, some evidence suggests that political failure may have little effect on the number and severity of violent and illegal protests. Building on the work of Nice (1988), Freilich and Pridemore (2007) use self-report victimization data to estimate the effects of political failure and female empowerment on several types of abortion-related crime including violence, harassment and vandalism. The results of the study indicate that none of the measures for political failure (state bans on certain abortion-related procedures, state laws allowing minor's access to abortion and public funding for abortions, and legislation protecting abortion rights²¹) had a significant impact on major forms of violence (arson, bombings, assassination) or property crime.

A Blended Model of Deterrence and Backlash

In the paragraphs above, I have demonstrated that traditionally, macro-level empirical tests on the effects of terrorism (see Lum, Kennedy and Sherley, 2008 for a review) and criminal justice countermeasures (see Nagin, 1998 for a review) tend to approach the question of countermeasure utility from an *either, or* stance. That is to say,

²¹ Similar to the Pridemore and Freilich (2007) study, this measure was based on a NARAL Foundation index score comprised of 14 separate abortion-related categories. Only one of these categories refers directly to the presence of clinic protection laws. Unlike the former study however, the authors do not construct a separate measure for clinic protection laws.

the majority of these studies usually look to see whether a particular terrorism or criminal justice countermeasure acts *either* as a deterrent *or* as an additional source of violence/crime. This approach may be suitable for the study of specific criminal or terrorist organizations such as Al Qaeda (Freeman, 2008) or ETA (Clark, 1984), which maintain a unified ideology and tactical strategy. These characteristics may lead the organization's members to respond to a countermeasure in a uniform fashion; however, such an approach to the study of anti-abortion crime is overly simplistic and conducive to model misspecification. Given the ideological and tactical heterogeneity that pervades the pro-life activist movement (Blanchard, 1994; Blanchard and Prewitt, 1993; Kenny and Reuland, 2002; Munson, 2008), it stands to reason that perhaps "both models are correct: statutes protecting reproductive rights and access to abortion clinics may lead to a backlash among some groups and a deterrent effect on others" (Pridemore and Freilich, 2007).

Recent research on pro-life activism suggests that the various groups which make up the whole of the movement are more varied than previously thought. Munson's 2008 ethnographic study of pro-life activists in four major U.S. cities indicates that the pro-life movement is vast not only in terms of their numbers, but in ideology as well. Combining data from a series of individual life histories along with pro-life organizational data, Munson finds that most of the pro-life activists he interviewed fall into one of four categories or movement streams. Although activists from each stream generally adhere to the single goal of ending the practice of abortion, the author notes how these factions exhibit striking differences with respect to how they believe this goal should be accomplished. In this dissertation, I examine the effects of various clinic protection laws

on acts of anti-abortion crime. Thus, I do not look at individuals or groups, but rather at various criminal behaviors which, as the following paragraphs illustrate, are indicative of certain groups.

Munson (2008) avers that activists and organizations such as the National Right to Life Committee (NRLC), which represent the *politics stream* of the movement, generally view abortion as a political issue requiring a political solution. Ultimately, these activists believe that the most efficient way to end abortion lies within the democratic process. Hence, they focus their energies on traditional protest tactics such as the lobbying of state and federal representatives for a “human life amendment” to the Constitution or for more incremental legislation which would reduce the accessibility of abortion²². Activists in the *individual outreach* and the *public outreach streams* are similarly denoted by the use of traditional or peaceful protest tactics (counseling services and advertising campaigns respectively). Since the activists in these movement streams generally eschew the use of violence and other illegal forms of protest, it is unlikely that the presence of clinic protection laws would have a significant impact on their decision to engage in abortion-related crime.

Although the majority of pro-life activists are relatively peaceful in nature (Kenney et al., 1999), there are those for which traditional and legal forms of protest are viewed as insufficient. Activists within what Munson (2008) refers to as the *direct action stream* endeavor to prevent abortions by intervening directly, often through the use of picketing, demonstrations, clinic blockades, invasions, contaminating or damaging medical equipment and sidewalk counseling (see also Maxwell, 2002). Munson (2008)

²² Examples include state parental and consent notification laws as well as legislation banning certain abortion procedures such as intact dilation and extraction-commonly referred to as “partial birth abortion” (Baird-Windle and Bader, 2001; Doan, 2007; Munson, 2008).

notes that although the majority of pro-life protests are nonviolent, the highly emotional and anxious atmosphere surrounding direct action protests is conducive to the use of verbal abuse and harassment by pro-life activists. Indeed, direct action tactics are indicative of the sense of immediacy and anger with which this movement stream regards the abortion issue.

Direct action protests are often characterized as emotionally charged and extremely confrontational (Baird-Windle and Bader, 2001; Maxwell, 2002; Munson, 2008). It is therefore little wonder that harassment is often used in combination with legal forms of protest. The fact that 16 states, the District of Columbia and the federal government have enacted specific clinic protection statutes to enhance penalties for clinic blockades, vandalism and stalking indicates that illegal forms of pro-life harassment are all too common and serious enough to merit the attention of state lawmakers.

That acts of interpersonal violence have and continue to be a rarity among these protests (Munson, 2008) speaks to the fact that even direct action activists regard certain forms of protest as inappropriate or counterproductive. Pridemore and Freilich (2007) suggest that despite the use of harassment tactics, activists in this stream are not unlike the majority of the pro-life movement, as they are generally non-violent and law abiding. These individuals typify what rational choice theorists refer to as the *minor* (Cernkovich, Giordano, and Pugh, 1985) or *mundane* (Cornish and Clarke, 2003:62) offender in that they “are ordinary and basically law-abiding people with consciences and a stake in society who from time to time commit certain types of “minor” crimes.”

Put simply, mundane and *direct action* offenders are said to engage primarily in minor offenses because they perceive the associated costs as acceptable compared to the

potential benefits. Crimes of harassment and vandalism are instrumental in that they are designed to bring about a cessation in abortion at a specific clinic. The effect may be temporary and immediate as in the case of a blockade or invasion, or permanent and gradual as the toll of numerous vandalisms and threats proves unsustainable (Dover, 2007). Traditionally, these crimes would at most, subject the individual to local misdemeanor charges carrying a penalty of 30 days in jail or less (Kenny and Reuland, 2002). Such a penalty is not likely to seriously threaten either the offender's conscience or his/her stake in society.

Conversely, acts of arson, bombing or assault incur much greater penalties both in terms of jail or prison time, and morally. Indeed, it is likely difficult to retain one's self-perception as an average, law-abiding citizen while serving time for committing a violent felony. Relatedly, the label of "convicted felon" poses a threat to the offender's employment status, relationships and overall stake in society. The typical *direct action* offender refrains from more serious offenses because he/she perceives these added costs as out of balance with the potential gains. The opposite appears true for crimes of harassment and vandalism which carry much lower penalties; however, as these penalties increase, the offender should perceive fewer situations that offer acceptable opportunities to offend (Cornish and Clarke, 2003). Thus, when presented with a new law which raises the penalties for anti-abortion harassment crime, "Their logical response would be to cease low-level behaviors—such as harassment and some forms of intimidation—that are criminalized and turn to legal means of promoting their cause" (Pridemore and Freilich, 2007:614).

Although Munson's (2008) research and classification system does not extend to the more serious forms of anti-abortion property and violent crime, there is some evidence that activists who engage in these acts represent a distinct section or *extremist stream* within the pro-life movement. Blanchard and Prewitt's (1993) study revealed that abortion clinic bombers exist within well defined, extremely narrow and homogenous social networks marked by religious and cultural fundamentalism, and a view of abortion and those who practice it as true evil²³ (Blanchard, 1994). One of the characteristics that appears to separate the more radical offenders from other activists is a profound sense of social isolation:

“One very important characteristic is that all the convicted perpetrators appear to be isolated “loners” with a restricted number of significant relationships. Several of them have virtually no close relationships, especially no close female friends or romantic relationships. Others do have strong, even intense personal ties that still typify the social isolate in that those relationships are limited or encapsulated within a network of a solitary worldview” (Blanchard and Prewitt, 1993:209-210).

This research indicates that the most severe anti-abortion offenses tend to be committed by a small number of socially isolated individuals or lone wolves (Phillips, 2011; Victoroff, 2005) who share a tenuous connection to mainstream society and similar abortion-related views.

This stands in stark contrast to the other movement streams which are marked by broader societal connections and a distinct lack of ideological congruity (Ginsberg, 1989; Maxwell, 2002; Munson, 2008). Although virtually every pro-life activist shares the belief that abortion is wrong:

²³ This differs from activists in other streams who view abortion as undesirable, but more of a difference in opinion (Munson, 2008).

There is no consensus, even within the pro-life movement, on how to understand the abortion issue. Even among those most committed to ending all abortion in the United States, there are marked disagreements about how to understand abortion, why abortion is wrong, and how it is tied to other moral issues. These are more than cosmetic differences in how people explain the issue; they are fundamental tensions within the movement” (Munson, 2008:149).

For instance, some activists believe abortion is wrong because it degrades or harms women, while others view it strictly from an economic/lost productivity standpoint. Still, there are those who view it as a civil rights issue (Munson, 2008). Previous research indicates that major anti-abortion offenders such as assassins, clinic arsonists and bombers tend to uniformly perceive abortion as the murder of the unborn and the ascension of a culture of death that threatens to engulf the world (Mason, 2004). It is this dualist perspective that enables offenders in the *extremist stream* to view the abortion conflict as the forefront in the eternal battle between good and evil (Blanchard, 1994; Blanchard and Prewitt, 1993; Risen and Thomas, 1998).

These characteristics help to explain why members of the *extremist stream* choose to engage primarily in crimes that those within the *direct action stream* will not. Again, the answer from the rational choice perspective rests on the perceived utility of the act. The tendency for *extremist offenders* to view abortion as a conflict between good and evil brings with it an increased sense of urgency. Defining the conflict in this way generates great incentive for the individual to not only act now, but in a decisive manner. Clearly, acts of arson or assassination are designed not for gradual and temporary relief (as with most forms of harassment or vandalism), but rather to bring about the immediate and permanent end to the abortion wars. The effect is to raise both the perceived benefits of the act (i.e., you will not only be ending abortion at this one clinic, you will also be

eliminating a source of “evil” from the world) as well as the cost of inaction or not offending.

In addition to raising the perceived benefits associated with anti-abortion crime and the perceived costs of inaction, the extremist ideology aids in the creation and reinforcement of exceptionally narrow and homogenous social networks. Research indicates that extremists such as clinic bombers tend to live a solitary existence at the margins of society and the broader pro-life movement (Blanchard and Prewitt, 1993). The individual is rarely exposed to countervailing viewpoints or, more importantly, opportunities to form strong pro-social ties with moderate individuals and institutions. In turn, the extremist offender is an individual who is more likely to view the costs of committing a violent felony or an act of severe property damage as acceptable.

Given the argument laid forth here, it stands to reason that the most radical and violent anti-abortion offenders should be less likely to respond to the presence of clinic protection laws with a reduction in criminal behaviors than their direct action counterparts. Whereas activists from the other streams are generally opposed to the use of the most extreme and violent tactics (Munson, 2008), members of this radical stream are more likely to view the use of such methods as not only appropriate, but as the only viable path to immediate change (Kaplan, 1995; see also Moskalenko and McCauley, 2009).

Rational choice theory suggests that even the most serious and predatory offenders (Cornish and Clarke, 2003; Wortley, 1998) can be deterred either by raising costs or lowering benefits. Although protection laws are designed for the former, they are not generally crafted to influence those at the margins of society. Given their

augmented perceptions of benefits and their reduced sense of costs associated with committing serious and violent crimes, it seems unlikely that such laws produce much of a deterrent effect.

In fact, protection laws aimed at reducing serious violent and property crimes may actually create a backlash effect. Reactance theory dictates that the more important the freedom that is taken away, the more likely it is that the individual will respond with aggression and violence (Brehm, 1966; Brehm and Brehm, 1981; Wicklund, 1974). Protection laws represent not only an increase in costs, but of encroaching pro-choice interests. Thus, as Pridemore and Freilich (2007:614) hypothesize, for those within the pro-life movement who are willing to kill, maim and destroy, the presence of new protection laws may be perceived not as a deterrent, but as a sign that they are losing the “battle between good and evil”. The null results of the study however, suggest that clinic protection laws have neither a deterrent nor a backlash effect on anti-abortion crime.

Although instructive, there are several limitations in the extant research on anti-abortion crime. First, previous works are mostly descriptive or rely solely upon qualitative designs (Baird-Windle and Bader, 2001; Blanchard, 1994; Blanchard and Prewitt, 1993; Clarke, 1987a; Clarke, 1987b; Ferrell and Websdale, 1999; Garrow, 1999; Kaplan, 1993, 1995; Risen and Thomas, 1998; Mason, 2000a; Mason, 2000b; Reiter, 2000; Maxwell, 2002; Mason, 2004). While qualitative and descriptive research on the topic of anti-abortion crime and clinic protection laws has contributed to the theoretical groundwork for both the deterrence (Kaplan, 1995; Solinger, 1998; Press, 2006; Doan, 2007; Johnson, 2007) and backlash hypotheses (Hewitt, 2000a; 2000c; Kaufman, 2000; Baird-Windle and Bader, 2001; Press, 2006; Johnson, 2007), seldom have these

hypotheses been subjected to empirical tests. I address this limitation by empirically assessing the effects of clinic protection laws on anti-abortion crime in the United States from 1975 to 2008.

Second, although Pridemore and Freilich (2007) provide a thoughtful test of the effects of state laws protecting abortion clinics, the cross-sectional design of their study prohibits a more thorough assessment. This time invariant approach is likely to hinder efforts to uncover the causes of anti-abortion crime which may develop subtly over the course of weeks, months, even years. It is conceivable that the effects of these protection laws vary over time and as such, a longitudinal approach is more appropriate. The current study makes use of a unique longitudinal dataset which allows me to look for trends developing over a 34 year period.

Third, the apparent overreliance on abortion clinic self-survey reports in previous studies of anti-abortion crime has opened the door to additional criticism. While useful, clinic survey data often contain information on incident prevalence in lieu of information on the precise number of incidents (Freilich and Pridemore, 2007; Pridemore and Freilich, 2007). Although this information allows one to speculate on the prevalence of anti-abortion crime, it prevents us from knowing the exact number of incidents for any given time period. This information is important, for without it, we can never fully appreciate the true extent of these crimes much less the precise effect of the protection laws they have inspired. Additionally, low response rates commonly associated with clinic survey data may introduce selection bias into the model as “characteristics of the clinic or staff, such as size, workload, type of abortion provider (e.g., clinic or private doctor’s office), professionalism, or experience with victimization may lead to

differential response” (Pridemore and Freilich, 2007:621). This study improves upon the current literature through the use of a unique, open-sourced dataset on anti-abortion attacks, precluding the need to rely on clinic survey data.

Fourth, Pridemore and Freilich’s (2007) use of a single dichotomous measure for the presence of any protection law effectively obscures any and all variation among the independent variable. That is to say, such a measure inhibits us from seeing if the effect of protection laws on anti-abortion behavior varies by the type of law that is enacted. This is important, as there are substantial differences between these laws which cannot be accounted for in such a model. For example, N.Y. Penal Law § 240.70, specifically prohibits the use of physical violence directed against individuals whereas Oregon Revised Statute §164.365 proscribes only those acts of protest which involve the destruction of clinic property. Other laws such as Washington Revised Code §§ 9A.50.005 prohibit the harassment of clinic staff and patients or the disruption of clinic services. Still, protection laws such as the FACE Act, forbids all three crime types (violence, property destruction and harassment).

For the purposes of this dissertation, *personal violence* refers to incidents involving the use or attempted use of physical violence against clinic personnel or patients. These include such acts as armed assault, unarmed assault, assassination, attempted assassination, bombing²⁴, attempted bombing, robbery, attempted robbery, and hostage taking/kidnapping. By contrast, *property destruction* is defined as attacks against the property of clinics, staff or patients. Examples include arson, attempted arson, bombing/explosion, chemical/acid attack, attempted chemical attack, glue in locks,

²⁴ Bombings are only included as a violent attack when the purpose is to inflict physical damage on another person. Thus, bombings which occur during business hours are classified as a violent attack while those occurring at night when the building is empty are classified as a property attack.

broken windows, acts of sabotage and burglary. Incidents of anti-abortion *harassment* represent an illegal form of protest behavior that is less physically severe or violent, yet highly disruptive. Typically, this form of anti-abortion crime is geared less towards physical harm or the irrevocable damage of property and more towards the disruption of clinic practices. They consist of blockades, facility invasions, death threats, bomb threats, chemical/biological threats, the stalking of staff or physicians, vandalism²⁵ and cyber attacks.

The use of a single dichotomous measure fails to control for these differences and as such, may partly explain Pridemore and Freilich's (2007) null findings. The current study corrects for this through the inclusion of three separate independent variables accounting for the legal prohibition of acts involving violence, property destruction and harassment respectively.

Finally, although numerous scholars suggest that federal legislation protecting clinics such as the FACE Act have had a significant impact upon anti-abortion crime (Kaufman, 2000; Baird-Windle and Bader, 2001; Kenny and Reuland, 2002), its effects have yet to be empirically assessed. Furthermore, given the fact that the FACE Act stands as the most visible of the clinic protection laws, it would seem prudent to model its effects. As such, the models presented in this dissertation reflect the presence of this law.

What it all means

Although the origins of the abortion debates can be traced back nearly two millennia (Blanchard, 1994), the use of violent and illegal forms of pro-life protest is a

²⁵ Unlike property attacks such as arson or bombings, vandalism is defined here as those acts which result in defacement of property, yet do not cause the owner to replace the affected property.

recent and America-centric phenomenon. Despite its short history, anti-abortion crime has become commonplace in the post-*Roe* era (Doan, 2007; Kaplan, 1995). In response to the rising use of violent, property and harassment attacks against abortion clinics, staff and patients, state and federal governments have over the course of the last 26 years enacted a series of clinic protection laws. Raising the penalty for illegal forms of pro-life protest, these laws are essentially designed as a deterrent. However, a thorough and interdisciplinary review of the literature reveals a spirited theoretical competition surrounding the utility of such legislation.

Theories of deterrence and rational choice hold that crimes are predicated on individual considerations of potential costs and benefits, wherein criminal acts are more likely to occur when the perceived benefits outweigh the perceived costs (Becker, 1968; Cornish and Clarke, 1986; Dugan, LaFree and Piquero, 2005; Paternoster and Pogarsky, 2009). The introduction of state and federal abortion clinic protection laws represents a direct attempt by policymakers to reduce the number of anti-abortion crimes by raising the costs associated with the commission of illegal forms of pro-life protest. Proponents of the rational actor perspective hypothesize that the implementation of clinic protection laws will ultimately reduce the number of anti-abortion crimes (Baird-Windle and Bader, 2001; Kenny and Reuland, 2002).

Conversely, research from labeling theorists in criminology (Becker, 1963; Braithwaite, 2005; Sherman, 1993; Tannenbaum, 1938), in addition to findings from within the fields of terrorism (LaFree, Dugan and Korte, 2009; McCauley, 2006; Nice, 1988) psychology (Baumeister et al., 2002; Brehm, 1966; Brehm and Brehm, 1981; Wicklund, 1974) and political science (Davies, 1962; Gurr, 1970) suggest that certain

criminal countermeasures may actually cause an increase in the number and severity of the behaviors which they are intended to prevent. Scholars who subscribe to the backlash thesis predict that laws designed to protect abortion clinics, clinic staff and clinic patients from violent and criminal forms of protest will ultimately lead to additional attacks (Kaplan, 1993; 1995).

Whereas deterrence/choice and backlash models have been deployed often and successfully in attempts to gauge the effects of various criminal justice and terrorism countermeasures, Pridemore and Freilich (2007) suggest that such an *either, or* approach may be inappropriate for the study of anti-abortion crime. Research on anti-abortion offenders (Blanchard, 1994; Blanchard and Prewitt, 1993; Risen and Thomas, 1998) and the broader pro-life activist movement (Munson, 2008) indicates that pro-life activists are perhaps less alike than previously thought. Individuals and offenders within the movement often differ not only on why they believe abortion is wrong, but on how best to go about putting an end to the practice (Ginsberg, 1989; Maxwell, 2002; Munson, 2008).

Although studies have shown that the majority of anti-abortion activists reject the use of violence and other forms of unconventional protest (Norrander and Raymond, 1998), it is clear that for certain individuals, conventional means are seen as insufficient. However, even within this criminal subsection of the activist movement, there exists considerable variation (Munson, 2008). While activists within the *direct action stream* routinely apply techniques of harassment and intimidation (Blanchard and Prewitt, 1993; Maxwell, 2002; Munson, 2008), they seldom cross over into violence (Munson, 2008) or severe property attacks. This tactical ideology stands in contrast to that of those

activists for whom the use of the most radical and violent techniques is seen as not only acceptable, but essential (Kaplan, 1995).

Pridemore and Freilich (2007) contend that this ideological heterogeneity is likely to have a substantive impact on the utility of clinic protection laws. Specifically, they hypothesize that the more conservative and law abiding members of the *direct action stream* will reduce their use of harassment and vandalism once a new protection law is enacted. Conversely, they predict that the more radical and violent stream of the activist movement will respond to the presence of these laws with additional and more severe attacks. Ultimately, the authors find no support for their blended model.

Although Pridemore and Freilich's (2007) findings fail to support this theoretical model, methodological limitations endemic to the study, combined with a broader shortage of empirical research have ensured that the questions surrounding the deterrent value of clinic protection laws persist. As such, the current study aims to better our understanding by empirically assessing the impact of these laws on anti-abortion crime. I also address many of the limitations in the Pridemore and Freilich (2007) study by employing a previously unavailable, longitudinal dataset on anti-abortion crimes. This allows for a more thorough test of the blended deterrence/backlash model by enabling me to look for legislation effects that may develop over an extended period of time. Additionally, by including separate measures for violent, property and harassment protection laws, this study is able to determine whether the utility of clinic protection legislation varies by the type of behavior prohibited. Finally, by controlling for the presence of the FACE Act, this study represents the first attempt to empirically assess the effects of both state and federal clinic protection laws. Before discussing the merits and

weaknesses of the current dataset in greater detail, we must first turn to Chapter 3, where I outline the specifics of the theoretical models to be tested in this dissertation.

CHAPTER 3: THEORETICAL MODELS TO BE TESTED

The previous chapter illustrated the dearth of knowledge on anti-abortion crime in general and the effects of clinic protection legislation in particular. Given the high costs associated with these crimes and the fact that clinic protection laws represent the dominant response by state and federal governments to violent and illegal forms of pro-life protest, it is striking that their impact on anti-abortion crime has so rarely been subject to empirical examination. Relatedly, as noted in the paragraphs above, scholars continue to debate whether these laws actually serve as a deterrent or as a cause of future crimes. In this dissertation, I attempt to address this issue by testing the relationship between the presence of state and federal clinic protection laws and the number of criminal acts committed against abortion clinics, staff and patients at the state level, using a series of statistical models based upon the negative binomial distribution. I will discuss the advantages of this particular type of statistical methodology in Chapter 5.

The main goal of this dissertation is to empirically assess whether an increase in the threat and severity of sanctions for anti-abortion crime will have a deterrent, backlash or null effect. The logical first step is to test one of the deterrence/rational choice literature's broader hypotheses; that any increase in the threat of sanction for anti-abortion crime will have a deterrent effect. To paraphrase Kaplan (1995), when anti-abortion activists are subject to legal punishment, they shift their behaviors away from illegal acts of protest. Thus, broadly speaking, any type of clinic protection law should deter anti-abortion crime.

In Chapter 2, I noted that prior research also indicates that pro-life activists vary both ideologically and tactically. As such, one activist's deterrent may prove another activist's flash point. Pridemore and Freilich (2007) hypothesized that protection laws are most likely to have the desired effect on the low level harassment offenses since they tend to be the province of mainstream activists who generally follow and respond to changes in the law. Conversely, the authors hypothesized these laws would only serve to raise frustrations within the violent fringe of the protest movement, thus leading to additional crimes of violence. Therefore, the second step is to see if the authors' null findings can be reproduced with longitudinal, incident-level, open source data.

It is important to note here that this dissertation is not a replication of the Pridemore and Freilich (2007) study, in which the authors performed a cross-sectional analysis using clinic self-report data. Further, the authors included a variable controlling for the effects of legislation that protects "general" pro-choice interests which fall outside of the scope of this dissertation. The authors differentiate between clinic protection laws or "specific legislation" and laws which protect the broader pro-choice interests (i.e., "general legislation") using the NARAL Foundation's data and methodology (see NARAL Foundation, 2001:272-274).

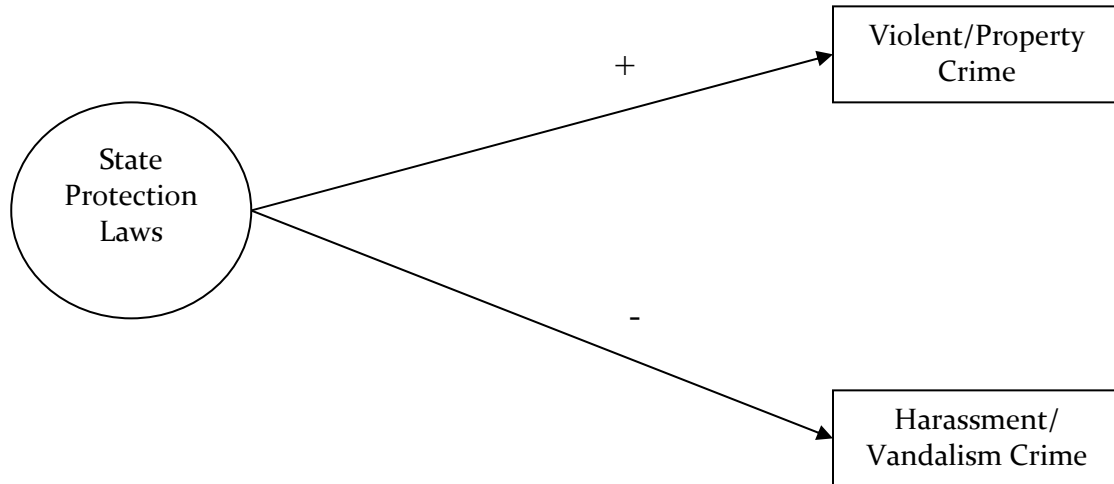
I chose not to include these data on general legislation for three reasons. First, Pridemore and Freilich's (2007) operationalization of this variable is based on a state grade assigned by NARAL staff. High grades are marked by states with fewer restrictive policies with respect to reproductive healthcare; however, the grade is based in part on accessorial measures such as the availability of insurance plans that cover non-emergency contraception. Research has shown that even the most ardent of pro-life activists remain

fractured with respect to beliefs surrounding the morality of contraception (Munson, 2008). Some believe that it is wrong and directly related to the issue of abortion while others see contraception as appropriate and only tangentially related to abortion. Such legislation is arguably less likely to be noticed by activists, and therefore less likely to incite acts of violence and harassment. Therefore, “general legislation” as operationalized by NARAL and the previous study is perhaps less relevant to the explanation of anti-abortion crime than are clinic protection laws.

Second, the absence of such laws may result in more abortions, which have been shown in some studies to increase anti-abortion crime (Nice, 1988; Freilich and Pridemore, 2007). However, as this dissertation controls directly for state abortion rates, this law is rendered moot to the question at hand. Finally, the NARAL data on state general legislation only dates back to 1990, and as this study looks at clinic anti-abortion crime from 1975 through 2008, the inclusion of these data would be prohibitive.

The second and third models in this dissertation provide a test of the blended deterrence/backlash model presented by Pridemore and Freilich (2007). As illustrated below in Figure 3.1, these models predict that clinic protection laws, broadly defined will decrease crimes of anti-abortion harassment while raising the levels of violent and property crimes.

Figure 3.1: Model 2 and Model 3 - The Impact of State Protection Laws on Violent/Property and Harassment/Vandalism Crime



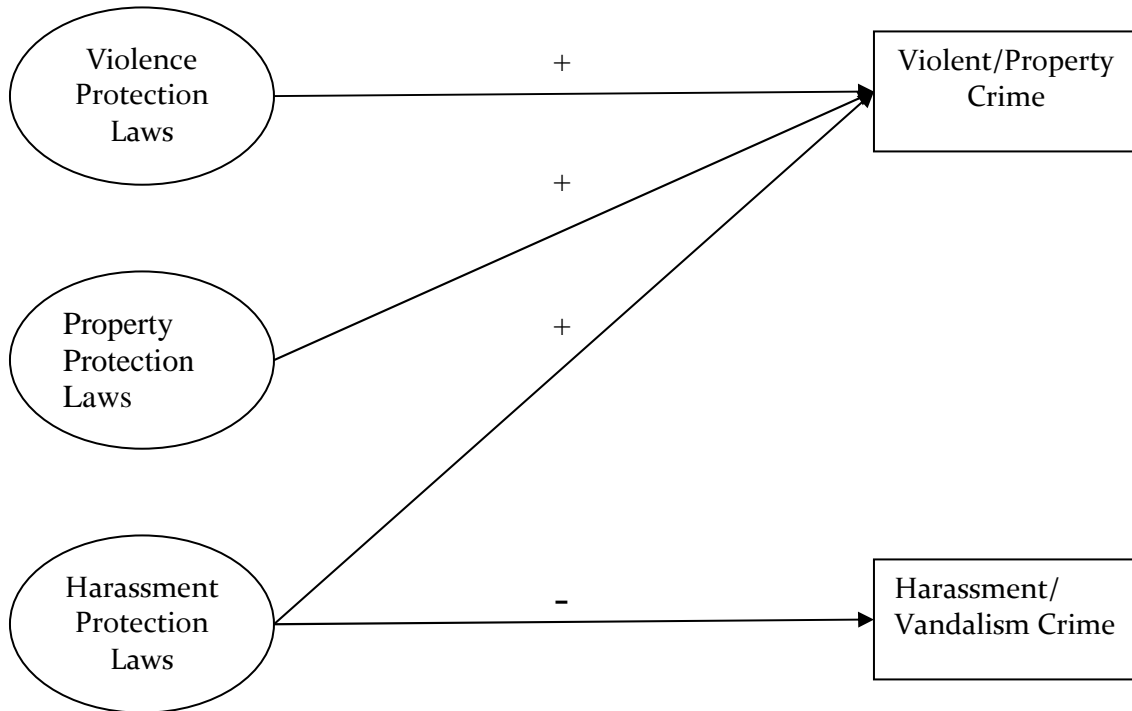
Notably, Pridemore and Freilich (2007) find no evidence that clinic protection laws have a significant effect on anti-abortion crime levels. However, as the authors do not control for substantive differences among state and federal protection laws, any deterrent or backlash effects may be obscured. Therefore, the next step is to separate the main independent variable (clinic protection laws) into three main categories, enabling us to see if the effects vary by the type of protection law enacted (violent law, property law and harassment law). Because research has shown that those who commit crimes of violence and severe property damage differ both ideologically and tactically from those who engage in lower-end crimes of harassment and vandalism (Blanchard and Prewitt, 1993; Maxwell, 2002; Munson, 2008), it stands to reason that clinic protection laws will elicit varying effects depending on the type of behavior that is prohibited.

Those who engage in violence and severe property attacks against abortion providers, clinics and patients comprise a unique movement stream within the activist

community. These individuals are often marked by weak societal ties, a shared fundamentalist ideology that promotes the use of extremist tactics, and a common belief that abortion is tantamount to murder (Blanchard, 1994; Blanchard and Prewitt, 1993; Risen and Thomas, 1998). It follows that the activists of this stream are perhaps more likely to view any type of protection law as both a cultural threat and as a sign that the pro-life agenda lies in jeopardy. Therefore, as shown in Figure 3.2, **H1: *I hypothesize that violence, property damage and harassment protection laws will result in a backlash effect, promoting additional acts of abortion provider-related violence and property damage.***

In contrast, acts of harassment and vandalism tend to be committed by activists of the relatively social, ideologically moderate and heterogeneous direct action stream. These individuals tend to maintain stronger societal connections and they generally reject the use of violence and major property damage. Thus, it is unlikely that they would disagree with a law which raises the penalties for such crimes, much less alter their tactics because of it. As such, **H2: *laws protecting against violence and property damage are expected to have no effect on abortion provider-related harassment and vandalism crimes.*** It is however, given the relatively conservative and generally law abiding nature of this stream, more likely that **H3: *a protection law prohibiting acts of harassment and vandalism will also elicit a reduction in this form of anti-abortion crime.***

Figure 3.2: Model 3 and Model 4 - The Impact of Violence, Property & Harassment Protection Laws on Violent/Property and Harassment/Vandalism Crime



Summary

In this dissertation I seek to better our understanding of criminal and extremist behavior within the pro-life movement by presenting the most robust test to date of the deterrence and backlash hypotheses. Using a newly available dataset, I present the first longitudinal test of the relationship between anti-abortion crime and the threat of sanctions. In the following section, I outline the data collection methodology, the creation of the independent and dependent variables, and the strengths and weakness of the data.

CHAPTER 4: DATA COLLECTION METHODOLOGY

As I mentioned in Chapter 2, many of the limitations surrounding the extant research on anti-abortion crime are rooted in the use of inadequate data. In particular, the apparent overreliance on cross-sectional survey data precludes the most robust examination of anti-abortion crimes and the clinic protection laws they have inspired. In order to address these limitations and the research questions outlined in Chapter 3, I employ the use of an event-based dataset on acts of anti-abortion crime. This chapter outlines the procedures used in the collection of this unique data set.

The data used in this dissertation were collected in two separate stages by researchers at the National Center for the Study of Terrorism and Responses to Terrorism (START) at the University of Maryland. The original platform for this dataset comes from the Global Terrorism Database (GTD); an open source database on domestic and international terrorist incidents. The first stage commenced during the 2003-2004 academic years when START researchers at the University of Maryland verified and coded a database of terrorist events originally collected by Pinkerton Global Intelligence Services (PGIS); a private research company dedicated to providing various business interests with information on acts of domestic and international terrorism. The data included more than 69,000 terrorist events recorded worldwide from 1970 to 1997²⁶, and were based on the systematic coding of news wire service data obtained from scanning English and foreign language media reports.

²⁶ The original PGIS data included information on type of terrorist activity (e.g., bombing, assault, kidnapping, etc.), incident date, whether domestic or international, weapons used, victim characteristics, target characteristics and incident outcome (see LaFree and Dugan, 2007 for a review).

Although the original GTD benefitted from the many strengths inherent in the Pinkerton data (see LaFree and Dugan, 2007 for a review), perhaps none was more important than the inclusive nature of PGIS coding procedures. PGIS employees collected data on both domestic and international incidents; providing the GTD with seven times the number of cases included in the vast majority of similar datasets. Even so, as shown in Table 4.1, these data provided information on just 52 incidents of anti-abortion crime, a fraction of the true number of anti-abortion attacks. Indeed, for the same time period, this figure is more than doubled by the number of abortion-related arson incidents alone²⁷.

Table 4.1: Anti-abortion Crime Incident Counts by Database (with duplicates)

Source	Years	Number of U.S. Incidents
<i>GTD</i>	1970-1997	52
<i>Bader Chronology</i>	1973-2001	283
<i>Hewitt Chronology</i>	1954-2004	234
<i>ATF</i>	1978-2008	249
<i>WITS</i>	2004-2008	2
<i>NAF</i>	1975-2008	301
<i>PPFA</i>	1991-2008	869
Total	1970-2009	1,990

²⁷ The data used in this dissertation includes information on 203 incidents involving the use of incendiary weapons against abortion clinics from 1975 through 1997.

In 2006, START received funds from the Department of Homeland Security (DHS) to extend the GTD beyond 1997 and as of November, 2011, the GTD includes information on over 120 variables for more than 98,000 domestic and international terrorist incidents from 1970 through 2010 (for a more recent review of the GTD, see LaFree, 2010). The second phase of the data collection process was initiated in 2008 when START devoted the efforts of faculty, graduate research assistants and interns to augmenting the amount of information on several forms of domestic terrorism, including anti-abortion incidents. Under the guidance of Drs. Gary LaFree and Jean McGloin, I developed a systematic, two stage procedure for the collection of these data.

The first stage of the data collection process consisted of identifying all open and private sources of anti-abortion crime data. A careful review of the literature and informal discussions with several private and government organizations revealed the existence of three basic sources of information: academic chronologies, government databases and reproductive healthcare advocacy groups. In the paragraphs that follow, I will outline each of these sources and the data they provided for this study.

Academic Chronologies

Academic chronologies are written accounts of individual criminal victimizations. A review of the literature identified two chronologies: *Targets of Hatred: Anti-Abortion Terrorism* by Patricia Baird-Windle and Eleanor J. Bader²⁸ (2001) and *Political Violence and Terrorism in Modern America* by Christopher Hewitt²⁹ (2005). Penned in the style

²⁸ Patricia Baird-Windle is a former reproductive healthcare provider. Eleanor J. Bader is a journalist, currently writing for The Independent newspaper.

²⁹ Christopher Hewitt is a Professor of Sociology at the University of Maryland Baltimore County.

of a social history, *Targets of Hatred* provides information on abortion-related crime from 1973 through 2001. In narrative form, the authors describe in detail, the experiences of over 190 abortion providers. Information presented on criminal attacks was obtained through interviews and open source periodicals. This source provided us with information on 283 incidents of anti-abortion crime (see Table 4.1).

Unlike *Targets of Hatred* which focuses entirely on anti-abortion crime, Hewitt provides information on several different types of domestic terrorism in America from 1954 through 2004. Using a mixture of periodicals, academic texts, federal and hate crime watchdog publications, Hewitt presents a series of short incident descriptions, usually one sentence in length. This text provided us with information on 234 incidents of anti-abortion crime.

Government Terrorism and Criminal Databases

The second set of databases on anti-abortion crime came from federal institutions of research and law enforcement. The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) is the primary federal investigative agency for crimes involving the use of explosives, arson and firearms (Nice, 1988; Jacobson and Royer, 2011). As such, the ATF maintains and compiles information on all such attacks, including those committed against reproductive healthcare providers. These data provided us with information on 249 attacks from 1978 through 2008 (see Table 4.1).

In 2004, the National Counterterrorism Center (NCTC) was created by the United States Congress for the purpose of becoming the primary federal repository of information related to the field of counterterrorism. Since its inception, NCTC

employees have been gathering information on terrorist incidents from a variety of open sources including commercial newswire services and local news agencies. This information is systematically coded into a publicly available electronic database known as the Worldwide Incidents Tracking System or WITS (for an in-depth review of the WITS methodology see Wigle, 2010). As indicated above in Table 4.1, the WITS database provided us with information on two incidents³⁰ of anti-abortion crime.

Reproductive Healthcare Advocacy Groups

The final set of outside databases was obtained from reproductive freedom and pro-choice advocacy organizations. The National Abortion Federation (NAF), a professional association of abortion providers in North America, is one example. Since 1977, the NAF has collected data on incidents of violence and disruption against abortion providers through the use of victimization reports from member clinics, news media services and reports from other advocacy groups (see www.prochoice.org). With the cooperation of NAF officials, we obtained electronic copies of data for 301 incidents of arson, bombings and butyric acid attacks on abortion providers and patients from 1975 through 2008 (see Table 4.1).

Finally, incident data was also procured from Planned Parenthood Federation of America (PPFA); an association of reproductive healthcare providers, promoting comprehensive reproductive healthcare across the United States and social policies based

³⁰ Although WITS presents data on over 98,000 incidents of domestic and international terrorism, as of September, 2010, only two of these incidents involve abortion clinics. This exceptionally small number is partially due to the fact that the WITS data only goes back as far as January of 2004. Even so, this does not account for the omission of recent high-profile attacks on abortion providers such as the 2009 assassination of Dr. George Tiller mentioned above. The NCTC data collection methodology can be found at http://www.nctc.gov/witsbanner/wits_subpage_criteria.html.

on the concept of reproductive self-determination (see www.plannedparenthood.org). Since 1991, PPFA has collected victimization data from abortion clinic staff throughout the U.S. Similar to the NAF, PPFA methodology relies primarily on the use of victimization reports from affiliated clinics. Although PPFA routinely publishes incident data on their website, public access is only granted for crimes of the previous 14 months. Fortunately, PPFA officials agreed to grant START access to all of their victimization incident data. Looking again to Table 4.1, we see that this produced information on 869 crimes of anti-abortion violence, property damage and harassment from 1991 through 2008³¹. Altogether, the six databases outlined above in combination with the original GTD, produced information on 1,990 incidents of anti-abortion crime.

Anti-Abortion Crime Data: Supplementary Procedures

The second stage of the project consisted of the identification and removal of all duplicated incidents across the seven databases mentioned above, and then updating these data through the use of independent media sources. In order to identify duplicated incidents, we first sought to standardize these data by combining them into a single database. Then, a team of research interns, faculty research assistants and I coded each incident across 33 separate variables including but not limited to incident location, date of attack, attack type, weapon type and target name³². To identify duplicates, coders were instructed to sort all incidents by a series of predetermined variable combinations and then compare across incidents. For example, in order to identify all duplicate clinic arson

³¹ Although the NAF also routinely gathers information on acts of harassment and vandalism, they do not publish incident-level data on these crimes and my attempts to acquire hard copies of these data were unsuccessful.

³² The full list of incident variables is provided in the project codebook, which is found in Appendix B-2.

cases, the database was initially sorted by date of attack, state and attack type, then by date of attack, city and target, then by date of attack, city and perpetrator, etc.. This sorting process enabled coders to easily compare all of the clinic arson cases occurring within a given month and city. Any two arson cases that were found to have identical information across a majority of the 33 variables coded were tagged as potential duplicates.

Once this step was complete, all tagged incidents were individually screened against each other in order to separate the “potential” duplicates from the “likely duplicates”. Likely duplicates were defined as groups of incidents that share identical information across all coded variables or with up to two exceptions. Most often, these exceptions were minor in which case the assurance of duplicate status remained and the duplicates were summarily removed from the database. For example, two arson incidents may have identical information with the exception of a \$100 discrepancy in the property damage estimate. However, in certain cases where the exceptions were not minor (e.g., a discrepancy of \$1,000,000 or different names listed for the perpetrator(s)), the incidents were kept separate. These steps were repeated using several sorting combinations in order to capture duplicates across every crime type. A total of 666 duplicates were identified and removed from the database, producing a final sample of 1,324 incidents of anti-abortion crime from 1975 to 2008.

The remaining incident data provided a substantial amount of information on anti-abortion crime. However, due to the varying amounts and types of data supplied by the aforementioned entities, some entries provided more information than others. For example, several entries provided the name of the perpetrator while others did not.

Omissions such as these may very well result from the fact that most anti-abortion offenders are in fact, never caught. However, since it is impossible to know for sure, we supplemented the attack data with information found in independent news sources. This final step was accomplished by a team of trained research assistants, running a series of queries on open source newswire databases (e.g., LexisNexis Academic, Factiva, Google News, Google News Archives, The New York Times, etc.) based upon information unique to each incident. The resulting list of English language news articles and reports was then sorted and ranked according to the strength of the publication from which each article originated. Articles which were printed by nationally or regionally recognized media (e.g., The New York Times, Chicago Tribune, Washington Post, etc.) were labeled as “Tier 1” sources and received the highest ranking. “Tier 2” sources consisted of smaller, local news publications such as Indiana’s The South Bend Tribune or Ohio’s Chillicothe Gazette while the lowest ranking (Tier 3) went to articles found in blogs and tabloid magazines³³.

In order to ensure the highest level of consistency and accuracy, only Tier 1 and Tier 2 sources were used to update and enhance the incident information provided in each of the seven anti-abortion crime databases. As illustrated below in Table 4.2, this process produced supplementary information for approximately 45% and 53% of all unique incidents involving personal violence and significant property damage respectively³⁴.

³³ A copy of the data supplementation instruction sheet is provided in Appendix B-1.

³⁴ A complete breakdown of supplementary information by individual crime type (e.g., assassination, bombing, arson, etc.) is presented in Table A.1 of Appendix A-1.

Table 4.2: Number and Percent of Incidents Supplemented by Crime Category

Crime Category	Number of U.S. Incidents	% of Incident Total	Number and (% of Incidents Supplemented)
<i>Violent</i>	56	4.23%	25(44.64%)
<i>Property</i>	678	51.21%	358(52.8%)
<i>Harassment</i>	590	44.56%	26(4.41%)
<i>Total</i>	1,324	100%	409(30.89%)

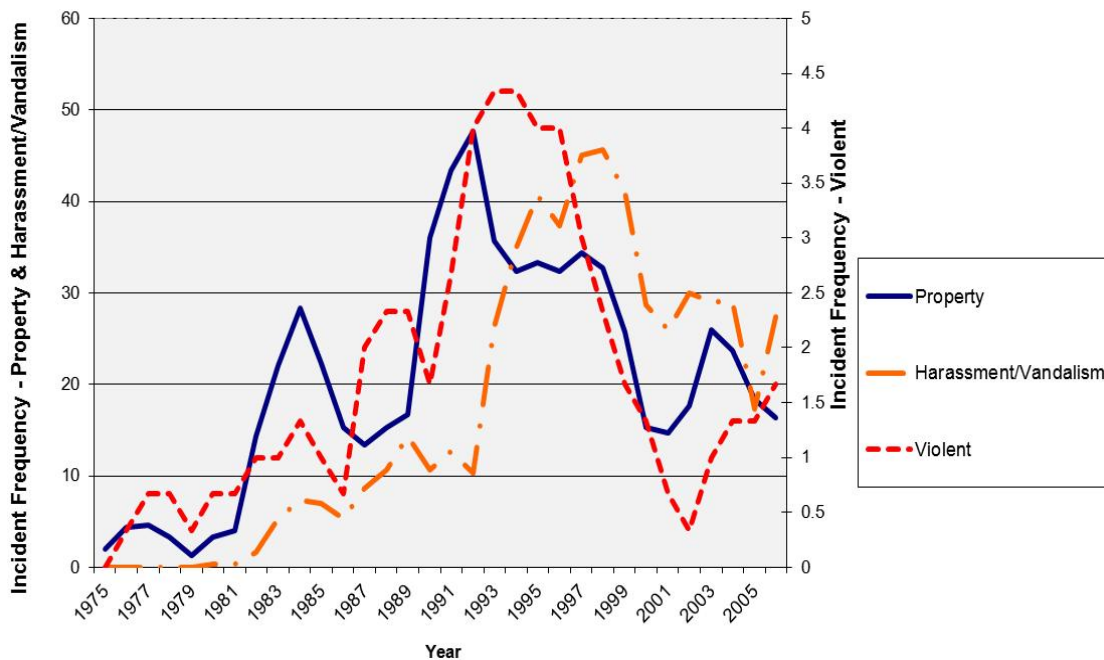
Unfortunately, the same procedures used to supplement the violent and property cases produced independent sources of information for less than five percent of incidents involving some form of harassment or minor vandalism. This is not entirely unexpected considering that the most serious crimes are also the most likely to be deemed newsworthy (Chermak, 1995; Chermak and Gruenewald, 2006; Graber, 1980). Similarly, the most contentious and violent aspects of abortion protests garner the lion's share of media coverage (Blanchard, 1996; Doan, 2007; Munson, 2008). Thus, an instance of minor vandalism involving the spray painting of anti-choice slogans on clinic property is much less likely to receive the same amount of coverage as an assault on a physician or an act of clinic arson. Regardless of the reasons for this discrepancy, it is unlikely to affect the current analyses as the supplementary data did not alter the basic nature of the original data.

A distribution of these incidents over time is provided below in Figure 4.1³⁵. We can see that the positive trend in property and harassment attacks begins to take shape in the early 1980s. For property attacks, this trend reverses course by the year 2000. Meanwhile, harassment attacks seem to peak or plateau in the middle 1990s. The upward

³⁵ Incident frequencies depicted in Figure 4.1 are based upon a three year moving average.

trend in violent attacks begins during the late 1980s and also reaches a peak in the middle 1990s. Interestingly, it appears as though all three crime distributions start to decline or plateau only after the majority of all clinic protection laws had come into being. By 1995, over 70% of current protection laws had been enacted. Although this figure is in no way conclusive, it suggests that clinic protection laws may be related to the decline in anti-abortion crime. In the following paragraphs I will detail the resulting strengths and limitations of these incident data, as well as their implications for testing the hypotheses outlined above.

Figure 4.1: Annual Distribution of Anti-Abortion Crime (1975-2008)



Database Strengths and Limitations

The procedures listed in the preceding paragraphs have produced a database with several advantages over its predecessors. First, the data collected in this project includes

incident-level information on multiple types of anti-abortion crime. The inclusion of violent, property and harassment/vandalism incident measures provides a more complete picture of anti-abortion crime. Previous studies have often focused solely on one or two specific crime types such as clinic bombings and clinic arson (Nice, 1988; Blanchard and Prewitt, 1993) or harassment (Kahane, 2000; Doan, 2007). Such a narrow focus is ill-advised for the study of anti-abortion crime in so much as model estimates could be generalized incorrectly across movement streams and attack types. As illustrated in the previous chapter, the causal mechanisms associated with violent and property attacks may differ substantially from those for harassment and vandalism incidents. The data used in this study presents a more comprehensive measure of anti-abortion crime, thereby allowing for a more complete test on the effects of clinic protection legislation.

Second, one of the greater limitations associated with event databases on acts of terrorism and political extremism is the tendency to focus primarily on international attacks despite the fact that statistical comparisons indicate that domestic attacks outnumber international attacks by a factor of seven (LaFree, Yang and Crenshaw, 2009). This limitation is especially common within government agencies and as such, may partially account for the substantial undercounting of anti-abortion attacks in certain government datasets. This dissertation avoids this potential pitfall by focusing solely on domestic attacks occurring within the United States and by incorporating data from seven separate datasets on domestic acts of terrorism and anti-abortion crime. Thus, the analyses performed in this study are less likely to suffer from biases commonly associated with datasets which are prone to the systematic undercounting of certain events.

Finally, the analyses conducted in this dissertation benefit from an extensive and systematic data collection process involving the use of government, academic, advocate and news media services. Although individually, each one of these data sources is limited, as a whole, they offer a breadth and diversity of information that is well suited to the study of anti-abortion crime. The collection procedures mentioned above have produced what I believe to be the most comprehensive incident-based dataset on anti-abortion crime in the United States to date. This provides an advantage over prior studies which rely entirely upon the use of a single data source, be it government (Nice, 1988) or advocate-based (Pridemore and Freilich, 2007).

In addition to the many strengths listed above, a few limitations are also present in the data and must be recognized as such. First, one of the more common limitations with open-source event databases concerns the validity of information reported through the media. As LaFree (2010:24) states, “The media may report inaccuracies and lies; there may be conflicting information or false, multiple or no claims of responsibility”. Furthermore, Falkenrath (2001) notes how media agencies may regard certain terrorist attacks as more newsworthy than others. Should “less newsworthy” attacks such as incidents of anti-abortion harassment and vandalism fail to capture the media’s attention, they are less likely to be identified for inclusion. If this is indeed the case, additional bias may be present in the model. Unlike most event databases on anti-abortion crime however, the data used in this study benefit from a diverse collection strategy which allows me to incorporate information from several different private and public sources, each with their own unique data collection procedures, thus limiting the potential for misinformation or inaccuracies.

Second, despite the benefits associated with the assimilation of data from both open and private sources, it is still likely the data used in this dissertation do not fully constitute the true number of anti-abortion attacks. This is especially true for the 590 crimes of harassment and vandalism, the data for which were derived primarily from Baird-Windle and Bader (2001) and PPFA. According to the NAF, there have been 4,899 of these attacks from 1977 through 2008³⁶. Assuming the NAF figures represent the more accurate count, it is safe to say that the data used in this dissertation undercount the number of harassment and vandalism crimes.

Summary

As mentioned in the paragraphs above, previous efforts to study the effects of clinic protection laws on criminal behaviors have suffered from the use of insufficient crime data. In this dissertation, I attempt to address this limitation by employing a previously unavailable dataset on anti-abortion crime events. Covering a 34 year period from 1975 to 2008, these data represent what I believe to be the most comprehensive event-based dataset on anti-abortion crime yet to be assembled. In the following chapter, I will outline the statistical methodology used to test the blended model of deterrence and backlash, as explained in Chapter 3.

³⁶ Conversations with NAF officials revealed that although the NAF routinely reports national-level statistics on the annual number of harassment and vandalism crimes, they currently do not make public information by state or by incident.

CHAPTER 5: STATISTICAL METHODOLOGY

In the previous chapter I documented the collection methodology used to procure the anti-abortion crime data used in this dissertation. The unique nature of this dataset allows for the most robust test of the deterrence/backlash thesis on anti-abortion crimes to date. In this chapter, I will offer an accounting of the methods used in these analyses.

Unit of Analysis

The analyses in this dissertation are based upon annual counts of anti-abortion crime for each of the 50 U.S. states and the District of Columbia over a 34 year period from 1975 to 2008 ($N=51 \times 34=1,734$). The choice of state years over county or city years as the unit of analysis is justified on both theoretical and methodological grounds. To paraphrase Blanchard (1994), state-level lobbying efforts on the part of pro-life advocacy groups represent a cornerstone of pro-life activism. It therefore comes as little surprise that the vast majority of all clinic protection laws are enacted at the state level. This suggests pro-life activists are sensitive to changes in state policy and thus, the state represents the most appropriate unit of analysis.

In principle, the following analyses could also be conducted at the county, city or at the individual clinic level yet this would likely prove impracticable for several reasons. To begin, previous research on right-wing extremist groups indicates that smaller units of analysis may be less successful in observing cultural influences or characteristics that operate on a regional-level (Baller et al. 2001; Chermak, 2002; Freilich, 2003). Additionally, anti-abortion crime is a relatively rare event, especially when partitioned by

crime type. Analyses conducted at the city or county level would likely serve to exaggerate this aspect of the data thereby inhibiting any reliable estimate of the intervention's impact.

For reasons similar to those mentioned above, analyses performed at the national level are also more plausible than those at more micro levels; however, such models would surely obscure any state level variation in protection law influence. Moreover, analyses conducted at the national level would not allow for any meaningful examination of the differences between the five types of clinic laws identified in this study.

Construction of Variables

Anti-Abortion Attacks

The three dependent variables used in this analysis represent annual counts of the total number of anti-abortion attacks by crime type. *Viol/Property Attacks* refers to counts of incidents involving either the use of physical violence or property destruction against clinics, clinic personnel, patients and pro-choice protesters. This includes acts of armed assault, unarmed assault, assassination, attempted assassination, bombing, attempted bombing, robbery, attempted robbery, hostage taking/kidnapping as well as acts of arson, attempted arson, bombing/explosion, chemical/acid attack, attempted chemical/acid attack, glue in locks, broken windows, acts of sabotage and burglary. The descriptive statistics listed above in Table 4.2 indicate that the database contains information on a total of 735 such crimes (56 violent attacks + 679 property attacks). The *Harassment* variable represents the number (N=590) of less severe, yet illegal acts of

protest including blockades, facility invasions, death threats³⁷, bomb threats, chemical/biological threats, the stalking of staff or physicians, vandalism and cyber attacks. Finally, *Total Attacks* refers to the combined sum of all three attack types.

Clinic Protection Laws

Data on state and federal clinic protection laws were obtained from the National Association for the Repeal of Abortion Laws (NARAL) Foundation. NARAL; a pro-choice advocacy organization, routinely monitors state and federal governments for changes in abortion-related policy. Every month, NARAL compiles this information and publishes a chronological list and brief description of all clinic protection laws in the United States³⁸. This provided us with descriptions for 33 laws in 16 states and the District of Columbia over this 34 year time period.

To ensure the validity of these data, I compared NARAL's legal descriptions with the original legal texts, obtained through a series of queries using the legal search engines Westlaw and LexisNexis State Capital. Next, I removed all laws from the database which do not explicitly prohibit crimes involving the use of personal violence, property destruction or harassment against clinics, staff or patients. For example, Washington and California state laws prohibiting insurance companies from increasing premiums or canceling coverage for victimized abortion clinics were removed. Although such laws could potentially influence the decisions of anti-abortion protestors, they do not explicitly prohibit acts of violence, property damage or harassment and as such, remain outside the

³⁷ Death threats include explicit threats against clinic staff and patients (e.g., "I am going to kill you") as well as implicit threats such as hoax anthrax attacks.

³⁸ See <http://www.prochoiceamerica.org/government-and-you/us-government/> and <http://www.prochoiceamerica.org/government-and-you/state-governments/>.

scope of this dissertation. I identified and removed from the database, a total of nine such laws. The remaining 24 laws³⁹ were then categorized by the type of activity prohibited (personal violence, property damage and harassment/vandalism or some combination thereof).

Table 5.1 below, offers a more detailed breakdown of these protection laws. First, it is notable that the 23 state statutes are distributed across the northeast (CT, D.C., MA, MD, ME, NY), the west (CA, NV, OR, WA) and the Midwest and plains states (CO, KS, MI, MN, MT, WI) with seven, eight and six laws respectively. Although the intensity of the pro-life movement in the geographic south has been well documented (Hoffman and Miller, 1997; Hoffman and Johnson, 2005), it is remarkable that only two of the protection laws were enacted by a southern legislature (NC).

Second, it is evident that the typological distribution of protection laws skews towards acts of harassment/vandalism. Indeed, 16 laws expressly prohibit this type of crime compared to just three property crime laws. Currently, there are no laws which prohibit violent acts exclusively. In addition to these single behavior laws, I have identified five pieces of legislation which prohibit multiple types of illegal behavior. For example, two of the protection laws encompass violence, property and harassment/vandalism (VPH) crimes. Similarly, the Connecticut and Maine protection laws are geared towards violent crime and harassment/vandalism (VH) and property crime and harassment/vandalism (PH) respectively.

³⁹ A copy of the original legal texts by state and statute is provided in Appendix A-2, Table A.2.

Table 5.1: Distribution of Protection Laws by State and Behavior(s) Prohibited 1985-2008

State	Violence	Property	Harassment/Vandalism	VPH	VH	PH	Total
CA		2	2	1			5
CO			1				1
CT					1		1
D.C.			1				1
KS			1				1
MA			2				2
MD			1				1
ME						1	1
MI			1				1
MN			1				1
MT			1				1
NC			2				2
NV			1				1
NY				1			1
OR		1					1
WA			1				1
WI			1				1
Total	0	3	16	2	1	1	23

Upon categorization, the state protection law data were collapsed into three broad categories: Anti-violence laws, anti-property crime laws and anti-harassment/vandalism laws. This enables me to expand upon the Pridemore and Freilich (2007) study by controlling for a key difference between state laws; the type(s) of anti-abortion crime that are prohibited. Similar to the main independent variable in the previous study, I also include a variable controlling for the presence of any state clinic protection law mentioned above. For a complete list of protection laws by state, dates effective and prohibited behaviors, see Table A.3 in Appendix A-2.

Third, I include a measure controlling for the effects of the single most visible federal clinic protection law; the FACE Act. The decision to create a separate dichotomous variable for this federal protection law was based in part, on the greater

level of visibility associated with national laws compared to state laws. Additionally, the FACE Act is unique in that it prohibits acts of violence, property damage and harassment. As such, it targets a wider range of behaviors than most state laws. The inclusion of a *FACE* variable will also allow me to see if the application of a highly visible federal protection law trumps its local counterparts. Each of these seven legal variables are dichotomous; assigned a value of 1 for all years during and after the date on which the law became effective and a 0 for all years before.

Finally, three of the states listed above (CA, MA and NC) have passed multiple property or harassment/vandalism protection laws. Unfortunately, one drawback to the current operationalizing of these legal variables is that I am unable to gauge the effects of multiple laws from the same category. That is to say, although I can assess the impact of one California anti-violence law on the number of anti-abortion crimes, I cannot measure the impact of a second or third California anti-violence law. Fortunately, the number of states that merit this consideration is relatively small and as such, this limitation should prove a modest one.

Abortion Rates

As mentioned in the previous chapter, several scholars also suggest that anti-abortion crime is more likely to occur in places where the pro-life movement is experiencing political failure (Nice, 1988; Blanchard and Prewitt, 1993; Blanchard, 1994). However, Nice's study found that anti-abortion violence is also a product of practical failure, as clinic bombings were clustered in states with higher rates of abortion (but see also Freilich and Pridemore, 2007 and Pridemore and Freilich, 2007). This

suggests that anti-abortion crime is rational and instrumental in so far as it is designed to prevent abortions (Nice, 1988; Blanchard and Prewitt, 1993; Blanchard, 1994; King and Husting, 2003). Inasmuch as anti-abortion offenders seek to maximize the utility of their actions (Bentham, 1781), they are expected to engage in more criminal activities when the perceived benefit (i.e., the potential quantity of abortions prevented) is at its highest, all else considered equal. Thus, we should expect more attacks in states with higher abortion rates.

Statewide data on the abortion rate per 1,000 women aged 15 to 44 were obtained from a survey of all known abortion providers in the United States. The survey was conducted by the Allen Guttmacher Institute, with the most recent findings reported by Henshaw and Kost, (2008), Jones and Kooistra (2011) and the Allen Guttmacher Institute⁴⁰. There are 12 years in which the survey was not conducted (1983, 1986, 1989, 1990, 1993, 1994, 1997, 1998, 2001, 2002, 2003 and 2006). Estimates for missing data in these years were constructed through a process of linear interpolation (i.e. mean averages).

Violent Female Victimization

Some scholars suggest that anti-abortion crime and violence is also indicative of a broader tolerance for violence against women. For example, Nice's (1988) study of anti-abortion violence finds that clinic bombings occurred more often in states with more violent crime directed at women. Similarly, Freilich and Pridemore (2007) find that female homicide victimization rates predicted certain types of clinic vandalism (but see

⁴⁰ Abortion rates for the year 2005 can be found on the company's website (<http://www.guttmacher.org>).

Pridemore and Freilich, 2007). As Nice (1988:180) writes, “Violence may be encouraged by norms that indicate that it is relatively acceptable behavior or by elites who indicate that its use may be justified in some circumstances or at least deserves understanding in view of the nature of a particular problem.”

These findings coincide with the rational actor perspective in so much as they suggest that broad cultural characteristics can influence the individual offender’s cost/benefit analysis. While the violent victimization of women is generally taboo in the U.S., the stigma or cost associated with such crimes may be lower in states where the interests of women are discounted. Thus, as tolerance for violence against women rises, so too should the number of anti-abortion crimes. In order to control for levels of non-political violence directed against women, annual figures on the rape rate per 100,000 residents for the 50 states and the District of Columbia were obtained from the Federal Bureau of Investigation (2009).

Lagged Terms

Because the creation of laws and policy does not occur in a vacuum, it is important to give careful consideration to the potential relationship between protection laws and the crimes they are designed to prevent. Just as clinic laws may have an effect on the number of crimes committed, so too could the number and type of crimes committed affect the creation of the law. The widely publicized murder of Polly Klass for instance, spurred the creation of “three strikes” laws in California. Similarly, the 1993 high profile murder and attempted murder of Drs. David Gunn and George Tiller respectively, provided the political pressure necessary for the passage of the FACE Act

(Baird-Windle and Bader, 2001). This may lead to positively biased coefficient estimates and the erroneous conclusion that the protection law led to more crime when in reality, it produced either a deterrent or null effect.

On the other hand, a law prompted by a random spike in clinic arson may incorrectly appear to have a deterrent effect once the expected number of incidents returns to the mean⁴¹. In either case, the utility of the findings would surely be compromised. To address this limitation, I lagged each of the protection law variables by one year. This ensures that each of the protection law variables speak to the legal context running up to the start of each year, which in turn controls for problems of simultaneity bias, as a spike in clinic crime cannot impact policy from the year previous.

The potential for simultaneity bias also extends to the abortion variable. Although the literature outlined in the paragraphs above suggests that higher levels of abortion may excite potential offenders to commit additional acts of anti-abortion crime, it also indicates that these attacks are successful in reducing the number of providers (Kahane, 2000; Medoff, 2003; Jacobson and Royer, 2011). A reduction in the provider base should in turn, lead to fewer legal abortions. The abortion variable was lagged by one year in order to correct for this potential bias.

Descriptive statistics for the legal and control variables used in this dissertation are presented below in Table 5.2. Of the legal variables (*Statelaw*, *Violaw*, *Proplaw*, *Harasslaw*, *FACE*), *FACE* is present in the greatest number of observations (N=765), just over 44%. This is to be expected as federal legislation applies to all states and the District of Columbia, and it contrasts with the apparent rarity of state laws that prohibit

⁴¹ This statistical phenomenon is commonly referred to as regression to the mean. For a review and historical accounting, see Stigler (1997).

the use of violent protest, which are present in less than 2% (N=33) of all observations. Unlike the legal variables, the two measures controlling for state rape and abortion rates are continuous and exhibit a good deal of variation from state year to state year. This is also expected as rape and abortion rates often differ significantly from state to state. Correlation statistics for the independent variables are provided in Appendix A-3, Table A.4.

Table 5.2: Descriptive Statistics for Legal and Control Variables

Variable	N	Min	Max	Mean	Standard Deviation
<i>Statelaw</i>	1,734	0.00	1.00	0.149	0.357
<i>Violaw</i>	1,734	0.00	1.00	0.019	0.137
<i>Proplaw</i>	1,734	0.00	1.00	0.033	0.178
<i>Harasslaw</i>	1,734	0.00	1.00	0.139	0.346
<i>FACE</i>	1,734	0.00	1.00	0.441	0.497
<i>Abortion</i>	1,734	0.3	185.2	21.316	18.187
<i>Rape</i>	1,734	5.6	102.2	34.232	13.902

Statistical Methodology

This dissertation uses fixed-effects zero-inflated negative binomial (ZINB) regressions to test the relationship between illegal forms of pro-life protest and clinic protection laws. Count-based rare event procedures such as the ZINB are uniquely tailored for the study of anti-abortion crime for two reasons.

First, unlike many street crimes, anti-abortion crime is a relatively rare event. In 1995 there were nearly 14 million reported index crimes in the United States compared to 95 reported acts of abortion-related crime. Thus, as shown below in Table 5.3, there are several years during which certain states experience a total absence of attacks. Illustratively, not a single violent/property or harassment/vandalism crime is recorded for nearly 80% of all observations. Furthermore, just over 30% of all observations experience one or more attacks of any type. In traditional linear regression modeling (LRM), the dependent variable (anti-abortion crime) is assumed to be normally distributed. However, this assumption is unlikely to hold given the large number of zeros in the model and the resulting skew in the error distribution. Thus, LRM estimates will be inefficient, inconsistent and biased (Long, 1997).

Table 5.3: Number and Percent of Observed Zero Counts by Crime Category

Crime Category	Number of Observations	Number and % of Observations With 1 or More Attacks	Number and % of Observations With No Attacks
<i>Total Attacks</i>	1,734	532 (30.68%)	1,202 (69.2%)
<i>Viol/Property</i>	1,734	356 (20.53%)	1,378 (79.47%)
<i>Harassment</i>	1,734	323 (18.63%)	1,411(81.37%)

Statistical models such as the Poisson Regression Model (PRM), the Negative Binomial Regression Model (NBRM), the Zero-Inflated Poisson Regression Model (ZIP) and the ZINB that are based on the Poisson or Negative Binomial distributions are better suited for the count data used in this dissertation because they do not maintain the same assumptions as the LRM. As such, they are better able to model rare event data and are thus, representative of a more appropriate statistical methodology for this analysis. For

an overview of rare event models, see Allison and Waterman, (2002), Long, (1997) and Osgood, (2000).

Second, it is highly possible that the population of study falls into two statistical groups: those which are sometimes attacked and those which are likely never attacked. As mentioned previously, the number of clinics has changed dramatically over the past 34 years. From 1992 to 2008, the number of abortion clinics declined by nearly 25 percent (N=587) (Jones et. al., 2008; Jones and Kooistra, 2011). This national reduction in the provider pool has contributed to growing disparities in the level of access. For example, in 2008, the state of California had roughly one provider for every 36,000 women. This figure contrasts with those from states such as North Dakota, where the ratio of providers to women is closer to one to 335,000 (see Jones and Kooistra, 2011). Simply put, some states offer fewer potential targets than others. Furthermore, some providers are more conspicuous than others. Planned Parenthood clinics for example, are synonymous with abortion and as a result, they are often the target of attacks. However, it may not be obvious to the average offender, when abortion procedures are performed at the local hospital or at the independent offices of a local physician. Thus, in any given year, a state's probability of sustaining an attack could effectively reach zero depending on the number of providers and the offenders' awareness of them.

Zero-modified count models such as the ZINB and ZIP represent a more appropriate approach for the current study because they are able to model the effects of protection laws for each of these groups (i.e., those who are likely to never experience an attack and those who will sometimes experience an attack). This is done by explicitly modeling the production of zero counts (Long, 1997). Essentially, these models use

maximum likelihood estimation for two sets of predictors. One set or process is used to predict zero values (i.e., observations that do not experience attacks) while the other is used to predict positive counts for those observations that sometimes experience attacks. Specifically, the likelihood of the observation belonging to the “never attacked group” is identified through a binary logit or probit process while the probability of experiencing some positive number of attacks is generated by a negative binomial or poisson count process. For a review of zero-modified count models see (Long, 1997; Minami et. al., 2007).

Although the ZIP and ZINB models each excel at modeling the production of zero counts, the ZINB model often surpasses the ZIP model in practice. The reason for this centers on the fact that Poisson-based models such as the ZIP and the PRM maintain the assumption of equidispersion where the conditional variance is equal to the conditional mean. In fact, it is somewhat common for count-based data in the social sciences to be overdispersed (i.e., variance is greater than the mean). As a result, the PRM and ZIP models will produce consistent yet inefficient estimates wherein the standard errors are biased downward. This is likely to generate inflated test statistics, leading us to believe that the intervention is having a greater effect than what is true (Long, 1997). The NBRM and ZINB models account for the possibility of overdispersion by including a parameter that allows the conditional variance of y to exceed the conditional mean.

Fixed Effects

Time variant analyses provide several benefits over standard cross-sectional research models (see Hedeker and Gibbons, 2006 and Dugan, 2010 for a review).

Central among these is the ability to reduce the model's vulnerability to various forms of bias, thereby enhancing our ability to accurately estimate the effect of X on Y (Dugan, 2010). That said, these models also have notable limitations, such as a vulnerability to dependence among the model's error terms. For example, years of increased anti-abortion activity could potentially attract additional acts of extremism for the following year. This time dependency often leads to biased standard errors and false conclusions regarding the utility of the intervention (Cook and Campbell, 1979). Additionally, should any unobserved variables be correlated with the observed variables in the model, estimates will be biased⁴².

The incorporation of a fixed state effect into the model allows me to control for all time-invariant variables, both observed and unobserved. As Dugan (2010:755) notes, "The fixed effect thus provides a unit-specific intercept vector, α_i , which estimates the deviation of that unit from the overall intercept. Since all of the time-invariant observed and unobserved variables are controlled for, the coefficient estimates are now estimating the effects of changes in **X** on **Y**". In other words, the fixed effect absorbs all variation between states, allowing me to focus solely on variation within states. This enables me to control for all possible time stable covariates, including those which I am not able to explicitly place in the equation (Allison and Waterman, 2002).

For example, state electoral cycles are often associated with an increase in abortion-related media coverage which is likely to have an effect on anti-abortion crime rates. Although the exact date of these elections varies from state to state, they are generally time stable in the sense that these dates are not often subject to change from one

⁴² This is also known as time invariant omitted variable bias (Dugan, 2010).

year to the next. By including a fixed-effect, each state is allowed to act as its own control. In turn, I am able to control for the unobserved effects of state elections or any other time stable influence.

While the ability to control for all time stable differences protects the model from time invariant omitted variable bias, the fixed-effect method also comes at a cost. To begin, the model can no longer account for variation across states. This is a very minor limitation however, given the fact that the research questions posed in this study concern differences within states. Second, by including a control for each state, the model loses 51 degrees of freedom and some efficiency. However, given the model's large sample size (N=1,734) this should not be an issue. Finally, it is worth noting that fixed-effect models cannot account for time variant omitted variables. Thus, unobserved variables that move up and down over time in a way that is correlated with the observed variables included in the model will remain a source of omitted variable bias. These limitations aside, fixed-effects modeling stands as an exceptionally powerful technique for estimating the intervention's impact on \mathbf{Y} . For a review of fixed-effects modeling, see Dugan, 2010.

For each of the three dependent variables listed above, I estimate fixed-effects ZINB models of the form

$$\Pr(Y_{it} = 0 | X_{it}, \delta_i) = \psi_{it} + (1 - \psi_{it}) \left(\frac{\alpha^{-1}}{\alpha^{-1} + \mu_{it}} \right)^{\alpha^{-1}} \quad (5.4)$$

and

$$\Pr(Y_{it} > 0 | X_{it}, \delta_i) = (1 - \psi_{it}) \frac{\Gamma(Y_{it} + \alpha^{-1})}{Y_{it}! \Gamma(\alpha^{-1})} \left(\frac{\alpha^{-1}}{\alpha^{-1} + \mu_{it}} \right)^{\alpha^{-1}} \left(\frac{\alpha^{-1}}{\alpha^{-1} + \mu_{it}} \right)^{Y_{it}} \quad (5.5)$$

where Equation 5.4 represents the probability that an observation will be in the “always zero (AZ) group” and Equation 5.5, the probability for some positive number of attacks.

For these equations, Y is the observed number of attacks (violent/property, harassment or total), X is the independent variable, i and t index states and years respectively, δ represents the unknown intercept for each state (i.e., the fixed-effect), ψ equals the probability of being in the “always zero group”, Γ is the gamma function, α represents the dispersion parameter and $\mu = \exp(\delta + B_1 \text{Statelaw}_{it-1} + B_2 \text{Violaw}_{it-1} + B_3 \text{Proplaw}_{it-1} + B_4 \text{Harasslaw}_{it-1} + B_5 \text{FACE}_{it-1} + B_6 \text{Abortion}_{it-1} + B_7 \text{Rape}_{it})$.

Summary

As outlined in the passages above, this study uses a uniquely comprehensive and longitudinal dataset on anti-abortion crime incidents, collected during a year-long project at the START center in order to test the key tenets of the deterrence and backlash hypotheses. These data will be incorporated into a series of ZINB regression models designed to test the relationship between clinic protection legislation and the criminal acts which they are designed to prevent. Conducted at the state level, these analyses will add to our knowledge on the effects of state and federal protection policies which have been at the forefront of official efforts to deter anti-abortion crime for the past quarter century.

CHAPTER 6: FINDINGS

Having outlined the methodology for the current study, this chapter presents findings for the statistical models testing the deterrence and backlash hypotheses outlined in Chapter 3. The main analyses are performed with fixed effects ZINB models testing the relationship between anti-abortion crime and clinic protection laws. A total of five models are estimated with ZINB regressions, four of which reach statistical convergence⁴³.

Interpretation of Model Estimates

Because the ZINB model uses two distinct distributions, estimates will be interpreted in ways that are fitting for both the Negative Binomial (i.e. the count process) and Logit distributions (i.e., the binary process). First, I will interpret the probability of zero-inflation or “being in the always-zero group” by taking the exponential of the inflation coefficient. This provides us with the odds ratio, or the probability of being in the always zero (AZ) group versus not being in that group. Second, I interpret the expected change in the number of attacks by taking the exponential of the negative binomial coefficient, which provides the factor change in the expected value of Y. Given the fact that my model includes both independent variables of a binary/dummy (e.g., *Statelaw*, *Violaw*, *Proplaw*, *Harasslaw*, *FACE*) and a continuous nature (e.g., *Abortion*,

⁴³ Since Model 5 failed to converge using the ZINB process, the model was run again using a standard fixed-effects negative binomial process. The estimates are provided in Table 6.5.

Rape), the factor/percent change in the expected number of attacks will be the most informative (Long, 1997).

Final Model selections were also informed by three goodness of fit measures including the likelihood ratio (LR) test of $\alpha = 0$, the Vuong statistic and a comparison of mean observed and predicted counts. Briefly, the LR test is used to identify the presence of overdispersion by comparing the log likelihood of two nested models such as the ZIP and ZINB or the PRM and NBRM. If the likelihood is significantly reduced by the constrained model (ZIP or PRM), then we can be confident that the ZINB model achieves the best fit (Long, 1997). The Vuong statistic provides a similar test of fit for non-nested models (e.g., NBRM and ZINB) wherein a significant result indicates that the ZINB model fits best. Finally, by comparing the observed and predicted counts for the PRM, ZIP, NBRM and ZINB, I am able to compare goodness of fit at different values of Y (see Graphs A.1- A.5 located in Appendix A-4).

Model Estimates

Model 1 presents the first and most basic test of the deterrence and backlash hypotheses. One of the most fundamental assertions emanating from the rational choice literature is that an increase in the threat of sanctions will produce a deterrent effect for anti-abortion crime. However, the estimates presented in Table 6.1 do not bear this assertion out. FACE, Abortion and Rape all reach statistical significance indicating the presence of a dual-state process. Holding everything else constant, implementing the FACE Act resulted in decreased odds of being in the “always zero” (AZ) group by about 0.12 or 88.5% while a one unit increase in the abortion and rape rates result in nine% and

17% reduced odds of being in the AZ group respectively. In other words, the introduction of FACE, along with the abortion and rape rates are significantly predictive of zero anti-abortion crime counts.

Table 6.1: Estimates (Standard Errors), z-statistics and Factor Change for Model 1 - The Impact of General Protection Laws on the Total Number of Attacks

Variable	b (S.E.)	Z	Factor Change	Inflated b (S.E.)	Z	Odds Ratio
Statelaw	0.694** (0.184)	3.78	2.00	0.761 (0.693)	1.1	2.14
FACE	0.567** (0.13)	4.36	1.76	-2.163** (0.615)	-3.52	0.12
Abortion	-0.007 (0.007)	-1.07	0.99	-0.095* (0.047)	-2.02	0.91
Rape	0.032** (0.008)	4.19	1.03	-0.189** (0.049)	-3.87	0.83

⁺ =p <0.10; *p <0.05; **p <0.01

Likelihood Ratio Test Statistic = 132.778**

Vuong Statistic = 2.50**

For the Negative Binomial (NB) component of the model, Statelaw, FACE and Rape all have a positive and significant impact on the expected number of attacks. Specifically, the introduction of state and federal protection laws results in a factor change in the annual number of expected attacks of 2.00 (100%) and 1.76 (76%) respectively. This runs counter to the null results of the Pridemore and Freilich (2007) study as well as the deterrence-based notion that increasing legal penalties for anti-abortion crime should reduce the number of incidents (Baird-Windle and Bader, 2001; Kenny and Reuland, 2002). The results provide more support for the backlash perspective, where the introduction of new protection laws is said to increase feelings of desperation among certain activists, leading to additional incidents (Kaplan, 1993, 1995; Kaufman, 2000; Mason, 2004; Maxwell, 2002)

The significance and positive direction of the coefficient for Rape indicates that for every one unit increase in the rape rate, we can expect to see a factor change of 1.03 (3%) in the expected number of attacks. This finding coincides with those found in the works of Nice (1988) and Freilich and Pridemore (2007), suggesting a culture that tolerates or promotes the violent victimization of women is also conducive to the criminal victimization of abortion providers. The significance of both the LR (132.778**) and Vuong (2.50**) test statistics indicate that the data are overdispersed and that the model achieves an acceptable level of fit.

Even so, Model 1 does not differentiate between the effects of protection laws on violent/property crime and less severe incidents of harassment and vandalism. As such, these results are only able to tell part of the story. Recall that Pridemore and Freilich (2007) hypothesized the effect of protection laws should vary according to the type of activist, essentially deterring those who engage in harassment/vandalism crimes while generating a backlash effect among those who commit more severe violent/property attacks. The next step is to see if the current data will support Pridemore and Freilich's (2007) blended model of deterrence and backlash. To this end, I generated two sets of estimates: one where the dependent variable is the number of violent and property attacks (Model 2) and one in which it is the number of harassment/vandalism attacks (Model 3). Beginning with the estimates provided in Table 6.2, we see that for violent/property attacks, Rape is the only variable to reach statistical significance in the Logit component of the model. This indicates that for every one unit increase in the rape rate, the odds of being in the AZ group falls by 0.85 (15%).

Table 6.2: Estimates (Standard Errors), z-statistics and Factor Change for Model 2 - The Impact of General Protection Laws on Violent/Property Attacks

Variable	b (S.E.)	Z	Factor Change	Inflated b (S.E.)	Z	Odds Ratio
Statelaw	0.601* (0.237)	2.54	1.82	1.005 (1.022)	0.98	2.73
FACE	0.169 (0.17)	0.99	1.18	-1.493 (0.976)	-1.53	0.22
Abortion	-0.005 (0.008)	-0.67	0.99	-0.059 (0.075)	-0.79	0.94
Rape	0.033** (0.01)	3.28	1.03	-0.162** (0.06)	-2.72	0.85

+ =p <0.10; *p <0.05; **p <0.01
 Likelihood Ratio Test Statistic = 76.906**
 Vuong Statistic = 0.99

Both Statelaw and Rape reach significance in the NB component of the model, indicating that as states enact protection laws, the expected count of violent/property attacks increases by a factor of 1.77 (83%) and 1.03 (3%) respectively. This lends support to the Pridemore and Freilich (2007) hypothesis that state protection laws elicit a backlash among offenders who engage in violent and property attacks. Notably, the coefficient for FACE does not reach significance as it does in Model 1, suggesting that federal protection laws do not have the same impact on violent/property attacks as do their state-level counterparts. The LR test statistic (76.906**) provides some evidence for an acceptable level of model fit. Although the Vuong statistic (0.99) fails to reach significance, a comparison between observed and predicted counts reveals that the ZINB model provides the best fit (see Graph A.2 located in Appendix A-4). We now look to examine the deterrence portion of their hypothesis by estimating the impact of protection laws on harassment attacks.

Estimates for Model 3 are presented below in Table 6.3. For the Logit component of the model, Abortion reaches significance as does Rape (although marginally so). Interestingly, the direction of the Abortion coefficient is now positive, indicating that as

the abortion rate rises, so too do the chances of being in the AZ group. Conversely, an increase in the rape rate reduces this likelihood. Although none of the legal variables are predictive of zero anti-abortion crime counts, Statelaw and FACE have a significant impact on the expected count of harassment attacks. Once a state enacts a protection law, the expected number of harassment attacks rises by a factor of 1.77 (77%). The coefficient for FACE reveals that the backlash effect for federal protection laws is even greater at 2.04 (104%). Also, we see that once again, the coefficient for Rape is significant and positive, signifying that a one unit increase in the rape rate results in a factor change of 1.04 (4%) in the expected number of attacks. Finally, the LR test statistic (20.286**), Vuong statistic (2.53**) along with the observed and predicted values shows us that not only does the ZINB model provide the best fit, but that Models 2 and 3 achieve a better fit to the data than Model 1.

Table 6.3: Estimates (Standard Errors), z-statistics and Factor Change for Model 3 - The Impact of General Protection Laws on Harassment/Vandalism Attacks

Variable	b (S.E.)	Z	Factor Change	Inflated b (S.E.)	Z	Odds Ratio
Statelaw	0.57* (0.249)	2.29	1.77	-0.247 (0.893)	-0.28	0.78
FACE	0.713** (0.235)	3.04	2.04	-17.495 (820.188)	-0.02	0.00
Abortion	0.017 (0.012)	1.43	1.02	0.039* (0.019)	2.12	1.04
Rape	0.037** (0.011)	3.42	1.04	-0.034 ⁺ (0.02)	-1.68	0.97

⁺ =p <0.10; *p <0.05; **p <0.01

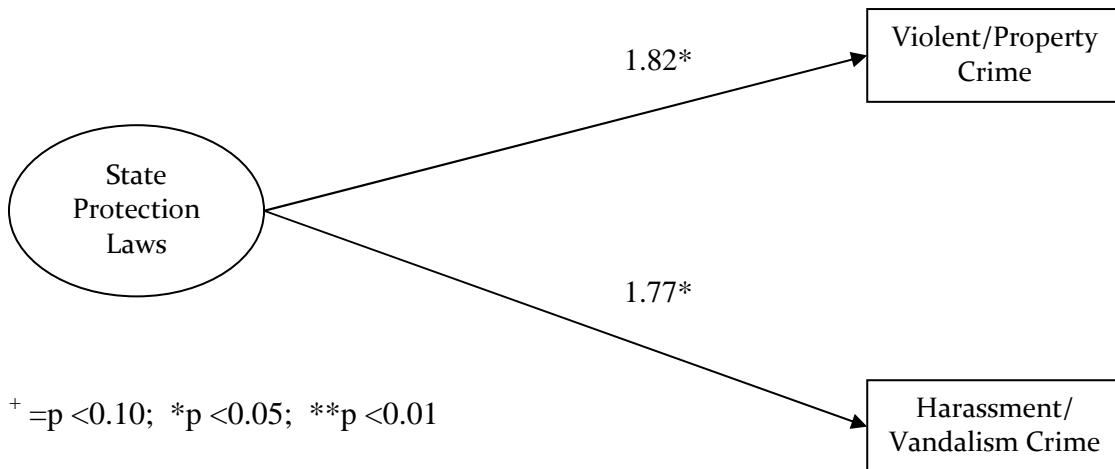
Likelihood Ratio Test Statistic = 20.286**

Vuong Statistic = 2.53**

Figure 6.1 illustrates the results for Models 2 and 3, which are notable for how much they complement the findings from Model 1. We can see that switching the

dependent variable to assess the impact of state and federal protection laws by crime type provides additional evidence of a backlash effect. The predicted increase in the number of violent and property attacks falls in line with Pridemore and Freilich's (2007) theoretical framework. The same cannot however, be said for the harassment attacks model (Model 3). Contrary to both their expectations and findings, the enactment of protection laws at the state and federal levels is also shown to generate additional incidents of harassment and vandalism.

Figure 6.1: Estimates for Model 2 and Model 3 – The Impact of State Protection Laws on Violent/Property and Harassment/Vandalism Crime



Taken as a whole, the estimates from Models 1, 2 and 3 provide ample support for the backlash argument and no evidence for the deterrence stance. However, as noted in Chapter 3, the effects of these laws may also vary according to the type of law that is enacted. If there is truth in the idea that not all protection laws are created equal with respect to how they influence criminal behavior, we should be able to observe these

varying effects by controlling for the type of law that is enacted. Therefore, the next step is to separate the main independent variables by the type of behavior that is prohibited.

Recall that research on anti-abortion activists has shown that the whole of the movement exhibits remarkable diversity in terms of ideology and tactics (Munson, 2008). Those of the *extremist stream*, who routinely engage in crimes of violence and severe property damage, possess different ideology and tactics compared to those in the *direct action stream* who engage primarily in lower-end crimes of harassment and vandalism (Blanchard and Prewitt, 1993; Blanchard, 1994; Maxwell, 2002; Munson, 2008). The former is characterized by social isolation, religious fundamentalism and a dualist approach to the abortion question that generates a premium for the use of the most severe and illegal forms of protest regardless of the costs involved. In contrast, the latter is noted for broader social networks, a relative degree of religious diversity and a more moderate and nuanced approach regarding protest activities.

With this in mind, it is unlikely that the introduction of new laws carrying greater penalties will dissuade activists of the *extremist stream* from future attacks. On the contrary, I expect that the implementation of any and all protection laws will only serve to impart a growing sense of desperation and enhance the call to arms. Thus, violence, property damage and harassment protection laws should produce a backlash effect for crimes of violence and property damage.

Table 6.4 presents the results of Model 4 which examines the impact of the three types of state protection laws (anti-violence laws, anti-property damage laws and anti-harassment/vandalism laws) on acts of violence and property damage. Contrary to Hypothesis 1 and the results of Model 2, none of the state legal variables reach statistical

significance. These findings echo those of Pridemore and Freilich (2007), as none of the three major types of clinic protection laws have either a deterrent or backlash effect on the more serious anti-abortion crimes. However, unlike Model 2, the variable controlling for the presence of the FACE Act is highly significant and in the expected direction indicating that with the enactment of FACE, the expected number of violent and property attacks rises by a factor of 1.47 (47%). Thus, the predicted backlash effect appears to extend only to the highly visible federal protection law.

Table 6.4: Estimates (Standard Errors), z-statistics and Factor Change for Model 4 - The Impact of Individual Protection Laws on Violent/Property Attacks⁴⁴

Variable	Beta (S.E.)	Z	Factor Change
Violaw	-0.241 (0.432)	-0.56	0.79
Proplaw	0.183 (0.326)	0.56	1.20
Harasslaw	0.306 (0.2)	1.54	1.36
FACE	0.387** (0.125)	3.10	1.47
Abortion	-0.001 (0.006)	-0.22	1.00
Rape	0.02** (0.006)	3.16	1.02

⁺ =p <0.10; *p <0.05; **p <0.01

Likelihood Ratio Test Statistic = 360.542**

Another similarity between the results of Model 4 and Model 2 is the significance of the Abortion and Rape variables. Again, we see that while the abortion rate does not significantly affect the number of violent and property attacks, the rape rate does. As the rape rate increases for any given state, the expected number of attacks rises by a factor of 1.02 (2%). It therefore appears that broader cultural aspects regarding the violent victimization of women also play a role in the production of serious forms of anti-

⁴⁴ Because the fixed-effects ZINB model would not converge, estimates for Table 6.4 were generated with fixed-effects Negative Binomial regressions.

abortion crime. Again, the significance of the LR test statistic (360.542**) and a comparison of the observed and predicted counts gives us confidence that the model is well fit to the data.

The fifth and final model tests the impact of these protection laws on the more minor forms of anti-abortion crime such as harassment and vandalism. As I mentioned in Chapter 2, the majority of these minor attacks are thought to be committed by direct action activists. Unlike its extremist counterpart, the *direct action stream* represents a broader and relatively moderate swath of pro-life ideologies (Munson, 2008). As minor offenders such as these tend to have a stronger stake in society, (Cernkovich, Giordano, and Pugh, 1985; Cornish and Clarke, 2003) they are often opposed to committing more serious crimes where the perceived moral, social and legal costs are likely to outweigh the perceived benefits. As such, the number of harassment and vandalism attacks is not expected to change with the enactment of anti-violence and anti-property damage protection laws. Conversely, we would expect these minor crimes will fall in response to the enactment of anti-harassment laws.

Results from Model 5 are listed below in Table 6.5. Starting with the Logit component of the model, we see no evidence to suggest that any of the legal variables are predictive of zero anti-abortion crime counts. However, the inflation coefficient for Abortion is significant and Rape is marginally so, indicating that a dual-state process does exist for the production of harassment and vandalism crimes. As the abortion and rape rates increase by one unit, the expected odds of being in the AZ group rises by a factor of 1.04 (4%) and lowers by a factor of 0.97 (4%) respectively.

Table 6.5: Estimates (Standard Errors), z-statistics and Factor Change for Model 5 - The Impact of Individual Protection Laws on Harassment/Vandalism Attacks

Variable	b (S.E.)	Z	Factor Change	Inflated b (S.E.)	Z	Odds Ratio
Violaw	0.06 (0.406)	0.14	1.06	15.584 (6347.9)	0	0.00
Proplaw	-0.254 (0.48)	-0.53	0.78	13.641 (1112.067)	0.01	0.00
Harasslaw	0.672* (0.291)	2.31	1.96	-0.465 (0.937)	-0.5	0.63
FACE	0.712** (0.233)	3.05	2.04	-47.483 (6635.73)	-0.01	0.00
Abortion	0.019 (0.012)	1.5	1.02	0.04* (0.019)	2.12	1.04
Rape	0.036** (0.011)	3.36	1.04	-0.035 ⁺ (0.02)	-1.73	0.97

⁺ =p <0.10; *p <0.05; **p <0.01
 Vuong Statistic⁴⁵ = 2.61**

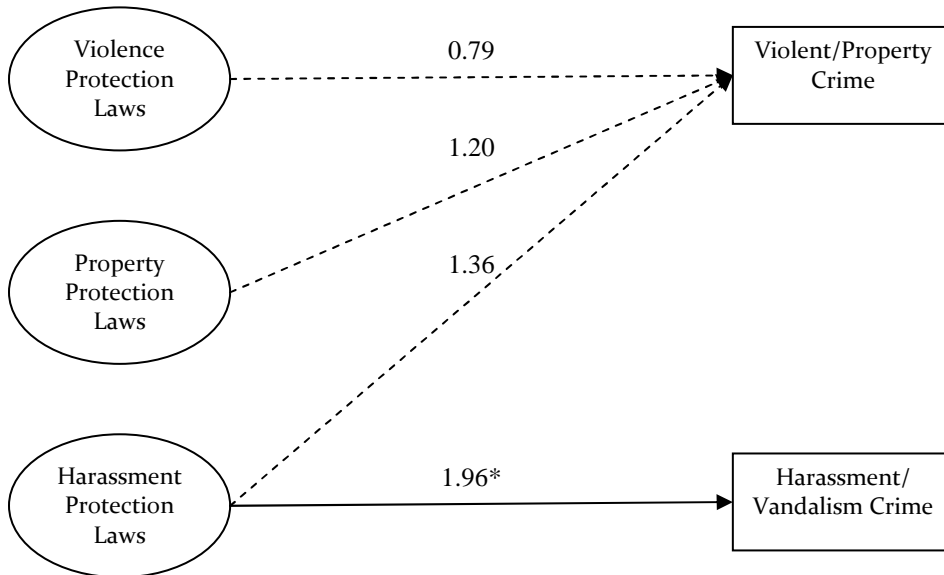
Moving to the Negative Binomial component, the Z-statistics for Violaw and Proplaw show no evidence of statistical significance. As I predicted in Hypothesis 2, laws protecting against violence and property damage have no discernible impact on the number of harassment and vandalism crimes. Contrary to Hypothesis 3 however, the coefficient for the Harasslaw variable is positive and significant, signifying that the presence of anti-harassment/vandalism legislation raises the expected number of attacks substantially, by a factor of 1.96 (96%). A similar backlash effect is produced by the FACE Act, which results in a factor change of 2.04 (104%). Thus, the evidence suggests that the low-level offender is not deterred by the threat of new sanctions. Much the opposite, state and federal protection laws seem only to antagonize those within the *direct action stream*.

⁴⁵ The Likelihood Ratio Test Statistic could not be calculated because the Zero-Inflated Poisson version of Model 5 would not converge. However, a test statistic of 138.714** was calculated for the Negative Binomial version indicating that the Negative Binomial Version provided a better fit than the standard Poisson Regression Model (PRM). In turn, the significance of the Vuong Statistic reported here gives us confidence that the ZINB model provides a better fit than the Negative Binomial version. Thus, we can be confident that the ZINB model provides the best fit to the data.

As in the previous model (Model, 4), the variable controlling for the state abortion rate does not achieve significance; however it does appear that the rape rate remains linked to the attack generating process. With each one-unit increase in the rape rate, we can expect the number of harassment and vandalism attacks to rise by a factor of 1.04 (4%). Once again, the results indicate that the states with higher rape rates are at increased risk for future attacks. Furthermore, the goodness of fit statistics (LR = 2.61**, observed and predicted counts) provide evidence for an acceptable level of model fit.

Looking to Figure 6.2, we see that together, the results of Models 4 and 5 offer several additional pieces of information regarding clinic protection laws. Most notably, by controlling for the various types of clinic protection laws, it is now evident that the effects of these laws are not uniform. First, none of the three main types of state protection laws are generating either a deterrent or backlash effect for violent and property crimes. On the surface, these results suggest that activists who engage in more serious forms of crime do not respond to the threat of new sanctions. However, the significance of the FACE variable indicates otherwise. Indeed, the introduction of the highly visible FACE Act appears to have created a backlash effect within the *extremist stream* of the pro-life movement.

Figure 6.2: Estimates for Model 4 and Model 5 – The Impact of Violence, Property & Harassment Protection Laws on Violent/Property and Harassment/Vandalism Crime



⁺ =p <0.10; *p <0.05; **p <0.01

Second, of the three types of state protection laws, only those prohibiting acts of harassment and vandalism have a significant effect on these less severe crimes. This was expected, but contrary to the rational choice perspective (Cornish and Clarke, 1986) the positive direction of the coefficient reveals the creation of a distinct backlash effect. The significance of FACE reveals a similar response in reaction to the presence of federal protection law.

Summary

Overall, the models presented in this chapter support the notion that clinic protection laws have a significant impact on the number of anti-abortion crimes committed within a given state. In opposition to the null findings of the previous study (Pridemore and Freilich, 2007) the current analyses provide ample evidence that both

state and federal protection laws generate a backlash effect within certain streams of the pro-life movement, leading to additional attacks. However, by controlling for the type of state protection law enacted, we are able to see that this effect is relegated to the less severe crimes of harassment and vandalism. Not only does this indicate that earlier models of analysis which fail to differentiate between various law types are too simplistic, it also reinforces previous research pointing to the existence of separate groups or streams within the pro-life movement (see Blanchard, 1993; Blanchard and Prewitt, 1994; Munson, 2008). The current findings suggest that the various types of protection law affect certain offenders differently than others.

In the final chapter of this dissertation, I provide an overview of the findings and discuss the implications for rational choice theory and policy. Chapter 7 will also outline the limitations of the current study and present ideas for how future scholars may build upon this research to advance our understanding of anti-abortion crime and its relationship with legal countermeasures.

CHAPTER 7: DISCUSSION AND CONCLUSIONS

In this dissertation, I set out to improve our knowledge of anti-abortion crime and our understanding of its relationship with state and federal protection laws. Although the public debate on abortion in the United States dates back to the early nineteenth century (Blanchard, 1994), it is only in the last four decades that the traditionally peaceful and legal methods of pro-life protest began to share space with illegal acts of violence, property damage, harassment and vandalism. Since the first documented incident in 1975, reproductive healthcare clinics, staff and patients have sustained over 1,300 additional attacks resulting in substantial physical (e.g., eight murders (National Abortion Federation, 2010)), fiscal (e.g., several hundred million dollars in property damage estimates) and mental (Fitzpatrick and Wilson, 1999) costs.

Since the mid-1980s, state and federal legislatures have responded to this growing threat by enacting a total of 24 laws designed to protect access to reproductive healthcare clinics by increasing the penalties for the various types of anti-abortion crime. Based upon traditional notions of deterrence (Beccaria, 1764; Bentham, 1781), these protection laws represent a dominant theme in the effort to stamp out this type of crime. Despite the recent proliferation of protection laws, scholars remain conflicted as to the utility of these new countermeasures.

Proponents of the rational actor perspective (Cornish and Clarke, 1986) argue that protection laws have been successful in reducing anti-abortion crime because increasing the threat and severity of sanction deters current and potential offenders by raising the perceived costs associated with the act (see Baird-Windle and Bader, 2001; Doan, 2007;

Johnson, 2007; Kaplan, 1995; Kenny and Reuland, 2002; Press, 2006; Solinger, 1998) while research from criminology (Becker, 1963; Braithwaite, 2005; Sherman, 1993; Tannenbaum, 1938), terrorism (LaFree, Dugan and Korte, 2009; McCauley, 2006; Nice, 1988) psychology (Baumeister et al., 2002; Brehm, 1966; Brehm and Brehm, 1981; Wicklund, 1974) and political science (Davies, 1962; Gurr, 1970), suggest such policies are likely to generate a backlash effect, where increases in government threats and punishment results in more of these prohibited behaviors. In short, scholars adhering to the backlash perspective argue that government intervention has or is likely to make the problem worse (see Kaplan, 1993; 1995; Garrow, 1999; Johnson, 2007; Kaufman, 2000).

Still, others (Pridemore and Freilich, 2007) hypothesize that protection laws will have a deterrent effect for certain offenders and a backlash effect for others. Recent research (Blanchard, 1994; Blanchard and Prewitt, 1993; Munson, 2008; Risen and Thomas, 1998) provides convincing evidence that the anti-abortion movement is not a monolith. Rather, it is comprised of several distinct groups or movement streams (Munson, 2008). Activists in the *direct action stream* closely approximate what rational choice theorists refer to as *minor* (Cernkovich, Giordano, and Pugh, 1985) or *mundane* (Cornish and Clarke, 2003:62) offenders in that they are generally law-abiding people with a stake in society, who occasionally engage in certain types of “minor” crimes such as the harassment of clinic staff and the vandalism of clinic and/or staff property.

Conversely, activists in the *extremist stream* are noted not only for their use of extreme tactics (e.g., acts of violence and severe property damage), but also for well defined, extremely narrow and homogenous social networks marked by religious and

cultural fundamentalism, and a view of abortion and those who practice it as true evil (Blanchard, 1994; Blanchard and Prewitt, 1993).

Pridemore and Freilich (2007) hypothesized that the more socially bonded and law abiding members of the *direct action stream* should reduce their use of harassment and vandalism once a new protection law is enacted. Conversely, they also predicted that the more radical stream of the activist movement will respond to the presence of these laws with additional and more severe attacks.

Considering the pointed nature of this debate and the considerable costs associated with anti-abortion crime, the near total absence in attempts to test these competing theories carries with it a considerable amount of irony. As the literature review from Chapter 2 made clear, the lack of quantitative research has compromised our ability to understand anti-abortion crime. The current study excluded, Pridemore and Freilich (2007) represents the only attempt to quantify the impact of protection laws on anti-abortion crime. While the null findings of the study did not support their blended deterrence/backlash model, the authors acknowledge that the results may be influenced by limitations in the data.

Notably, the cross-sectional design of the study prohibited the authors from controlling for the amount of time each protection law was in place. As such, the statistical model was unable to identify protection law effects which may develop subtly over the course of time. Relatedly, the study of crime at a single point in time (i.e., the year 2000) precluded the inclusion of a measure controlling for the passage of the single most visible protection law; the FACE Act.

Additionally, data on anti-abortion crime comes from clinic self-survey reports which contain information on incident prevalence in lieu of information on the precise number of incidents (Freilich and Pridemore, 2007; Pridemore and Freilich, 2007). This limits the ability to quantify the extent of the intervention's impact. Furthermore, low response rates commonly associated with clinic survey data may introduce selection bias into the model as the characteristics of the clinics and staff may lead to differential response (Pridemore and Freilich, 2007).

Most importantly, the study's use of a single dichotomous measure for the presence of any protection law obscures all variation among the independent variable. This is important, as there are substantive differences between these laws which cannot be accounted for in such a model. As such, the best question to ask is not whether protection laws work, but rather does this particular law work for this particular type of anti-abortion crime.

The central contribution of this dissertation rests in addressing these limitations. Using a series of fixed-effect ZINB regression models, this study tested the key variables of the deterrence and backlash theses mentioned above. This study used a previously unavailable event-based dataset on anti-abortion crime incidents across the 50 U.S. states and the District of Columbia to create measures for the different types of illegal acts committed by pro-life activists from 1975 to 2008. As such, this dissertation represents the first longitudinal test of the rational choice and backlash perspectives.

Measures for the presence of state and federal protection laws were derived from information provided by NARAL and the legislatures of 16 states, the District of Columbia and the U.S. federal government. Categorizing the state laws according to the

type(s) of behavior prohibited enabled me to differentiate between the different types of protection laws that have been enacted (i.e., anti-violence, anti-property and anti-harassment/vandalism).

This is an important contribution, as this study is also the first to control for substantive differences among and between state and federal protection laws. Overall, the findings were partially supportive of the backlash perspective as well as the notion that not all types of protection laws produce the same effect on criminal behaviors. Moreover, there was no evidence to suggest that these laws prevent future crimes against reproductive healthcare providers or their patients.

The results for Model 1 indicated that the presence of state and federal protection laws, broadly defined, is significantly related to an increase in the expected number of anti-abortion crimes. This finding coincides with the broader backlash perspective (see Kaplan, 1993; 1995; Garrow, 1999; Johnson, 2007; Kaufman, 2000). In addition, increases in the rape rate were significantly predictive of future attacks. This falls in line with previous studies (Nice, 1988; Freilich and Pridemore, 2007), which suggest that cultures which tolerate or promote the violent victimization of women are also conducive to the criminal victimization of abortion providers.

For Models 2 and 3, the dependent variable was changed to measure the effects of protection laws on violent/property crime and less severe incidents of harassment and vandalism respectively. In so doing, these models also tested Pridemore and Freilich's (2007) blended model of deterrence and backlash, using longitudinal data and controlling for the presence of both state and federal protection laws.

The results of Model 2 indicated that for violent and property crimes, state protection laws continue to elicit an increase in the number of attacks. Thus, in contrast to the null findings of Pridemore and Freilich (2007), it appears that broad measures of clinic protection laws are significantly predictive of future increases in the number of more severe crimes committed against abortion providers. In addition to this finding, the results of Model 2 provides a second notable contrast to the previous study, as increases in the state rape rate are also significantly predictive of future violent and property crimes.

In Model 3, the focus of the analyses shifted from major forms of anti-abortion crime to less severe forms of harassment and vandalism. For the most part, the results from this model closely mirror those from Model 2. Again, the presence of a state protection law was shown to raise the expected number of attacks. This finding departs not only from the null results of the previous study, but also from the blended model of deterrence and backlash as outlined by Pridemore and Freilich (2007). Recall that according to this blended model, protection laws are predicted to have a deterrent effect on those activists which only chose to engage in minor offenses (i.e., the *direct action stream*). Moreover, the presence of the FACE Act was significantly and positively related to future crimes of harassment and vandalism. Thus, the results of Model 3 suggest that both state and federal protection laws generate a backlash effect among this section of the pro-life movement.

Together, the early findings from Models 2 and 3 provide partial support for the blended model of backlash and deterrence. As Pridemore and Freilich (2007) predicted, state protection laws were found to create a backlash among the *extremist stream* leading

to an increase in the number of violent and property crimes. However, state and federal protection laws did not appear to have a deterrent effect for crimes of harassment and vandalism. Rather, they were shown to increase the number of these crimes as well. Finally, the models also supported the notion that violent female victimization is significantly related to both types of anti-abortion crime. The next and final step was to extend the test of the blended model by introducing measures for the various types of state clinic protection laws that have been enacted.

The results of this test were presented in Models 4 and 5 and again, the findings were more supportive of the backlash hypothesis than they were for the deterrence hypothesis. For crimes of violence and property damage, none of the three types of state protection laws reached statistical significance. Conversely, estimates for the presence of the FACE Act were positive and significant, implying that for the more severe forms of anti-abortion crime, the backlash effect is generated solely from the enactment of federal protection legislation. Thus, it appears that although the most serious offenders are influenced, indeed provoked by the introduction of federal protection law, they are not likely to change their behaviors in response to the enactment of local protection laws.

Although the lack of individual-level data only allows us to speculate on the causal mechanisms underlying this finding, it could very well be that members of the *extremist stream* are simply more likely to pay attention to far reaching federal laws than they are to the comparatively limited reach of their local counterparts. This is not altogether unexpected given that the enactment of the FACE Act received a disproportionate amount of coverage from national and local news organizations compared to the enactment of the average local protection law. The increased visibility

of federal law may aid in informing the offender of new legislation. Relatedly, the repeated exposure to news coverage may also serve to provoke the offender into action. However, the merit of such explanations is for future research to decide.

For crimes of harassment and vandalism, we see that both state and federal protection laws have a significant effect on future attacks. As expected, the only type of state law to have a significant influence on this brand of anti-abortion crime is anti-harassment and vandalism law. Given previous research indicating that *direct action* offenders generally stick to the more minor types of anti-abortion crimes (see Munson, 2008), this was expected. What was not expected, was the positive direction of the estimates. Despite the fact that scholars contend that minor offenders such as these have a substantial stake in mainstream society (Cernkovich, Giordano, and Pugh, 1985; Cornish and Clarke, 2003; Pridemore and Freilich, 2007), they do not appear to be deterred by the prospect of legal sanction. To the contrary, the threat of punishment by the state seems to provoke them into committing additional crimes.

The estimates point to two additional findings. First, the measure for state abortion rates did not reach statistical significance in either model. This suggests that although anti-abortion offenders are paying attention to and consequently provoked by the introduction of new protection laws, they are not readily influenced by and/or aware of changes in the actual number of abortions being performed. This is a curious finding considering that preventing abortions is the primary goal for all pro-life offenders (Ginsberg, 1989; Maxwell, 2002; Munson, 2008) and previous research links abortion rates to abortion clinic bombings (Nice, 1988, but see also Freilich and Pridemore, 2007 and Pridemore and Freilich, 2007). Again, although one can only speculate, it is quite

possible that the aspect of visibility plays a role. As this study attests, public data on state abortion rates are readily available to those who are willing to look. However, gradual changes in the number of abortions are not likely perceived by those who are not. Anti-abortion offenders may concern themselves with more visible signs of failure and progress, such as the enactment of new protection laws.

Second, we can see that the measure for violent female victimization remained consistently positive and significant throughout all of the models presented in Chapter 6. From this, it is clear that broader cultural aspects also contribute to the generation of major and minor forms of anti-abortion crime. This finding coincides with previous research indicating that societal norms regarding the toleration for violence against women may also be used to justify certain related behaviors such as the bombing (Nice, 1988) or vandalizing (Freilich and Pridemore, 2007) of an abortion clinic (but see Pridemore and Freilich, 2007).

Overall, the findings provided in this dissertation are more supportive of the backlash perspective than the deterrence perspective with respect to the impact of state and federal protection laws on future incidents of anti-abortion crime. In particular, the presence of state anti-harassment and vandalism laws, and the FACE Act were found to generate increases in the expected number of attacks for any given state. These findings have important implications for theory and policy. However, before I discuss these, I must first elaborate on some of the study's limitations.

Limitations

The first and main limitation of this study centers on the lack of publicly available

information on crimes of harassment and vandalism. Despite the fact that the models presented in this dissertation benefit from what I believe is the most comprehensive incident-based dataset on anti-abortion crime yet assembled, there is reason to believe that these minor forms of anti-abortion crime are substantially undercounted. Although information from academic, government and advocacy groups provided us with information on 590 incidents from 1975 through 2008, national statistics provided by NAF suggest that this is likely a fraction of the total number of attacks. It is possible that this lack of data could affect the results for models 1, 3, and 5 and as such, they must be viewed with a moderate amount of caution. That said, there is no evidence to suggest that these data were undercounted in a systematic fashion, wherein reports of harassment and vandalism from certain states were privileged over others.

Unfortunately, much of the incident-level data on crimes of anti-abortion harassment and vandalism (NAF data included) are not publicly available. There are likely several reasons for this. Given the sheer volume of these attacks (4,899 from 1977 through 2008 according to NAF figures) and the limited resources of advocacy groups, there may not be enough man hours available to code each attack to the incident level. Furthermore, organizations which rely in part, on the media for information on harassment and vandalism crimes, are placed at a disadvantage by the fact that the most violent and extreme incidents of anti-abortion crime garner the majority of the media coverage (Blanchard, 1996; Doan, 2007; Munson, 2008).

For these reasons, collecting such data will likely be a difficult task. Future researchers can either wait for these data to be made public, or they can survey individual clinics on the number of attacks sustained within a given time period. The former option

is not likely to happen any time soon and the latter is potentially time consuming and expensive. Regardless, such efforts are strongly advised, for these data are not only relevant to the examination of the deterrence and backlash hypotheses, but integral to our understanding of the various forms of anti-abortion crime.

The second potential limitation of this dissertation surrounds the impact of religious belief structures on acts of anti-abortion crime. Previous research indicates that religious views often play a critical role in defining one's stance on the issue of abortion (Legge, 1983; Himmelstein, 1986; Hunter, 1994) as well as the use of contentious protest tactics (Raymond and Norrandar, 1990). Indeed, there exists a wide body of literature linking protestant fundamentalism to anti-abortion crime (Lo, 1982; Clarke, 1987a; Clarke, 1987b; Blanchard and Prewitt, 1993; Kaplan, 1993; Blanchard, 1994; Risen and Thomas, 1998; Juergensmeyer, 1998; Garrow, 1999; Ferrell and Websdale, 1999; Kahane, 2000; Reiter, 2000; McVeigh and Sikkink, 2001; Mason, 2002; Maxwell, 2002; Kirkwood, 2003; Mason, 2004).

Although previous research conducted by Nice (1988), Pridemore and Freilich (2007) and Freilich and Pridemore (2007) did not find religion to be predictive of future attacks, the cross-sectional design of these studies may prohibit the identification of any significant effects which may accrue over time. Due to the lack of a longitudinal approach, the question surrounding the role of religion in anti-abortion crime remains open.

Third, because of limitations in the data, I was unable to discern between the difference in the average punishment or sentence length before and after the enactment of a clinic protection law. Although protection laws are created from the classical notion

that increasing the threat of sanction will prevent future crime, it stands to reason that some states are likely to be more aggressive than others in their attempts to deter current and prospective offenders. States in which the pro-choice movement is especially strong and active for instance, may have more influence on legislatures with respect to the creation of said laws and penalties. Hence, the average or median penalty for clinic arson or simple vandalism may be far greater in California than in states such as Michigan where pro-choice interests are perhaps present yet less influential (see NARAL Foundation, 2001).

By integrating information on sentence length into the study of clinic protection laws, future researchers would be better equipped to identify not only the types of sanction that have the greatest effect on anti-abortion crime, but the levels at which the effect becomes significant. Admittedly, gathering data on individual cases may be even more difficult than collecting information on harassment and vandalism crimes. Nonetheless, this information is crucial to our efforts to understand the causal mechanisms underlying clinic protection laws and criminal behavior.

Having outlined the limitations of this dissertation, the discussion now turns to what the findings mean for criminological theory and criminal justice policy.

Implications for Criminological Theory

As noted above, clinic protection laws originated from classical notions of deterrence and rational choice wherein offenders make decisions based upon a calculation of the prospective costs and benefits of committing a particular crime (see Cornish and Clarke, 1986). By raising the severity of the sanction, protection laws are

designed to raise the offender's perceptions of costs to the point where he/she no longer views the benefits of the crime as being worth the risk. And yet, as mentioned in Chapter 2, there exists a startling lack of effort on behalf of the research community to test this hypothesis and see if these laws actually reduce the number of future attacks. The central contribution of this dissertation rests in testing the relationship between the presence of the various types of protection laws and acts of anti-abortion crime.

Despite the limitations outlined above, the analyses conducted in this dissertation provide strong support for the notion that clinic protection laws do not act as a deterrent for any category of anti-abortion crime. Neither state nor federal laws were shown to reduce the expected number of future attacks. Moreover, state anti-harassment/vandalism laws were found to increase the expected number of minor offenses while federal protection laws resulted in increases for both major and minor offense types.

Ostensibly, these findings seem to raise questions with regard to the ability of rational choice theory to explain the behavior of anti-abortion offenders. It is after all, possible that anti-abortion offenders are in certain ways, less rational than other offenders (see Kaplan, 1995). However, given the findings from previous research indicating that acts of anti-abortion crime are more rational than psychopathological (Clarke, 1997a; Kenny and Reuland, 2002; Kirkwood, 2003), such explanations seem facile. A closer inspection of the backlash results suggests that anti-abortion offenders likely make decisions on a cost/benefit analysis, but it also suggests that the various groups that comprise the movement may differ in their evaluations of specific costs and benefits.

First, the more serious offenses of violence and property damage were found to increase after the introduction of the FACE Act. Recall that previous research suggests

that offenders who engage in these more serious types of crime are often characterized by social isolation, religious fundamentalism and a dualist approach to the abortion debate that generates a premium for the use of the most severe and illegal forms of protest (see Blanchard and Prewitt, 1993; Blanchard, 1994; Risen and Thomas, 1998; Mason, 2004). As such, members of this *extremist stream* are more likely to view any type of protection law as both a cultural threat and as a sign that the pro-life movement is in decline. The effect is to raise both the perceived benefits associated with the crime as well as the cost of not offending. Put simply, the offender may view the risks of action as more acceptable than those of inaction.

In this sense, rational choice theory remains compatible with serious forms of anti-abortion crime. Proving the merits of this assumption however, will require future scholars to examine the perceptions of individual offenders with regard to the risks and rewards of anti-abortion crime before and after the enactment of a protection law.

Second, the results also show that the less serious offenses of harassment and vandalism increase in the presence of both state anti-harassment laws and the FACE Act. This finding was unexpected given the previous research on members of the *direct action stream* (Ginsberg, 1989; Baird-Windle and Bader, 2001; Maxwell, 2002; Munson, 2008) suggesting that the more minor offenses tend to be committed by individuals possessing a greater stake in society than those who engage in more severe crimes (see Cernkovich, Giordano, and Pugh, 1985; Cornish and Clarke, 2003). One possible explanation could be that many of the state anti-harassment and vandalism laws offer only token increases in the severity of sanction, thereby failing to convince the offender that the costs outweigh the benefits, while simultaneously serving as a call to arms.

To be certain, the FACE Act offers more than token increases in the severity of federal sanctions for certain types of anti-abortion harassment and vandalism (see 18 U.S.C. Sec. 48) and as such, it is unlikely that the reason why federal law promotes future crimes is because the penalty is not strong enough. Rather, it is more likely that this backlash effect is the product of feelings of desperation in combination with a lack of certainty of punishment. As with the *extremist stream*, it is entirely possible that minor offenders will also regard the enactment of protection laws aimed at their preferred type of protest activity as a symbol of the movement's failure. However, some argue that sanction severity is rendered inconsequential by the fact that protection laws in general and the FACE Act in particular, are sporadically enforced (Baird-Windle and Bader, 2001). A national survey of police revealed that some police departments are partially or wholly unaware of state and legal provisions for abortion-related conflict (Kenney and Reuland, 2002). Furthermore, a sizeable body of research has shown that punishment severity is not as important as punishment certainty when it comes to deterring prohibited behavior (see LaFree, Dugan and Korte, 2009 for a review).

Clearly, the perceived costs of committing an anti-abortion offense are likely to be reduced when the risks of being caught are low. However, we cannot know for sure whether rational choice theory is suited to explain minor forms of anti-abortion crime until we put such notions to the test. To this end, future research on the utility of clinic protection laws should also include measures controlling for both the severity and certainty of sanction.

Lastly, studies of clinic protection laws must also seek to include information on legal forms of protest. Although anti-abortion crime continues to be an unwelcome

reality, the activists on either side of the abortion debate generally agree that the majority of pro-life activism is legal if not peaceful (Kenney et al., 1999). Because this dissertation did not examine the impact of protection laws on such activities, we are unable to discern whether or not the reach of these laws extend beyond the *extremist* and *direct action streams* and into the broader pro-life movement.

In sum, this dissertation demonstrates that rational choice theory is well suited to the explanation of anti-abortion crime events. The findings in this study reveal that state and federal clinic protection laws are significantly related to the number of future attacks. That said, a full test of the deterrence hypothesis requires scholars to distinguish between the causal mechanisms surrounding changes in criminal behavior as well as increases in the number of criminal events. Thus, future tests of the utility of clinic protection laws should include measures for sanction severity, sanction certainty as well as individual measures of costs and benefits. Having outlined the implications of the current findings for rational choice theory, the discussion now turns to a consideration of what the findings mean for criminal justice policy.

Implications for Policy

In 1985, the state of Wisconsin became the first to enact legislation designed to protect abortion clinics and staff from criminal acts associated with increasingly violent and disruptive forms of protest. Over the course of the next 23 years, the legislatures of 15 other states, the District of Columbia and the U.S. federal government followed suit by passing their own clinic protection laws with the hope that such laws would deter anti-abortion offenders. In all, the results of this dissertation are not supportive of this line of

reasoning for either of the two main categories of anti-abortion crime. Moreover, deterrence-based thinking appears to have only made the problem worse, possibly by fostering a sense of desperation among pro-life offenders.

Given these findings, it is tempting to advocate for the repeal of clinic protection laws. However, previous research shows that fully half of all state and federal police agencies that routinely deal with anti-abortion crime either fail to consistently avail themselves of these laws or are altogether unaware of their existence. Indeed, less than 28% of police agencies offer any form of basic training on the provisions of state and federal protection laws or the ordinances that regulate activities at health care facilities (Kenney and Reuland, 2002). Regardless of how strong the penalty is, research has shown that offenders are more readily deterred when they believe that they are less likely to get away with the crime (see LaFree, Dugan and Korte, 2009 for a review). Thus, the problem with protection laws may have less to do with sanction severity than with sanction certainty. By mandating entry-level training on anti-abortion conflict and state and federal protection laws, police can increase the consistency with which these countermeasures are applied.

Alternatively, the findings in this dissertation offer support for a more proactive approach to dealing with anti-abortion crime. Traditionally, police have responded to incidents of anti-abortion conflict and violence by dispatching the beat and supervising officers to the scene. A minority of agencies will also involve the K-9 unit, bomb squad, traffic control unit or other specialty units depending on the situation (Kenney and Reuland, 2002). Although traditional methods such as these have their place, their utility

is limited by a unidimensional approach that focuses on reaction as opposed to prevention.

Undoubtedly, certain types of anti-abortion crime such as the murder of Dr. Tiller can be difficult to predict. However, previous research suggests that police departments which proactively engage the pro-life and pro-choice activist communities are better able to gather intelligence concerning the prospect of future attacks. In particular, such agencies are found to be better equipped to identify potentially dangerous individuals and/or events (Kenney and Reuland, 2002).

Establishing a dialogue between law enforcement and the activist communities could also enable police to act as mediators between the pro-life and reproductive healthcare communities. In so doing, police may be able to diffuse or dampen tensions between each side before another crime occurs. By the same token, regular communication between police and clinic staff enables police to provide clinic staff with important information regarding building and personal security that may help to prevent future attacks.

Finally, it is worth noting that although these findings offer no support for a traditional deterrence-based policy, reducing crime is only one part of the goal for clinic protection laws. As Pridemore and Freilich (2007:623) note, “state laws protecting abortion clinics and reproductive rights provide Constitutional support for a woman’s right to choose and retributive justice for those that employ violence, intimidation, or harassment to discourage the exercise of this right. Thus while the law may not have deterrent utility, the right to an abortion is guaranteed and therefore the presence of these laws serve other important purposes”.

Conclusion

This dissertation contributes to our understanding of anti-abortion crime by providing the first longitudinal test of Pridemore and Freilich's (2007) deterrence and backlash hypothesis on the impact of abortion clinic protection laws on anti-abortion crime. Using a unique, event-based dataset, this study examined the impact of the three main types of clinic protection laws on incidents of anti-abortion crime from 1975 to 2008. Broadly, the findings offer considerable support for the backlash perspective and the notion that traditional deterrence-based policy is often demonstrably unsuccessful in the prevention of this particular type of crime. The results indicate that states enacting anti-harassment/vandalism laws can expect to see an increase in the number of minor crimes against abortion providers. Furthermore, the presence of federal protection law (i.e., the FACE Act) is found to increase the expected number of major and minor anti-abortion crimes.

In all, these findings improve our knowledge of anti-abortion crime in two important ways. First, the results make clear that abortion clinic protection laws do not serve as an effective deterrent. In fact, the traditional deterrence-based criminal justice policy of the previous 26 years appears to generate more crime than it prevents.

Second, the findings suggest that not all protection laws are created equal with respect to their impact on crime. While state laws prohibiting minor forms of anti-abortion crime are shown to produce a backlash effect for crimes of harassment and vandalism, other types of state protection laws were shown to have no effect on crime whatsoever. Furthermore, the presence of the highly visible FACE Act is shown to generate similar increases for both major and minor crime types.

However, while these results challenge conventional notions surrounding the utility of protection laws, they cannot refute them entirely for a couple of reasons. First, although this dissertation benefits from what I believe is the most comprehensive event-based dataset on anti-abortion crime, there is good reason to believe that the number of harassment and vandalism crimes is substantially undercounted. Therefore, the results of the models looking at the impact of protection laws on minor crimes must be viewed with caution.

Second, this dissertation does not control for actual differences in punishment severity before and after a protection law comes into effect. Hence, we cannot say for certain whether the backlash effect witnessed here is primarily the result of an increase in sanctions or merely the perception of an increase.

Thus, while this dissertation makes an important contribution to our understanding of anti-abortion crime and the utility of deterrence-based clinic protection law, it also raises the following questions for future research:

1. What is the extent of anti-abortion crime with respect to acts of harassment and vandalism?
2. Over time, what impact does religion and religious belief have on the relationship between protection laws and anti-abortion crime?
3. What is the actual change in sentence severity following the enactment of a protection law and what role does this change play in the production or prevention of anti-abortion crime?
4. Do offenders accurately perceive the severity of punishment for crimes against abortion providers?

Answering questions one and three will require an extensive data collection process at the incident level. Although question two does not necessarily require individual-level data, it does necessitate longitudinal information on the membership

rates of those religious denominations which are most adamantly opposed to the practice of abortion. In order to answer questions four and five, researchers must collect perceptual and objective measures of punishment severity at the individual level. Although the collection of these data will undoubtedly require a substantial amount of resources, such costs pale in comparison to those sustained by the victims of anti-abortion crime. Moreover, collecting this information is imperative for our efforts to better understand these crimes and the utility of the laws designed to prevent them.

APPENDIX A-1: INCIDENT DATA SUPPLEMENTATION STATISTICS

Table A.1: Incident Supplementation Statistics by Crime Type

Crime Type	Number of U.S. Incidents	% of Incident Total	Number and % of Incidents Verified
<i>Armed Assault</i>	<i>10</i>	0.76%	<i>7(70%)</i>
<i>Assassination</i>	<i>11</i>	0.83%	<i>11(100%)</i>
<i>Blockade</i>	<i>111</i>	8.38%	<i>5(4.5%)</i>
<i>Bomb Threat</i>	<i>120</i>	9.06%	<i>3(2.5%)</i>
<i>Bombing/Explosion</i>	<i>81</i>	6.12%	<i>57(70.37%)</i>
<i>Burglary</i>	<i>15</i>	1.13%	<i>0(0%)</i>
<i>Death Threat</i>	<i>131</i>	9.89%	<i>9(6.87%)</i>
<i>Facility/Infrastructure Attack</i>	<i>582</i>	44%	<i>301(51.72%)</i>
<i>Hostage Taking (Kidnapping)</i>	<i>2</i>	0.15%	<i>1(50%)</i>
<i>Invasion</i>	<i>66</i>	4.98%	<i>5(7.58%)</i>
<i>Stalking</i>	<i>18</i>	1.36%	<i>0(0%)</i>
<i>Unarmed Assault</i>	<i>33</i>	2.49%	<i>6(18.18%)</i>
<i>Vandalism</i>	<i>144</i>	10.88%	<i>4(2.78%)</i>
<i>Total</i>	<i>1,324</i>	100%	<i>409(30.89%)</i>

APPENDIX A-2: STATUTE TEXTS AND CLASSIFICATION SCHEMA

Table A.2: Original Legal Texts by State and Statute

California

- **Penal Code § 423** This title shall be known and may be cited as the California Freedom of Access to Clinic and Church Entrances Act, or the California FACE Act.
- **Penal Code § 423.1. Definitions.** The following definitions apply for the purposes of this title:
 - (a) “Crime of violence” means an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another.
 - (b) “Interfere with” means to restrict a person's freedom of movement.
 - (c) “Intimidate” means to place a person in reasonable apprehension of bodily harm to herself or himself or to another.
 - (d) “Nonviolent” means conduct that would not constitute a crime of violence.
 - (e) “Physical obstruction” means rendering ingress to or egress from a reproductive health services facility or to or from a place of religious worship impassable to another person, or rendering passage to or from a reproductive health services facility or a place of religious worship unreasonably difficult or hazardous to another person.
 - (f) “Reproductive health services” means reproductive health services provided in a hospital, clinic, physician's office, or other facility and includes medical, surgical, counseling, or referral services relating to the human reproductive system, including services relating to pregnancy or the termination of a pregnancy.
 - (g) “Reproductive health services client, provider, or assistant” means a person or entity that is or was involved in obtaining, seeking to obtain, providing, seeking to provide, or assisting or seeking to assist another person, at that other person's request, to obtain or provide any services in a reproductive health services facility, or a person or entity that is or was involved in owning or operating or seeking to own or operate, a reproductive health services facility.
 - (h) “Reproductive health services facility” includes a hospital, clinic, physician's office, or other facility that provides or seeks to provide reproductive health services and includes the building or structure in which the facility is located.
- **Penal Code § 423.2. Elements of offense.** Every person who, except a parent or guardian acting towards his or her minor child or ward, commits any of the following acts shall be subject to the punishment specified in [Section 423.3](#).
 - (a) By force, threat of force, or physical obstruction that is a crime of violence, intentionally injures, intimidates, interferes with, or attempts to injure, intimidate, or interfere with, any person or entity because that person or entity is a reproductive health services client, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services client, provider, or assistant.
 - (b) By force, threat of force, or physical obstruction that is a crime of violence,

intentionally injures, intimidates, interferes with, or attempts to injure, intimidate, or interfere with any person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship.

(c) By nonviolent physical obstruction, intentionally injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with, any person or entity because that person or entity is a reproductive health services client, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services client, provider, or assistant.

(d) By nonviolent physical obstruction, intentionally injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with, any person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship.

(e) Intentionally damages or destroys the property of a person, entity, or facility, or attempts to do so, because the person, entity, or facility is a reproductive health services client, provider, assistant, or facility.

(f) Intentionally damages or destroys the property of a place of religious worship.

- **Penal Code § 423.3. Punishment.**

(a) A first violation of [subdivision \(c\)](#) or [\(d\) of Section 423.2](#) is a misdemeanor, punishable by imprisonment in a county jail for a period of not more than six months and a fine not to exceed two thousand dollars (\$2,000).

(b) A second or subsequent violation of [subdivision \(c\)](#) or [\(d\) of Section 423.2](#) is a misdemeanor, punishable by imprisonment in a county jail for a period of not more than six months and a fine not to exceed five thousand dollars (\$5,000).

(c) A first violation of [subdivision \(a\)](#), [\(b\)](#), [\(e\)](#), or [\(f\) of Section 423.2](#) is a misdemeanor, punishable by imprisonment in a county jail for a period of not more than one year and a fine not to exceed twenty-five thousand dollars (\$25,000).

(d) A second or subsequent violation of [subdivision \(a\)](#), [\(b\)](#), [\(e\)](#), or [\(f\) of Section 423.2](#) is a misdemeanor, punishable by imprisonment in a county jail for a period of not more than one year and a fine not to exceed fifty thousand dollars (\$50,000).

(e) In imposing fines pursuant to this section, the court shall consider applicable factors in aggravation and mitigation set out in [Rules 4.421](#) and [4.423 of the California Rules of Court](#), and shall consider a prior violation of the federal Freedom of Access to Clinic Entrances Act of 1994 ([18 U.S.C. Sec. 248](#)), or a prior violation of a statute of another jurisdiction that would constitute a violation of [Section 423.2](#) or of the federal Freedom of Access to Clinic Entrances Act of 1994, to be a prior violation of [Section 423.2](#).

(f) This title establishes concurrent state jurisdiction over conduct that is also prohibited by the federal Freedom of Access to Clinic Entrances Act of 1994 ([18 U.S.C. Sec. 248](#)), which provides for more severe misdemeanor penalties for first violations and felony-misdemeanor penalties for second and subsequent violations. State law enforcement agencies and prosecutors shall cooperate with federal authorities in the prevention, apprehension, and prosecution of these crimes, and shall seek federal prosecutions when appropriate.

(g) No person shall be convicted under this article for conduct in violation of [Section 423.2](#) that was done on a particular occasion where the identical conduct on that occasion was the basis for a conviction of that person under the federal Freedom of

Access to Clinic Entrances Act of 1994 ([18 U.S.C. Sec. 248](#)).

- **Penal Code § 423.4. Civil actions.** (a) A person aggrieved by a violation of [Section 423.2](#) may bring a civil action to enjoin the violation, for compensatory and punitive damages, and for the costs of suit and reasonable fees for attorneys and expert witnesses, except that only a reproductive health services client, provider, or assistant may bring an action under [subdivision \(a\), \(c\), or \(e\) of Section 423.2](#), and only a person lawfully exercising or seeking to exercise the First Amendment right of religious freedom in a place of religious worship, or the entity that owns or operates a place of religious worship, may bring an action under [subdivision \(b\), \(d\), or \(f\) of Section 423.2](#). With respect to compensatory damages, the plaintiff may elect, at any time prior to the rendering of a final judgment, to recover, in lieu of actual damages, an award of statutory damages in the amount of one thousand dollars (\$1,000) per exclusively nonviolent violation, and five thousand dollars (\$5,000) per any other violation, for each violation committed.

(b) The Attorney General, a district attorney, or a city attorney may bring a civil action to enjoin a violation of [Section 423.2](#), for compensatory damages to persons aggrieved as described in subdivision (a) and for the assessment of a civil penalty against each respondent. The civil penalty shall not exceed two thousand dollars (\$2,000) for an exclusively nonviolent first violation, and fifteen thousand dollars (\$15,000) for any other first violation, and shall not exceed five thousand dollars (\$5,000) for an exclusively nonviolent subsequent violation, and twenty-five thousand dollars (\$25,000) for any other subsequent violation. In imposing civil penalties pursuant to this subdivision, the court shall consider a prior violation of the federal Freedom of Access to Clinic Entrances Act of 1994 ([18 U.S.C. Sec. 248](#)), or a prior violation of a statute of another jurisdiction that would constitute a violation of [Section 423.2](#) or the federal Freedom of Access to Clinic Entrances Act of 1994, to be a prior violation of [Section 423.2](#).

(c) No person shall be found liable under this section for conduct in violation of [Section 423.2](#) done on a particular occasion where the identical conduct on that occasion was the basis for a finding of liability by that person under the federal Freedom of Access to Clinic Entrances Act of 1994 ([18 U.S.C. Sec. 248](#)).

- **Penal Code § 423.5. Safeguarding of health, safety, or privacy by court**
 - (a)(1) The court in which a criminal or civil proceeding is filed for a violation of [subdivision \(a\), \(c\), or \(e\) of Section 423.2](#) shall take all action reasonably required, including granting restraining orders, to safeguard the health, safety, or privacy of either of the following:
 - (A) A reproductive health services client, provider, or assistant who is a party or witness in the proceeding.
 - (B) A person who is a victim of, or at risk of becoming a victim of, conduct prohibited by [subdivision \(a\), \(c\), or \(e\) of Section 423.2](#).
 - (2) The court in which a criminal or civil proceeding is filed for a violation of [subdivision \(b\), \(d\), or \(f\) of Section 423.2](#) shall take all action reasonably required, including granting restraining orders, to safeguard the health, safety, or privacy of either of the following:
 - (A) A person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship.
 - (B) An entity that owns or operates a place of religious worship.
- (b) Restraining orders issued pursuant to paragraph (1) of subdivision (a) may include

provisions prohibiting or restricting the photographing of persons described in subparagraphs (A) and (B) of paragraph (1) of subdivision (a) when reasonably required to safeguard the health, safety, or privacy of those persons. Restraining orders issued pursuant to paragraph (2) of subdivision (a) may include provisions prohibiting or restricting the photographing of persons described in subparagraphs (A) and (B) of paragraph (2) of subdivision (a) when reasonably required to safeguard the health, safety, or privacy of those persons.

(c) A court may, in its discretion, permit an individual described in subparagraph (A) or (B) of paragraph (1) of subdivision (a) to use a pseudonym in a civil proceeding described in paragraph (1) of subdivision (a) when reasonably required to safeguard the health, safety, or privacy of those persons. A court may, in its discretion, permit an individual described in subparagraph (A) or (B) of paragraph (2) of subdivision (a) to use a pseudonym in a civil proceeding described in paragraph (2) of subdivision (a) when reasonably required to safeguard the health, safety, or privacy of those persons.

- **Penal Code § 423.6. Construction of title.** This title shall not be construed for any of the following purposes:

(a) To impair any constitutionally protected activity, or any activity protected by the laws of California or of the United States of America.

(b) To provide exclusive civil or criminal remedies or to preempt or to preclude any county, city, or city and county from passing any law to provide a remedy for the commission of any of the acts prohibited by this title or to make any of those acts a crime.

(c) To interfere with the enforcement of any federal, state, or local laws regulating the performance of abortions or the provision of other reproductive health services.

(d) To negate, supercede, or otherwise interfere with the operation of any provision of Chapter 10 (commencing with [Section 1138](#)) of Part 3 of Division 2 of the Labor Code.

(e) To create additional civil or criminal remedies or to limit any existing civil or criminal remedies to redress an activity that interferes with the exercise of any other rights protected by the First Amendment to the United States Constitution or of Article I of the California Constitution.

(f) To preclude prosecution under both this title and any other provision of law, except as provided in [subdivision \(g\) of Section 423.3](#).

- **Penal Code § 602.11. Obstructing passage to or from health care facilities, places of worship or schools; punishment; definitions.** (a) Any person, alone or in concert with others, who intentionally prevents an individual from entering or exiting a health care facility, place of worship, or school by physically detaining the individual or physically obstructing the individual's passage shall be guilty of a misdemeanor punishable by imprisonment in the county jail, or a fine of not more than two hundred fifty dollars (\$250), or both, for the first offense; imprisonment in the county jail for not less than five days and a fine of not more than five hundred dollars (\$500) for the second offense; and imprisonment in the county jail for not less than 30 days and a fine of not more than two thousand dollars (\$2,000) for a third or subsequent offense. However, the court may order the defendant to perform community service, in lieu of any fine or any imprisonment imposed under this section, if it determines that paying the fine would result in undue hardship to the defendant or his or her dependents.

(b) As used in subdivision (a), the following terms have the following meanings:

(1) "Physically" does not include speech.

(2) "Health care facility" means a facility licensed pursuant to Chapter 1 (commencing with [Section 1200](#)) of Division 2 of the Health and Safety Code, a health facility licensed pursuant to Chapter 2 (commencing with [Section 1250](#)) of Division 2 of the Health and Safety Code, or any facility where medical care is regularly provided to individuals by persons licensed under Division 2 (commencing with [Section 500](#)) of [the Business and Professions Code](#), the Osteopathic Initiative Act, or the Chiropractic Initiative Act.

(3) "Person" does not include an officer, employee, or agent of the health care facility, or a law enforcement officer, acting in the course of his or her employment.

(c) This section shall not be interpreted to prohibit any lawful activities permitted under the laws of the State of California or by the National Labor Relations Act in connection with a labor dispute.

- **Penal Code § 11413. Terrorism; use of destructive device or explosive or commission of arson in certain places; punishment**

(a) Any person who explodes, ignites, or attempts to explode or ignite any destructive device or any explosive, or who commits arson, in or about any of the places listed in subdivision (b), for the purpose of terrorizing another or in reckless disregard of terrorizing another is guilty of a felony, and shall be punished by imprisonment in the state prison for three, five, or seven years, and a fine not exceeding ten thousand dollars (\$10,000).

(b) Subdivision (a) applies to the following places:

(1) Any health facility licensed under Chapter 2 (commencing with [Section 1250](#)) of Division 2 of the Health and Safety Code, or any place where medical care is provided by a licensed health care professional.

(2) Any church, temple, synagogue, mosque, or other place of worship.

(3) The buildings, offices, and meeting sites of organizations that counsel for or against abortion or among whose major activities are lobbying, publicizing, or organizing with respect to public or private issues relating to abortion.

(4) Any place at which a lecture, film-showing, or other private meeting or presentation that educates or propagates with respect to abortion practices or policies, whether on private property or at a meeting site authorized for specific use by a private group on public property, is taking place.

(5) Any bookstore or public or private library.

(6) Any building or facility designated as a courthouse.

(7) The home or office of a judicial officer.

(8) Any building or facility regularly occupied by county probation department personnel in which the employees perform official duties of the probation department.

(9) Any private property, if the property was targeted in whole or in part because of any of the actual or perceived characteristics of the owner or occupant of the property listed in [subdivision \(a\) of Section 422.55](#).

(10) Any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive.

(c) As used in this section, "judicial officer" means a magistrate, judge, justice, commissioner, referee, or any person appointed by a court to serve in one of these capacities, of any state or federal court located in this state.

(d) As used in this section, "terrorizing" means to cause a person of ordinary emotions and sensibilities to fear for personal safety.

(e) Nothing in this section shall be construed to prohibit the prosecution of any person pursuant to [Section 12303.3](#) or any other provision of law in lieu of prosecution pursuant to this section.

- **Civil Code § 3427. Definitions.** As used in this title:

(a) "Aggrieved" means and refers to any of the following persons or entities:

(1) A person physically present at a health care facility when a commercial blockade occurs whose access is obstructed or impeded.

(2) A person physically present at a health care facility when a commercial blockade occurs whose health care is disrupted.

(3) A health care facility where a commercial blockade occurs, its employees, contractors, or volunteers.

(4) The owner of a health care facility where a commercial blockade occurs or of the building or property upon which the health care facility is located.

(b) "Commercial blockade" means acts constituting the tort of commercial blockade, as defined in Section 3427.1.

(c) "Disrupting the normal functioning of a health care facility" means intentionally rendering or attempting to render a health care facility temporarily or permanently unavailable or unusable by a licensed health practitioner, the facility's staff, or patients. "Disrupting the normal functioning of a health care facility" does not include acts of the owner of the facility, an agent acting on behalf of the owner, or officers or employees of a governmental entity acting to protect the public health or safety.

(d) "Health care facility" means a facility that provides health care services directly to patients, including, but not limited to, a hospital, clinic, licensed health practitioner's office, health maintenance organization, diagnostic or treatment center, neuropsychiatric or mental health facility, hospice, or nursing home.

- **Civil Code § 3427.1. Tort of commercial blockade**

It is unlawful, and constitutes the tort of commercial blockade for a person, alone or in concert with others, to intentionally prevent an individual from entering or exiting a health care facility by physically obstructing the individual's passage or by disrupting the normal functioning of a health care facility.

- **Civil Code § 3427.2. Action for civil damages**

A person or health care facility aggrieved by the actions prohibited by this title may seek civil damages from those who committed the prohibited acts and those acting in concert with them.

- **Penal Code § 594.4. Vandalism; structure; noxious or caustic chemicals or substances**

(a) Any person who willfully and maliciously injects into or throws upon, or otherwise defaces, damages, destroys, or contaminates, any structure with butyric acid, or any other similar noxious or caustic chemical or substance, is guilty of a public offense, punishable by imprisonment in the state prison or in a county jail, by a fine as specified in subdivision (b), or by both that imprisonment and fine.

(b)(1) If the amount of the defacement, damage, destruction, or contamination is fifty thousand dollars (\$50,000) or more, by a fine of not more than fifty thousand dollars (\$50,000).

(2) If the amount of the defacement, damage, destruction, or contamination is five thousand dollars (\$5,000) or more, but less than fifty thousand dollars (\$50,000), by a fine of not more than ten thousand dollars (\$10,000).

(3) If the amount of defacement, damage, destruction, or contamination is nine hundred fifty dollars (\$950) or more, but less than five thousand dollars (\$5,000), by a fine of not more than five thousand dollars (\$5,000).

(4) If the amount of the defacement, damage, destruction, or contamination is less than nine hundred fifty dollars (\$950), by a fine of not more than one thousand dollars (\$1,000).

(c) For purposes of this section, "structure" includes any house or other building being used at the time of the offense for a dwelling or for commercial purposes.

Colorado

- **Criminal Code § 18-9-122. Preventing passage to and from a health care facility--engaging in prohibited activities near facility**

(1) The general assembly recognizes that access to health care facilities for the purpose of obtaining medical counseling and treatment is imperative for the citizens of this state; that the exercise of a person's right to protest or counsel against certain medical procedures must be balanced against another person's right to obtain medical counseling and treatment in an unobstructed manner; and that preventing the willful obstruction of a person's access to medical counseling and treatment at a health care facility is a matter of statewide concern. The general assembly therefore declares that it is appropriate to enact legislation that prohibits a person from knowingly obstructing another person's entry to or exit from a health care facility.

(2) A person commits a class 3 misdemeanor if such person knowingly obstructs, detains, hinders, impedes, or blocks another person's entry to or exit from a health care facility.

(3) No person shall knowingly approach another person within eight feet of such person, unless such other person consents, for the purpose of passing a leaflet or handbill to, displaying a sign to, or engaging in oral protest, education, or counseling with such other person in the public way or sidewalk area within a radius of one hundred feet from any entrance door to a health care facility. Any person who violates this subsection (3) commits a class 3 misdemeanor.

(4) For the purposes of this section, "health care facility" means any entity that is licensed, certified, or otherwise authorized or permitted by law to administer medical treatment in this state.

(5) Nothing in this section shall be construed to prohibit a statutory or home rule city or county or city and county from adopting a law for the control of access to health care facilities that is no less restrictive than the provisions of this section.

(6) In addition to, and not in lieu of, the penalties set forth in this section, a person who violates the provisions of this section shall be subject to civil liability, as provided in [section 13-21-106.7, C.R.S](#)

- **Courts and Court Procedure § 13-21-106.7. Civil damages for preventing passage to and from a health care facility and engaging in prohibited activity near facility**

(1) A person is entitled to recover damages and to obtain injunctive relief from any person who commits or incites others to commit the offense of preventing passage to or from a health care facility or engaging in prohibited activity near a health care facility, as defined in [section 18-9-122\(2\), C.R.S.](#)

(2) A conviction for criminal obstruction of passage to or from a health care facility pursuant to [section 18-9-122, C.R.S.](#), shall not be a condition precedent to maintaining a civil action pursuant to the provisions of this section.

Connecticut

- **Civil Actions § 52-571a. Action for deprivation of equal rights and privileges**
Any person aggrieved by a violation of [section 53-37b](#) may apply to the superior court for injunctive relief, recovery of damages and such other relief as the court deems just and equitable.

- **Crimes § 53-37b. Deprivation of a person's equal rights and privileges by force or threat**
Any person who, acting alone or in conspiracy with another, for the purpose of depriving any person or class of persons of the equal protection of the laws of this state or the United States, or of equal privileges and immunities under the laws of this state or the United States, engages in the use of force or threat, as provided in [section 53a-62](#), shall be guilty of a class A misdemeanor, except that if bodily injury results such person shall be guilty of a class C felony or if death results such person shall be guilty of a class B felony.

District of Columbia

- **Criminal Offenses and Penalties § 22-1314.01. Definitions.**
For the purpose of [§ 22-1314.02](#), the term:

(1) "Health professional" means a person licensed to practice a health occupation in the District pursuant to [§ 3-1201.01](#).

(2) "Medical facility" includes a hospital, clinic, physician's office, or other facility that provides health or surgical services.

(3) "Person" shall not include:

- (A) The chief medical officer of the medical facility or his or her designee;
- (B) The chief executive officer of the medical facility or his or her designee;
- (C) An agent of the medical facility; or
- (D) A law enforcement officer in the performance of his or her official duty.

- **Criminal Offenses and Penalties § 22-1314.02. Prohibited acts.**

(a) It shall be unlawful for a person, except as otherwise authorized by District or federal law, alone or in concert with others, to willfully or recklessly interfere with access to or from a medical facility or to willfully or recklessly disrupt the normal functioning of such facility by:

(1) Physically obstructing, impeding, or hindering the free passage of an individual seeking to enter or depart the facility or from the common areas of the real property upon which the facility is located;

(2) Making noise that unreasonably disturbs the peace within the facility;

(3) Trespassing on the facility or the common areas of the real property upon which the facility is located;

(4) Telephoning the facility repeatedly to harass or threaten owners, agents, patients, and employees, or knowingly permitting any telephone under his or her control to be so used for the purpose of threatening owners, agents, patients, and employees; or

(5) Threatening to inflict injury on the owners, agents, patients, employees, or property of the medical facility or knowingly permitting any telephone under his or her control to be used for such purpose.

(b) A person shall not act alone or in concert with others with the intent to prevent a health professional or his or her family from entering or leaving the health professional's home.

(c) Subsections (a) and (b) of this section shall not be construed to prohibit any otherwise lawful picketing or assembly.

(d) Any person who violates subsections (a) or (b) of this section, upon conviction, shall be fined not more than \$1,000, imprisoned for not more than 180 days, or both.

Kansas

- **Crimes and Punishments 21-3721. Criminal trespass**

(a) Criminal trespass is:

(1) Entering or remaining upon or in any land, nonnavigable body of water, structure, vehicle, aircraft or watercraft, other than railroad property as defined in [K.S.A. 21-3761](#), and amendments thereto, or nuclear generating facility as defined in [K.S.A. 66-2302](#), and amendments thereto, by a person who knows such person is not authorized or privileged to do so, and:

(A) Such person enters or remains therein in defiance of an order not to enter or to leave such premises or property personally communicated to such person by the owner thereof or other authorized person; or

(B) such premises or property are posted in a manner reasonably likely to come to the attention of intruders, or are locked or fenced or otherwise enclosed, or shut or secured against passage or entry; or

(C) such person enters or remains therein in defiance of a restraining order issued pursuant to [K.S.A. 60-1607](#), [60-3105](#), [60-3106](#), [60-3107](#), [60-31a05](#) or [60-31a06](#) or [K.S.A. 38-2243](#), [38-2244](#) or [38-2255](#), and amendments thereto, and the

restraining order has been personally served upon the person so restrained; or

(2) entering or remaining upon or in any public or private land or structure in a manner that interferes with access to or from any health care facility by a person who knows such person is not authorized or privileged to do so and such person enters or remains thereon or therein in defiance of an order not to enter or to leave such land or structure personally communicated to such person by the owner of the health care facility or other authorized person.

(b) As used in this section:

(1) "Health care facility" means any licensed medical care facility, certificated health maintenance organization, licensed mental health center, or mental health clinic, licensed psychiatric hospital or other facility or office where services of a health care provider are provided directly to patients.

(2) "Health care provider" means any person: (A) Licensed to practice a branch of the healing arts; (B) licensed to practice psychology; (C) licensed to practice professional or practical nursing; (D) licensed to practice dentistry; (E) licensed to practice optometry; (F) licensed to practice pharmacy; (G) registered to practice podiatry; (H) licensed as a social worker; or (I) registered to practice physical therapy.

(c)(1) Criminal trespass is a class B nonperson misdemeanor.

(2) Upon a conviction of a violation of subsection (a)(1)(C), a person shall be sentenced to not less than 48 consecutive hours of imprisonment which must be served either before or as a condition of any grant of probation or suspension, reduction of sentence or parole.

(d) This section shall not apply to a land surveyor, licensed pursuant to article 70 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto, and such surveyor's authorized agents and employees who enter upon lands, waters and other premises in the making of a survey.

Massachusetts

- **Crimes and Punishments § 120E. Obstructing entry to or departure from medical facilities; penalties; injunctive relief**

As used in this section, the following words shall have the following meanings:--

"Medical facility", any medical office, medical clinic, medical laboratory, or hospital.

"Notice", (i) receipt of or awareness of the contents of a court order prohibiting blocking of a medical facility; (ii) oral request by an authorized representative of a medical facility, or law enforcement official to refrain from obstructing access to a medical facility; or (iii) written posted notice outside the entrance to a medical facility to refrain from obstructing access to a medical facility.

Whoever knowingly obstructs entry to or departure from any medical facility or who enters or remains in any medical facility so as to impede the provision of medical services, after notice to refrain from such obstruction or interference, shall be punished for the first offense by a fine of not more than one thousand dollars or not more than six months in jail or a house of correction or both, and for each subsequent violation of this section by a fine of not less than five hundred dollars and not more than five thousand dollars or not more than two and one-half years in jail or a house of correction or both. These penalties shall be in addition to any penalties imposed for violation of a court

order.

A person who knowingly obstructs entry to or departure from such medical facility or who enters or remains in such facility so as to impede the provision of medical services after notice to refrain from such obstruction or interference, may be arrested by a sheriff, deputy sheriff, constable, or police officer.

Any medical facility whose rights to provide services under the provisions of this section have been violated or which has reason to believe that any person or entity is about to engage in conduct proscribed herein may commence a civil action for injunctive and other equitable relief, including the award of compensatory and exemplary damages. Said civil action shall be instituted either in superior court for the county in which the conduct complained of occurred, or in the superior court for the county in which any person or entity complained of resides or has a principal place of business. An aggrieved facility which prevails in an action authorized by this paragraph, in addition to other damages, shall be entitled to an award of the costs of the litigation and reasonable attorney's fees in an amount to be fixed by the court.

Nothing herein shall be construed to interfere with any rights provided by chapter one hundred and fifty A or by the federal Labor-Management Act of 1947 or other rights to engage in peaceful picketing which does not obstruct entry or departure.

- **Crimes and Punishments § 120E 1/2 . Reproductive health care facilities**

(a) For the purposes of this section, "reproductive health care facility" means a place, other than within or upon the grounds of a hospital, where abortions are offered or performed.

(b) No person shall knowingly enter or remain on a public way or sidewalk adjacent to a reproductive health care facility within a radius of 35 feet of any portion of an entrance, exit or driveway of a reproductive health care facility or within the area within a rectangle created by extending the outside boundaries of any entrance, exit or driveway of a reproductive health care facility in straight lines to the point where such lines intersect the sideline of the street in front of such entrance, exit or driveway. This subsection shall not apply to the following:--

(1) persons entering or leaving such facility;

(2) employees or agents of such facility acting within the scope of their employment;

(3) law enforcement, ambulance, firefighting, construction, utilities, public works and other municipal agents acting within the scope of their employment; and

(4) persons using the public sidewalk or street right-of-way adjacent to such facility solely for the purpose of reaching a destination other than such facility.

(c) The provisions of subsection (b) shall only take effect during a facility's business hours and if the area contained within the radius and rectangle described in said subsection (b) is clearly marked and posted.

(d) Whoever knowingly violates this section shall be punished, for the first offense, by a fine of not more than \$500 or not more than three months in a jail or house of correction, or by both such fine and imprisonment, and for each subsequent offense, by a fine of not less than \$500 and not more than \$5,000 or not more than two and one-half years in a jail or house of correction, or both such fine and imprisonment. A person who knowingly violates this section may be arrested without a warrant by a sheriff, deputy sheriff or

police officer if that sheriff, deputy sheriff, or police officer observes that person violating this section.

(e) Any person who knowingly obstructs, detains, hinders, impedes or blocks another person's entry to or exit from a reproductive health care facility shall be punished, for the first offense, by a fine of not more than \$500 or not more than three months in a jail or house of correction, or by both such fine and imprisonment, and for each subsequent offense, by a fine of not less than \$500 nor more than \$5,000 or not more than two and one-half years in a jail or house of correction, or by both such fine and imprisonment. A person who knowingly violates this provision may be arrested without a warrant by a sheriff, deputy sheriff or police officer.

(f) A reproductive health care facility or a person whose rights to provide or obtain reproductive health care services have been violated or interfered with by a violation of this section or any person whose rights to express their views, assemble or pray near a reproductive health care facility have been violated or interfered with may commence a civil action for equitable relief. The civil action shall be commenced either in the superior court for the county in which the conduct complained of occurred, or in the superior court for the county in which any person or entity complained of resides or has a principal place of business.

Maryland

- **Criminal Law § 10-204. Interference with access to or egress from a medical facility**

Definitions

(a) (1) In this section the following words have the meanings indicated.

(2)(i) "Medical facility" means:

1. a facility as defined in [§ 10-101 of the Health--General Article](#); or
2. a health care facility as defined in [§ 19-114 of the Health--General Article](#).

(ii) "Medical facility" includes an agency, clinic, or office operated under the direction of the local health officer or under the regulatory authority of the Department of Health and Mental Hygiene.

Scope of section

(b) (1) This section does not apply to:

- (i) the chief executive officer of the medical facility;
- (ii) a designee of the chief executive officer of the medical facility;
- (iii) an agent of the medical facility; or
- (iv) a law enforcement officer.

(2) This section does not prohibit:

- (i) speech; or
- (ii) picketing in connection with a labor dispute as defined in [§ 4-301 of the Labor and Employment Article](#).

Prohibited

(c) A person may not intentionally act, alone or with others, to prevent another from entering or exiting a medical facility by physically:

- (1) detaining the other; or
- (2) obstructing, impeding, or hindering the other's passage.

Penalty

(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding \$1,000 or both.

Maine

- **Administrative Procedures and Services § 4684-B. Additional protections**

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Building" means any structure having a roof or a partial roof supported by columns or walls that is used or intended to be used for shelter or enclosure of persons or objects regardless of the materials of which it is constructed.

B. "Health service" means any medical, surgical, laboratory, testing or counseling service relating to the human body.

C. "Physical obstruction" means rendering impassable ingress to or egress from a building or rendering passage to or from a building unreasonably difficult or hazardous.

2. Violation. It is a violation of this section for any person, whether or not acting under color of law, to intentionally interfere or attempt to intentionally interfere with the exercise or enjoyment by any other person of rights secured by the United States Constitution or the laws of the United States or of rights secured by the Constitution of Maine or laws of the State by any of the following conduct:

A. Engaging in the physical obstruction of a building;

B. Making or causing repeated telephone calls to a person or a building, whether or not conversation ensues, with the intent to impede access to a person's or building's telephone lines or otherwise disrupt a person's or building's activities;

C. Activating a device or exposing a substance that releases noxious and offensive odors within a building; or

D. After having been ordered by a law enforcement officer to cease such noise, intentionally making noise that can be heard within a building and with the further intent either:

(1) To jeopardize the health of persons receiving health services within the building; or

(2) To interfere with the safe and effective delivery of those services within the

building.

Michigan

- **Public Health Code 333.20198. Entering upon health facility or agency premise for purpose of engaging in prohibited activity or conduct relating to intimidation, harassment, molestation, etc.; misdemeanor**

Sec. 20198. (1) Subject to subsection (3), an individual shall not enter upon the premises of a health facility or agency that is an inpatient facility, an outpatient facility, or a residential facility for the purpose of engaging in an activity that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested and that actually causes a health facility or agency employee, patient, resident, or visitor to feel terrorized, frightened, intimidated, threatened, harassed, or molested. This subsection does not prohibit constitutionally protected activity or conduct that serves a legitimate purpose.

(2) An individual who violates subsection (1) is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year or a fine of not less than \$1,000.00 or more than \$10,000.00, or both.

(3) Subsections (1) and (2) do not apply to a nursing home covered under sections 21763(5) and 21799c(1)(c). [\[FN1\]](#)

Minnesota

- **Criminal Code 609.7495. Physical interference with safe access to health care**

Subdivision 1. Definitions. For the purposes of this section, the following terms have the meanings given them.

(a) "Facility" means any of the following:

(1) a hospital or other health institution licensed under [sections 144.50](#) to [144.56](#);

(2) a medical facility as defined in [section 144.561](#);

(3) an agency, clinic, or office operated under the direction of or under contract with the commissioner of health or a community health board, as defined in [section 145A.02](#);

(4) a facility providing counseling regarding options for medical services or recovery from an addiction;

(5) a facility providing emergency shelter services for battered women, as defined in [section 611A.31, subdivision 3](#), or a facility providing transitional housing for battered women and their children;

(6) a facility as defined in [section 626.556, subdivision 2](#), paragraph (f);

(7) a facility as defined in [section 626.5572, subdivision 6](#), where the services described in that paragraph are provided;

(8) a place to or from which ambulance service, as defined in [section 144E.001](#), is provided or sought to be provided; and

(9) a hospice provider licensed under [section 144A.753](#).

(b) "Aggrieved party" means a person whose access to or egress from a facility is obstructed in violation of subdivision 2, or the facility.

Subd. 2. Obstructing access prohibited. A person is guilty of a gross misdemeanor who intentionally and physically obstructs any individual's access to or egress from a facility.

Subd. 3. Not applicable. Nothing in this section shall be construed to impair the right of any individual or group to engage in speech protected by the United States Constitution, the Minnesota Constitution, or federal or state law, including but not limited to peaceful and lawful handbilling and picketing.

Subd. 4. Civil remedies. (a) A party who is aggrieved by an act prohibited by this section, or by an attempt or conspiracy to commit an act prohibited by this section, may bring an action for damages, injunctive or declaratory relief, as appropriate, in district court against any person or entity who has violated or has conspired to violate this section.

(b) A party who prevails in a civil action under this subdivision is entitled to recover from the violator damages, costs, attorney fees, and other relief as determined by the court. In addition to all other damages, the court may award to the aggrieved party a civil penalty of up to \$1,000 for each violation. If the aggrieved party is a facility and the political subdivision where the violation occurred incurred law enforcement or prosecution expenses in connection with the same violation, the court shall award any civil penalty it imposes to the political subdivision instead of to the facility.

(c) The remedies provided by this subdivision are in addition to any other legal or equitable remedies the aggrieved party may have and are not intended to diminish or substitute for those remedies or to be exclusive.

Montana

- **Crimes § 45-8-110. Obstructing health care facility access**

(1) A person commits the offense of obstructing health care facility access if the person knowingly obstructs, hinders, or blocks another person's entry into or exit from a health care facility. Commission of the offense includes but is not limited to knowingly approaching within 8 feet of a person who is entering or leaving a health care facility to give the person written or oral information, to display a sign, or to protest, counsel, or educate about a health issue, when the person does not consent to that activity and is within 36 feet of an entrance to or exit from the health care facility.

(2) A person convicted under this section shall be fined an amount not to exceed \$100.

(3) For purposes of this section, "health care facility" means an office of a medical practitioner, as defined in [37-2-101](#), or any other facility or entity that is licensed, certified, or otherwise authorized by law to administer medical treatment in this state.

North Carolina

- **Criminal Law § 14-277.2. Weapons at parades, etc., prohibited**

(a) It shall be unlawful for any person participating in, affiliated with, or present as a spectator at any parade, funeral procession, picket line, or demonstration upon any private health care facility or upon any public place owned or under the control of the State or any of its political subdivisions to willfully or intentionally possess or have immediate access to any dangerous weapon. Violation of this subsection shall be a Class

1 misdemeanor. It shall be presumed that any rifle or gun carried on a rack in a pickup truck at a holiday parade or in a funeral procession does not violate the terms of this act.

(b) For the purposes of this section the term “dangerous weapon” shall include those weapons specified in [G.S. 14-269](#), [14-269.2](#), [14-284.1](#), or [14-288.8](#) or any other object capable of inflicting serious bodily injury or death when used as a weapon.

(c) The provisions of this section shall not apply to a person exempted by the provisions of [G.S. 14-269\(b\)](#) or to persons authorized by State or federal law to carry dangerous weapons in the performance of their duties or to any person who obtains a permit to carry a dangerous weapon at a parade, funeral procession, picket line, or demonstration from the sheriff or police chief, whichever is appropriate, of the locality where such parade, funeral procession, picket line, or demonstration is to take place.

- **Criminal Law § 14-277.4. Obstruction of health care facilities**

(a) No person shall obstruct or block another person's access to or egress from a health care facility or from the common areas of the real property upon which the facility is located in a manner that deprives or delays the person from obtaining or providing health care services in the facility.

(b) No person shall injure or threaten to injure a person who is or has been:

- (1) Obtaining health care services;
- (2) Lawfully aiding another to obtain health care services; or
- (3) Providing health care services.

(c) A violation of subsection (a) or (b) of this section is a Class 2 misdemeanor. A second conviction for a violation of either subsection (a) or (b) of this section within three years of the first shall be punishable as a Class 1 misdemeanor. A third or subsequent conviction for a violation of either subsection (a) or (b) of this section within three years of the second or most recent conviction shall be punishable as a Class I felony.

(d) Any person aggrieved under this section may seek injunctive relief in a court of competent jurisdiction to prevent threatened or further violations of this section. Any violation of an injunction obtained pursuant to this section constitutes criminal contempt and shall be punishable by a term of imprisonment of not less than 30 days and no more than 12 months.

(e) This section shall not prohibit any person from engaging in lawful speech or picketing which does not impede or deny another person's access to health care services or to a health care facility or interfere with the delivery of health care services within a health care facility.

(f) “Health care facility” as used in this section means any hospital, clinic, or other facility that is licensed to administer medical treatment or the primary function of which is to provide medical treatment in this State.

(g) “Health care services” as used in this section means services provided in a health care facility.

(h) Persons subject to the prohibitions in subsection (a) of this section do not include owners, officers, agents, or employees of the health care facility or law enforcement officers acting to protect real or personal property.

Nevada

- **Public Health and Safety § 449.760. Unlawful acts; exception; penalty**

1. Except as otherwise provided in this section, a person shall not intentionally prevent another person from entering or exiting the office of a physician, a health facility, a nonprofit health facility, a public health center, a medical facility or a facility for the dependent by physically:

(a) Detaining the other person; or

(b) Obstructing, impeding or hindering the other person's movement.

2. The provisions of subsection 1 are inapplicable to:

(a) An officer, employee or agent of the physician, health facility, nonprofit health facility, public health center, medical facility or facility for the dependent; or

(b) A peace officer as defined in [NRS 169.125](#),

while acting within the course and scope of his or her duties or employment.

3. The provisions of subsection 1 do not prohibit a person from maintaining a picket during a strike or work stoppage in compliance with the provisions of [NRS 614.160](#), or from engaging in any constitutionally protected exercise of free speech.

4. A person who violates the provisions of subsection 1 is guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000, or by imprisonment in the county jail for not more than 3 months, or by both fine and imprisonment.

5. As used in this section, the terms "health facility," "nonprofit health facility" and "public health center" have the meanings ascribed to them in [NRS 449.260](#).

New York

- **Penal Law § 240.70 Criminal interference with health care services or religious worship in the second degree**

1. A person is guilty of criminal interference with health services or religious worship in the second degree when:

(a) by force or threat of force or by physical obstruction, he or she intentionally injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with, another person because such other person was or is obtaining or providing reproductive health services; or

(b) by force or threat of force or by physical obstruction, he or she intentionally injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with, another person in order to discourage such other person or any other person or persons from obtaining or providing reproductive health services; or

(c) by force or threat of force or by physical obstruction, he or she intentionally injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with, another person because such person was or is seeking to exercise the right of religious freedom at a place of religious worship; or

(d) he or she intentionally damages the property of a health care facility, or attempts

to do so, because such facility provides reproductive health services, or intentionally damages the property of a place of religious worship.

2. A parent or legal guardian of a minor shall not be subject to prosecution for conduct otherwise prohibited by paragraph (a) or (b) of subdivision one of this section which is directed exclusively at such minor.

3. For purposes of this section:

(a) the term "health care facility" means a hospital, clinic, physician's office or other facility that provides reproductive health services, and includes the building or structure in which the facility is located;

(b) the term "interferes with" means to restrict a person's freedom of movement;

(c) the term "intimidates" means to place a person in reasonable apprehension of physical injury to himself or herself or to another person;

(d) the term "physical obstruction" means rendering impassable ingress to or egress from a facility that provides reproductive health services or to or from a place of religious worship, or rendering passage to or from such a facility or place of religious worship unreasonably difficult or hazardous; and

(e) the term "reproductive health services" means health care services provided in a hospital, clinic, physician's office or other facility and includes medical, surgical, counseling or referral services relating to the human reproductive system, including services relating to pregnancy or the termination of a pregnancy.

Criminal interference with health care services or religious worship in the second degree is a class A misdemeanor.

- **Penal Law § 240.71 Criminal interference with health care services or religious worship in the first degree**

A person is guilty of criminal interference with health care services or religious worship in the first degree when he or she commits the crime of criminal interference with health care services or religious worship in the second degree and has been previously convicted of the crime of criminal interference with health care services or religious worship in the first or second degree or aggravated interference with health care services in the first or second degree.

Criminal interference with health care services or religious worship in the first degree is a class E felony.

- **Penal Law § 120.45 Stalking in the fourth degree**

A person is guilty of stalking in the fourth degree when he or she intentionally, and for no legitimate purpose, engages in a course of conduct directed at a specific person, and knows or reasonably should know that such conduct:

1. is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person's immediate family or a third party with whom such person is acquainted; or

2. causes material harm to the mental or emotional health of such person, where such conduct consists of following, telephoning or initiating communication or contact with

such person, a member of such person's immediate family or a third party with whom such person is acquainted, and the actor was previously clearly informed to cease that conduct; or

3. is likely to cause such person to reasonably fear that his or her employment, business or career is threatened, where such conduct consists of appearing, telephoning or initiating communication or contact at such person's place of employment or business, and the actor was previously clearly informed to cease that conduct.

Stalking in the fourth degree is a class B misdemeanor.

- **Penal Law § 120.50 Stalking in the third degree**

A person is guilty of stalking in the third degree when he or she:

1. Commits the crime of stalking in the fourth degree in violation of [section 120.45](#) of this article against three or more persons, in three or more separate transactions, for which the actor has not been previously convicted; or

2. Commits the crime of stalking in the fourth degree in violation of [section 120.45](#) of this article against any person, and has previously been convicted, within the preceding ten years of a specified predicate crime, as defined in [subdivision five of section 120.40](#) of this article, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or

3. With intent to harass, annoy or alarm a specific person, intentionally engages in a course of conduct directed at such person which is likely to cause such person to reasonably fear physical injury or serious physical injury, the commission of a sex offense against, or the kidnapping, unlawful imprisonment or death of such person or a member of such person's immediate family; or

4. Commits the crime of stalking in the fourth degree and has previously been convicted within the preceding ten years of stalking in the fourth degree.

Stalking in the third degree is a class A misdemeanor.

- **Penal Law § 120.55 Stalking in the second degree**

A person is guilty of stalking in the second degree when he or she:

1. Commits the crime of stalking in the third degree as defined in [subdivision three of section 120.50](#) of this article and in the course of and in furtherance of the commission of such offense: (i) displays, or possesses and threatens the use of, a firearm, pistol, revolver, rifle, shotgun, machine gun, electronic dart gun, electronic stun gun, cane sword, billy, blackjack, bludgeon, plastic knuckles, metal knuckles, chuka stick, sand bag, sandclub, slingshot, slungshot, shirken, "Kung Fu Star", dagger, dangerous knife, dirk, razor, stiletto, imitation pistol, dangerous instrument, deadly instrument or deadly weapon; or (ii) displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or

2. Commits the crime of stalking in the third degree in violation of [subdivision three of section 120.50](#) of this article against any person, and has previously been convicted, within the preceding five years, of a specified predicate crime as defined in [subdivision five of section 120.40](#) of this article, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or

3. Commits the crime of stalking in the fourth degree and has previously been convicted of stalking in the third degree as defined in [subdivision four of section 120.50](#) of this article against any person; or

4. Being twenty-one years of age or older, repeatedly follows a person under the age of fourteen or engages in a course of conduct or repeatedly commits acts over a period of time intentionally placing or attempting to place such person who is under the age of fourteen in reasonable fear of physical injury, serious physical injury or death; or

5. Commits the crime of stalking in the third degree, as defined in [subdivision three of section 120.50](#) of this article, against ten or more persons, in ten or more separate transactions, for which the actor has not been previously convicted.

Stalking in the second degree is a class E felony.

- **Penal Law § 120.60 Stalking in the first degree**

A person is guilty of stalking in the first degree when he or she commits the crime of stalking in the third degree as defined in [subdivision three of section 120.50](#) or stalking in the second degree as defined in [section 120.55](#) of this article and, in the course and furtherance thereof, he or she:

1. intentionally or recklessly causes physical injury to the victim of such crime; or

2. commits a class A misdemeanor defined in article one hundred thirty of this chapter, or a class E felony defined in [section 130.25](#), [130.40](#) or [130.85](#) of this chapter, or a class D felony defined in [section 130.30](#) or [130.45](#) of this chapter.

Stalking in the first degree is a class D felony.

Oregon

- **Crimes and Punishments § 164.365. Criminal mischief in the first degree**

(1) A person commits the crime of criminal mischief in the first degree who, with intent to damage property, and having no right to do so nor reasonable ground to believe that the person has such right:

(a) Damages or destroys property of another:

(A) In an amount exceeding \$1,000;

(B) By means of an explosive;

(C) By starting a fire in an institution while the person is committed to and confined in the institution;

(D) Which is a livestock animal as defined in [ORS 164.055](#);

(E) Which is the property of a public utility, telecommunications carrier, railroad, public transportation facility or medical facility used in direct service to the public; or

(F) By intentionally interfering with, obstructing or adulterating in any manner the service of a public utility, telecommunications carrier, railroad, public transportation facility or medical facility; or

(b) Intentionally uses, manipulates, arranges or rearranges the property of a public

utility, telecommunications carrier, railroad, public transportation facility or medical facility used in direct service to the public so as to interfere with its efficiency.

(2) As used in subsection (1) of this section:

(a) "Institution" includes state and local correctional facilities, mental health facilities, juvenile detention facilities and state training schools.

(b) "Medical facility" means a health care facility as defined in [ORS 442.015](#), a licensed physician's office or anywhere a licensed medical practitioner provides health care services.

(c) "Public utility" has the meaning provided for that term in [ORS 757.005](#) and includes any cooperative, people's utility district or other municipal corporation providing an electric, gas, water or other utility service.

(d) "Railroad" has the meaning provided for that term in [ORS 824.020](#).

(e) "Public transportation facility" means any property, structure or equipment used for or in connection with the transportation of persons for hire by rail, air or bus, including any railroad cars, buses or airplanes used to carry out such transportation.

(f) "Telecommunications carrier" has the meaning given that term in [ORS 133.721](#).

(3) Criminal mischief in the first degree is a Class C felony.

United States of America

- **§ 248. Freedom of access to clinic entrances**

(a) Prohibited activities.--Whoever--

(1) by force or threat of force or by physical obstruction, intentionally injures, intimidates or interferes with or attempts to injure, intimidate or interfere with any person because that person is or has been, or in order to intimidate such person or any other person or any class of persons from, obtaining or providing reproductive health services;

(2) by force or threat of force or by physical obstruction, intentionally injures, intimidates or interferes with or attempts to injure, intimidate or interfere with any person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship; or

(3) intentionally damages or destroys the property of a facility, or attempts to do so, because such facility provides reproductive health services, or intentionally damages or destroys the property of a place of religious worship,

shall be subject to the penalties provided in subsection (b) and the civil remedies provided in subsection (c), except that a parent or legal guardian of a minor shall not be subject to any penalties or civil remedies under this section for such activities insofar as they are directed exclusively at that minor.

(b) Penalties.--Whoever violates this section shall--

(1) in the case of a first offense, be fined in accordance with this title, or imprisoned not more than one year, or both; and

(2) in the case of a second or subsequent offense after a prior conviction under this

section, be fined in accordance with this title, or imprisoned not more than 3 years, or both;

except that for an offense involving exclusively a nonviolent physical obstruction, the fine shall be not more than \$10,000 and the length of imprisonment shall be not more than six months, or both, for the first offense; and the fine shall, notwithstanding [section 3571](#), be not more than \$25,000 and the length of imprisonment shall be not more than 18 months, or both, for a subsequent offense; and except that if bodily injury results, the length of imprisonment shall be not more than 10 years, and if death results, it shall be for any term of years or for life.

(c) Civil remedies.--

(1) Right of action.--

(A) In general.--Any person aggrieved by reason of the conduct prohibited by subsection (a) may commence a civil action for the relief set forth in subparagraph (B), except that such an action may be brought under subsection (a)(1) only by a person involved in providing or seeking to provide, or obtaining or seeking to obtain, services in a facility that provides reproductive health services, and such an action may be brought under subsection (a)(2) only by a person lawfully exercising or seeking to exercise the First Amendment right of religious freedom at a place of religious worship or by the entity that owns or operates such place of religious worship.

(B) Relief.--In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief and compensatory and punitive damages, as well as the costs of suit and reasonable fees for attorneys and expert witnesses. With respect to compensatory damages, the plaintiff may elect, at any time prior to the rendering of final judgment, to recover, in lieu of actual damages, an award of statutory damages in the amount of \$5,000 per violation.

(2) Action by Attorney General of the United States.--

(A) In general.--If the Attorney General of the United States has reasonable cause to believe that any person or group of persons is being, has been, or may be injured by conduct constituting a violation of this section, the Attorney General may commence a civil action in any appropriate United States District Court.

(B) Relief.--In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief, and compensatory damages to persons aggrieved as described in paragraph (1)(B). The court, to vindicate the public interest, may also assess a civil penalty against each respondent--

(i) in an amount not exceeding \$10,000 for a nonviolent physical obstruction and \$15,000 for other first violations; and

(ii) in an amount not exceeding \$15,000 for a nonviolent physical obstruction and \$25,000 for any other subsequent violation.

(3) Actions by State Attorneys General.--

(A) In general.--If the Attorney General of a State has reasonable cause to believe that any person or group of persons is being, has been, or may be injured by conduct

constituting a violation of this section, such Attorney General may commence a civil action in the name of such State, as parens patriae on behalf of natural persons residing in such State, in any appropriate United States District Court.

(B) Relief.--In any action under subparagraph (A), the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief, compensatory damages, and civil penalties as described in paragraph (2)(B).

(d) Rules of construction.--Nothing in this section shall be construed--

(1) to prohibit any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the First Amendment to the Constitution;

(2) to create new remedies for interference with activities protected by the free speech or free exercise clauses of the First Amendment to the Constitution, occurring outside a facility, regardless of the point of view expressed, or to limit any existing legal remedies for such interference;

(3) to provide exclusive criminal penalties or civil remedies with respect to the conduct prohibited by this section, or to preempt State or local laws that may provide such penalties or remedies; or

(4) to interfere with the enforcement of State or local laws regulating the performance of abortions or other reproductive health services.

(e) Definitions.--As used in this section:

(1) Facility.--The term "facility" includes a hospital, clinic, physician's office, or other facility that provides reproductive health services, and includes the building or structure in which the facility is located.

(2) Interfere with.--The term "interfere with" means to restrict a person's freedom of movement.

(3) Intimidate.--The term "intimidate" means to place a person in reasonable apprehension of bodily harm to him- or herself or to another.

(4) Physical obstruction.--The term "physical obstruction" means rendering impassable ingress to or egress from a facility that provides reproductive health services or to or from a place of religious worship, or rendering passage to or from such a facility or place of religious worship unreasonably difficult or hazardous.

(5) Reproductive health services.--The term "reproductive health services" means reproductive health services provided in a hospital, clinic, physician's office, or other facility, and includes medical, surgical, counselling or referral services relating to the human reproductive system, including services relating to pregnancy or the termination of a pregnancy.

(6) State.--The term "State" includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

Washington

- **Criminal Code § 9A.50.020. Interference with health care facility**

It is unlawful for a person except as otherwise protected by state or federal law, alone or

in concert with others, to willfully or recklessly interfere with access to or from a health care facility or willfully or recklessly disrupt the normal functioning of such facility by:

(1) Physically obstructing or impeding the free passage of a person seeking to enter or depart from the facility or from the common areas of the real property upon which the facility is located;

(2) Making noise that unreasonably disturbs the peace within the facility;

(3) Trespassing on the facility or the common areas of the real property upon which the facility is located;

(4) Telephoning the facility repeatedly, or knowingly permitting any telephone under his or her control to be used for such purpose; or

(5) Threatening to inflict injury on the owners, agents, patients, employees, or property of the facility or knowingly permitting any telephone under his or her control to be used for such purpose.

- **Criminal Code § 9A.50.040. Civil remedies**

(1) A person or health care facility aggrieved by the actions prohibited by [RCW 9A.50.020](#) may seek civil damages from those who committed the prohibited acts and those acting in concert with them. A plaintiff in an action brought under this chapter shall not recover more than his or her actual damages and additional sums authorized in [RCW 9A.50.050](#). Once a plaintiff recovers his or her actual damages and any additional sums authorized under this chapter, additional damages shall not be recovered. A person does not have to be criminally convicted of violating [RCW 9A.50.020](#) to be held civilly liable under this section. It is not necessary to prove actual damages to recover the additional sums authorized under [RCW 9A.50.050](#), costs, and attorneys' fees. The prevailing party is entitled to recover costs and attorneys' fees.

(2) The superior courts of this state shall have authority to grant temporary, preliminary, and permanent injunctive relief to enjoin violations of this chapter.

In appropriate circumstances, any superior court having personal jurisdiction over one or more defendants may issue injunctive relief that shall have binding effect on the original defendants and persons acting in concert with the original defendants, in any county in the state.

Due to the nature of the harm involved, injunctive relief may be issued without bond in the discretion of the court, notwithstanding any other requirement imposed by statute.

The state and its political subdivisions shall cooperate in the enforcement of court injunctions that seek to protect against acts prohibited by this chapter.

- **Criminal Code § 9A.50.050. Civil damages**

In a civil action brought under this chapter, an individual plaintiff aggrieved by the actions prohibited by [RCW 9A.50.020](#) may be entitled to recover up to five hundred dollars for each day that the actions occurred, or up to five thousand dollars for each day that the actions occurred if the plaintiff aggrieved by the actions prohibited under [RCW 9A.50.020](#) is a health care facility.

Wisconsin

Crimes § 943.145. Criminal trespass to a medical facility

(1) In this section, “medical facility” means a hospital under [s. 50.33\(2\)](#) or a clinic or office that is used by a physician licensed under ch. 448 and that is subject to rules promulgated by the medical examining board for the clinic or office that are in effect on November 20, 1985.

(2) Whoever intentionally enters a medical facility without the consent of some person lawfully upon the premises, under circumstances tending to create or provoke a breach of the peace, is guilty of a Class B misdemeanor.

(3) This section does not prohibit any person from participating in lawful conduct in labor disputes under [s. 103.53](#).

Table A.3: State and Federal Clinic Protection Laws of the United States, 1985 – 2008

State	Statute	Effective Date	Violence	Property	Harassment/Vandalism
CA	Penal Code § 423, 423.1, 423.2, 423.3, 423.4, 423.5, 423.6 ⁴⁶	1/1/2002	x	x	x
CA	Penal Code § 602.11	1/1/1993			x
CA	Penal Code § 11413	1/1/2005		x	
CA	Civil Code §§ 3427, 3427.1, 3427.2	1/1/1995			x
CA	Penal Code § 594.4	1/1/1994		x	
CO	Criminal Code § 18-9-122, Courts and Court Procedure § 13-21-106.7	4/19/1993			x
CT	General Statutes-Crimes § 53-37b, Civil Actions § 52-571a	6/29/1993	x		x
D.C.	Criminal Law	9/20/1996			x

⁴⁶ These statutes comprise the California Freedom of Access to Clinic and Church Entrances Act

	and Procedure and Prisoners § 22-1314.01, 22-1314.02				
KS	Kansas Statutes- Crimes and Punishments § 21-3721	4/23/1992			x
MA	General Laws- Crimes and Punishments § 120E	11/4/1993			x
MA	General Laws- Crimes and Punishments § 120E 1/2	11/11/2000			x
MD	Code of Maryland- Criminal Law § 10-204	10/1/2002			x
ME	Revised Statute- Administrative Procedures and Services § 4684-B	9/29/1995		x	x
MI	Compiled Laws- Public Health Code § 333.20198	3/23/1999			x
MN	Minnesota Statutes- Criminal Code § 609.7495	5/20/1993			x
MT	Montana Code- Crimes § 45-8-110	10/1/2005			x
NC	General. Statutes- Criminal Law § 14-277.2	10/1/1981			x
NC	General. Statutes-	10/1/1993			x

	Criminal Law § 14-277.4				
NV	Revised Statutes- Public Health and Safety § 449.760	7/5/1991			x
NY	Consolidated Laws- Penal Law § 240.70, 240.71, 120.45, 120.50, 120.55, 120.60 ⁴⁷	12/1/1999	x	x	x
OR	Revised Statutes- Crimes and Punishments §164.365	9/29/1991		x	
USA	Title 18 United States Code § 248	5/26/1994	x	x	x
WA	Revised Code- Washington Criminal Code § 9A.50.020, 9A.50.030, 9A.50.040, 9A.50.050	4/26/1993			x
WI	Statutes- Crimes § 943.145	11/20/1985			x

⁴⁷ These statutes comprise the Clinic Access and Anti-stalking Act of 1999.

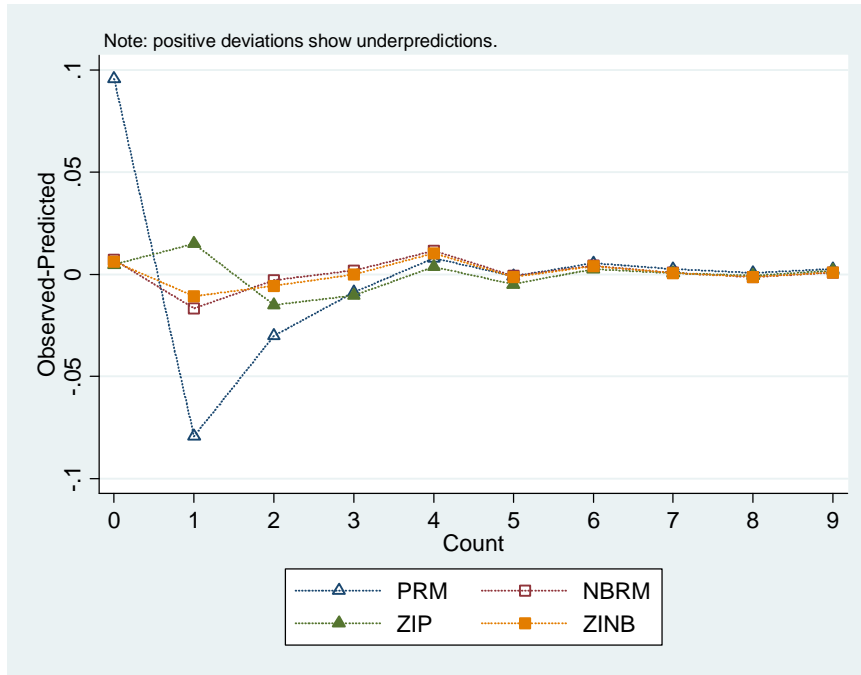
APPENDIX A-3: VARIABLE CORRELATIONS

Table A.4: Correlation Matrix for Model Variables

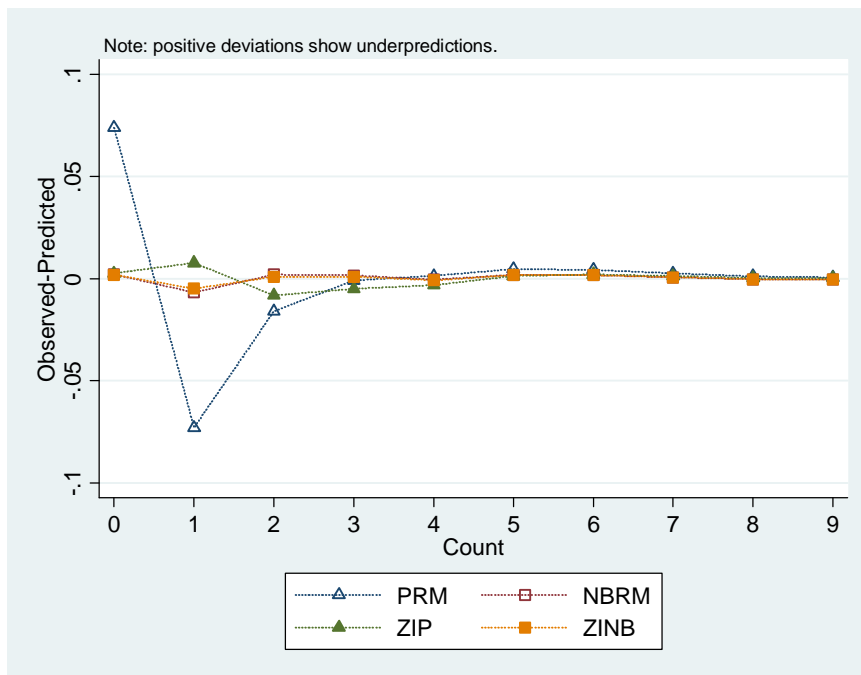
	1	2	3	4	5	6	7	8	9	10
1. Total Attacks	1.00									
2. Vio/Property Attacks	0.86	1.00								
3. Harassment	0.75	0.31	1.00							
4. Statelawlag	0.17	0.09	0.2	1.00						
5. Violawlag	0.14	0.04	0.21	0.33	1.00					
6. Proplawlag	0.2	0.1	0.25	0.44	0.38	1.00				
7. Harasslawlag	0.17	0.08	0.21	0.96	0.35	0.29	1.00			
8. FACElag	0.19	0.05	0.28	0.35	0.15	0.12	0.34	1.00		
9. Abortionlag	0.05	0.06	0.01	0.05	0.06	0.03	0.05	-0.19	1.00	
10. Rape	0.09	0.12	0.00	-0.03	-0.13	-0.07	-0.04	-0.00	0.24	1.00

APPENDIX A-4: OBSERVED AND PREDICTED MODEL COUNTS

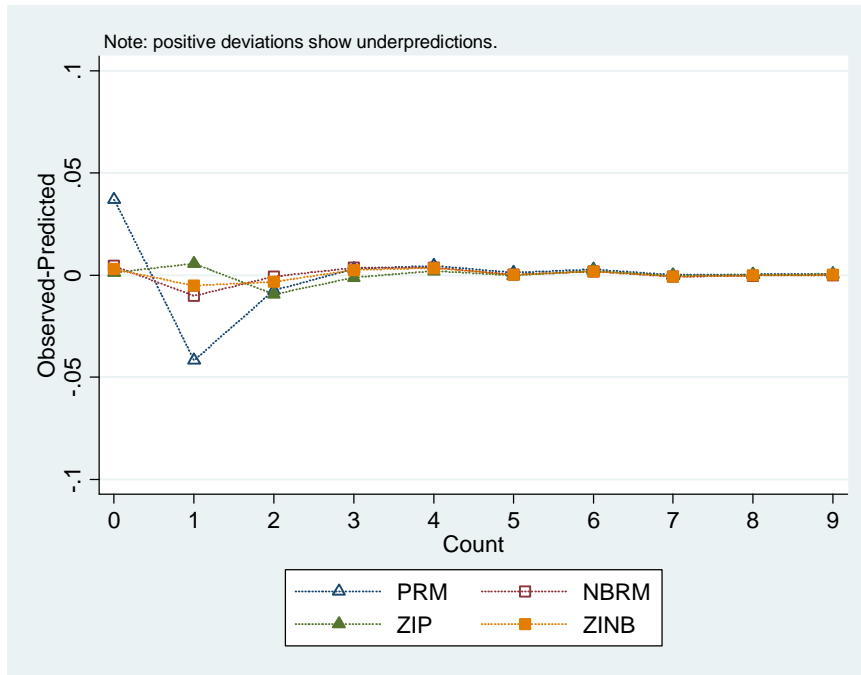
Graph A.1: Observed Minus Predicted Counts for Model 1 - The Impact of General Protection Laws on the Total Number of Attacks



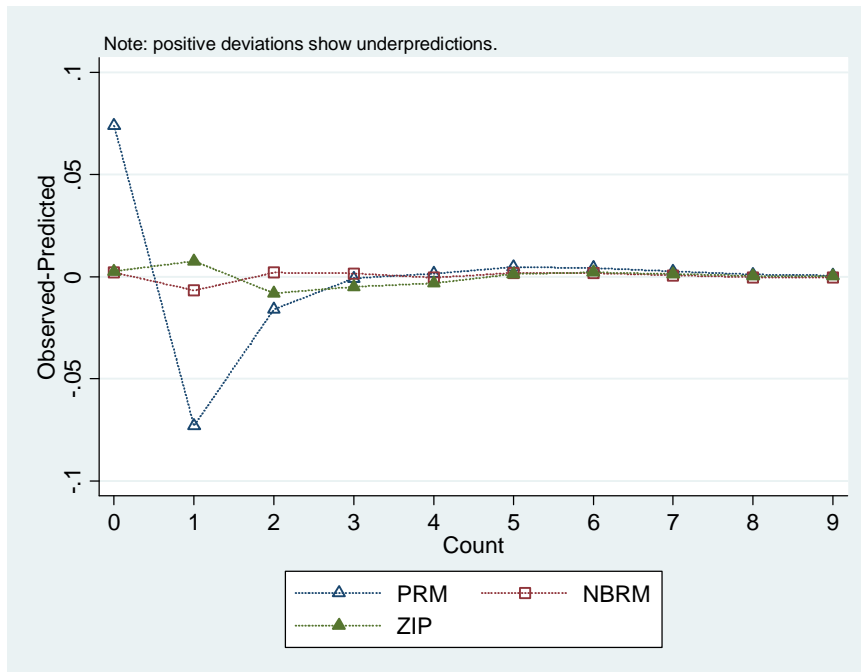
Graph A.2: Observed Minus Predicted Counts for Model 2 - The Impact of General Protection Laws on Violent/Property Attacks



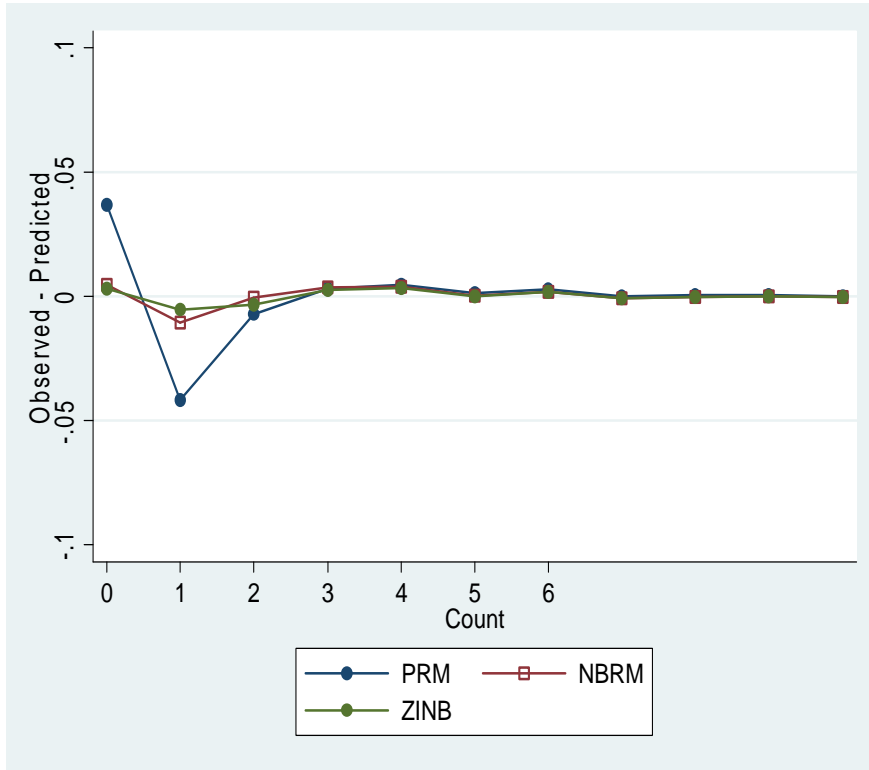
Graph A.3: Observed Minus Predicted Counts for Model 3 - The Impact of General Protection Laws on Harassment/Vandalism Attacks



Graph A.4: Observed Minus Predicted Counts for Model 4 - The Impact of Individual Protection Laws on Violent/Property Attacks



Graph A.5: Observed Minus Predicted Counts for Model 5 - The Impact of Individual Protection Laws on Harassment/Vandalism Attacks



APPENDIX B-1: ANTI-ABORTION CRIME INCIDENT SUPPLEMENTATION INSTRUCTIONS

INCIDENT VERIFICATION PROJECT INSTRUCTIONS

INCIDENT VERIFICATION

SUPERVISOR: BRAD BARTHOLOMEW, BBARTHOLOMEW@CRIM.UMD.EDU

In this particular incident supplementation you will be searching for media sources (articles) that provide verification for the U.S. cases in the file *AA Data.xls*. Specifically, we will be focusing on procuring an independent media source for each of the U.S. cases. In doing so, you will also be adding any relevant/missing information that you come across for all of the coded variables. For example, should the exact date of attack or property damage dollar estimate be missing in an incident row, you would enter this information as it exists in the media source/article, under your personal column (i.e., Tara's Summer 2010 Cleaning Notes or Mike's Summer 2010 Cleaning Notes).

Tools you may use:

1. List of all U.S. cases in the GTD (GTD_abortion.xls)
2. List of all previously found verification articles (AA Verification Files)
3. Excel Spreadsheet of all U.S. cases (*AA Data.xls*)
4. Lexis-Nexis and Factiva (Will be used to verify the existence of the terrorist incident as well as to find additional details that can help provide us with missing and/or additional details).
 - a. Note: save all articles used in the verification process in PDF format and include the matching incident number (found at the third to last column in the Excel sheet "All Incidents ID #") in the file name. (i.e., when you come across an article that matches one of the U.S. cases, save that article as a PDF and title it with the matching incident ID#).
5. Google News and Google News Archive
 - a. <http://news.google.com/archivesearch>
 - b. <http://news.google.com>
6. ProQuest
 - a. <http://proquest.umi.com/login>

Steps:

1. For each incident that you are assigned, you will use the Factiva, Lexis-Nexis and Google-Web search engines.
 - a. Directions for Factiva and Lexis-Nexis:
 - i. Go to the UMD library website <http://www.lib.umd.edu/>
 - ii. Click on the "Research Port" link
 - iii. Type in either Factiva or Lexis Nexis in the database search field and click on "find database"
 - iv. Click on the link for either Factiva or Lexis-Nexis
2. Finding a source for your incident
 - a. First, select a date range of one month before and one month after the incident date (listed on the Excel file)
 - b. Then, using the remaining information from the excel file, begin a search

- i. If the incident was a bombing, include the term bomb or some variation in the search field (note: you may have to use several derivations of key terms such as arson, bomb, assault, gunshot, etc. before you get a match). You will also want to include the city name and the target name when available.
 - c. Click the search or run search button
 - d. Look through the resulting list of articles for a possible match⁴⁸.
 - e. Repeat this process using the other two search engines.
3. What to do when you find a new source
 - a. Immediately save any relevant article as a PDF file. Use the corresponding incident number (found under the column "All Incidents ID #") as the title of the new PDF file. For example, if you were to find an article on incident #23, you would save that article as a PDF file under the title "Incident#23".
 - b. Carefully read through the newly found article for
 - i. Any relevant information that is not already in the Excel sheet
 - ii. Information that conflicts with the data in the Excel sheet
 You are to make a detailed note of any previously missing or conflicting information under your personal field (Tara's Summer 2010 Cleaning Notes or Mike's Summer 2010 Cleaning Notes).
4. When finished with your section, label it with your name as follows (Jackson verification – cases 1-35). Turn in your updated excel file with all of your PDFs.

⁴⁸ When searching for media articles, it is important for you to pay attention to the strength of the publication. Ideally, you will find two "Tier 1" articles/sources for each case. Tier 1 articles come from nationally or regionally recognized newspapers or periodicals (The New York Times, Chicago Tribune, Washington Post, etc.). We did not accept articles from blogs, tabloid magazines or sources of a similar nature.

**APPENDIX B-2: ANTI-ABORTION CRIME DATA COLLECTION PROJECT
CODEBOOK**

1. **INCIDENT IDENTIFICATION NUMBER:** The unique identifying number for this incident.
2. **DATE:** In MM/DD/YYYY format.
3. **YEAR:** In YYYY format.
4. **CITY:** The name of the city in which the incident occurred.
5. **STATE:** The name of the state in which the incident occurred.
6. **TARGET 1, 2, 3:** The name of the specific person(s), group(s), building(s) or organization(s) that was the target of this attack.
7. **TARGET ADDRESS:** U.S. Postal address of incidents involving an attack on or within a residence, commercial or government building.
8. **PERPETRATOR 1, 2, 3:** The name of the specific person(s) and/or group(s) identified as directly taking part in this attack.
9. **ATTACK TYPE 1, 2, 3:** Definitions listed below.

Assassination	An act whose primary objective is to kill one or more specific, prominent individuals.
Armed Assault	An attack whose primary objective is to cause physical harm or death directly to human beings by any means other than an explosive.
Blockade	An act where the perpetrators willfully place their bodies in such a manner as to prevent individuals from gaining entrance to and/or exit from a building/facility. These intentional disruptions of service occur outside the building and therefore do not require entry. The target of the act is a place (i.e. the facility being blockaded).
Bombing/Explosion	An attack where the primary effects are caused by an energetically unstable material undergoing rapid decomposition (either deflagration or detonation) and releasing a pressure wave that causes physical damage to the surrounding environment.
Bomb Threat	Any act in which a person knowingly utters or conveys an expressed threat to cause injury or death to any person or group of people through the use of an explosive device. Note: does not include

	<p>immediate threat of violence (i.e., there is no weapon pointed at the target and the target does not expect violence to occur at that very second). Such acts are usually phoned in or expressed via mail or written materials, but may also be expressed in person. The target of the act may be an individual or a group.</p>
Burglary	<p>Any act involving the illegal entry of either healthcare clinic or healthcare clinic employee for the express purpose of stealing property which would aid in the daily functions of said business. Usually, such an act will entail a break-in at a clinic, followed by the theft of clinic computers, patient and employee records/information, and even funds. Note: there must be reason to believe the incident was committed for the express purpose of inhibiting clinic operations. Incidents that are believed to be solely motivated by monetary gain are not included</p>
Death Threat	<p>Any act in which a person knowingly utters or conveys an expressed threat to cause death to any person or group of people. Note: does not include immediate threat of violence (i.e., there is no weapon pointed at the target and the target does not expect violence to occur at that very second). These incidents often include phoned-in death threats, threats by mail and even threats in person. The target of the act may be an individual or a group.</p>
Hostage Taking (Kidnapping)	<p>As for barricade incident above, but distinguished by the intention to move and hold the hostages in a clandestine location.</p>
Facility/Infrastructure Attack	<p>An act, excluding the use of an explosive, whose primary objective is to cause damage to a non-human target, such as a building, monument, train, pipeline, etc. Such attacks consist of actions primarily aimed at damaging property, or at causing a diminution in the functioning of a useful system (mass disruption) yet not causing direct harm to people. Such attacks</p>

	include arson, cyber attacks, and various forms of sabotage.
Invasion	An act in which an individual or group enters a reproductive healthcare facility with the intent of inhibiting the normal functions of said business in a nonviolent manner . Typically, this type of attack involves a group of individuals entering a clinic during normal business hours and placing themselves in areas that make business functions impracticable. Often, groups will chain themselves to various objects or lay in the prone position. By definition, the act cannot include any form of violence. Should violence be used at some point during the invasion, either against persons or property, the violent act is to be considered as a separate act and coded as such.
Stalking	This event involves a person who intentionally and repeatedly follows or harasses another person with the intent to place that person in reasonable fear for one's safety. Incidents of stalking differ from death threats in that they involve a series of events (i.e., the perpetrator must repeatedly follow or harass an individual) and incidents of stalking do not include express threats to kill said individual. The target of the act is an individual.
Unarmed Assault	An attack whose primary objective is to cause physical harm or death directly to human beings by any means other than explosive, firearm, incendiary, or sharp instrument (knife, etc.).
Unknown	The attack type cannot be determined from the available information.
Vandalism	Willful or malicious defacement of property belonging to either a reproductive healthcare facility or facility employees. These are incidents which never result in any form of irrevocable damage (e.g., the act does not require the property to be replaced and/or the property can be cleaned/repared with minimal effort and cost). These incidents often include such

	acts as spray painting pro-life graffiti on clinic property, placing pro-life propaganda on clinic property, the use of tar, oil, feces, etc.
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10. EVENT SUCCESS: 0 or 1 (0=Incident did not have intended effects, 1=Incident had intended effects). For example, “an attack involving the successful detonation of a bomb is classified as a successful attack. An attack involving a failed detonation of a bomb is classified as unsuccessful.

11. NKILL: Number of individuals killed during incident

12. NWOUND: Number of individuals wounded during incident

13. WEAPON TYPE 1, 2 & 3: Biological, Chemical, Radiological, Nuclear, Firearms, Explosives/Bombs/Dynamite, Fake Weapons, Incendiary, Melee, Vehicle (not to include vehicle-borne explosives, i.e., car or truck bombs), Sabotage Equipment, Other, Unknown

14. WEAPON SUB-TYPE 1, 2 & 3: Definitions listed below.

Biological	no corresponding weapon sub-types
Chemical	Poisoning
Radiological	no corresponding weapon sub-types
Nuclear	no corresponding weapon sub-types
Firearms	Automatic Weapon Handgun Rifle/Shotgun (non-automatic) Unknown Gun Type Other Gun Type
Explosives/Bombs/Dynamite	Grenade Land Mine Letter Bomb Pressure Trigger Projectile (rockets, mortars, RPGs, etc.) Remote Trigger Suicide (carried bodily by human being) Time Fuse Vehicle Unknown Explosive Type Other Explosive Type
Fake Weapons	no corresponding weapon sub-types
Incendiary	Arson/Fire Flame Thrower Gasoline or Alcohol
Melee	Blunt Object Hands, Feet, Fists Knife Rope or Other Strangling Device Sharp Object Other Than Knife Suffocation
Vehicle	no corresponding weapon sub-types
Sabotage Equipment	no corresponding weapon sub-types

Other	no corresponding weapon sub-types
Unknown	no corresponding weapon sub-types

15. PROP_DAMAGE: 0 or 1 (0=There was no evidence of property damage during the incident, 1=There was evidence of property damage during the incident).

16. DAM_AMT: The amount of property damage in U.S. dollars at the time of the incident.

17. EVENT DETAILS: Short description of incident.

18. DATABASE 1: Primary source used to collect initial incident information

National Abortion Federation
Planned Parenthood Federation of America
Baird-Windle & Bader Chronology
Hewitt Chronology
Worldwide Incidents Tracking System

19: DATABASE HEWITT: 0 or 1 (0 = incident not found in the Hewitt database, 1 = incident found in the database)

20: DATABASE NAF: 0 or 1 (0 = incident not found in the National Abortion Federation database, 1 = incident found in the database)

21: DATABASE PPFA: 0 or 1 (0 = incident not found in the Planned Parenthood Federation of America database, 1 = incident found in the database)

22: DATABASE BW&B: 0 or 1 (0 = incident not found in the Baird-Windle & Bader database, 1 = incident found in the database)

23: DATABASE WITS: 0 or 1 (0 = incident not found in the Worldwide Incidents Tracking System database, 1 = incident found in the database)

24: MULTIPLE INCIDENTS: 0 or 1 (0 = a single incident, 1 = attack was part of a multiple incident where several attacks are connected, but where the various actions do not constitute a single incident)

25: PERPETRATOR TYPE: The ideological classification of the perpetrator(s) involved in this attack.

Anti-Abortion
Rightist
White Racist

26: ARREST DATE: Date (MM/DD/YYYY format) on which the perpetrator was arrested by local, state or federal law enforcement authorities.

27: CASE OUTCOME: Short summary of any criminal justice proceedings (e.g., case status, conviction status, sentence length, etc.) that are directly related to this incident.

28: DUPLICATE: 0 or 1 (0 = incident was not duplicated across two or more databases, 1 = incident was duplicated across two or more databases)

29: MATCHING INCIDENT NUMBER: The unique identification numbers of any incidents which duplicate this incident.

30: VERIFICATION NOTES: A short summary of any and all discrepancies between the original source and the media sources used to verify this incident.

31: TWO TIER 1 SOURCES: 0 or 1 (0 = Incident has not been verified by at least two tier 1 media sources, 1 = Incident has been verified by at least two tier 1 media sources).

32: ANY VERIFICATION: 0 or 1 (0 = Incident has not been verified by at least one media source of tier 3 or higher, 1 = Incident has been verified by at least one media source of tier 3 or higher).

33: TIME: The time of day (in military format) in which the incident took place.

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