

The Role of Police

in Physical Domestic Violence

Police have at their disposal a variety of sanctioned responses for behaviour defined as 'criminal'. **VIOLET KOLAR** presents the findings of a study that looked at community attitudes towards police action in reported cases of domestic violence.

The police role is central to the issue of domestic violence in terms of providing immediate protection to the victim, and as a public statement of intolerance of such behaviour. Often, however, police are criticised for their lack of intervention. In order to explore the level of community support for the enforcement of the criminal process when physical violence against women occurs in the family home, 185 people over the age of 18 were surveyed in 1993 to ascertain their views on police intervention in domestic violence situations. The study was premised on the notion that police would be more likely to act if they felt they had the support of the community.

The occurrence of a crime summons into action a variety of sanctioned police responses. These responses fall into three spheres: statute law, common law, and police standing orders. Together, these three spheres constitute a formidable body of power that mandates police to 'enforce the law, keep the peace, protect persons and property and restrain unlawful force and violence' (Corns 1988, p.21).

There is a tendency for police to be reluctant to invoke the mandate in reported cases of domestic violence because it is

generally not defined as criminal behaviour and, therefore, is not seen to really belong within the realm of police work (Scutt 1990; Victory 1993). Frequently, police reluctance to intervene manifests itself in delayed and inappropriate responses. This paper deals specifically with the issues of immediate intervention, entry without a warrant and arrest, and the extent to which the enforcement of the legal process was endorsed by those who took part in the study.

The inter-relationship between the community and the police underlies much of the literature dealing with the police role in domestic violence (Elliott and Shanahan 1988; Corns 1988; Victory 1993; United Nations 1989; Tobin 1992; Brown 1988). As members of the community and as agents serving the interests of the community, it is commonly held that police reflect and perpetuate community attitudes. This relationship becomes particularly important when recognising that each has the potential to challenge, and effect a change in, the attitudes of the other.

A disturbing reality regarding domestic violence is that a victim typically endures a history of incredible brutality from her partner (United Nations 1989, p.13). It is also recognised that, usually, in only the most threatening of situations will a victim call the police (Elliott and Shanahan 1988, p.129). Thus, police represent an immediate source of help and protection, day or night (NSW Domestic Violence Committee 1989, p.49), but only if they are called upon and react instantly and appropriately. In fact, McCulloch (1988, p.204) purports that '... the police have a duty to enforce the law, the proper exercise of which is sometimes a matter of life or death for women.'

Research design

The study format was based on structured questions and face-to-face interviewing. All interviews were conducted in English and completed during June and July 1993. Participants were given a brief introduction on domestic violence to provide them with a context in which to frame their responses and reduce possible ambiguities in their understanding of domestic violence and the type of population it most typically affects. The introduction identified women as the primary victims and men as the perpetrators; marital status was deemed to be irrelevant, and the type of violence focused on was physical (as opposed to sexual, emotional, social or economic; although, in reality, these various dimensions are often inextricably intertwined).

A total of 290 households from several randomly selected Melbourne suburbs were selected using the area sampling technique (Foddy 1988, p.99). This resulted in a final sample of 185 people, of whom 108 were women and 77 were men; a participation rate of 64 per cent. It is worth noting that the sample was chosen from the general community; that is, the aim was not to interview victims of domestic violence.

Participants were aged from 18 to over 70 years, with two-thirds under 40 years of age. The majority (58 per cent) had started or completed some sort of tertiary qualification,

37 per cent had no post-school qualification, and 4 per cent had a trade apprenticeship. Around three-quarters (72 per cent) were employed either full or part time and worked in professional (20 per cent), sales (15 per cent), or manual jobs (17 per cent).

Over three-quarters (78 per cent) of respondents were born in Australia. Of the total sample, 40 per cent had a mother born overseas and 48 per cent had a father born overseas, representing a total of 29 countries.

Despite random selection, the sample was biased towards younger people with higher education and born in Australia. In addition to this, the non-response rate was 36 per cent. For these reasons results should not be generalised.

It is important to mention that interviewing took place against a background of high media profile on the issues of domestic violence and sexual abuse. In June 1993, Operation Pegasus, a national campaign targeted at child sexual abuse victims, was run by the Victoria Police. In addition, *The Age* ran a daily series for three weeks on domestic violence called 'The War Against Women'. This was indeed coincidental, and the impact this may have had on the participation rate of those approached for the study remains speculative. There is also the possibility that the lengthy and widespread coverage of domestic violence may have influenced the responses of the people interviewed.

Support for police intervention

Domestic violence constitutes a substantial part of the police workload (Scutt 1989, p.25; McGregor and Hopkins 1991, p.88). It has been reported that police in Victoria receive at least 50,000 such calls each year and 'domestic murders comprise 60 per cent of all homicides' (Scutt 1990, p.455). These figures together with the fact that women who are victims are more likely to turn to police for help than any other agency (Women's Policy Coordination Unit 1985, p.86), confirm that police intervention is wanted and needed.

Indeed, police intervention was supported by those surveyed. Almost half (48 per cent) concurred that police should intervene whenever physical domestic violence occurs (Figure 1). As expected, the proportion was slightly higher for women (50 per cent) than men (46 per cent). Trailing by a narrow margin were 47 per cent who supported police intervention 'sometimes'; and this was slightly higher among men (49 per cent) than women (45 per cent).

The group that responded 'sometimes' was asked to identify the circumstances that justified police involvement. Most of the group referred to the severity of the violence in terms of the injuries sustained (53 per cent), and whether it was recurrent (32 per cent); factors that characterise many incidents of physical domestic violence (Elliott and Shanahan 1988; Scutt 1983). The wishes of the victim, as a determinant of police intervention, was raised by only 10 people (5 per cent).

Participant responses to the question of what they would do if they became aware of a case of physical domestic violence occurring within their immediate vicinity (Figure 2), confirm the endorsement of general police intervention. A high percentage of women (43 per cent) and men (36 per cent) said they would immediately contact the police. Interestingly, the difference in the

way women and men responded became particularly conspicuous when alternative forms of action were considered. That is, apart from contacting the police, women were most likely to approach the victim to offer assistance when things were calm (21 per cent), while men were most likely to

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intervene in order to help stop the conflict (21 per cent). Only a small proportion of women (8 per cent) and men (14 per cent) declined to be involved in any way.

Support for immediate police response

One of the major criticisms levelled against police is that, generally, they fail to respond to calls for assistance from women suffering domestic violence (Scutt 1983, 1990; Gorr 1990). In some situations where they do attend, it is often hours later. Calling the police is usually a last resort measure pursued by women when the situation becomes particularly dangerous (Scutt 1983, p.222). Wearing (1992, p.415) interviewed thirty women who were victims of domestic violence, and found that prompt police response was crucial to their perceptions of safety and the ability to cope.

The sentiment of prompt police action was shared by an overwhelming majority of women and men surveyed, who agreed that the police response to a call of physical domestic violence should be immediate (Figure 3). Only three women (3 per cent) and seven men (9 per cent) supported a delayed police response but no-one suggested that physical domestic violence was not a police matter.

Support for police entry without a warrant

An issue pertinent to the immediate safety of women is the power of police to enter private premises. Scutt (1983, p.234) asserts that it is '... fundamental to the problems suffered by victims of domestic violence...'. But police are reluctant to enter private premises, arguing that their powers to do so are ambiguous (Women's Policy Coordination Unit 1985, p.88).

However, the right to enter private premises without a warrant is authorised under s.459A of the Crimes Act (Vic.) 1958 (Corns 1988, p.21; Scutt 1990, p.449). According to Scutt (1990, p.449), it is also sanctioned under common law where police have 'a reasonable belief that breach of the peace is occurring or is about to occur'.

Figure 1: *Percentage supporting police intervention in physical domestic violence, by sex*

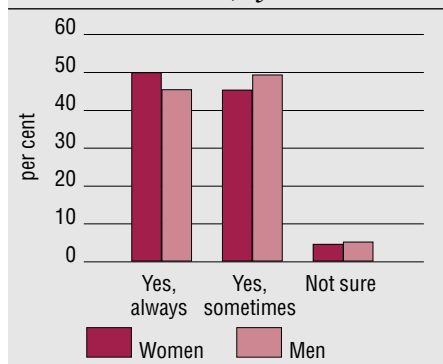


Figure 2: *Percentage support for various responses when aware that physical domestic violence is occurring, by sex*

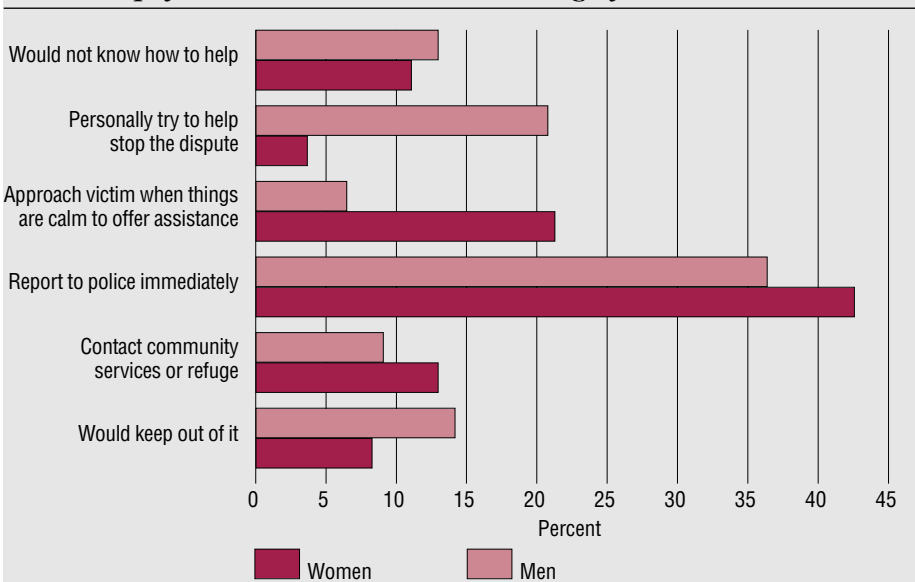
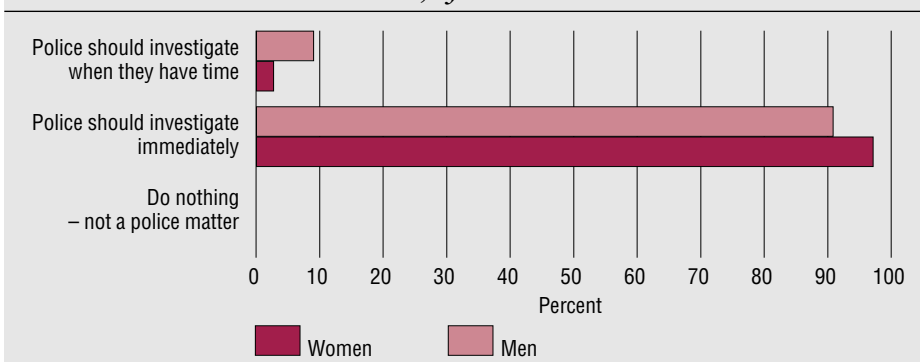


Figure 3: *Percentage supporting immediate police response when physical domestic violence occurs, by sex*



But those surveyed were not given this information. Instead, they were presented with a scenario explaining that police were informed about an incident of physical domestic violence. At the scene, police were 'met at the door by the woman's husband/partner who denies the matter and does not let police enter the house'. Participants were then asked if 'police should be able to enter without a warrant'.

The results (Figure 4) were surprising and challenge the concept of the home as a private sanctum immune from police intervention. Firstly, more men (49 per cent) than women (40 per cent) supported police entry without a warrant. Secondly, a relatively low proportion of people were unequivocally opposed to it; and thirdly, more women (38 per cent) were ambivalent about it than were men (25 per cent). Despite the relatively high level of support, police entry without a warrant was an issue that elicited the most additional comments from those surveyed. A lot of the comments reflected concerns about civil liberties and possible abuse of police power.

Support for arrest

Arrest is central to the issue of domestic violence because it provides victims with immediate protection. It also acts as a message both to the perpetrator and the community that such behaviour will not be tolerated.

Indeed, a study referred to as the Minneapolis Experiment suggested that arrest reduced recidivism (quoted in United Nations 1989; Scutt 1990; McGregor and Hopkins 1991; Mugford and Mugford 1992). But, as a cautionary note, the United Nations (1989, p.53) reports that arrest under the Minneapolis justice system incorporates overnight incarceration, and that this may have a greater effect on behaviour than the sole act of arresting.

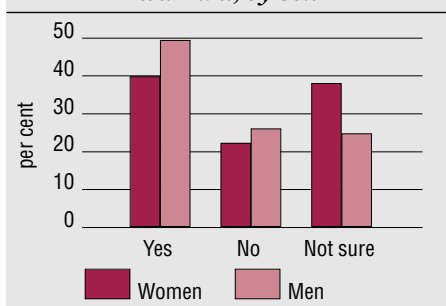
Community support for arrest was explored in two separate but related situations: firstly, as a response to a breach of an intervention order; secondly, as a direct response to a circumstance of physical domestic violence.

Figure 5 shows that an overwhelming majority of people agreed that police should arrest when an intervention order is breached in *any* way. That is, arrest should be an unconditional response. The proportion was slightly higher for men (87 per cent) than for

women (83 per cent). Only a handful of people opposed arrest under these circumstances.

Participants were given a number of alternatives, together with arrest, to consider when they were asked to select the one option that police should implement as a response to actual physical domestic violence. Figure 6 shows that more than one-third (36 per cent) supported arrest. Surprisingly, fewer women than men supported this response (33 per cent compared with 40 per cent respectively). Further, women were more likely to support police taking a victim to a women's refuge (27 per cent), while men were more likely to support police taking a conciliatory role and reconciling the couple (23 per cent).

Figure 4: *Percentage supporting police entry without a warrant, by sex*



Support for mandatory arrest

With the reluctance of the police to enforce the law – particularly to arrest – where physical domestic violence occurs, a number of American jurisdictions have introduced mandatory arrest. Mandatory arrest restricts police discretion, described by Mugford and Mugford (1992, p.338) as 'the hallmarks of policing'. But Stewart et al. (1991, p.24) note there is 'strong support for removal of police discretion in domestic violence intervention'. Theoretically, police would have no choice but to act.

In fact, Figure 7 shows that those surveyed were overwhelmingly in favour of mandatory arrest. Again, support was slightly stronger among men (92 per cent) than women (84 per cent). In addition, more women (14 per cent) than men (8 per cent) opposed such a policy. Surprisingly, very few people were uncertain about this issue.

Curiously, the surprisingly strong endorsement for a policy of mandatory arrest (87.6 per cent) is a striking contrast to the 36 per cent of respondents who nominated arrest as a response to physical domestic violence, as shown in Figure 6.

Figure 5: *Percentage supporting arrest when intervention orders are breached, by sex*

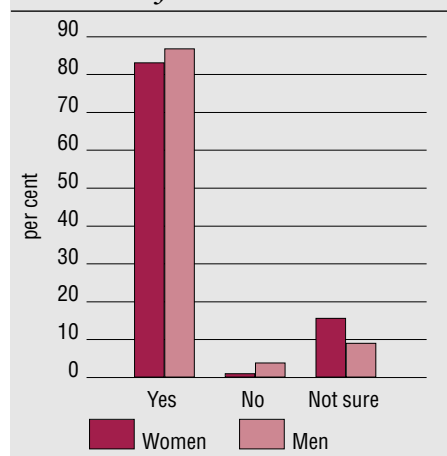
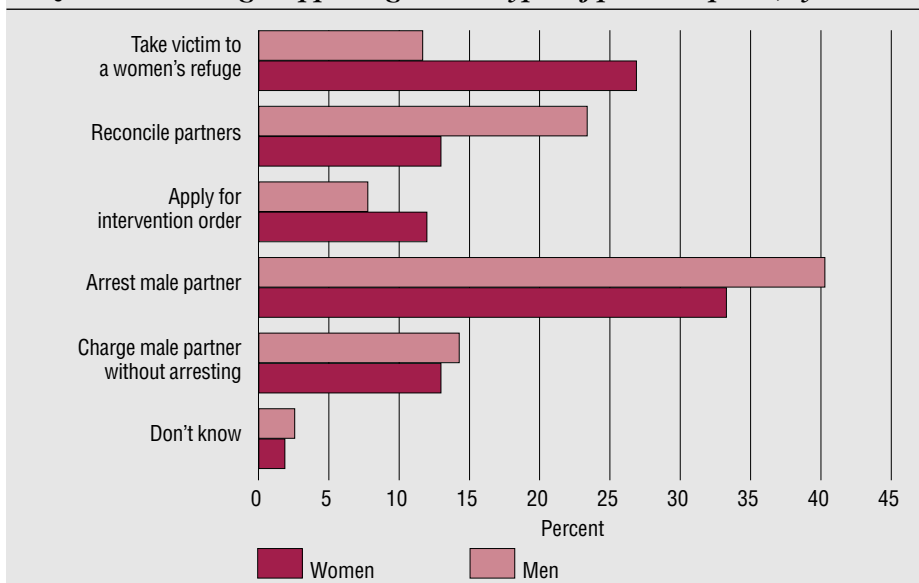


Figure 6: *Percentage supporting various types of police response, by sex*



Certainly, the format of the various questions may have influenced the outcome. That is, the question on types of police response offered respondents a number of options and it is possible that people may have been hesitant in selecting arrest. The question on mandatory arrest, however, was a yes/no format. The issue of 'mandatory arrest' sounds official and implies something that should be done; this may have influenced people to reply in the affirmative.

Conclusion

The aim of the study was to explore the extent to which the general community supported police enforcement of the law when dealing with domestic violence. While for reasons previously discussed it is not possible to generalise, the findings provide evidence for the view that there is a change in community attitudes towards domestic violence and, importantly, towards the role of police. It may well be that the level of support for police involvement in what has been historically regarded as a 'private matter', was influenced by the widespread publicity on domestic violence at the time of the study. Whatever the impetus, the results implicitly challenge the concept of the home as a private sanctum immune from police intervention.

A couple of the results were unexpected. Firstly, a high degree of opposition to forced entry and ambivalence towards mandatory arrest was anticipated, where in fact the reverse was true. However, it is worthwhile here to note the collective experience of overseas jurisdictions where mandatory arrest currently exists. This experience has shown that the existence of laws or the introduction of new ones does not guarantee that things will change (Scutt 1990; Wearing 1992; Stewart et al. 1991); the point being that effective implementation of any law is dependent upon police enforcement. For example, in Oregon, mandatory arrest was legislated in 1977. While it served as a powerful message to the community regarding the intolerance of physical domestic violence, arrest was rarely invoked. The situation only changed in 1983 when police became liable to civil actions (Stuart 1991).

Secondly, given the nature and direction of domestic violence, there was an expectation that support for enforcement of police action would be greater among women than men, whereas generally the reverse was true. Dealing with a male-dominated legal system, in particular the police, has not been

McCulloch, J. and Smith, S. and McCarthy, K. and Zalewski, R. (1988), 'Domestic violence: the Victorian experience', *Legal Service Bulletin*, vol.13, October, pp.202–204.

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regarded as an empowering experience for women who have been victims of domestic violence. With this in mind, it is possible that women were more inclined to be reluctant, sceptical, or perhaps generally not as confident as men in expressing their expectations of the police role. It is also widely acknowledged that police do not like to be involved in domestic violence situations, mostly because they do not regard them as 'real' police work.

Both nationally and internationally, the role of police in domestic violence situations has been scrutinised and criticised for non-enforcement of the law. Some of the literature implies that part of the reason for this is bound up in community perceptions of and ambivalence towards domestic violence. Consequently, if the community is reluctant to identify domestic violence as a crime, then police will be unsure of how to proceed and reluctant to enforce an appropriate response. Intuitively, this makes a lot of sense but remains mere speculation. Unfortunately, the police perspective regarding this inter-relationship with the wider community was beyond the scope of this study, and warrants future investigation.

Finally, it should be stressed that the intention of this article has not been to suggest that appropriate police response will eradicate violence against women in the home. The phenomenon of domestic violence is complex and requires a multilateral approach to deal with the issues; police represent but one very crucial dimension to that approach.

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