

## **Police Officers, Women and Intimate Partner Violence: giving primacy to social context**

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### **ABSTRACT**

Evidence suggests that police inadvertently or otherwise often re-victimise women involved in Intimate Partner Violence (IPV). This paper explores the complex relationship between women and police officers at the interface of IPV. It discusses possible reasons for the difficulties abused women continue to face when in contact with the police, who are state agents vested with international human rights obligations. Conclusions are drawn suggesting that police responsiveness should reflect knowledge and understanding that IPV is a gendered issue within a social context. As such, the police are as likely as anyone else to be perpetrators of this form of violence in their homes. Further, this paper suggests an informed approach may protect women from arrest and ensure the police fulfil their tasks as peace-keepers and protectors of individuals in need. As a consequence, women victims are more likely to have their status acknowledged and to seek help from the police when endangered by IPV.

**Key words:** dual arrests, gender, human rights, intimate partner violence, police,

### **Introduction**

Countless women throughout the world are victims of different forms of intimate partner violence (IPV). IPV is known to adversely affect victims, offenders, children, families, future relationships and society in general (see for example Conradi, 2004). IPV is also associated with social problems such as child abuse and neglect, harmful and/or hazardous use of alcohol and other drugs, and numerous conditions including mental illness, attempted suicide and homelessness (Epstein, 2002; Guggisberg, 2009b). The annual cost of these social ills to Australia, according to the Office of the Status of Women (2004), was estimated to be \$8.1 billion in 2002- 2003.

As IPV is complex and multi-faceted, no definition of IPV is universally accepted. The Office of the Status of Women (2004), however, defines IPV as occurring “when one partner attempts by physical or psychological means to dominate and control the other” (p. 3). For our purposes here, we define IPV similarly, drawing attention to the fact that often various forms of violence and abuse are used together (Guggisberg, 2009b).

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This paper examines police responsiveness to women against the background of the obligations the police have in Australia to protect the rights of women victims of IPV. We focus on factors that may hinder an appropriate police response, including situations where both partners have resorted to violence. To develop our position, we rely on secondary materials largely from the US and Europe as literature on IPV specific to Western Australia is limited. Our interest in the topic stemmed from reports suggesting that pro-arrest or mandatory arrest policies in the US are complicating matters for women victims of IPV. In this regard, it must be noted that it is not mandatory for Western Australian police to arrest perpetrators of IPV. Police interventions, however, where women are not only IPV victims but also engage in violent behaviour have become a matter of concern. As women are often arrested for IPV (Guggisberg, 2009a; Henning, Renauer, & Holdford, 2006), we are duty-bound to examine possible reasons why women would rather ‘take things in their own hands’ than rely on the police for help.

We begin our discussion by outlining the implications of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) that alludes to IPV as a gendered issue and a discriminatory offence. Next, we explore factors that limit police responsiveness to IPV and reasons why police officers may continue to deal inadequately with IPV incidents. Finally, we propose an alternative approach to IPV where interventions that grant clemency to women employing violence as a means of self-defence are given merit (Henning et al., 2006). Although the police are required to respond to all incidents of IPV, by taking into account the social context in which incidents arise, the police will grant women a level of dignity denied them as victims.

### **Australia’s international human rights obligations to women**

Australia is one of 185 nations that are signatories to the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), having ratified the Convention on 17 July 1980. In doing so, Australia demonstrated its commitment to uphold women’s human rights (Australian Human Rights Commission, n.d.), as well as endorsing equality of women and men in the public and private sphere. CEDAW does not address violence against women directly, but its equality provisions are endorsed by the United Nations’ Declaration on the Elimination of Violence against Women (DEVAW). DEVAW, although not legally enforceable, holds that violence against women manifests ‘historically unequal power relations between men and women’ and women’s subordination is maintained by many social mechanisms including violence (Jayasinghe, 2006, p. 103). The Commonwealth of Australia and the Australian Human Rights and Equal Opportunity Commission (2008), however, observed:

the CEDAW Committee has issued a General Recommendation which states that violence directed against a woman because she is a woman or violence that affects women disproportionately is recognised and addressed as discrimination under the convention. (p. 20)

The report further notes that Australia, as a party to CEDAW, has an obligation to take positive steps to eliminate all forms of violence against women. Of significance is that the CEDAW Committee requires regular reports on legislation and other

measures adopted to enforce its provisions to protect women from violence, and to provide support services for women. Because Australia acceded to the Optional Protocol in December 2008, it is now possible for individual women to complain to the CEDAW Committee alleging violations of Australia's obligations under CEDAW, providing domestic responses have been exhausted.

As one of many international responses to demands requiring the protection of women, the CEDAW's symbolic effects cannot be underestimated. For example, provisions extend beyond the criminal justice system to include the need to tackle accepted cultural practices that reinforce gender stereotyping or are 'based on the idea of the inferiority or the superiority of either of the sexes' (see Article 5 of CEDAW). Similarly, the World Health Organisation (2007) noted that IPV is a 'form of discrimination resulting from and perpetuating women's low status in society' (p. 2). Thus, it is firmly established internationally that sociological and structural factors play a part in enabling and perpetuating IPV. This acknowledgment suggests that the criminal response will fail to deal with IPV satisfactorily without concomitant strategies to address structural issues – gender, ethnicity and social context - that tacitly support IPV.

Australia responded to its international legal obligations under the CEDAW by enacting the *Sexual Discrimination Act 1984* (Cth) (SDA), which has been applied in many court cases involving employment-related discrimination. Because racial discrimination often co-exists with sex discrimination, the *Racial Discrimination Act* (Cth) is also likely to be invoked in IPV incidents. But these two Acts, as far as we are aware, have had a limited use in assisting victims of IPV so far. Although the Western Australian Government consulted the public in 2007 regarding the need for human rights laws, Western Australia does not have a Human Rights Act. Despite these Western Australian omissions, IPV is recognised as a human rights issue internationally (see for example Guggisberg, 2009b; Khan, 2000; Romito, 2008; Spalek, 2006).

The importance of the police as the initial statutory agency intervening in incidents of IPV is well established in the literature. The police are uniquely positioned and required to assist victims of IPV (Fisher, Hunt, Adamsam, & Thurston, 2007; Khan, 2000). Despite the official position, emerging research suggests that women are often not assisted appropriately by police who lack knowledge and understanding of the dynamics involved in IPV incidents that are typically one of many such instances (Houry, Bay, Maddox, & Kellermann, 2005; Jordan, 2004). The police may hold misconceptions reflected in myths and victim-blaming attitudes (Buzawa & Buzawa, 1996; Gracia, Garcia, & Lila, 2008; Guggisberg, 2006) rather than empirical evidence (Fehlberg & Behrens, 2008; Gracia & Herrero, 2006). For example, Khan (2000) noted: "The police are particularly well-positioned to provide assistance to victim-survivors [of violence against women and girls by a family member], but very often their own prejudices, lack of training, and reluctance to intervene hinder them from dealing with domestic violence<sup>1</sup>" (p. 17). Whereas Western Australia has recently enacted legislation to strengthen police responses to IPV, reports so far from women victimised by IPV are less promising. The following section examines the new

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<sup>1</sup> Defined here as "violence against women and girls by an intimate partner, including cohabiting partner, and by other family members, whether this violence occurs within or beyond the confines of the home" (p. 2).

legislation in Western Australia and discusses women's experiences with the police reflecting the need for further action.

### **New Legislation in Western Australia**

With international and domestic responses to IPV, new state and territory-based legislation and pro-active policing policies, attempts are being made to standardise the recording of assault-related offences across Australian jurisdictions (Australian Bureau of Statistics, 2009; Department of the Attorney General, 2008). In its report, the Department of the Attorney General noted:

Police are critical to an effective response to family and domestic violence<sup>2</sup> and... [they] are statutorily required to investigate reports of family and domestic violence where the alleged act is a criminal offence or has placed the safety of a person at risk. (p. 6)

Thus, the last decade has arguably seen a more vigorous police response to IPV incidents in Western Australia such as legislative mandatory investigation provisions. In 2004, for the first time, IPV was recognised explicitly and defined as criminal in Western Australia (see for example Department of the Attorney General, 2008). The reforms, according to the report, aim to strengthen police responses in terms of ensuring attending officers "have the means to take effective and immediate action to prevent the escalation of violence when they attend a family and domestic violence incident where there is insufficient evidence for arrest" (p. 6). The review also identified the need to improve police responses, which the following section confirms. Despite these important legislative changes, women appear to be reluctant still to report IPV incidents to the police.

### **Women's reluctance to contact the police**

Several studies have found that women, fearing negative experiences, are reluctant to contact police following a violent incident (People, 2005). Johnson (2007) interviewed 109 females who were identified as victims in police reports. The aim of the study was to obtain information on the nature of police intervention, as well as the victims' perception about the helpfulness of responses. After all, women's perceptions and satisfaction with police intervention are critical factors in guiding police reform and intervention policy. Johnson noted that "the lack of police help is still cited by victims of domestic violence as a reason for staying in and returning to abusive relationships" (p. 501). The study found that approximately one third of the women "regretted calling the police" (p. 505) as police officers were perceived as unsympathetic and "too concerned with what the abuser had to say" (p. 505). In nearly 30% of the cases, women reported that calling the police "made the abuse worse" (p. 505). These women were arguably re-victimised by the very system women turned to for help.

Khan (2000) argued officials working in law enforcement and the courts should "be held accountable for their own behaviour towards victim-survivors in order to prevent secondary victimisation of women at their hands" (p. 17). Improving police training

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<sup>2</sup> Defined by the Department of the Attorney General as 'violence in the home' (p. 6)

may, therefore, assist victimised women in that they would receive more appropriate responses from police and render them less likely to be re-victimised by attending police officers at an IPV incident. The Department of the Attorney General (2008), however, found from various submissions and consultations that despite improved training, police officers demonstrated a lack of understanding of the complex issue of IPV, which continuously contributed to inappropriate responses.

Recent evidence suggests that many women experience criminal justice responses as intimidating and unhelpful (Gracia et al., 2008; Holder, 2007; Vazquez, Stohr, Skow, & Purkiss, 2005). Vazquez and colleagues, for example, report that abused women perceived the police “would not do anything on their behalf” (p. 127). International research has substantiated police inaction or indifference (e.g., Dylan, Regehr, & Alaggia, 2008; Gracia et al., 2008; Johnson, 2007).

Research in Australia corroborated findings from the US indicating that victimised women who turn to the police felt intimidated by and dissatisfied with unsympathetic officers. People (2005) reported that common explanations as to why incidents of physical violence assault (including threats) are not reported to police include the following reasons: ‘does not think that the police would/could do anything about it’, did not consider the incident serious, could deal with it herself, was ashamed, and feared the offender (p. 2).

Similar findings were reported by the Australian Domestic and Family Violence Clearinghouse (2004) examining the Australian component of the International Violence Against Women Survey, which found that only 14% of women reported the most recent incident of sexual and/or physical violence to the police, while 27% of incidents of this form of violence were reported when the perpetrator was a stranger. One particular concern that emerged from Mouzos & Makkai’s (2004) study was that “only 14 per cent of women victimised by an intimate partner reported the most recent incident of IPV to the police or judicial authorities” (p. 112). Thus, underreporting incidences of IPV remains considerable, which requires further investigation in terms of police officers’ attitudes to IPV.

### **Police responses and attitudes to IPV**

Police are able to exercise discretion in their responses to IPV incidents because the definitions of a ‘family and domestic relationship’ and an ‘act of family and domestic violence’ are very broad in the *Western Australian Acts Amendment (Family and Domestic Violence) Act 2004* (Australian Domestic & Family Violence Clearinghouse, 2004). Consequently, much room is left for subjective interpretation. Thus, attending to police officers’ personal beliefs and attitudes towards women will inevitably influence police investigation and immediate intervention.

#### *Police Inaction*

In general, there is a high level of tolerance for violence in contemporary society (Garcia, Soria, & Hurwitz, 2007; Gracia, 2004). Police inaction to IPV, it can be argued, is in part explicable in light of cultural acceptance of forms of abuse and violence. Gracia asserted that where a society accepts forms of violence against its vulnerable members such as women and children, it is not surprising that IPV has remained a widespread and unreported offence. As long as some forms of violence

appear to be acceptable, it is unlikely that police will intervene in cases of IPV, despite new legislation ensuring better responses and increased safety for victims.

Police have a long history of not intervening in private lives of families. This can be explained by an number of factors including the pervasive assumption that violence in the home is a private matter (Guggisberg, 2009b; People, 2005). Regardless, it has been acknowledged that the family home is a dangerous place particularly for women and children. Myths about the home as a safe haven are easily dispelled (see for example, Guggisberg, 2009b; Khan, 2000). A second reason for police inaction may be the attending officers' personal beliefs and attitudes about IPV. A third and most disturbing factor for inappropriate responses may be that some police officers are perpetrators of IPV.

DeJong, Burgess-Proctor and Elis (2008) examined police officers' attitudes towards IPV by analysing data from 209 US police officers in Indianapolis and St. Petersburg. They reported that police officers tended to underestimate the significance of IPV believing that incidents often could be resolved without police intervention. Some police officers, this study found, neglected to acknowledge the seriousness of IPV and referred to it as "just another fight between idiots...[which] can just be resolved without involving the police, if people could learn to grow up" (p. 688). Such inappropriate comments reflect lack of knowledge and understanding of the complexity and severity of some IPV incidents, which may become potentially lethal and leave women and children without protection from violence and abuse. The study also found high levels of victim-blaming and other 'problematic views' (p. 684) and that police officers were "easily frustrated by IPV calls" (p. 684). Here, the seriousness of IPV worthy of police intervention does not seem to be always recognised by police officers.

#### *Police attitudes reflecting victim-blaming*

DeJong, Burgess-Proctor and Elis' (2008) study also revealed a high incidence of victim-blaming attitudes by police officers. Some officers remarked that individuals adversely affected by IPV deserved to be victimised. Also, there was an assumption that victims were at least partially responsible for the occurrence of IPV and that "victims must enjoy being beaten" (p. 688). One male officer was quoted as having said: "...not only are there women who put up with it, there are also women who like it..." (p. 688). Another police officer was quoted commenting on his frustration about IPV call-outs: "...one never knows who to believe and second of all the women are not smart enough to get out...[a woman] needs someone to beat her for being so stupid and letting [him] beat her in the first place" (p. 689). Victim-blaming attitudes and expressions that women deserve to be beaten for various reasons including "because she was 'so damned ugly'" (p. 689) will inevitably influence attending police officers' decisions to intervene in cases of IPV, as well as their emotional and behavioural responses to victimised women. It becomes evident that patriarchal attitudes and specific assumptions reflecting lack of respect and value towards the female gender are significant factors in inappropriate police responses.

#### *The assumption of gender neutrality*

Much feminist critical work has alerted us to the reality that hierarchical organisations typically take the masculine world view as their standpoint, which is one that obscures the presence of gender issues and judges women 'against a benchmark derived from

men's experiences' (Stubbs & Tolmie, 2008, p. 143). As essentially structures that run a gender neutral motif, organisations remain unable to deal effectively with gendered attitudes and behaviours when they emerge. Yet, at the IPV scene, it is all the more important for gender and ethnic issues to be at the forefront. To promote a gender-neutral position is to separate the police from not only the men and women within the organisation but from their clients at the IPV scene.

## Dual Arrests

Much literature suggests that women hesitate to call upon the police out of fear of being arrested. For example, Johnson's (2007) study found that over 77% of their participants who were female victims were not willing to involve police "because of fear they would be arrested under the dual arrest policy" (p. 507). Further:

Arresting women who are victimised by IPV seems unreasonable, but often, fears are warranted. The justification of issuing a police order to an identified victim may appear highly questionable, but reports confirm that police orders are issued against the woman victim "because she has 'somewhere to go' (family, friend, refuge), when the aggressor says he has 'nowhere to go'". (Department of the Attorney General, 2008, p. 22)

We argue that such circumstances do not warrant a police order against an abused woman. The Department of the Attorney General (2008) clarified that "police orders were only ever intended to be used 'in cases where police believe that the victim would be subject to further violence if they were to be left alone with the offender and when there is insufficient evidence for an arrest'" (p. 22). This position implies that police orders are to be issued against the offender, rather than the victim.

Some investigators contend that the move to arrest both violent partners is a direct reflection, at least partially, of police officers' difficulty in identifying the individual who initiated the violence (Fukuroda, 2005). This difficulty may reflect an underlying assumption of gender-symmetry, which supports the conclusion that both partners are equally to blame for the incident. Yet, this position is problematic as it implies a belief of equal power and mutual agreement about the use of violence as a means of resolving conflict.

The assumption of equality in intimate relationships directly contradicts overwhelming evidence suggesting that men's and women's use of violence in IPV has no symmetry. Instead, men's and women's motivations differ for behaving violently (Dobash & Dobash, 2004; Swan & Sullivan, 2009). For example, Dobash and Dobash reported that all women in their study who resorted to violence against their intimate partners "were victims of repeated physical violence from their male partners, often over many years" (p. 343). Therefore, we argue that where a woman has been abused previously, her motivations for violence must be acknowledged by attending police officers in a context of victimisation. If a woman who uses violence out of reasonable cause is arrested at the scene of an IPV incident (whether on their own or together with their partner), this is inappropriate. Police action as such fails to recognise women's motivation as a response to victimisation (Finn & Bettis, 2006; Römken, 2006; Swan & Snow, 2003).

*Motive as a critical factor*

The reasons for the increase in dual arrests rates, the researchers concluded, reflect mandatory arrest laws interacting with police officers' assumptions of gender symmetry in the use of violence, as well as a disregard for the fact that women use violence to defend themselves (Muftic, Bouffard, & Bouffard, 2007). As a result, Muftic and colleagues argue, the incidence of dual arrests in the US has increased markedly in the last two decades. Not only were arrest rates of women alarming, but a high proportion of women were convicted for IPV offences. Their study found that "about 29% of individuals convicted for IPV in the study jurisdiction were women, and dual arrests made up nearly one fourth of all IPV arrests made in 2003" (p. 768).

Evidence from the US suggests that where mandatory arrests for IPV are required, the arrest rate for women increases. The picture is clearly painted by US research, which indicates that a disproportionate increase in arrests of women whether as single offenders or as 'dual arrests' with their partners is the consequence of mandatory arrest policies. Considering the observation of US researchers, it becomes evident that the impact of mandatory arrest laws was broader than anticipated. Hirschel, Buzawa, Pattavina and Faggiani (2007), for example, observe:

The first detailed study of dual arrests examined the disposition of domestic violence cases<sup>3</sup> handled by the criminal courts in Connecticut just after implementation of a mandatory arrest policy in 1988; the study found the dual arrest rate in adult intimate family violence cases to be 33%. (p. 259)

The numbers of dual arrests have increased in the US. This phenomenon may be explained by several factors including the result of legislation, and/or because policies fail to require attending police officers to identify the individual initiating the IPV incident. Not only may attending police officers lack the information and understanding needed to identify the primary aggressor, but male perpetrators, according to Hirschel and colleagues' (2007) findings, "become increasingly adept at manipulating the criminal justice system, and may make efforts to 'pre-empt' victims from notifying police in order to further control or retaliate against them" (p. 260). Thus, not only violent men but also women are increasingly arrested for IPV and held accountable through police intervention as discussed above. In this regard, it is fair to argue that arrests for IPV currently dominate police responses at least in some jurisdictions. Yet, arresting victimised women who attempt to protect themselves by retaliating may not be justified. Whereas arresting offenders is desirable, the approach becomes problematic when clouded by biased and non evidence-based assumptions such as gender-symmetry in IPV events. Such beliefs inevitably result in police officers arresting women who are defending themselves, victimising them further without examining their motives for engaging in violent behaviours.

Although Western Australia does not have legislation requiring mandatory arrests for IPV, the police are obliged to investigate all family violence incidences (see Section 62A of the *Restraining Orders Act 1997* (WA)). In any event, mandatory arrests are a double-edged sword. We voice our concern here and argue that perpetrators (not victims who retaliate along with perpetrators) must be held accountable for IPV.

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<sup>3</sup> Defined here as most serious offences including intimidation, simple assault and aggravated assault

### *Scrutinising Women who use violence*

Investigators in the field promote the idea that the police must consider participants' motives for engaging in IPV (see for example Herzog, 2006). Whereas empirical evidence suggests that not all IPV acts committed by women are in self-defence (Swan & Sullivan, 2009), women's use of violence cannot be compared to men's violence in terms of motive and outcomes (Hettrich & O'Leary, 2007; Hirschel et al., 2007). Hettrich and O'Leary's and Hirschel et al.'s studies found that women's violence is considerably less severe when compared to violence perpetrated by males. Women who use violence against their partners act either alone (the partner does not respond to the violence) or as a dual aggressor. Either way, women who use IPV violate the social stereotype that depicts women as oppressed, weak and passive, or battered women as helpless victims (Conradi, 2004; Dobash & Dobash, 2004; Schneider, 1992).

Women exposed to IPV are usually not passive recipients of IPV against them (Krug, Dahlberg, Mercy, Zwi, & Lozano, 2002). Nevertheless, the complexities of women's responses to violence must not be underestimated. We agree with assertions emphasising the context and motives of engaging in violent behaviours (Conradi, 2004; Muftic et al., 2007; Swan & Sullivan, 2009). Conradi, for example, suggests a violent response may have its origins in family and previous relationship experiences, whereas Swan and Snow (2003) found a number of other reasons for violent behaviour. Their study findings, however, suggest that foremost, women's use of violence is inextricably linked to their victimisation experiences. According to Swan and Snow (2003) 's research, women use violence against their partners for a variety of reasons including self-defence, but also out of fear, defence of children, to control the dynamics of violence they are subjected to, and for retributive purposes. Along the same lines, Muftic and colleagues found that women's violence is likely to result from "frustration, fear or in self-defence" (p. 766). Considering the reasons why women use violence, it can be safely argued that women usually attempt to protect themselves (Stuart et al., 2006; Swan & Snow, 2003) rather than to exercise control or to establish and maintain power (Dobash & Dobash, 2004). This suggests a re-active rather than a pro-active behavioural response (Valli, Frye, & Haviland, 2006).

To date there is limited literature that documents abused women's arrests and charges, particularly in Australia. Consequently, women's secondary victimisation by the criminal justice system has neither come to the attention of the public nor is it well understood among professionals working in law enforcement and support service agencies. Despite this, we argue that minimising the risk of secondary victimisation can be achieved by acknowledging the nature and the context of female use of IPV by law enforcement officials. This will allow for the possibility that women's use of violence is reactive rather than pro-active and therefore retaliatory, acknowledging that the partner was the initiator of IPV. We acknowledge, though, that establishing a chronology of events around violent acts between partners can be difficult, requiring thorough investigation. To achieve justice, however, it is critical to recognise a woman's status as a possible victim at a IPV scene.

Currently, when a woman responds with violence, she is inevitably caught up in the criminal justice system and likely to face arrest for an offence where she has also been victimised. The law requires a clearly provoked event and self-defence, as otherwise a woman who retaliates with violence is guilty of a crime; the well known cases *Osland*

and *Kina* are examples on point. Ms Kina, an Indigenous woman who was sexually and physically abused over three years, was convicted of murdering her de facto husband and incarcerated for five years. We propose that the police intervene before a situation escalates, before further victimisation and violence. Consequently, we argue that victimised women's experiences must be validated and trust in criminal justice responses promoted. Stubbs and Tolmie (2008) confirm that "many Indigenous communities express fear and distrust of the justice system" (p. 150). This is particularly the case considering that once women retaliate and use violence, a dual arrest is a likely outcome of police attendance, which furthers distrust and fear.

Police policies could be amended to contain exemptions for women who have engaged in IPV. This would lead to criteria allowing women, even under pro-arrest policies, not to face criminal charges for engaging in IPV. These amendments would prevent laying criminal charges against women victims who retaliate in an attempt to protect themselves from further violence. Such legal exemptions may protect victimised women from being arrested for IPV, as these policies would acknowledge that abused women who retaliate should not be punished for their actions.

What may sound reasonable in theory, we acknowledge, may not be easy to put into policies. Concerns about the impartiality of the law may be raised and relief limited for women who are not able to present physical evidence, such as bruises or broken bones, which would exclude them from the exemption. Designing policies that would permit abused women to justify their use of force in the context of victimisation may raise equality concerns.

There is room for error in policy making. Some women will be arrested if police officers are not aware of policies or do not apply them. If attending police officers determine that women did not use violence from the perspective of the victim, they may still arrest the women as a consequence of persisting misconceptions. Such policies could be effective only when police and court officials have a thorough understanding of abused women's experiences. Otherwise, they would be reluctant to apply these provisions even if such provisions existed. Police officers who have knowledge and understanding of the complex dynamics of IPV could use their discretion to refrain from charging abused women who act in self-defence. A multi-disciplinary team could assist this process.

### **Scrutinising police officers as members of society**

Given past negative experiences of police inaction, women's engagement in violence and the fear of being arrested provide reasons why women are often reluctant to seek help from the police. But other factors must be considered. The police are a front line agency assisting women in need. Police officers, however, are citizens of contemporary society with their own behavioural issues regarding intimate relationships. Their interaction with female partners has received little research attention, particularly in Australia, even though it is known that police officers are at least as prone to perpetrate IPV as the general public (Erwin, Gershon, Tiburzi, & Lin, 2005).

#### *Police officers as perpetrators of IPV*

Arguably, the police are imbued with societal values that have tacitly supported IPV. Despite their operational protocol, forms of violence in some situations are acceptable

even desirable, such as Tazar gun use. This level of acceptance of violence may constitute a challenge and interfere with recent legislation and policy changes, and provide an explanation for the critique that has emerged in the international literature.

Police officers are not immune from committing IPV (Erwin et al., 2005). Whereas research in this area is almost non-existent, some limited studies suggest that a significant proportion of police officers are violent towards their intimate partners. In one US study it was found that 28% of police officers admitted having used IPV in the 12 months prior to the study, a figure that is regarded to be conservative, as “one would expect that officers would be more likely to under-report their actual level of behaviour rather than over-report it” (Fukuroda, 2005, p. 3). In her study, Fukuroda noted that one police officer “grabbed his victim by the hair, threw her down on the floor, and repeatedly punched her in the stomach” (p. 127).

Other reports noted “He heaved pots and pans, smashed dishes. Screamed at his wife for oversalting the spaghetti sauce” (Teichroeb & Davidow, 2003, n.p.). Teichroeb and Davidow’s report also noted that when police officers accused of IPV were interviewed, they “blamed their troubles on vindictive ex-wives and spurned girlfriends, often saying they [the police officers] were the real victims” (n. p.). In an empirical study, Erwin and colleagues (2005) investigated cases where police officers were charged with committing IPV in one US police department. They noted that this is an issue “considered ‘taboo’ in many police departments” (p. 18). The researchers voiced their concerns about lacking prevalence and incidence measures regarding police officers’ conduct and wanted to contribute to examine specific risk factors for IPV perpetration among this specific cohort. Their study revealed that in over 90% of the cases investigated, accused officers were not charged. In fact, no further action was taken, a finding, Erwin and colleagues noted, that is consistent with previous research.

Police officers’ abusive and violent behaviour within their intimate relationships has a direct negative impact for women at a scene they may attend. In an early study, Stith (1990) argued that a police officer’s intimate relationship may reflect his attitude towards women victims. He observed:

If the officer believes that violence is sometimes acceptable, he may be less [sic] likely to perceive marital violence is sometimes acceptable or justified, may be more likely to respond with hostility to victims or attempt to mediate between the couple, and may be less likely to arrest perpetrators than are officers who believe that marital violence is unacceptable. (p. 39)

If the attending male police officer is perpetrating IPV himself, his commitment to ensure abused women’s and children’s safety is likely to be compromised in instances of abuse and violence at a private residence. From this observation, it is fair to argue that as long as some police officers are perpetrating IPV, victims cannot count on appropriate law enforcement.

Whereas the prevalence of police officers engaging in IPV is largely unknown to the Australian public, some estimates from the US are cause for concern. For example, Fukuroda, (2005) asserted that police officers in the US are up to four times more likely to utilise IPV in their relationship than the general community. From the above

discussed evidence, albeit scarce, we argue that police officers are as likely as the general public to be perpetrators of IPV. An increased prevalence in IPV perpetration is also possible due to the dangerous and often violent work environment. Anderson (2002), as director of the Metropolitan Police Employee Assistance Program in Washington asserted:

Police officers continually face the effects of murder, violence, accidents and disasters. Rotating shifts, long hours and exposure to life's tragedies exact a heavy toll on police officers and their families. The results are alarming: high divorce rates, suicide, domestic violence... (n.p.)

One might wonder why the public appears to be unaware of these issues. Anderson (2002) provides a plausible explanation of perhaps honourable conduct among police officers. However, this behaviour may result in abused women being treated insensitively and unfairly if a police officer who is an IPV perpetrator himself attends a scene. Anderson noted:

There exists among police officers a very special bond. One reason for this is that police officers are isolated from the rest of the world by virtue of the kinds of work related events they experience. They are bonded in tragedy and the knowledge of how cruel life can be. The 'image armor' that the public and the media portray also places a burden on police officers. But police officers have problems like anyone else. (n. p.)

Considering the above information provided by an 'insider', Erwin and colleagues' (2005) findings come as no surprise. While it is disturbing to learn that allegations of IPV against police officers are almost always not followed up, it may be understood in light of the 'special bond' that exists among police officers. For example, Sullivan (2002) noted: "Some studies in the past 20 years show police officers admitted to a higher incidence of domestic violence than the average population. But the numbers are hard to come by because most departments don't track incidents of abuse among their personnel" (n. p.). A number of concerns arise from this insight. It appears that not only are few individuals aware of the possibility that police officers themselves may be perpetrators of IPV, but also this fact has a considerable negative impact on women in the general community relying on police protection. Women partners of police officers perpetrating IPV themselves arguably are further compromised.

When police officers who perpetrate IPV are called to a 'domestic disturbance', they obviously are in a personal dilemma. Sullivan (2002) delicately noted: "...domestic violence by police officers creates a particularly vexing problem for victims, mainly because of the power police wield and the guns they carry" (n. p.). It might be a challenging demand to hold an abusive man accountable for behaviour the attending police officer also engages in at home. Davidow (2003) interviewed police officers and professionals working with them and their families. She argues that police officers' training and challenging work on the street may have an impact on their behaviours. "At work, police officers rely on control... at home, life isn't as black and white. Their questions aren't always answered. Their expectations may not be met. Their authority is sometimes disputed".

Davidow also quotes Daniel Clark, a psychologist in Washington, whom she interviewed as follows: “Someone could become a batterer if they’re not dealing well with stress” (n. p.). Similar information was provided by Ellen Kirschmen, a psychologist working with police officers and their families in Seattle. She suggests that police officers “may not realize how they’ve coming across... yelling and throwing things may not seem like a big deal to a cop” (n. p.). Another interviewee, Joan Zegree, a psychotherapist, claims that it is not the stressful job that is blameworthy but rather the desire to have power and control. She notes, “You can use anger to get someone to do what you want them to do...it’s not what causes the behaviour, it’s just one of the techniques people use” (n. p.). Zegree further notes, “these [perpetrators of IPV] are frequently people who are high profile in the community...they’re not going around doing bad things to others; it’s limited to their partner” (n. p.). Sullivan (2002) quotes a former police officer suggesting: “it’s like the fox watching the henhouse” (p. n.). Clearly, police officers’ attitudes to IPV will have a significant impact on their approach to women victims at a scene. Officers’ responses and willingness to enforce legislation will be filtered through their own beliefs and behaviours.

In cases where police officers perpetrate IPV at home, it is almost inevitable that their views about women will be reflected in their decisions as to whether to intervene, which actions to take and whom to arrest. Thus, for women calling the police may face an added disadvantage:

When a victim calls the police and the ones who show up are friends of the abuser, it causes real problems,” Thomas (a former police officer in Maryland who runs the domestic violence program for the Police Executive Leadership Program at Johns Hopkins University in Baltimore), said. “The abuser can turn fellow officers around before they even talk to the victim. Then they want to get revenge. The victim becomes doubly isolated”. (Sullivan, 2002, n. p.)

In 2002, when the city of Durham (USA) proposed to appoint a new police chief, two of the three finalists had past allegations of IPV perpetration, including one who was hired but resigned once details of the allegations became known (Sullivan, 2002). This shows a concerning attitudes towards a social problem of such gravity. We argue that as long as IPV appears to be condoned by representatives of the law, prevention and appropriate intervention according to human rights requirements is limited. It is not surprising then that few cases of police perpetrated IPV come before the court.

#### *Police perpetrated IPV in Western Australia*

A handful of court cases only are available where police officers in Western Australia have been convicted of assault and other illegal activities. See for example *Mr Allan Raymond Carlyon v Commissioner of Police, Western Australian Police* [2004] WAIRComm 11966 (14 June 2004); *Hugh Gerrard Brennan v Commissioner of Police* [2007] NSWIRComm 229 (6 September 2007); *Burrows v Commissioner of Police*; *Giardini v Commissioner of Police* [2001] NSWIRComm 333 (14 December 2001) and the defendants’ involvement with offensive pornographic materials. We uncovered no local cases on issues of police officers perpetrating IPV, but given international experiences in this area, we suggest research is needed on the police who perpetrate IPV and the implications that behaviour has on police attitudes towards victims of IPV.

## Conclusion

This paper examines the complex relationship between women victims of IPV and police officers. First, we drew attention to women's international human rights suggesting women should be able to live free of abuse and violence. Recent reports have emerged suggesting that women in contact with law enforcement are dissatisfied with police responses, which is an ongoing problem. It is commonly reported that some police officers' unsympathetic attitudes, re-victimise women at the scene of IPV if any action is taken. Having examined abused women's reluctance to call the police for help, we argue that reasons may be found in past experiences as well as women's reasonable fear of being arrested when they are the victim of IPV. Our discussion highlights the limitations of police responses. Police officers' misconceptions of IPV run the risk of reflecting prejudices against women victims not only due to assumptions of gender symmetry but also because they may be perpetrators of IPV themselves.

How the police analyse the circumstances in which they find the aggressor and victim determines whether a just outcome is possible. We recommend policies to protect women from arrest and charges associated with perpetrating IPV as well as departmental scrutiny relating to IPV. Police officers should be held accountable if they are perpetrators of IPV in the same way as other members of society. Thus, we conclude that criminal justice responses must reflect Australia's human rights obligations by improving police responses to abused women by a) investing in improved knowledge and understanding about the dynamics of IPV b) recognising and acknowledging the possibility that police officers may be perpetrators of IPV, which may impact negatively on their responses to women victims, and c) granting clemency to women victims rather than imposing dual arrests. Exemption policies would allow women to protect themselves without legal penalty from a violent perpetrator. Improvements in response policies that focus on structural inequalities would enable police to pursue and arrest individuals without punishing victimised women who attempt to protect themselves. Pro-arrest policies appear not to protect abused women from being arrested if they are compelled to retaliate for safety reasons. More appropriate police responses at an IPV scene are imperative to meet the needs of abused women. Their rights to protection against the background of human rights should be ensured, which inevitably demands that women's use of violence be connected to their victimisation. Ruling out gender and ethnic issues tends to constitute further victimisation. Rising to the challenge at this point would go some way to meeting Australia's human rights obligations.

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