Australian Violence:

Contemporary Perspectives II

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PREFACE:

An Overview of Violence in Australia

The chapters in this book were presented at the Second National Conference on Violence convened by the Australian Institute of Criminology in Canberra June 1993. They do not constitute a comprehensive review of violence research and prevention in Australia but were selected on the grounds that they raise issues of importance in the contemporary Australian debate on the extent, the causes, the deterrence and the prevention of violence. This volume should be seen as building on the significant work of the National Committee on Violence and as a companion to *Australian Violence: Contemporary Perspectives* (Chappell, Grabosky & Strang 1991) rather than an updated, state-of-the art review of knowledge about violence in Australia.

Defining Violence

The insights, analysis and caveats presented by the National Committee on Violence (1989) continue to have important implications for our understanding of violence. The definitions of violence included in popular and expert discussions determine the content of the research into violence and the theoretical explanations of the causes of violence. The definitions are important in determining the field of inquiry (what violent behaviour is included and excluded) and in the way violence is construed (who is victimised by whom) and explained (what are the causes). The recent history of domestic violence provides a clear illustration of the social construction of the field of violence. A volume such as this written in the 1950s

would not have contained chapters on domestic violence and masculinity. Private male violence perpetrated against women and children in the home was not defined as violent crime. It was not recorded in the police statistics, the criminal justice agencies rarely intervened, and it was not the subject of research and theory in criminology. Male power, gender inequalities, masculinity, and patriarchy were not concepts of interest to criminologists. Today, largely as a result of feminist analyses, domestic violence is classified as a prevalent and serious form of violence and masculinity is recognised as a central construct in theories seeking to explain the causes of violence.

The socially constructed definitions of violence in contemporary Australia continue to be selective. We all agree that the field of study must include homicide, assault, instrumental violence such as robbery, and sexual violence. But in practice not all killings or assaults are included in the definition of violent crime, and not all social relationships are examined with the same degree of vigour as representing important sites for the expression of violence. Killings and injuries sustained in the workplace, on the roads, as a result of medical treatment, and at the hands of official agencies such as the police receive little attention as crimes of violence. They are often excluded on the grounds of the public acceptance of necessity and a lack of intentionality. However, as noted by Lacey, Wells and Meure (1990) there is an over-estimation of the unintentionality of some of these "not-criminal" or "non-violent" killings and injuries and of the intentionality of other conventionally recognised acts of violence. Levi (1994) cites as an example of the latter a quarrel which escalates to a level of violence not anticipated by either party. Contemporary Australian examples of "unintentional" killings not readily classified in the public debate as forms of violent crime include the killing of 24 psychiatric patients by the use of deep sleep therapy at a private hospital, Chelmsford, in NSW and the recent spate of killings by police officers in Victoria.

Interest is only just emerging in violence perpetrated in certain social settings and against certain groups of people, for example, homophobic violence, racist violence, violence in prisons, violence in and around licensed premises and collective, and crowd violence. The rates of violence in some of these

settings are high. For example there have been 277 deaths in custody in Australia between July 1990 and June 1994 (Halstead, McDonald & Dalton 1995). Many of the deaths were suicides but others involved the intentional infliction of injury or death arising out of negligent care or supervision.

One of the aims of this collection is to extend the focus of inquiry by including chapters on racist violence, school violence, alcohol, and violence at major public events although research in Australia in some of these areas is only in its infancy.

Two important developments with implications for our understanding of violence have occurred since the Second National Conference on Violence.

Firstly, in May 1994 the first Australian National Crime Statistics were published by the Australian Bureau of Statistics (Australian Bureau of Statistics 1994a). Previously the production and publication of crime statistics (based on reports recorded by the police) were the responsibility of each State and Territory police department. Different legal and operational definitions of offences, counting rules and statistical procedures prevented both the aggregation and comparison of crime statistics collected in each State and Territory. For the first time national uniform crime statistics are available for a number of serious crimes of violence: murder, manslaughter, sexual assault and robbery.

Secondly, in April 1994 the results from the third national crime victims survey were released by the Australian Bureau of Statistics (Australian Bureau of Statistics 1994b). Previous national surveys were conducted in 1975 and in 1983 (Australian Bureau of Statistics 1979, Australian Bureau of Statistics 1986). These national surveys provide an additional source of data on crime victimisation particularly in relation to crimes not reported to the police. This preface examines the results from these two national initiatives in order to assess what new light can be shed on the extent of violence in Australia. The aim of the chapter is to provide a brief overview of the developments in research and explanation which have occurred since the report of the National Committee on Violence in 1989. The following section examines recent findings on the extent of violence. The next two sections examine recent research into the risks of victimisation and the characteristics of offenders. The final sections provide a brief account of the

explanations of violence which have been advanced in the Australian literature and an introduction to some of the issues raised in this collection.

The Extent of Violence

The two questions most often asked in both popular and expert discussions are "how much violence is there in Australia?" and "is it increasing?" This section examines the key sources of Australia-wide crime statistics in an attempt to answer these questions with respect to homicide, robbery, assault and sexual assault.

Homicide

The National Crime Statistics collection revealed that there were 329 victims of homicide[1] recorded by police in the calendar year 1993 (Australian Bureau of Statistics 1994a). The homicide rate was 1.86 per hundred thousand. The States and Territories with rates higher than the national rate were the NT (9.51), SA (2.53), WA (2.33) and NSW (2.05). These rates are comparable to the rates reported from the National Homicide Monitoring Program by Heather Strang (1993). Strang reported that in the financial year 1991-92 the homicide victimisation rate was 1.9 per hundred thousand. The jurisdictions with the highest rates were the NT (10.9), Qld (2.4), NSW (2.0) and SA (2.0).

Previous research (Strang 1993; Walker 1994) has demonstrated that the Australian homicide rate has not changed over the past 20 years. The lack of change in the rate has been observed in NSW (Gallagher et al. 1994) and Victoria (Law Reform Commission of Victoria 1991a). Some time trends have, however, been observed in NSW over the period 1968 to 1992. Although the overall rate has remained static there has been a significant reduction in the rate of suspects aged 30 to 44 years and a significant increase in the use of knives or other

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[1].   The definition of homicide in the National Crime Statistics collection excludes deaths caused by motor vehicle accidents. Numbers and rates are reported for the offence categories of murder and manslaughter. I have combined these two categories to make the definition more comparable to other Australian and international definitions of homicide and because of misgivings as to the extent that this distinction can be reliably and accurately drawn by the police.

sharp instruments (18.5 per cent in the first 3 years, 29.4 per cent in the final 3 years (Gallagher et al. 1994)). A significant increase was also found in the proportion of female victims in family homicides.

In common with some other western countries (Levi 1994) the Australian homicide rate has declined since the turn of the century (Sarre 1994). The Australian homicide rate of 1.86 victims per hundred thousand is lower than that reported by the World Health Organization for the United States of America, New Zealand and Canada but higher than that for England and Wales, Japan, Germany, France and Singapore. The chapter by Duncan Chappell in this volume provides a more detailed description of these comparisons.

The National Crime Statistics data revealed that the majority of victims (58 per cent) were killed in residential locations (Australian Bureau of Statistics 1994a). Thirteen per cent of victims were killed in the street, 7 per cent in open space, 3 per cent in retail locations and 3 per cent in recreational locations. Weapons were used against 65 per cent of the victims and firearms against 19 per cent. The percentage of victims where a firearm was used was slightly less in the National Crime Statistics data than the percentages reported by Strang in 1992 and 1993 (1990-91: 23 per cent, 1991-92: 22 per cent) and considerably less than those reported by Gallagher et al. (1994) for NSW (33.6 per cent of all victims from 1968 to 1992). The National Crime Statistics data demonstrated an over-representation of firearms homicides in NSW: 44 per cent of all victims killed with a firearm were in NSW, but only 37 per cent of all victims were in NSW. Furthermore NSW had the highest rate of firearms homicides (N=27, 0.44 per hundred thousand) apart from Tasmania where 4 of the 6 homicides involved firearms. The small numbers in Tasmania warrant caution in interpretation.

The National Homicide Monitoring Program found that in 1991-92, 34 per cent of all known relationships between victims and offenders were family relationships (Strang 1993). Twenty per cent of these family killings were spousal. More women offenders killed their spouses (42 per cent) than men (15 per cent). Friends/long-term acquaintances comprised 33 per cent of the total, and 12 per cent of victims (for whom the relationship was known) were killed by strangers. Similar findings have

been reported in NSW (Gallagher et al. 1994) between 1968 and 1992. Over the entire period, 41 per cent of victims were killed by members of the same family, 38 per cent by a friend or acquaintance and 17 per cent by strangers (Gallagher et al. 1994).

A detailed analysis of homicides committed by men in Victoria over the period 1985 to 1989 has recently been reported by Polk (1994). This study was less concerned with quantifying and describing homicide and more with explanation. The role of masculinity and class was examined and a theoretical framework advanced which identified four typical male scenarios of violence: killings in the context of sexual jealousy and possessiveness, honour confrontations, predatory competitive killings, and violence as a form of conflict or dispute revolution. Polk's deconstruction of masculinity represents an important theoretical advance with significant implications for both understanding and preventing homicide.

In summary, our understanding of homicide in Australia has dramatically increased in the last decade. Population data is now available for Australia from the National Homicide Monitoring Program and the National Crime Statistics unit and for NSW from the Bureau of Crime Statistics and Research. Detailed studies have been conducted in Victoria (Law Reform Commission of Victoria 1991a & b; Easteal 1993; Polk 1994; Kapardis 1993) and NSW (Wallace 1986; Bonney 1987; Gallagher et al. 1994; Easteal 1993; Devery 1992). All research confirms that the Australian homicide rate remains relatively low and static. Future research is likely to examine further the role of structural factors such as masculinity, class, marginality, Aboriginality, and situational factors such as alcohol and firearms. The interactions between gender, race, and socioeconomic status are also likely to be of continuing research interest.

Robbery

The National Crime Statistics unit reported a robbery rate (as measured by police reports) of 72.28 per hundred thousand population for the calendar year 1993 (Australian Bureau of Statistics 1994a). The highest rate was reported for SA (116.51 per hundred thousand) followed by NSW (99.89). The armed

robbery rate was 30.05. NSW and SA had the highest rates of armed robbery (NSW: 38.49; SA: 33.52). Forty per cent of armed robberies occurred at retail locations (service stations: 6.6 per cent; chemist/pharmacy: 2.8 per cent). Other locations for armed robbery included the street/footpath (19.2 per cent), private dwelling (10.2 per cent), conveyance in transit (4.1 per cent) and bank (4.0 per cent). Firearms were used in 37.3 per cent of armed robberies. Nearly half of unarmed robberies occurred in the street (48.6 per cent). The other more common locations for unarmed robbery included retail locations (12.0 per cent), private dwellings (6.6 per cent), transport terminals (5.5 per cent), conveyance in transit (4.7 per cent) and recreational locations (4.5 per cent).

It should be possible to ascertain trends in robbery over time from a comparison of data from the National Crime Statistics, the three national crime victims surveys and the police statistics aggregated at the Australian Institute of Criminology (Mukherjee & Dagger 1990; Walker 1994) from the annual police reports published in each State and Territory. Although this aggregated data has been important in the past as the only source of national police crime statistics, the offence definitions and counting rules differ between jurisdictions and thus these figures contain unidentified discrepancies in the offence categories.

The data from these three sources is presented in Table 1 for the period 1975 to 1993. Robbery rates as measured by the aggregated police statistics have increased by 217 per cent over the last two decades (Walker 1994). The robbery rate increased from 21.21 per hundred thousand in 1974-75 to 67.20 in 1991-92. The 1991-92 rate from this source is roughly comparable to the 1993 rate of 72.28 per hundred thousand reported in the National Crime Statistics (Australian Bureau of Statistics 1994a).

Robbery rates as measured by the three national crime victims surveys are much higher than those derived from police statistics and have increased by 566 per cent in the last two decades. The robbery rate in 1993 according to the national crime victims survey was 1200 per hundred thousand. Similar proportions of victims claimed to have reported the robbery to the police in 1975 and in 1993 (54 per cent; 52 per cent). The interpretation of the results from the victims surveys is

complicated by changes in the form of the robbery question, which was different in each of the three surveys.

Table 1

Robbery: Number and rate per hundred thousand

	1975	1983	1991-92	1993
NCS[a]				
Rate				72.28
N				12 765
Police Statistics[b]				
Rate	21.21	42.91	67.20	
N	2 921	6 606	11 780	
NCVS[c]				
Rate	180	600		1 200
N	15 000	65 300		160 100
N reported		27 800		83 400
% reported	54.0%	42.6%		52.1%

(a)   National Crime Statistics: Definition of robbery—the unlawful taking of property under confrontational circumstances from the immediate possession, control, custody or care of a person without consent, accompanied by force or threat of force or violence and/or by placing the victim in fear. Attempts are excluded.

(b)   Aggregated police statistics: these figures were compiled at the Australian Institute of Criminology from the Annual Police Statistics Reports from each State and Territory and contain unsystematic variations in offence classifications. The figures have been compiled by financial year 1974-75, 1982-83, 1991-92 (the most recently available—Walker 1994).

(c)   National Crime Victims Survey: the definition employed in the national crime victims surveys differed (Australian Bureau of Statistics 1994b). "N reported" refers to the number of victims who claimed to have reported the robbery to the police. "% reported" refers to the percentage of victims who claimed to have reported the robbery to the police.

The 1975 question was "within the last 12 months have you been robbed? That is did anyone use violence or threaten violence to take anything from you?". The 1983 question was "during the last 12 months did anyone try and take something from you by threatening or attacking you?". The 1993 question

was "in the last 12 months did anyone steal anything from you by threatening or attacking you?". The 1975 and 1993 questions thus excluded attempted robbery. The 1983 and 1993 questions both raised the element of theft before the elements of threat or attack which may have had an impact on the type of incidents reported. These differences in question make it difficult to make time comparisons in victimisation rates. A detailed analysis of these problems is presented in Indermauer (in press).

The findings reported in Table 1 thus raise a number of problems. Firstly, the police statistics and the victims survey findings estimate very different robbery rates and very different rates of increase over the last two decades. These findings do not appear to be related to an increasing willingness of victims to report to the police.

Secondly, according to the National Crime Statistics there were 12765 robberies recorded by the police in 1993. According to the national crime victims survey there were an estimated 160100 victims of robbery in 1993, 52 per cent of whom claimed that they reported the robbery to the police. Thus the national crime victims survey estimated that the police should have received 83400 reports of robbery in 1993, approximately seven times the number actually reported (12765). Moreover, this discrepancy may be even greater since the police statistics allow for multiple reports by victims and the victims survey only analysed reporting of the last incident.

Thirdly, the jurisdiction with the second and third lowest robbery rates per hundred thousand in 1993 according to the National Crime Statistics (NT: 27.93, ACT: 38.14) were found to have the highest rates according to the 1993 victims survey (NT: 170; ACT: 170). The different estimates of the amount of the increase in the last two decades, the over-estimation of robbery incidents reported to the police in the victims survey, and the failure to find any consistent relationship between jurisdictions in the robbery rates estimated by the victims surveys and the police statistics suggests that quite different incidents are being recorded by the different sources. The form of the 1983 and 1993 victims survey questions may have encouraged respondents to report theft from the person (for example pickpocketing) as well as robbery because the wording does not stress the importance of the elements of actual or threatened violence. The unidentified and unsystematic

categories used by respondents in the victims surveys may bear little relationship to the quasi-legal categories used in police statistics. To conclude, whilst both police reports and victims survey data suggest that robbery has increased in the last 20 years, the extent and nature of that increase is not clear.

Assault

No data is yet available in the National Crime Statistics on assaults reported to the police. The only Australia wide police data is for serious assault and it is derived from the police statistics aggregated at the Australian Institute of Criminology. Table 2 presents the aggregated police statistics and the data from the three national crime victims surveys.

The aggregated police statistics reveal that the rates of serious assault reported to the police increased from 21.25 per hundred thousand in 1974-75 to 114.52 in 1991-92.

The three national crime victims surveys found an increase in the assault rate from 2300 per hundred thousand in 1975 to 3400 in 1983 and a decrease to 2500 in 1993. No direct comparison is possible between the aggregated police statistics and the victims survey data because of the differences in classification. The police statistics refer to serious assaults and the victims surveys all refer to assaults. Furthermore, the interpretation of the findings from the national victims surveys is again complicated by differences in the questions asked.

The question asked in 1975 was "in the last 12 months have you been attacked in any way either with or without a weapon?". The 1983 question was "in the last 12 months has anyone threatened you in any way with force or violence? . . . Attacked you or beaten you up?". The 1993 question was "in the last 12 months has anyone threatened you with force or attacked you?".

The 1975 question thus excluded threatened violence which may have seriously underestimated the 1975 assault victimisation rate. The 1983 and 1993 questions may have elicited information on incidents not legally classified as assaults. Not all threats of force legally constitute assault: there is an added requirement of reasonable apprehension of imminent force. Words alone do not amount to assault.

The characteristics of assault as revealed in the 1993 crime victims survey generally confirmed what was known from previous research. Approximately half of the victims (49.8 per cent) knew the perpetrator of the assault and most (70.8 per cent) suffered no physical injury. Assaults were committed at home-inside (17.2 per cent), at place of work/study-inside (9.8 per cent), at home-outside (7.6 per cent), at place of work/study-outside (6.8 per cent). The most often reason cited for not reporting the assault was that it was too trivial/unimportant (34.6 per cent).

Table 2

Assault: Number and rate per hundred thousand

	1975	1983	1991-92	1993
NCS[a]				
Rate				
N	-	-	-	
Police Statistics[b]				
Rate	21.25	50.55	114.52	
N	2 995	7 782	20 075	
NCVS[c]				
Rate	2 300	3 400		2 500
N	94 600	390 900		334 200
N reported		131 120		107 400
% reported	44.0%	33.6%		32.1%

(a)   No data is yet available from the National Crime Statistics Unit.

(b)   Aggregated Police Statistics: these figures were compiled at the Australian Institute of Criminology from the Annual Police Statistics Reports from each State and Territory. The only available figures were for "serious assault". The data is reported in financial years. The years reported here are 1974-75, 1982-83, 1991-92 (the most recently available—Walker 1994).

(c)   National Crime Victims Survey: the definitions employed in the three national crime victims surveys differed (ABS 1994b). "N reported" refers to the number of victims who claimed to have reported the assault to the police. "% reported" refers to the percentage of victims who claimed to have reported the assault to the police.

The interpretation of general time trends in rates of victimisation from these two sources is problematic. The serious assault rate increased by 127 per cent between 1982-83 and 1991-92 according to the aggregated police data (50.55 to 114-52 per hundred thousand). The crime victims survey found a reduction of 38 per cent between 1983 and 1993 in the assault victimisation rate (3400 to 2500 per hundred thousand). It is difficult to reconcile the decrease in rates of assault found in the victims survey with the increase in rates of serious assault in the police statistics. Once again the discrepancies between the trends suggested by the police reports and the trends suggested by the victims surveys are vast and are related in a complex way to the recording practices of the police, the different questions asked in the victims surveys, and the differences in the unidentified lay categories used by respondents in the victims surveys and the quasi-legal categories used by the police.

Sexual assault

The rates of sexual assault victimisation derived from the three sources are presented in Table 3.

The police reports collected in the National Crime Statistics revealed that in 1993, 12390 sexual assaults were reported to the police (Australian Bureau of Statistics 1994a). The Australian rate was 70.15 per hundred thousand, roughly comparable to the rate for England and Wales in 1989 (72 per hundred thousand, Levi 1994). The highest rates were found in the NT (115.86), SA (107.61) and the lowest rates in the ACT (25.43), Tas (26.71) and NSW (63.19). The definition of sexual assault used in the National Crime Statistics collection is broad and includes both rape and indecent assault but excludes attempted offences. The majority of offences (58.8 per cent) occurred in private dwellings. Other locations included the street/footpath (7.3 per cent), recreational (3.7 per cent) and conveyance in transit (3.7 per cent). Weapons were used in only 1.8 per cent of sexual assaults and firearms in 0.22 per cent.

The Australia wide police statistics (aggregated at the Australian Institute of Criminology) are for rape only and thus exclude indecent assault. Table 3 demonstrates an increase in the rape rate per hundred thousand from 5.25 in 1974-75 to

29.61 in 1991-92. The 1983 and 1993 crime victims surveys found an increase in sexual assault victimisation from 500 per hundred thousand to 600 per hundred thousand. The 1975 findings cannot be compared because of a much narrower offence definition. Only one-quarter of the victims reported the sexual assault to the police in both 1983 and 1993.

Table 3

Sexual assault: Number and rate per hundred thousand

	1975	1983	1991-92	1993
NCS[a]				
Rate				70.15
N				12 390
Police Statistics[b]				
Rate	5.25	10.87	29.61	
N	723	1 674	4 698	
NCVS[c]				
Rate	200	500		600
N	7 700	26 700		38 900
N reported		6 600		9 700
% reported	28.2%	24.7%		25.0%

(a)   National Crime Statistics: the definition of sexual assault was sexual assault according to State or Territory law, sexual offences (consent proscribed), other sexual offences. It thus extended beyond rape, but excluded attempted rape (Australian Bureau of Statistics 1994a).

(b)   Aggregated police statistics: these figures were compiled at the Australian Institute of Criminology from Annual Police Statistics Reports for each State and Territory. The offence classifications do not coincide. The only available figures are for rape which is legally defined in different ways in different jurisdictions. The data is reported in financial years and the years reported here are 1974-75, 1982-83, 1991-92 (the most recently available—Walker 1994).

(c)   National Crime Victims Survey: the definition employed in the national crime victims surveys differed (Australian Bureau of Statistics 1994b). "N reported" refers to the number of victims who claimed to have reported the sexual assault to the police. "% reported" refers to the percentage of victims who claimed to have reported the sexual assault to the police.

Once again, the question asked in the three national crime victims surveys differed. The 1975 question asked respondents if they had been a victim of rape or attempted rape. The 1983 question asked "in the last 12 months have you been the victim of (a) rape or attempted rape (b) any other type of sexual assault?". Sexual assault was defined as including all assaults or threatened assaults of a sexual nature. The 1993 question asked "in the last 12 months have you been a victim of sexual assault? (Include all incidents of a sexual nature involving physical contact—rape, attempted rape, indecent assault, assault with intent to sexually assault. Exclude sexual harassment)". The 1975 question thus elicited information on a much narrower range of incidents (rape, attempted rape) than the 1983 and 1993 questions. The 1983 and 1993 questions also differed. Both clearly involved rape and indecent assault but the 1983 question did not narrow threatened sexual assaults to only those involving physical contact (as did the 1993 question). These major differences in the question asked complicate the comparison of the findings from each of the victims surveys.

Comparisons between the three sources of data (police statistics and victims surveys) are also complicated by classification differences. Although the definitions employed in the 1983 and 1993 victims survey and in the National Crime Statistics are broad and include both rape and indecent assault, the National Crime Statistics data exclude attempted rape. The aggregated police data is for rape only and the definition of rape varied from jurisdiction to jurisdiction (Walker 1994). A number of observations may be made about the discrepancies between the findings from the three sources of information.

Firstly, the victims survey found only a moderate increase in the sexual assault rate from 1983 to 1993 (20 per cent: 500 per hundred thousand to 600). In contrast, the aggregated police statistics reported a 172 per cent increase in the rape rate from 1982-83 to 1990-91 (10.87 per hundred thousand to 29.61). The proportion of victims who claimed to have reported the sexual assault to the police was similar in both victims surveys (25 per cent).

Secondly, the number of sexual assaults reported to the police in 1993 as estimated by the victims survey was 9700. The actual number of sexual assaults reported to the police (according to the National Crime Statistics data) was 12 390.

The victims survey thus underestimated the number of sexual assaults reports to the police (the reverse of the position with robbery).[2] Such a finding suggests that the victims survey had a higher "dark figure" than the reports to the police.

The police statistics and victims survey findings present quite different views of violent crime in Australia. It is not clear that the same incidents are being recorded by the different methodologies. Certain known deficiencies apply to police statistics—there are differences in offence classifications across Australian jurisdictions, different crimes reported to the police are "accepted" at different rates according to unarticulated criteria and different crimes have different dark figures. The deficiencies in crime victims survey estimates are at least as great, more complex and less well known. Apart from the obvious problems of sampling, response rate, recall and telescoping, demand characteristics, multiple victimisation and the method of obtaining the interview (for example face to face or by telephone) there are problems about which little is known. The dark figures attaching to the victims survey have not been examined. In the area of sexual assault the dark figure may be higher in the victims survey than in reports to the police. Furthermore, the terminology and classification problems are vast. Most surveys ask victims to categorise their experiences into certain given quasi-legal categories. The extent to which respondents can reliably and accurately perform this task is highly questionable. The definitions of common offences such as robbery, assault, sexual assault, indecent assault are technical and complex. Even where such terms are avoided the questions themselves do not always accurately paraphrase the legal categories, and they do not always indicate the proper emphasis to be placed on the legal elements provided in the definitions. Furthermore, the questions asked in the three Australian victims surveys have been quite different. The victims survey is a means of collecting information about people's experiences but what experiences are being reported by respondents and whether they amount to crimes we simply do not know.

What conclusions can be drawn about violence in Australian society from these new sources of information? The most serious

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2.   The under-estimation is present even when the victims survey estimates are corrected by the standard error of the estimate (9 700+1 600=11 300).

form of violence, homicide, has remained static for at least two decades and has declined from the higher levels at the turn of the century. The homicide rate in Australia is lower than in the United States, Canada and New Zealand, but higher than most European countries including England and Wales. The rate differences between Australia and most European countries are relatively small.

Other crimes of violence have been increasingly reported to the police. Police reports of serious assault, robbery and rape have increased remarkably in the last two decades. The steepest increase has occurred in relation to assault, at least in part due to the policy of criminalising domestic assault and possibly an increasing sensitivity to violence in the community at large. The victims surveys found that levels of assault increased in the early 1980s but declined in 1993 and that levels of robbery increased. Terminology and classification difficulties and very high levels of under reporting (the national victims surveys estimate this to be 75 per cent) raise problems for the interpretation of the findings relating to sexual assault. There has been a large increase in the rape rate (according to police statistics), but only a small increase in the sexual assault victimisation rate according to the victims surveys. The Australian sexual assault rate (according to police statistics) is roughly comparable to the rate in the United Kingdom.

The answers to the questions "how much?" and "is it increasing?" are not straightforward. The measurement of violent crime is not like the measurement of feet size in a given population. The different methodologies result in quite different estimates of the levels of violent crime which are related in a complex (and poorly understood) way to legal, social and cultural factors such as the definitions of and the language used to talk about crimes, the preparedness of people to disclose such experiences and the recording practices of the police.

The Risk of Violence

Violence is not equally distributed across the nation. As noted by Weatherburn and Devery (1991) the differences within Australia in victimisation rates are as great as the difference in rates between Australia and other countries. Both the risks of

victimisation are different and the impact of victimisation are different for different groups of people (Hogg 1988). There is considerable overlap between the groups of people with the highest rates of victimisation and the groups with the highest rates of offending, but the match is not perfect.

The identification of the differential risks of victimisation is an ongoing project and the groups identified as at particular risk today reflect our limited state of knowledge. Further refinements in the identification of the persons within these groups and the identification of other groups will occur over time. The major identified risks in Australian society (not in order of significance) are race, social class, age and gender. Furthermore these risk factors interact with each other in complex and as yet poorly identified ways.

The high levels of violence in Aboriginal communities are documented in many studies. The homicide rate for Aboriginal victims in Australia is more than eight times the rate for the country as a whole (17.8 per hundred thousand in 1991-92; Strang 1993). Rates of assault, domestic assault (Bolger 1990) and sexual violence (Atkinson 1990a, 1990b) are also high for Aboriginal people. Recent reviews of the research into violent crime and victimisation amongst Aboriginal people include Lincoln and Wilson (1994), Atkinson (1990a, 1990b), and Tatz (1990).

Social class has also been found to be an important determinant of the risk of violent victimisation. Several studies have found a relationship with homicide. An association between occupational prestige and homicide across Australia was found by Najman (1980). Devery (1992) reported an association between socioeconomic status and domestic homicide and domestic assault in NSW. The 1993 National Crime Victims Survey found that the victims of personal crime (assault, robbery, sexual assault) were more likely than non-victims to be unemployed, unmarried, and to have lived at their current address for less than a year. Recent reviews of research and theory on social class and victimisation in Australia include Devery (1991, 1992), Alder (1991), Braithwaite (1989) and Sarre (1994).

Numerous studies have shown that the victims of violent crime are more likely to be young. Data from the National Homicide Monitoring Program demonstrated that the age group

20 to 29 years has the highest rates of homicide (1991-92: 27 per cent of all victims; rate was 3.2 per hundred thousand). This was true for both men and women. Similar findings were reported by Gallagher et al. (1994) in a study of all homicides in NSW between 1968 and 1992.

The victims of sexual assault are also young. The NSW Bureau of Crime Statistics and Research reported that between 1989 and 1991 the average annual victimisation risk for sexual assault for victims aged 16 to 20 years was 113.1 per hundred thousand (Salmelainen & Coumelaros 1993). The next highest rate was in the 21 to 25 years age group (58.3) and declined sharply after that. Studies in other States report similar findings. The Victorian Community Council Against Violence (1991) reported that, in a study of all sexual assaults reported to the police in Victoria between 1987 and 1990, 31 per cent of victims were under 18 years and 39 per cent were between 18 and 25 years. A South Australian study of all rapes, attempted rapes and assault with intent to rape reported to the SA police between July 1980 and June 1984 found that the overwhelming majority (83 per cent) of victims were under 30 years (Weekley 1986).

The 1993 National Crime Victims Survey reported that the victimisation rates for personal crime were highest in the age group 15 to 24 years (7.9 per cent) and declined with declining age: 25-34 years 4.5 per cent; 35-44 years: 3.2 per cent; 45-54 years: 2.2 per cent; 55-64 years: 1.2 per cent; 65 years or over: 0.7 per cent (Australian Bureau of Statistics 1994a). The role of lifestyle factors including patterns of use of public space and entertainment venues and alcohol use has been stressed as a contributing factor in producing the inflated risk levels of young people (for example, Tuck 1989).

The relationship between gender and the risk of violent crime victimisation is complex. More males than females are victims of homicide and assault. Strang (1992; 1993) reported that the majority of homicide victims were male (61 per cent). The over-representation of males occurred at all age groups except those under 19 years. Similar findings have been reported by the Law Reform Commission of Victoria (1991a) and by Gallagher et al. (1994). The 1993 National Crime Victims Survey reported higher victimisation rates for personal crime for males (4.4 per cent) than females (3.0 per cent) (Australian

Bureau of Statistics 1994b). A study of all violent incidents reported to the SA police in 1992 found that 54 per cent involved male victims (Gardner 1994).

Whilst male to male violence is the most common form of violence in general, there are certain categories of violent crime where female victims outnumber male victims. Several studies have demonstrated that female victims outnumber male victims in family homicides and in spousal homicides. Strang (1993) reported that in 1991-92 three-quarters of spouse homicides in Australia involved women victims. Similar findings of higher rates of female victimisation in spouse homicides were reported for NSW between 1968 and 1992 by Gallagher et al. (1994) who also found that the proportion of female victims of spouse homicides significantly increased over the 24-year period. The heightened risk of female victims has also been found in relation to non-fatal domestic assaults. The under reporting of such crimes makes it difficult to assess the gender ratio. In 1989, 99 per cent of people who sought protection orders against a spouse or de facto in NSW were women (Matka 1991). The corresponding figure for the ACT in 1991 was 90 per cent (Community Law Reform Committee ACT 1993). An interesting study in South Australia by Gardner (1994) found that the rate of domestic violence according to police reports in 1992 was 3.4 per thousand. An associated victims survey found that the domestic violence rate was 2 per thousand for women in married or de facto relationships and 42.7 per thousand for divorced or separated women.

Female victims also outnumber male victims in relation to sexual violence. Precise estimates are difficult to obtain because of the generally low levels of reporting. Increasingly victims surveys restrict the questions on sexual assault to female respondents (for example, Australian Bureau of Statistics 1986, Australian Bureau of Statistics 1992, Van Dijk & Mayhew 1991) thus preventing any analysis of gender differences on victimisation rates. Police statistics in NSW between 1989 and 1991 demonstrated an over-representation of female sexual assault victims: 90.2 per cent of victims were female (Salmelainen & Coumelaros 1993). The average annual rate of victimisation for females was 66.8 per hundred thousand as compared to 7.5 for men. A Victorian study of all sexual assaults reported to the police between 1987 to 1990 found that 93.6 per

cent of victims were female (Victorian Community Council Against Violence 1991). A South Australian study of all rapes, attempted rapes and assault with intent to rape reported to the police from July 1980 to June 1984 found that 90 per cent of victims were female (Weekley 1986). Similar findings were reported in a recent SA study of all violent offences reported to the police in 1992. Eighty-six per cent of sexual offences involved female victims (Gardner 1994). Sexual assault services have reported similar rates of female victimisation: 93.3 per cent of victims presenting to sexual assault centres in NSW between 1989 and 1991 were female (Parliament of NSW 1993).

The risks of victimisation are thus unequally distributed amongst the young, the socially and economically disadvantaged, and Aboriginal people. Males are generally over-represented amongst the victims of violent crime but female victimisation is higher in relation to domestic homicide, spousal homicide, domestic assault and sexual assault. Such an analysis of risk does not of course take into account the differential impact of violent crime on different classes of victims, nor does it adequately take into account multiple victimisation. Vulnerabilities differ and thus the impact of violent crime may be great even in groups with relatively low rates of victimisation (Hogg 1988).

The Characteristics of Offenders

Australian research into the perpetrators of violent crime has been overshadowed in the last decade by the enormous growth of interest in victimisation. Whilst the discovery of the victim was long overdue and the analysis of victimisation has greatly extended our knowledge about violence, it is important to recognise that explanations of the causes of violence and the development of effective prevention strategies are dependent upon an understanding of offenders. The complex ways in which gender roles and cultural, social and economic factors operate to permit and encourage the infliction of violence upon other human beings requires a consideration of offenders. An understanding of these structural factors and the patterns of meaning, the perceptions, and the choices of offenders in

different social settings and different social relationships are necessary to explain non-violence as well as violence.

Socioeconomic disadvantage, race, age and gender are all important correlates of violent offending.

A relationship between socioeconomic class and homicide offending has been found in several Australian studies. Strang (1993) reported that in 1991-92 less than one-third of offenders were in the paid work force. The Victorian Law Reform Commission (1991b) study of prosecuted homicides between 1981 and 1987 found that 37.2 per cent of defendants were unemployed and less than 5 per cent of offenders had occupations at the professional managerial or semi-professional levels. Bonney (1987) reported that 40.7 per cent of all homicide suspects in NSW between 1968 and 1986 had occupations in the unskilled workers category.

The depth of homicide research in Australia has revealed several findings not observed elsewhere. Strang (in this collection) found that child abuse homicides occurred in a context of financial stress. Her study examined all child abuse homicides in Australia between 1989 and 1992 and she found that only one of the offenders was in employment at the time of the incident. Devery (1992) found a relationship between social status and domestic homicide in NSW. These findings appear to contradict the conclusion drawn by Levi (1994) on the findings of overseas research that "class factors are more pronounced in non family than in spousal or parent child violence" (p. 326).

A relationship between assault offenders and socioeconomic class has also been found. Devery (1991) found that local government areas in the city of Sydney with high proportions of poor families, high unemployment and high proportions of single parent families also tended to have high levels of offenders convicted of assault. In NSW, reported domestic assault levels were found to correlate with regional variations in socioeconomic status (Devery 1992) and higher rates of apprehended violence orders have been found in local government areas with larger percentages of people with lower levels of education (Matka 1991).

In NSW, Bonney (1985) found a relationship between low socioeconomic status and sexual assault offenders in a three-year period in the late 1970s and early 1980s. Forty-seven per cent of people charged in NSW courts were unemployed at the

time of the offence and 56 per cent nominated their occupation as unskilled worker. The available research thus demonstrates a relationship between socioeconomic disadvantage and offending for homicide, assault and sexual assault.

The over-representation of Aboriginal people as suspects/offenders in police statistics, court statistics and prison statistics has been observed in a number of studies. The over-representation occurs in relation to public order offences, certain property offences, as well as certain crimes of violence (mainly homicide and assault). Furthermore the variations observed between Australian jurisdictions in rates of violent crime victimisation and rates of violent crime offending is often a function of the proportion of Aboriginal people in the general population in a particular jurisdiction (for example, the Northern Territory). The most comprehensive research in this field relates to homicide. Strang (1993) reported an over-representation of Aboriginal homicide offenders in 1991-92: Aboriginal people represented 1.5 per cent of the total Australian population and 19 per cent of homicide offenders. The rate of offending was approximately 13 times the rate of the Australian population as a whole and both Aboriginal men and women were over-represented.

D'Abbs (1989) analysed NT police arrests and summons records for three years (1985-86 to 1987-88) for certain violent offence categories (homicide, assault, sexual assault, robbery). Sixty-one per cent of arrests and summons for these offences involved Aboriginal people. The tenth annual prison census demonstrated imprisonment rates for violent offences among Aboriginal and Torres Strait Islander people that were many times the rates for the population as a whole (Walker 1992). Similar findings have been reported in the research papers commissioned by the Royal Commission into Aboriginal Deaths in Custody (for example, McDonald 1989, 1990; McDonald & Biles 1990). There are many recent studies and reviews of the over-representation of Aboriginal people as both victims of violent crime and offenders: Lincoln and Wilson (1994); Hazlehurst (1987); Cunneen (1990a, 1990b); Gale, Bailey-Harris and Wundersitz (1990); Tatz (1990); Atkinson (1990a, 1990b); Martin (1993); and d'Abbs et al. (1993). A growing topic of interest is the interaction between gender and race, in particular the prevalence of domestic assault and homicide

committed by Aboriginal men against Aboriginal women (Australian Law Reform Commission 1994).

The relationship between masculinity and violence is striking. The overwhelming majority of offenders are male for all violent offences. The Australian research suggests that males comprise 89 per cent of homicide offenders, 91 per cent of violent property offenders, 90 per cent of assault offenders and almost all sexual assault offenders.

Strang (1993) found that 89 per cent of homicide offenders in Australia in 1991-92 were male. Gallagher et al. (1994) found that in NSW between 1968 and 1992, 86 per cent of all known homicide offenders were male. Similar proportions of male offenders (88 per cent) were found by Kapardis (1993) in a study of all stranger killings in Victoria between January 1990 and April 1992. The two categories of homicides where the proportion of female offenders are increased are spouse homicides and child homicides. Strang (1993) found that 25 per cent of all spouse homicides in Australia were committed by females in 1991-92. A similar proportion (25 per cent) was found by Bonney (1987) in NSW in a study of all homicides committed in NSW between 1968-86.

The proportion of female homicide offenders has been found to be relatively higher in child homicide cases. Strang (1992) reported that in 1990-91 in Australia, mothers were the suspects in 32 per cent of homicides where the child (under 16 years) was killed by a parent (legal and de facto). Bonney (1987) reported that between 1968 and 1986 in NSW, female suspects accounted for 55 per cent of child killings (victims up to the age of 9 years). These two particular categories of homicide have obviously important but largely unexplored theoretical implications for explanations of the relationship between masculinity and violence.

Male offenders predominate in assault offences and in sexual assault offences and violent property offences. The National Committee on Violence (1989) noted that over 90 per cent of assault offenders were male. Salmelainen and Coumelaros (1993) reported that virtually all persons convicted of sexual assault in NSW courts in 1991 were male (1 female). A study by Indermauer (in press) of violent property crime in WA between July 1991 and December 1993 found that in 91 per cent of incidents the offender was male.

The final major known correlate of violent offending is age. The young are over-represented as perpetrators of homicide, assault and sexual assault. Gallagher et al. (1994) reported that 67 per cent of all homicide suspects in NSW between 1968 and 1992 were between 15 and 34 years. Strang (1993) found that 18 per cent of homicide offenders in Australia in 1991-92 were aged under 20 years and 30 per cent were aged 20 to 29 years. Kapardis (1993) found that 75 per cent of suspects in stranger killings in Victoria between January 1990 and April 1992 were 30 years or younger.

Approximately two-thirds of sexual assault offenders are under 30 years. A NSW study of all sexual assaults committed for trial in a 3-year period in the late 1970s and early 1980s found that 46 per cent of offenders were in the 18 to 25 years group (Bonney 1985). Salmelainen and Coumelaros (1993) reported that the young were over-represented amongst people found guilty of sexual assault in NSW courts in 1991. The 20 to 25 year age group had the highest rate of offenders (23.5 per hundred thousand). The rate for the 26 to 30 year age group was not far behind (23.1). The Victorian Community Council Against Violence analysed all sexual assault reports to the police from 1987 to 1990 and found that 62 per cent of offenders were aged between 18 and 30 years (Victorian Community Council Against Violence 1991).

There are relatively few population studies of assault in Australia but the studies that are available have found that the majority of assault offenders are young. Age was found to correlate with offences against the person in a recent study of the local courts in NSW (Devery 1991). Walker and Henderson (1991) demonstrated that the peak age for arrest for violent offences was around 19 years.

In summary, the factors that are associated with violent offending in Australia are socioeconomic disadvantage, race, age, and gender. The research demonstrates a relationship between socioeconomic status and homicide (including domestic homicide and child homicide), assault and sexual assault. Aboriginal people and young people are over-represented as offenders for most crimes of violence. The overwhelming majority of violent crime offences are committed by males. This is true for homicide (91 per cent), violent property crime (89 per cent), assault (90 per cent) and sexual assault (virtually all

reported incidents). The two categories of violent crime where the levels of female offending are inflated are spouse homicide (25 per cent) and child homicide (30 per cent to 55 per cent depending on the population definitions).

Explanations of Violence

As noted by Brown and Hogg (1992a) Australia does not have a strong reflexive and theoretical criminological tradition. Carson and O'Malley (1989) characterised Australian criminology at least until the early 1980s as an "atheoretical, practical and policy oriented concern, not even the faintest whisper of the mounting northern hemisphere sociological debates about crime and criminology breaking through the dense ether of pragmatic zeal" (p. 350). Although such a conclusion is less warranted today it is still the case that much of the valuable research into violence conducted in Australia has been reported and discussed in largely descriptive terms with little attention paid to explanation and theory. There are some exceptions to this approach in recent years and the international theoretical debates have been increasingly imported into the Australian context. Radical criminologies, feminist criminologies and left realism have been the major theoretical traditions invoked in Australia. In recent years some interesting Australian theoretical developments with implications for explanations of violence have been published suggesting that explanation may become a more prominent feature of Australian criminology in the future (for example Braithwaite 1989, Braithwaite & Pettit 1990, Hogg & Brown 1990, Polk 1994).

In a thoughtful review of international violence research, Levi (1994) observed that there is disagreement over the explanations of violence and the explanations differ according to the question asked. An explanation of why, when and where a person committed a crime of violence may thus mean an explanation of the different rates of victimisation by socioeconomic status, age, race or gender, an explanation of the situational and location factors which are associated with the expression of violence, an explanation of the attitudes and motivations of a particular offender or an explanation of the biological and physiological correlates of violence. "One of the

persistent difficulties with many approaches to explaining violence (and, for that matter victimisation risks) is that though they may lay down social indicators or "marker variables"—some of which illuminate the dynamics of the phenomenon—they seldom generate anything close to a causal account which makes sense of non-violence as well as of violence" (Levi 1994, p. 324).

Sociocultural explanations

One of the most influential explanatory theories of violence is that of Wolfgang and Ferracuti (1967): the sub-culture of violence. The basic premise is that there are economically deprived sub-cultures or social contexts where violence is almost a required response to a provocative incident. The incident may be trivial but in the context of the sub-culture where self-esteem is low, honour and status is dependent on the values of the group, and alternative means of establishing and maintaining status are limited, the violent reaction is understandable. Whilst the sub-culture of violence explanation has been criticised for not adequately emphasising the role of gender and race and for appearing to blame the victim, it remains one of the most important explanations of violence and has been incorporated explicitly or implicitly into many explanations of violence which emphasise and further elaborate socioeconomic status, race, and more recently gender (Daly & Wilson 1988; Polk 1994).

Socioeconomic status; inequality   The role of socioeconomic deprivation is stressed in many Australian accounts of violence. Marxist theoretical analyses have been influential over the years in explaining the relation between unemployment and crime and have stressed the brutalisation of the unemployed by capitalism (Braithwaite 1979). Criminological analyses have explored the various ways in which unemployment and socioeconomic deprivation may operate: alienation, powerlessness, the culture of poverty, blocked opportunities, illegitimate opportunity structures, poor education, the negative effects of labelling, changes in family structure, welfarism, marginalisation, the development of an under-class with no stake in conformity in the wider society. Australian accounts

drawing on these explanations include Braithwaite (1979, 1989), Braithwaite and Braithwaite (1980), Polk, (1994) Alder, (1992), and White (1989).

Race   An explanation of the relationship between race and violence is unavoidable in Australia given the rates of homicide and assault amongst Aboriginal people. Most accounts take economic deprivation as the starting point and variously explore the roles of political, historical and social factors. The effects of colonisation, dispossession, racism and racial discrimination, and forced social change undermining traditional mechanisms of family and social control have been linked to the social deprivation manifested in almost all aspects of contemporary Aboriginal life: unemployment, poverty, poor education, poor housing, poor health, decreased life expectancy, high suicide rates, and alcohol abuse.

Explanations drawing on these factors in differing degrees include Martin (1993), d'Abbs et al. (1993), Langton (1992), Wilson (1982), Lincoln and Wilson (1994). Some explanations posit a unidirectional influence in so far as the colonisation, dispossession, discrimination and racism of the white society acts to turn Aboriginal people into passive victims of these imposed forces who direct their bitterness and anger internally rather than against the oppressors (for example, Wilson 1982). Other explanations portray the process as more complex and stress the active, creative and distinctive response of Aboriginal culture to white Australia (for example, Martin 1993; Cowlishaw 1987; Lincoln & Wilson 1994; Langton 1992).

Such approaches enable the "understanding of something of the immense complexity of the manner in which the institutions of white society impinge upon and feed into Aboriginal lives at all levels, the full impact of the continuing history of colonialism in this country" (Martin 1993, p. 176). An increasing tension in the explanations of violence in Aboriginal communities is the "relative priority to be accorded gender oppression and racial oppression" (d'Abbs et al. 1993, p. 94). The extent and causes of gendered violence in traditional Aboriginal cultures and in post-colonial Aboriginal cultures are increasingly the subject of debate largely, but not exclusively, within the context of domestic homicide and assault and services for victims and the punishment of offenders (Atkinson 1990a & 1990b).

Feminist accounts of violence   Feminist explanations of violence represent the most important theoretical development of the 1980s in Australia as in other western countries. The recognition that the overwhelming majority of violence is in fact male violence has challenged the explanations emanating from all criminological traditions. Feminist explanations draw on the social construction of masculinity in patriarchal societies. The preservation and maintenance of male power, authority and status over women is achieved through a socially constructed masculinity in which violence and violent and coercive sexuality are the instrumental and expressive tools of oppression. Gender inequalities and male power are further maintained and legitimated by masculinist social, political and legal institutions.

Within feminism there is disagreement as to the relationship between and the significance of gender and the other powerful divisions (oppressions) within society, race and class. Associated with this debate is a growing concern with the essentialism of some of the early feminist theories. As noted by Hilary Allen:

> The assumption that all social relations are predetermined by a general oppression of all women by all men converts any specific discussion of this or any other sexual discrepancy into an otiose restatement of what is presumed in advance. In the process, it dismisses as insignificant the more specific and problematic questions that one might otherwise wish to ask, such as why only some of these (uniformly oppressed and homogenously constructed) female subjects are exposed to . . . (Allen 1987, p. 12).

Allen was referring to the psychiatrisation of female offenders but the analysis may be applied to violence. The essentialism of some feminist theories has been criticised as assuming a uniformity of experience and oppression of women not in fact observed and as failing to recognise the obviously different levels of violence and oppression experienced by women of different social classes and races (for example, Behrendt 1993). They also fail to explain the very high levels of male to male violence, to explain the non-violence of many men and to explain adequately (and predict) the admittedly low, but observed levels of violence perpetrated by women in the family against spouses and children. Some of these critical analyses arise out of post-modernist feminist critiques which stress that

the realities experienced by the subject (woman) are not in any way transcendent, or representational but rather particular and fluctuating, constituted within a complex set of social contexts (Bartlett 1991).

These different theoretical views are all represented in the Australian feminist writings on violence. Examples of radical feminist accounts which stress the gendered violence of patriarchy to the exclusion of other causes include Scutt (1983), Hatty (1989), McGregor (1990), and Easteal (1993). Interestingly, the policy debate on remedies and services for the victims of domestic violence in Australia has largely been dominated by radical feminist approaches. The important position paper of the National Committee on Violence Against Women (1992) provides an example of this approach:

> Violence against women is a product of the social construction of masculinity; the set of traditions, habits and beliefs which permit some men to assume dominance and control over women and thus to assume the right to use violence as a means of exercising that dominance and control . . . The commonly quoted causes of violence; alcohol consumption, stress, emotional trauma, conflict or provocation by the victim serve as excuses . . . Male violence against women occurs in all classes, cultures and creeds. There is a tendency to believe that men from particular ethnic and class groups are more likely to be violent than others (pp. 8-10).

In this paper causes of violence other than gender are viewed as excuses and the differential risks of victimisation in different social groups are disputed. The special problems experienced by Aboriginal women are mentioned only once in the paper.

Feminist explanations which recognise and attempt to accommodate the interaction of gendered violence with other forms of oppression such as class and race include Alder (1991), Stubbs (1994), Polk (1994), and Brown and Hogg (1992b). Some interesting theoretical developments have arisen out of the recognition of the contingent, particular, fluctuating and localised nature of masculinities. The deconstruction of masculinity, the examination of the interactions between gender and other powerful forms of oppression such as class and race, and the examination of the role of masculinity in the different forms of violence in different social relationships (including male to male violence) represent potentially useful avenues of

inquiry in our search for explanations (for example, Alder 1991, Polk 1994).

Micro-social and situational explanations   Some explanations of violence examine the more immediate, observable features of a situation and seek to locate the causes within these micro-social contexts. Such micro-social or situational explanations are not necessarily inconsistent with broader structural explanations and the two approaches may compliment each other in positive ways. The work of Tomsen, Homel and Thommeny (1991) on the situational variables involved in assaults in and around licensed premises provides a good illustration of such a complimentary approach. The violence was related to a number of situational variables (male strangers, low comfort, high boredom, high drunkenness, aggressive and unreasonable bouncers, regulation and policing) in the context of the social inequalities of young, working-class Australian males. A similar structural and situational account of violent property crime has been offered by Indermauer (in press). Situational explanations of violence have most often been explored in the crime prevention literature. The urban landscape has been examined and the role of lighting, deserted shopping malls, streets and parks at night, the design of welfare housing, styles of policing, and drinking patterns and locations have all been implicated as situational factors (*see* Sutton 1994 for a review). The availability of firearms as a situational factor in homicide is a strong and consistent theme in the Australian literature (Harding 1981; Sarre 1994; Egger & Peters 1993).

Psychological and individual explanations

Psychological explanations of violence are not often advanced in isolation in the Australian criminological literature although they may be advanced in combination with sociocultural explanations accounting for the role of the popular culture and media, and the role of the family in the socialisation of violence and the intergenerational transfer of violence (for example Edgar 1991, Schneider 1991, and Vinson & Hemphill 1981). Individual explanations for violent property crime have dominated discussion in the context of substance abuse. The

need to maintain an expensive illicit drug habit is widely believed to be an important motivation in crimes such as robbery and violent break-ins (*see* Indermauer (in press) for a review of these explanations).

Biological explanations

Biological explanations of violence are largely of historical interest only in Australia. The one possible exception lies in current interest in the relationship between alcohol and violence. The research into alcohol and violence in Australia is not extensive and as noted by Travis (1993) in the conclusion of a comprehensive review of the Australian research, "this material should have offered firm grounds on which to access the prevalence and incidence of alcohol use and violence in Australia. Instead . . . we are left with fragmented impressions" (p. 83). Examples of violence perpetrated under the influence of alcohol are widespread and many studies have demonstrated that a high proportion of violent offenders were intoxicated at the time of the incident (for example, Strang 1993). Intoxication, however, is not always associated with violence, and, indeed, given the frequency and amount of alcohol consumption in Australia it is relatively rarely associated with violence. The possible biological links between alcohol and aggression and their relationship to the psycho-social context have been examined by White and Humeniak (1994). Other explanations have stressed the historical, social and cultural significance of alcohol as being of primary importance in violence perpetrated under the influence of alcohol (Tomsen et al. 1991).

In conclusion, the last decade has seen considerable research into violence in Australia and much more is known about the patterns of violence, the social settings in which violence occurs and the structural, situational, social and psychological factors which are associated with violence. There are two clear implications of much of this research. Firstly, at the level of explanation and theory we are unable to adequately explain and predict non violence. All explanations over predict the levels of violence and indeed given the relatively low levels of violence in Australian society it is clear that we are doing something right. Secondly, we know enough about the patterns, locations and

causes of violence to identify the priorities for violence prevention programs and policies and the services for victims.

This Collection

The chapters presented in this volume raise many of the issues of current interest in both the popular and expert discussion. The Opening Address (Hayden) and a chapter in the first section, Patterns and Issues, give general overview discussions (Chappell). Part I also focusses on specific issues: young people and violence (Polk, Bessant & Watts), racist violence (de Rome & Cunneen) child abuse (Strang), domestic violence (Roberts), masculinity and the role of men in preventing violence (Wallace, Frey & Bellotti), alcohol and violence (Ireland), firearms and suicide (de Moore et al.). The theme of firearms controls is raised in the chapters by Hayden, Chappell, Polk, de Moore et al., Egger and Sarre. The study reported by de Moore et al. in chapter 11 provides a unique insight into firearm availability at a time of interpersonal conflict and crisis and confirms, in the context of suicide, that making firearms less available is an important means of preventing the infliction of serious injury.

The chapters in Part II, Prevention and Policy, raise contentious issues about societal responses to violence. Violence (including sexual violence) against women and children is examined in six of the papers (Crowley, Sherman, Braithwaite & Daly, Spatz-Widom, Egger, and Scutt). There has been an extraordinary uniformity of policy direction in the 1980s in relation to domestic violence. The involvement of the criminal justice system, and in particular the role of the criminal law and the police, has been at the forefront of policy development in most western countries and expectations have been high. More recently, the effectiveness and benefits of the demands for increased police and court involvement have been called into question and doubts are beginning to surface as to whether more policing is a "panacea" for domestic violence (for example Stanko 1994). The chapters by Sherman and Braithwaite and Daly raise some of these issues.

Other chapters in this section examine the role of alternative dispute resolution in conflict resolution in Aboriginal and Torres Strait Islander communities (Nolan), situational crime

prevention programs (Dixon, Fisher, Mellor) and violence inflicted by the police (Sarre). The final section of this book presents a bibliography of violence research, theory and policy in Australia, an invaluable research tool for anyone interested in this expanding topic. Unlike the bibliography, the collection as a whole does not represent a comprehensive review of violence research and policy but it does raise a range of complex and challenging issues of considerable importance in contemporary Australia.

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Opening Address[1]

The Honourable Bill Hayden, Governor General of the Commonwealth of Australia

T he questions to be discussed at this conference are clearly issues of great public concern. The key questions are: what progress has been made in the control of violence in Australia since the first national conference in October 1989? What strategies should we now be considering to implement realistic policies and legislative change? What has recent research to tell us about violence in the community? What further avenues of research are necessary? What exemplary programs and initiatives have been established over the past two-and-a-half years? How successful are they? Are there new directions by society in its perceptions of violence?

These are matters of great substance which will be considered from a variety of viewpoints: violence against women; violence in the family; street violence; child abuse; youth violence; police and community responses; perceptions of violence in the media; violence as a measure of behaviour in Australia generally.

In this opening address I can touch only briefly on a few of these topics. Without in any way seeking to condone or rationalise violent behaviour, I want to express one or two worries I have about the way the debate is being handled in parts of the public domain.

The risks of over-statement in these areas of profound human emotion and behaviour are real ones, it seems to me. I hope this conference will consider the serious, tragic and complex issue of violence in the community as it is and not as it

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[1]. This is an edited version of the Governor-General's address.

may sometimes be misrepresented. I will return to this a little later in my remarks.

The key development since the first conference was the release of the report in 1990 by the National Committee on Violence, and the generally positive response to its recommendations by governments: for instance, the establishment of the National Child Protection Council, and the Violence Prevention Unit—a resource and information clearing house within the Institute.

There are the Violence Prevention Awards, given for the first time in 1992, and which have revealed some hundreds of very worthwhile community projects to deal with and to prevent violence. Among them were Kids Help Line, the West End Forum for youth in inner city Melbourne, and an Aboriginal night patrol in the Northern Territory. We are all aware of the National Committee's finding that Aboriginal people are at far greater risk of violence than other Australians.

The Committee also found that firearms are involved in around 40 per cent of homicides yet progress towards uniform gun laws is still slow. It always seems to take a tragedy, such as the 1991 Strathfield shopping centre shooting, to push us towards a more common approach, for example, concerning the availability of semi-automatic centre-fire rifles.

However, the Australasian Police Ministers' Council recently agreed to each jurisdiction recording information about domestic violence orders and firearms offences and to allow these records to be shared and matched.

I am not sure to what extent firearms are involved in domestic violence. Anecdotal evidence suggests that the threat can often be there. We know that the majority of homicides and violent crimes against the person, including sexual assaults, are committed by people known to the victim.

It is interesting, too, that the ministerial council has agreed to convene a forum on media coverage of major criminal incidents to at least try to develop a non-regulatory approach. It is a bit rich for the media to describe as "insulting" attempts to develop some agreed code on these matters especially at a time when there are many public concerns about violence as portrayed in the media.

It is not just the news of course, although I found the coverage by some radio and television stations of the "Hanging

Rock" siege earlier this year, rather troubling. Interviewing the offenders on air not only glorified them, but posed great dangers for the hostage children and the police, and risked encouraging "copycat" crime as the police commissioners rightly pointed out.

There is also the question of violence, explicit and gratuitous, on film and video. Paul Wilson (1988) has written of the "diet of television violence" fed to Australian audiences: 97 per cent of crime programs, 86 per cent of cartoons and 74 per cent of adventure/action shows contain violence of one sort or another.

Wilson claims that the world can be a mean and frightening place at times, but it is nowhere near as bad as television makes out. As to the sadistic violence of some horror films, those of us who fought against censorship thirty years ago now find the liberal conscience stretched painfully thin. I notice that some Hollywood actors are refusing to take part in these sorts of productions, and there are suggestions that audiences are "voting with their feet" and staying away from the cinemas.

It is hard to believe that some of these films do not de-sensitise the viewer to violence, to say nothing of those interactive computer games that engage young players in "virtual reality" contests of the most degrading and violent sort, if accounts I have read are accurate. I believe a Senate committee is looking at some of these issues.

Having said that, however, the question remains: are we in fact becoming a more violent society? I suspect the answer to that is generally "no", although it would seem that our perceptions of violence—and certainly a much greater willingness, especially by women, to report cases of domestic violence and sexual assault—are undergoing a substantial shift.

Let me elaborate on this. Many commentators would agree with the "Introduction" to the Institute's 1991 book of essays on violence (Chappell, Grabosky & Strang 1991, p. 1) that, "by international standards, and indeed by its own historical benchmarks, contemporary Australia is not a violent place".

Our homicide rate is quite low. Political violence and gang warfare are relatively uncommon. The streets are mostly—but not always—safer to walk than they are in many other places.

Of course I am aware of the "Reclaim the Night" campaign and understand the sentiments—but I wonder when it could ever

have been claimed that the nights were really safe for women out of doors? Have they been safe, in certain places, for anyone?

There are areas of some big cities that I would regard as distinctly unsafe to wander alone or with only my wife. The latent threats in these parts would be immeasurably greater for a female walking alone. Who wants to claim that sort of night? More pertinently, I suggest that telling women—especially the younger ones—that the night is theirs by right seems to be downright dangerous advice.

Yet generally in Australia, sexual crimes against adult women appear to be no higher than in other industrialised nations. John Walker (1993) suggests that about 3 per cent of women experience such an incident in a year, only one-sixth of which are described as rape or attempted rape.

It is true, as the National Committee on Violence (1990) reported, that the rate for various types of non-fatal violence (assault, sexual assault and robbery) increased from the 1970s and "appears high by standards of Western societies". On the other hand, I draw attention to recent reports from New South Wales and Victoria suggesting that the rates of crime against the person may be stabilising. The 1992 New South Wales crime and safety survey notes that victims of personal crime fell from 4 per cent of the population to 3.2 per cent. There was also a fall in the number of housebreakings.

Similarly in Victoria, the major crime index for 1991-92 was down 4.6 per cent on the previous year, suggesting that the rate at least has been relatively stable over recent years.

Walker (1991) points out that the peak age for arrest or caution for property offences is 15 years. Violent offences peak at 18 years. As the "baby boom" generation and its echo pass these critical years and indeed as the population generally ages, one might expect the rates for these sorts of offences to begin to decline. It has happened in the past, although it is too early to say whether the recent figures confirm that history will repeat itself. At least one might say that they are encouraging.

As a cautionary note, however, I mention Professor Spatz Widom's paper on "The Cycle of Violence" included in this conference proceedings (p. 253), and the findings that abuse or neglect as a child increases the likelihood of arrest for violent crime and certain other offences. The cycle also tends to repeat

itself, of course, if society insists on throwing juvenile offenders into the court and prison system—a topic to which I will return.

It is true that the Victorian Bureau of Crime Statistics and Research noted that major crimes against the person increased by 1.8 per cent in 1991-92, largely as a result of changes in the law and reporting behaviour relating to sexual offences. But the Bureau went on to add: "this should not be taken as evidence of an increased rate of sex offending within the community".

That there is a "dark figure" of unreported crime in the areas of domestic violence and sexual crime is undeniable. *Crime in Australia* (Walker 1993), for example, claimed that only one-third of rapes and attempted rapes were reported. Only 12 per cent of more minor sexual offences such as indecent assault or criminally offensive behaviour were reported.

Even more disturbingly, nearly half the rapes or attempted rapes were committed by partners, ex-partners or close friends of the victim. In such cases it was claimed only one in five were reported. Yet as indicated, there does appear to be a significant shift in the reporting rates for these sorts of offences.

Nobody could read, without a sense of anguish, accounts of the police Operation Pegasus in Victoria recently, where over 2500 callers described incidents of sexual abuse, some dating back 30 years and more. At the same time, the *Age* published police statistics showing that calls to police for help in cases of family violence increased by 26 per cent in Victoria last year to just over 14,000 cases, and the newspaper commented, "male violence against women in Victoria is at epidemic levels and rising".

But is it? Is the rate of domestic violence increasing? Or is it the level of reporting? More than one academic commentator, I notice, has said it is very much the latter. Professor Freiberg of Melbourne University, for example, was reported in the *Australian* of 4 June 1993 as saying that we were seeing a wave of reporting incidents, not necessarily an increase in the problem—a view with which Inspector Vicki Fraser of the Victoria Police agreed. Many of us would have our own concerns about the dangers caused by an epidemic of journalistic hysteria.

It is of the greatest importance that the level of violence in our community be properly understood, that the light of truth and understanding be shone on the dark figures of domestic

violence, sexual assault, on violence in society as a whole. The work of those of you attending conferences such as this, and the media, in raising public awareness of these issues, in illuminating the facts, and proposing realistic policies to government and the community is greatly to be welcomed. But it worries me when newspapers such as the *Age*, headline their reports on these matters as "the war against women", scarcely an original title, and speak of epidemics of male violence.

It worries me because it not only misrepresents the nature of violence in our society, but it can actually inhibit us from doing something about it by forcing us to talk across an ideological divide. Most men are not waging a war against women. Most men are not violent. Most men are appalled by violence whenever and wherever it occurs, just as most women are.

The National Committee on Violence (1990) reminded us that overwhelmingly the victims, as well as the perpetrators, of violent crime outside the home are young males, predominantly from blue-collar backgrounds. Inside the home, the Committee noted that victims were most commonly women and children who suffer at the hands of men with whom they have been living. Yet it is also worth drawing attention to the *Age's* own survey. Some 12 per cent of women interviewed said they had been victims of domestic violence (defined as "physical violence", not apparently including emotional or verbal violence): so had 7per cent of the men.

This is not to deny that generally men are more violent in their behaviour than women. But to see violence, even if you limit the discussion to violence in the home, in such simplistic terms as "a war against women" is to distort the reality. Men, too, are victims. Women, too, are perpetrators.

Indeed, infants under the age of one are the group at greatest risk of homicide, the overwhelming majority of whom are killed by parents or other relatives, as the National Committee (1990) noted.

Bettina Arndt observed in the *Weekend Australian* of 22-23 May 1993 that women commit around half the homicides of children aged under 10, and she quoted 1986 New South Wales youth and community statistics on the physical abuse of children showing that female offenders outnumber males by 55 per cent to 45 per cent. Neither sex, as she said, has a monopoly of vice or virtue.

The truth about violence is that it is a complex human problem. It crosses many boundaries: of age, of socioeconomic status, of education, of ethnicity, of gender.

If I may quote Beatrice Faust from an article in the *Bulletin* of 8 June 1993 dealing with pornography: "the problems of sexual abuse and violence cannot be solved without men's collaboration, but the adversarial set-up of the current debate isolates and alienates them".

And the trouble about alienation, as you well know, is that it can lead to a pattern of denial and negation. The recent advertisement showing the "spotlight shooting" of homeless children was a classic example. It was so extreme, so violent, so divorced from our reality that I suspect it may have proved counter-productive.

In parenthesis, I noticed that the producers said the advertisement was based on what had been happening in Brazil. I merely point to the National Committee's observation that the problems of homeless youth in Australia and their vulnerability to violence "pales in comparison to that of Brazil".

We are now beginning to understand just how intricate and difficult, and even contradictory in its human perceptions, the pathology of violence is in our society, even though it may be relatively low by world standards.

Issues receiving attention now include violence in the schools (a parliamentary committee has been enquiring into that subject), violence between siblings, abuse of the child but also, we now realise, violence as perpetrated by the child against the parent and against the school teacher.

The social sciences very much proceed from a point of view, a set of underlying assumptions, in searching for conclusions. There is a great degree of subjectivity influencing this process. The social sciences are not the safe haven of eternal, absolute truths. Indeed they can cause social havoc if raw and inadequately tested propositions are allowed to take charge.

For instance, the appropriate response to domestic violence is a subject of great complexity and controversy. You will be aware of preliminary US research a decade ago suggesting that arrest had a deterrent effect on offenders. Partly as a result, some authorities here and elsewhere have adopted a pro-arrest policy, indeed certain commentators have called for police powers to be more widely invoked.

Yet further research by Professor Sherman included in this volume of conference proceedings (p. 203) now suggests that arrest has two quite opposite effects. Employed people, arrested for domestic violence, become less violent, but the unemployed become more violent when they return home. Arrest, in such cases, often proves to be counter-productive.

I will not expand on Professor Sherman's "defiance theory" to explain these results. But I do note his comment that, as a matter of policy, domestic violence might be better controlled by allowing offenders to participate more fully in the sanctioning decision process. He draws attention specifically to the family group conference project, introduced at Wagga Wagga on a trial basis in 1991 and possibly to be extended to some other New South Wales centres. The project involves juveniles, 17 years and under, charged with less serious offences. Rather than go to court the offenders and victims, their families and supporters meet in conference coordinated by police to discuss the offence, its consequences, and to negotiate the outcome, an apology, payment of money, restitution, work projects, or some other reparation. I am aware that much evaluation has to be done, but in conversation with the police at Wagga, the project does seem to have had a number of positive consequences (*see* Alder & Wundersitz 1994).

Of some 700 juvenile offenders, about 400 have been dealt with in the Conferencing Programs. It is too early to say whether it has led to any lowering in the rate of juvenile crime in the city, but the reoffending rate appears to have roughly halved to about 5 or 6 per cent.

The project is modelled on a New Zealand system, although there are some important differences, and it is not the only one of its kind to be developed in this country based on the concept of "reintegrative shaming" as described by Dr John Braithwaite (1989), for example.

The issues paper, *Creating A Safer Community*, published by the Federal Justice Office last year, observed that these programs do show some promise, particularly in helping to keep occasional minor offenders out of the court system. It makes the point that only a few offenders are responsible for a large proportion of crime, and goes on to say:

Young occasional offenders tend to outgrow crime, but repeated contact with the criminal justice system increases the probability of further contact (Federal Justice Office 1993).

Whether such an approach will be useful in the campaign to reduce violent crime in society as a whole will be one of the important topics for discussion at this conference. But I have mentioned it in some detail because, when you are looking at developments since the first national conference on violence, this at least seems to suggest a positive way forward.

In summary, violence is a matter of the deepest concern to all of us as human beings, individually and as members of society. If we are to understand it, to deal with it, to discourage it, to reduce it to the lowest possible level, it is important to see it as it is, in clear perspective, in all its complexity, undistorted by hyperbole.

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Part I: Patterns and Issues

How Violent is Australian Society?

Duncan Chappell

I have just returned from an eight-month tour of duty with the Commonwealth Observer Mission to South Africa (COMSA). During my time with COMSA I witnessed at first hand the terrible impact that violence can have on the everyday lives of people in a country like South Africa. It is an impact which is only dimly captured by the media images we receive by satellite of the aftermath of incidents like the recent assassination of ANC leader, Chris Hani. Frequently such incidents receive little, if any, international coverage as in the case of a series of tragic events which occurred in late May (1993) in the East Rand Township of Tokosa which, over a period of a few days, left more than 70 people killed and scores injured. The violence was so intense, and the dangers so great, that observers with COMSA, the United Nations and other international groups, had to be withdrawn from the area.

However, this paper is not about South Africa. As the title suggests, the main purpose is to try and provide an overview of the state of violence in Australia. But it is sometimes useful to put a broader, international perspective on the problems of violence being confronted in this country.

I suspect that if the pollsters conducted a worldwide survey of the relative perceptions of the levels of safety and stability provided in the nations of the world, Australia would rate among the leaders. Our society remains one of those most favoured as a destination for refugees, migrants and visitors

from many parts of the world. This fact can all too readily be forgotten by those who are lucky enough to be Australian residents. "Tyrannies of distance" still afflict our judgment about the relative quality of life that we enjoy in this country, including the relative freedom from the types of violence encountered elsewhere. We do not, for instance, have to cope with the massive disruptions caused by terrorist threats in contemporary London; with the gang violence and mayhem associated with drug wars in many major American cities; or with the racist clashes that have afflicted the residents of a number of European cities. We may not have achieved, nor wish to do so, the levels of order found in contemporary Singapore, but we do still possess a deserved image of a country that can safely welcome to its shores an ever swelling number of tourists. It is, of course, an image which is of enormous economic importance to our nation, and one which we must do all in our power to maintain.

Twenty Observations About Violence

Perhaps the most satisfactory way of trying to provide a response to the question—how violent is Australian society?—is to examine twenty observations made on this topic by the National Committee on Violence (NCV). In February 1990 the NCV presented its findings to all governments in a report titled, *Violence: Directions for Australia*.

In its report the NCV noted that:

> data on the incidence and prevalence of violence in Australia is far from adequate. This is most unfortunate, for at least four reasons. First, it makes the rational development of policies for the prevention and control of violence exceedingly difficult, if not impossible. Second, it fails to provide a basis for the most efficient and effective allocation of the limited and costly resources of the criminal justice system. Third, it denies individual citizens the requisite knowledge to engage in crime prevention activities, where appropriate. And finally, in light of the fact that the risk of becoming a victim of violence is not shared equally by all Australians, it fails to reassure those whose fear of violence may not be warranted (National Committee on Violence 1990, p. xxii).

Over three years later this statement by the NCV continues to have substantial validity although there are some very encouraging signs that we are now, finally, obtaining more adequate information about the incidence of violence in our country. Perhaps these are developments which can be traced to the impact of the NCV's report.

Based on the fragmentary information available to it in the late 1980s the NCV made twenty broad observations about the state of violence. Each of these statements will be reviewed in turn, and if possible updated to the present time. John Walker and Diane Dagger, of the Australian Institute of Criminology, have provided considerable assistance in compiling the facts, figures and remarks that are to be presented here.

Historical trends in violence. *Australia is a less violent place today than it was during the period from its establishment as a penal colony until Federation. However, it is more violent than it was before the second World War.*

This statement remains correct according to the figures that can be obtained about trends in crime from police sources. However, there is also some accumulating evidence that a much greater proportion of offences is now coming to the attention of police than was true in previous decades. Data obtained from crime survey sources suggest that there has been little change in the overall levels of crime victimisation over the last ten years. On the other hand, victims of crime now appear to be much more willing to report offences to the police. This may be particularly the case with respect to family violence. Concerted public pressure has led to far more police intervention to protect women and children whose victimisation was, in the past, largely ignored by official statistics.

Homicide rates. *The rate of homicide in Australia is relatively low by international standards, and has shown no significant change over the past 20 years.*

This encouraging statement remains valid as can be seen from the information presented in Figures 1 and 2. Our rate of homicide has remained about two per 100000 for well over two decades. Figure 1 shows that this trend has not been mirrored

by our nearest neighbour, New Zealand, which has experienced a quite significant rise in the rate of homicide over recent years. It is also a trend which has not been followed in the United States which has a homicide rate almost ten times greater than Australia's.

The graphic differences between the state of homicide in the United States and Australia can perhaps best be illustrated by citing the homicide figures for the two nations' capital cities, Washington DC and Canberra. In the past year or two Washington DC, with a population of approximately 600 000 persons, has had more than 500 reported homicides each year. Over the same period the total number of homicides in Australia has been around 350, while Canberra has only contributed one or two homicides to these figures each year.

Our information in general about homicides in Australia has been increased to a very substantial degree through the establishment of a National Homicide Monitoring Program (NHMP) at the Australian Institute of Criminology (AIC). With the full cooperation of the nation's police forces, the Institute now publishes an annual report on homicides which examines the wide range of variables associated with this crime. The monitoring program, which was originally recommended by the NCV, represents a model for a broader analysis of trends in violence in this country.

Non-fatal assault rates. The rates of various types of non-fatal violence, that is assault, sexual assault and robbery, have increased sharply since the early 1970s.

This statement remains valid in regard to reported offences of non-fatal violence, as Figure 3 illustrates. It will be seen that the steepest increases over the past two decades have occurred under the category of serious assault.

Similar trends are found for property crime in Australia. The increases under each of the major categories of property crime have also shown marked upward trends from the mid 1970s onwards. In Figure 4 the ratio of property crimes—fraud, motor vehicle theft, break, enter and steal and stealing—to violent
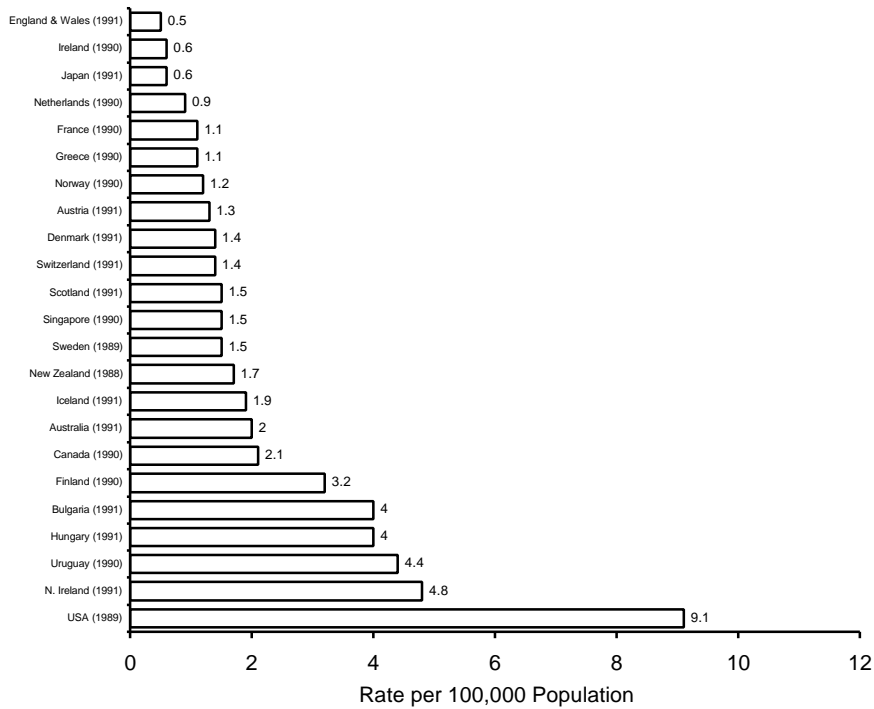
Figure 1

**Reported Homicide Rate per 100 000 Population,
1977-1992**
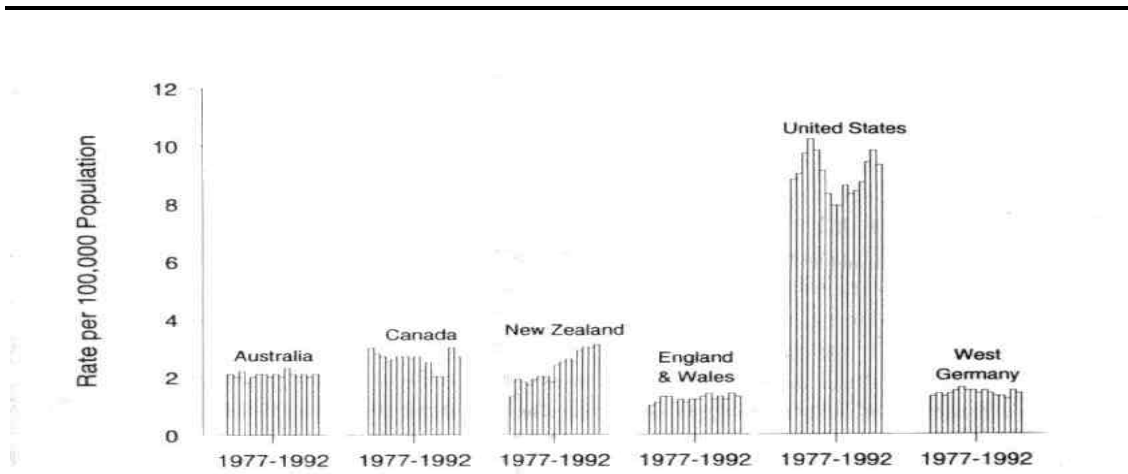
Source: Mukherjee & Dagger 1990 (updates).

Figure 2

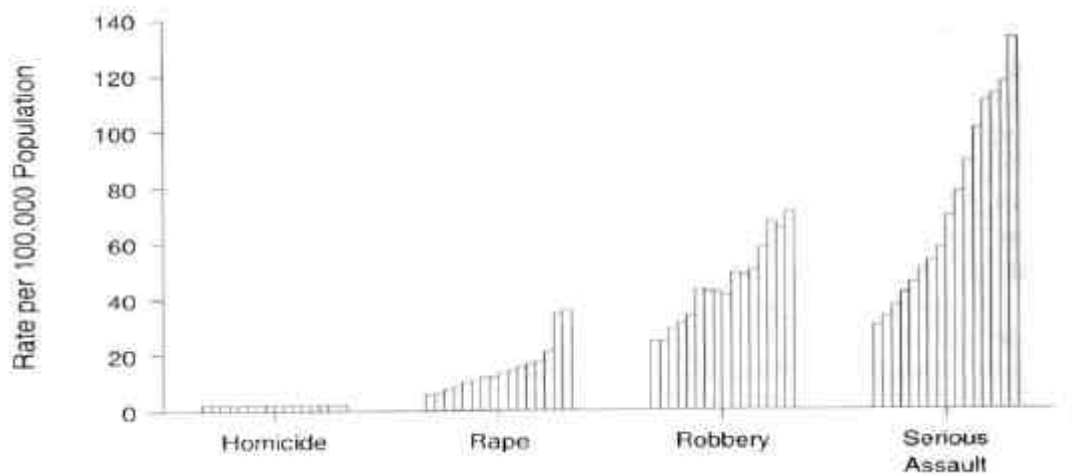**Deaths by Homicide¾Selected Nations
Rate per 100 000 Population**

Source: World Health Organization 1992.

Figure 3

**Violent Crime Rate Per 100 000 Population,
Australia, 1977-78 to 1992-93**

Source: Mukherjee & Dagger 1990 (updates).

crimes in Australia for the most recent year is displayed. It is important to remember that property crimes vastly outnumber violent crimes and that violent offences in general account for only about 8 per cent of the annual total of all serious offences reported to the police.

Despite the very substantial increases which have occurred in reported offences of violence since the early 1970s, criminologists are now becoming much more cautious in the interpretations that they place upon these developments. As suggested earlier, a growing array of evidence obtained from crime victim surveys indicates that there have been considerable increases in the number of crimes reported to the police.

For example, a recent crime and safety survey conducted by the Australian Bureau of Statistics (ABS) in New South Wales, found that rates of crime in that jurisdiction had remained virtually unchanged since the ABS conducted its 1983 national

crime victimisation survey. A 1989 report by the Victoria Police on violence also concluded that:

> the dramatic increase in serious assaults over the past two years are due, at least in part, to changes in the way some types of assault at the lesser end of the serious assault continuum are dealt with at the reporting/charge stage (Victoria 1989).

Findings like these tend to confirm an impression that much of the "dramatic increase" in crimes like serious assault could reflect changing attitudes on the part of both the police and crime victims to the reporting and recording of offences.

Perhaps the most viable reading of the available data is that there has been a small actual increase in violence in recent years which has been matched by a growth in the size of the youth population most closely associated with the commission of violent offences, namely, those in the age range between 18 and 19 years. As this population group now moves into its twenties, we may well see these violent crime rates fall. There is in fact already some evidence that this trend may be in progress. However, as more of these violence prone youths move in to the period of their life in which they begin to produce offspring, we may also find that there is a real increase in domestic violence.

International comparisons. *The rate of non-fatal assault appears high by the standards of western industrial societies.*

The AIC has now participated in two International Crime Victim Surveys (ICVS) conducted, respectively in 1989 and 1992 (*see* Walker 1991 & 1993).

The results obtained from these surveys place Australia at or near the top of a list of leading western industrialised countries for rates of assault.

It is clear from ICVS figures that, with the exception of robbery, Australia has the unenviable distinction of leading the field in assaults with force, and lies third in the rates of sexual assault.

Disturbing though these results are, the researchers responsible for the ICVS have pointed out that rates of assault differ substantially between large cities and smaller urban areas, with large city rates being far higher. When Australia's

Figure 4

Property Crimes Outnumber Violent Crimes 26 to 1, Australia 1992-93

Fraud 10%

Motor Vehicle Theft 11%

Break, Enter & Steal 32%

Stealing 47%
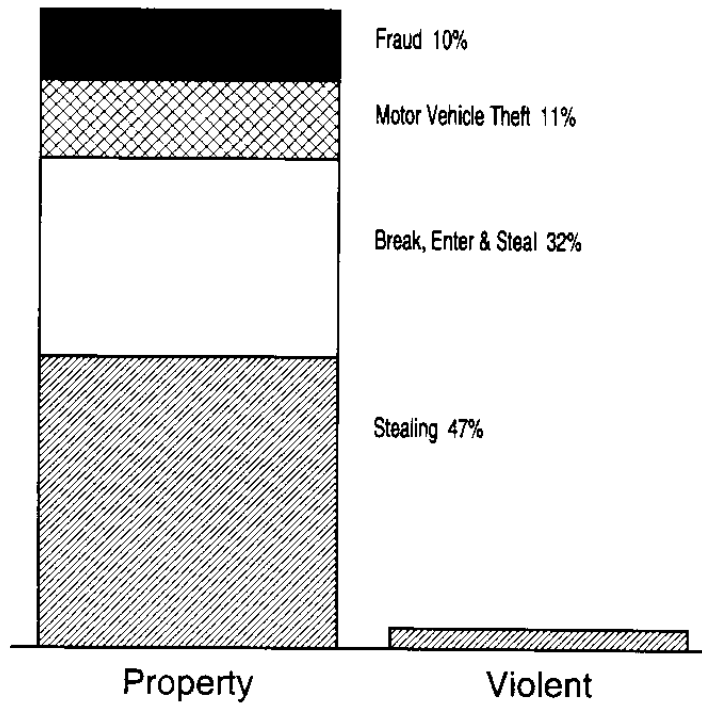
Property   Violent

Australia 1992-93 - Property and Violent Offences Reported to Police, Rate per 100 000 Population

Property	Rate	Violent	Rate
Stealing	2,980.01	Homicide	2.17
Break, Enter & Steal	2,025.20	Robbery	71.00
Motor Vehicle Theft	685.68	Serious Assault	132.92
Fraud	625.62	Rape	35.67
Total Property	6,316.51	Total Violent	241.76

Source: Mukherjee & Dagger 1990 (updates).

urbanisation pattern is taken into account, the rates of assault in our country are not higher than in other western industrialised nations.

John Walker, at the Australian Institute of Criminology, who has been involved closely in the development and implementation of the ICVS, also suggests that the fact that the ICVS has been conducted simultaneously in almost all countries during the month of January, may influence the results obtained. January is in fact the peak month for assaults in Australia, and in New Zealand—a fact associated with our open lifestyle and the recreation period around Christmas and New Year. On the other hand, the month of January in the northern hemisphere, where almost all of the other surveyed countries are located, is a period during which much lower rates of assault and other crimes are reported. Thus it may be that the ICVS data exaggerates both Australia and New Zealand's true position and that our cities are in fact safer than those in comparable countries.
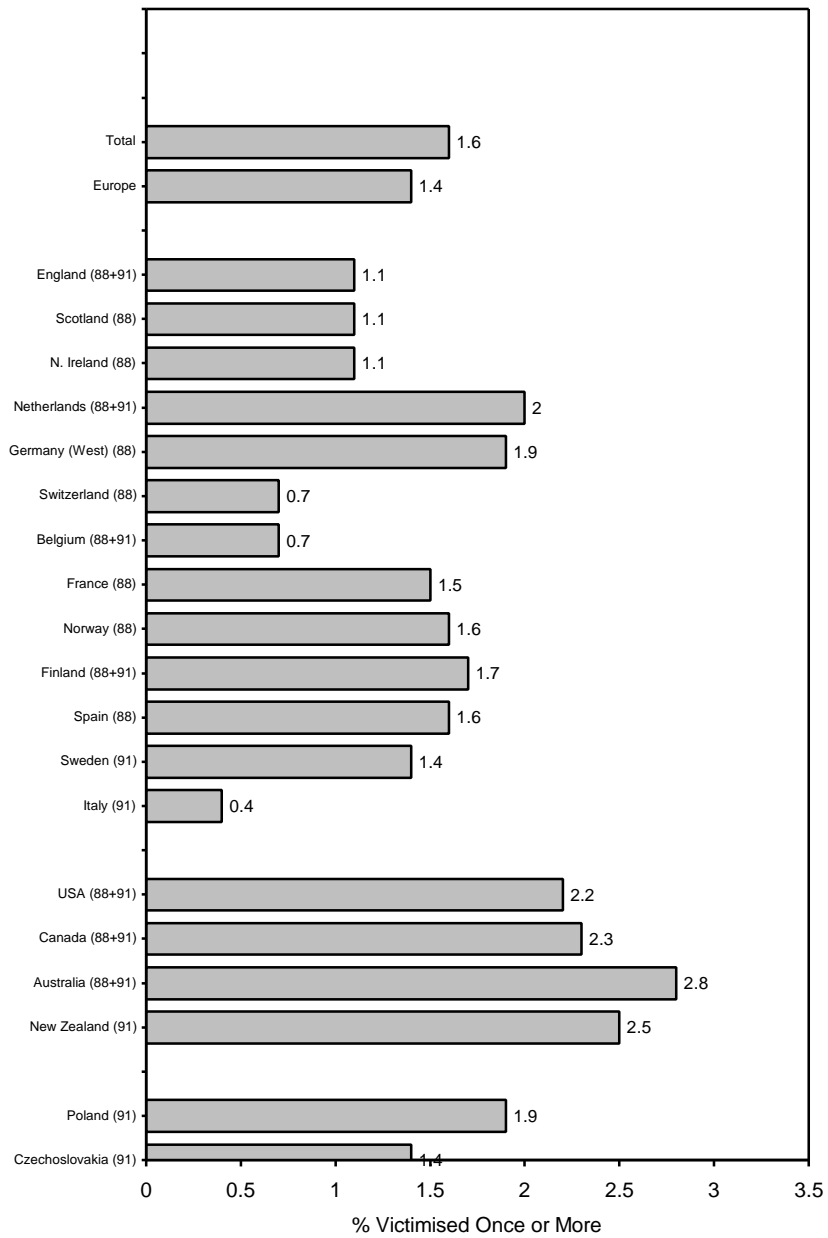
Cross jurisdictional comparisons. Rates of violent crime are not evenly distributed across Australia. For example, they tend to be higher in large cities than in country areas. They are also uneven across jurisdictions: the level of violence in the Northern Territory is substantially higher than elsewhere, while the rate of violent offending appears to be actually declining in Tasmania.

This statement remains substantially correct although Tasmania does not seem in the past year or two to have continued to experience a decline in its rates of violent crime. Nonetheless, these rates continue to remain far below those of any other part of the country.

The effects of urbanisation are common to all industrialised countries. Demography almost certainly also plays a major role in influencing both the Northern Territory and Tasmanian crime rates. The Territory has a youthful male dominated population while Tasmania is tending to lose many of its young males by out migration. The problem of violence in Aboriginal communities is also significant in the Northern Territory.

Figure 5

One-year Victimisation Rates for Assault with Force

	% Victimised Once or More
Total	1.6
Europe	1.4
England (88+91)	1.1
Scotland (88)	1.1
N. Ireland (88)	1.1
Netherlands (88+91)	2
Germany (West) (88)	1.9
Switzerland (88)	0.7
Belgium (88+91)	0.7
France (88)	1.5
Norway (88)	1.6
Finland (88+91)	1.7
Spain (88)	1.6
Sweden (91)	1.4
Italy (91)	0.4
USA (88+91)	2.2
Canada (88+91)	2.3
Australia (88+91)	2.8
New Zealand (91)	2.5
Poland (91)	1.9
Czechoslovakia (91)	1.4

Source: van Dijk & Mayhew 1992.

> ***Offenders.** Violent offenders in Australia are overwhelmingly male, primarily between the ages of 18 and 30, and predominantly from blue collar backgrounds.*

This statement remains valid. Similar findings can be reported from most western industrialised societies.

> ***Juveniles and gangs.** Despite perceptions to the contrary, violent offending by juveniles (under 17) is relatively uncommon. Gang violence is not a major problem in most jurisdictions.*

This statement also remains valid. While juvenile arrest rates for property offences like burglary can be three or four times higher than those for adults, the rates of arrest for juveniles under 17 for serious assault are consistently lower than for males above that age.

Although some may suggest that gang violence is getting out of hand in Australia, and especially in Victoria, there is no evidence to support this perception. In Victoria in 1989 only about 11 per cent of reported incidents of serious assault were said to involve more than two offenders (Victoria 1989). Of these, less than 2 per cent of the cases involved more than eight offenders. Comparable data is not obtainable from other Australian jurisdictions. It should be noted that the Institute hopes to conduct a detailed analysis of gang violence in Australia in order to try and fill what is currently something of a data vacuum.

> ***Stranger attacks.** Most homicides and assaults are committed by persons known to the victim. Random attacks by strangers, although deeply disturbing when they do occur, are relatively rare.*

This statement remains valid. Confirmation of the situation in regard to homicide has now been obtained from the NHMP. NHMP data for the period 1990-91 show that around 40 per cent of homicides, where the relationship was recorded, were between intimates, both spousal and other family members. A further one-quarter of homicides occurred between friends, most of whom were young males and many of the incidents resulted from trivial drunken altercations. The incidence of stranger

homicide remained very low, and there was no indication of serial offending (Strang 1992, p. xi).

> ***Infants.*** *Infants up to one-year-old are the age group at greatest risk of homicide. The overwhelming majority of child victims*
> *are killed by their parents or other relatives.*

This particular statement of the NCV attracted widespread attention and comment. We now have more information about the patterns of homicide victimisation from the National Homicide Monitoring Program (NHMP) and statistics show that in 1989-90, 7 of the 20 victims aged less than 9 were under 1 year of age; in 1990-91 there were 9 out of 29 and in 1991-92 there were 5 out of 19. Although these figures suggest a welcome reduction in deaths of infants under the age of one year, this remains a particularly vulnerable age group. The NHMP report in 1992 noted that "three-quarters of children under the age of ten were killed by their parents or de facto parents" (Strang 1992, p. 23).

> ***Victim categories.*** *Victims of violence most commonly tend*
> *to fall into two broad categories: men who become engaged*
> *in altercations with other men; and women and children*
> *who suffer at the hands of men with whom they have*
> *been living.*

This statement remains valid.

> ***Gender and victimisation.*** *Men, especially those who are young, single*
> *and unemployed, are at far greater risk*
> *of becoming victims of all forms of violence than are*
> *women, except for the categories of sexual assault*
> *and domestic violence.*

This statement also remains valid. Data obtained from the ICVS suggest that men are three times more likely to be victims of common assault than are women (3.3 per cent of men compared with 1.1 per cent of women victimised in a year). The risks for young people are also three times higher than the average (5.9 per cent for persons aged 16-19 years; 2.0 per cent for persons aged 30-59; and even lower risks for older people).

*Socioeconomic status. The majority of victims of violence, like the
perpetrators, come from relatively disadvantaged backgrounds. Homicide
risk, in particular, varies
inversely with occupational status.*

This statement would appear to remain valid, although the data available
about the socioeconomic status of the victims of violence still remains
rather slim. The NHMP has noted that employment data was not
consistently available from police records, and especially for victims. For
those victims for whom it was known, around equal numbers of males were
employed and unemployed, while twice as many females were unemployed
as employed. It was concluded that "being out of the paid workforce,
whether through inability to find work or because of domestic duties, and
the resulting lack of economic independence, is associated with enhanced
vulnerability [to homicide]" (Strang 1992, p. 24).

*Aboriginal people. Aboriginal Australians face a much greater risk of
becoming the victims of violence than do members of
the general Australian population, and possibly up to
ten times greater in the case of homicide.*

Regrettably, this statement remains true. Some sad confirmation of the risks
of Aboriginal people becoming the victims of homicide can be obtained
from the NHMP data. In 1990-91 the NHMP reported that the overall
homicide rate in Australia was 2.1 per 100000 of the population, while for
Aboriginal persons it was 17.8 (Strang 1992, p. 25). When assessing
Aboriginal vulnerability to homicide by jurisdiction the NHMP found that
in the Northern Territory where Aboriginal people make up about 22 per
cent of the population, 56 per cent of all homicide victims were Aboriginal.
In Queensland where Aboriginal people make up about 2.4 per cent of the
population, 18 per cent of the victims were Aboriginal, and in Western
Australia where they comprise 2.7 of the population they made up 35 per
cent of the homicide victims (Strang 1992, pp. 25-6).

The NHMP also revealed that the overall ratio of male victims to
female victims in Australia for the year under review

approached two to one, whereas 50 per cent of all Aboriginal victims were female.

> ***Racist and related violence.*** *Violence motivated by prejudice on the basis of race, ethnicity, disability, religion or sexual preferences exists in Australia but there is insufficient data to assess its prevalence accurately.*

This statement remains valid although we have now obtained the benefit of an excellent report by the Human Rights Commission dealing with the subject of racist violence. The Commission has documented a number of troubling instances of violence motivated by prejudice on the basis of race, but there is still no mechanism available for the gathering of systematic national data on this topic.

> ***Terrorism and civil disorder.*** *Political violence, whether in the form of terrorism, assassination, riots or civil disorder, is extremely rare in contemporary Australia.*

This statement also remains valid. Political violence, perhaps more than any other aspect of violence, influences the perceptions outsiders have of a nation's level of stability and order. It is a continuing testimony to the success of our profoundly multicultural society that the hatred and animosity fuelled by conflicts overseas have not spilled over into violence within our national boundaries.

> ***Alcohol.*** *Alcohol plays a major role in violence in Australia.*

Considerable evidence continues to become available to confirm the accuracy of this statement. For example, in the Northern Territory over 70 per cent of persons in prison were said to have been under the influence of alcohol at the time of their offence. Other jurisdictions' prison data show lower but still substantial percentages of persons affected by alcohol at the time of their offence (Walker 1992). The NHMP data estimates that more than 40 per cent of all homicides were the result of "drunken altercations".

> ***Public transportation.*** *The public concern about violence on public transport is not supported by available official statistics, which indicate that reported assaults are*

relatively rare. However, unreported violence,
harassment or threat may seriously influence
passengers' perception of their safety.

This statement remains accurate.

Non-reporting. *A considerable number of violent crimes never come to*
police attention; foremost in this "dark figure"
are the majority of sexual assaults and incidents
of domestic violence.

Data obtained from the ICVS supports the continuing accuracy of this statement. The ICVS data suggests that the proportion of violent offences not reported to police are: robberies 46 per cent; sexual assault 68 per cent; other assaults 61 per cent. The non-reporting of assaults, according to the ICVS data, was higher in cases in which the offender was a spouse or ex-partner and the incident took place at or near the home of the victim (*see* Walker 1989 and 1992).

Weapons. *Firearms are used in approximately 40 per cent of homicides,*
but in a negligible proportion of non-fatal
assaults (sexual or otherwise). They are used in a
significant proportion of commercial robberies.

Some qualifications need to be made to this statement, based on new information now made available through the NHMP.

The NCV relied upon data obtained principally from New South Wales in determining that "firearms are used in approximately 40 per cent of homicides". The most recent NHMP data show that firearms were used in only about 23 per cent of all homicides in the years 1990-91. Knives and other sharp instruments accounted for about one-third of all weapons used. Where firearms were involved, nearly half of all victims were killed with .22 calibre rifles and a further one-quarter with shotguns. Hand gun killings remained relatively rare. National data still remains unavailable regarding the proportion of firearms used in homicides which were registered weapons; whether the offender held a firearms licence; and whether the offender owned the weapon or it was stolen.

Data from another source—the ICVS—suggests that guns were used in around 9 per cent of robberies, and knives in 14

per cent of these crimes. Weapons of any type were used in less than 10 per cent of assaults and firearms were very rarely utilised—probably in less than 1 per cent of assaults (*see* Walker 1989 & 1992).

> *Costs of violence. The costs of violence are enormous but largely unquantified. It has been estimated, for instance, that the average homicide costs the community about $1 million, that the total costs of assault alone approach $300 million per year, that the cost of imprisoning violent offenders is $200 million annually and that Governments award in excess of $20 million per year as criminal injuries compensation.*

These cost estimates remain accurate, subject to any inflationary trends that have occurred since they were first published in 1990.

Towards a Less Violent Society

These twenty observations about the state of violence in the nation confirm the judgment made by the NCV in 1990 that Australia remains a society afflicted by intolerable levels of violence. Our society is also one which has long condoned this violence as a means of resolving disputes across a wide range of activities and settings.

Since the publication of the NCV's report, and its recommendations about ways of changing this situation, there have been some encouraging signs of a new public awareness of the gravity of the problem and of the need to deal with it. Combating violence, and especially the violence which impacts so severely on the lives of many women and children, has now become part of the national political agenda.

Thus the broad answer suggested to the initial question raised about the state of violence in our society is somewhat equivocal. First, and foremost, we have to recognise that violence continues to be a deeply rooted part of our culture, as reflected in the litany of statistics presented in this paper. With the noted exception of homicide these statistics have shown sharp increases over a sustained time period. Regardless of

whether or not these increases can be attributed to enhanced reporting and recording practices, they portray a situation which should be roundly condemned by every Australian.

But to end on a positive note, this process of condemnation has now begun in earnest. Major credit must be given to the women in our society for leading the movement to change a male dominated culture that has perpetrated and supported so much of the violence that has taken place in the past. The long-term benefits of making Australia a much less violent society will be felt not only by those of us who wish to relish the benefits of living in one of the most favoured parts of the world, but also by those who wish to visit our shores in the future.

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The Monitoring by Police of Racist Violence in the Community[1]

Liz de Rome and Chris Cunneen

Why Collect Data on the Incidence of Racist Violence and Hate Crimes?

The National Inquiry into Racist Violence (NIRV) was established by the Human Rights and Equal Opportunity Commission because of widespread community perceptions that both verbal and physical racist attacks were on the increase in Australia. At the time the Inquiry was established there were indications of a possible resurgence of racist violence and an increase in organised violence by racist groups. The Inquiry was the first time in Australia that an attempt had been made to systematically define and quantify racist violence.

For the purposes of the Inquiry racist violence was defined as a specific act of violence, intimidation or harassment carried out against an individual, group or organisation (or their property) on the basis of race, colour, descent or national or ethnic origins, and/or support for non-racist policies.

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[1]. This paper draws on a draft report prepared by Liz de Rome for the Human Rights and Equal Opportunity Commission entitled "Monitoring Hate Crimes. A Report on the Community Relations Data Project, February 1993". The project was part of the Commonwealth Community Relations Strategy.

One of the significant findings which emerged during the course of the Inquiry was that many people who had been the victims of racist violence and harassment were reluctant to discuss their experiences or report them to the police, social workers or other public officials. The Inquiry was told that many people were unwilling to come forward to give evidence because they feared retaliatory attacks or because they did not believe that anyone could help them. This is consistent with overseas experience where evidence suggests that less than 5 per cent of racially motivated incidents were reported to the police (Home Office 1989).

The Inquiry found that compared to other countries, Australia was a non-violent and socially cohesive nation; that racist violence on the basis of ethnic identity is nowhere near the level that it is in many other countries. However, the Inquiry found that people of non-English speaking background were subjected to racist intimidation and harassment because they are visibly different, and that unfamiliarity with the English language could exacerbate the situation. For people of Aboriginal and Torres Strait Islander background, the Inquiry reported that racism and racist violence were endemic to their daily lives. The Inquiry also found that Aboriginal-police relations were at crisis point. The conclusion of the NIRV Report was that racist violence in Australia existed at a level that was a serious cause for concern and that it could increase in intensity and extent unless addressed firmly (NIRV 1991, p. 387).

Research into Racist Violence in Australia

Amongst the specific research commissioned by the Inquiry were a series of interviews conducted by Dr Beryl Langer in Melbourne and Dr Pauline Newell in Sydney to gain a measure of the extent of racist violence among visible minorities. The Melbourne research amongst Salvadorean families reported that 60 per cent of adults and 27 per cent of students had experienced racist verbal abuse, while 15 per cent of adults and 25 per cent of students had been subjected to physical racist harassment (Langer 1990).

Dr Newell's study (Newell 1990) in the Sydney suburbs of Campbelltown and Marrickville found that in Campbelltown (n=128 adults, 152 students), 47 per cent of adults and 36 per cent of students interviewed had experienced racist abuse, threats and hostility in the form of words and gestures. Nine per cent of adults and 14 per cent of students interviewed had experienced physical violence, ranging from jostling in the street through to serious assaults requiring medical treatment. In addition, approximately 50 per cent of the households interviewed in Campbelltown reported racially motivated attacks on their property, including bricks thrown through windows and rubbish thrown over fences. In Marrickville (n=148 adults, 110 students), 40 per cent of adults and 15 per cent of students interviewed had experienced verbal abuse, while 7 per cent of adults and 9 per cent of students had suffered physical racist violence.

It was evident that few of the incidents were reported to the police. Where they had been reported the victims often felt that the police had not responded effectively. However, it was noted that in one patrol (Marrickville) a system was in use to monitor incidents and disputes which involved members of ethnic communities. This was used by intelligence officers to note trends and patterns in terms of localities or incidents. Marrickville also had an active Community Consultative Committee. These measures seem fundamental to community policing initiatives. Intrinsic to any such initiatives is the necessity for police officers to recognise that persistent verbal abuse, threats and racist graffiti can have a devastating effect on individuals and families, although they are traditionally regarded as minor offences. Police must be prepared to understand that racist motivation renders any incident more serious in terms of its impact on the victim and on the victim's community.

An immediate and unambiguous police response to such incidents, particularly in neighbourhood disputes, could assist to set standards which would improve community relations generally and could discourage further escalation into even more serious incidents.

The Recommendations of the National Inquiry into Racist Violence

From the outset it was an issue of concern to the Inquiry that no official statistics were kept at any level to identify particular crimes as having a racial element. This was a significant problem when attempting to estimate the extent of racist violence and whether such violence was increasing or decreasing. The absence of such information also inhibited agencies from developing or evaluating strategies for responding to racist violence.

The Inquiry made a number of recommendations specific to recording incidents of racist violence and to investigating racially motivated offences as follows:

Recommendation 16:

That uniform national procedures for the collection of statistics on racist violence, intimidation and harassment be developed, and that the incidence of racially-based crime in Australia be reported upon annually by an appropriate Federal agency.

Recommendation 17:

That Federal and State Police record incidents and allegations of racist violence, intimidation and harassment on a uniform basis, and that such statistics be collected, collated and analysed nationally by the appropriate Federal agency.

Recommendation 21:

That police and other intelligence agencies accord a high priority to the investigation of racially motivated offences and racist groups and assist in ensuring the successful prosecution of such offences.

Overseas Developments in Relation to Racist Violence

There are indications of an increase in racist and other forms of violence motivated by prejudice—so called "hate crimes"—in a number of overseas countries. The US Community Relations

Service, the Anti-Defamation League of B'nai B'rith, the Southern Poverty Law Centre, the National Institute Against Prejudice and Violence and the National Gay and Lesbian Task Force have all recently documented increased incidence of hate crimes in the United States (Bensinger 1991). In Britain, a survey of housing authorities by the Commission for Racial Equality (CRE) in 1987 found that 80 per cent stated that racist harassment was an issue in their areas and 77 per cent said that it was getting worse (CRE cited in Castles 1990). The revival of neo-Nazi racist activities in Europe, particularly in Germany and France, are reminders that racist violence can escalate to a point of fragmenting the community and threatening the stability of the society as a whole. The policy of "ethnic cleansing" in the former territories of Yugoslavia is an horrific reminder of what can happen when racist ideology is used to excuse and justify economic and political ends.

United States¾Monitoring Hate Crimes

In the United States monitoring and reporting on the incidence of racist violence has, in the past, mainly been undertaken by non-government organisations. These organisations such as the Southern Poverty Law Centre are largely funded independently by bequest and grants and have been able to apply pressure to governments over the years, with the result that police in a number of states have been collecting data in relation to hate crimes for some time. In addition to monitoring hate crime statistics and providing training on hate crimes for police, other measures have included the establishment of special response units (for example, Community Disorders Unit, Boston) and the provision of special support services and counselling for victims of hate crimes (Wexler & Marx 1986; Bensinger 1991).

As a response to evidence of the increasing incidence of hate crimes, the US Congress passed the Hate Crimes Statistics Act in 1990. Under this Act all law enforcement agencies in the United States, are required to report via the US Department of Justice on all crimes that manifest prejudice based on characteristics such as race, religion or homosexuality. The Act provides for a 5-year period of collection from 1991 to 1996.

The methodology for collection of the statistics has been developed by the FBI's Uniform Crime Recording Unit in order to ensure uniformity of the data. This requires a two-tier decision making process for police determining whether a particular incident should be recorded as a hate crime.

The responding police officer making the initial report is required to classify the incident as a Suspected Bias Incident if there is any indication that the offender was motivated by bias against the victim's race, religion, ethnicity or national origin, or sexual orientation. Such cases are then referred on to a more senior officer who has been specially trained in hate crime matters. Victim perceptions of the offender's motivation are one of the factors which will be taken into account; however, the onus for the decision rests with the police. Police are required to base their decision on a number of questions intended to obtain objective information to determine the existence of bias.

Britain¾ Reported Racial Incidents

Since 1986 in England and Wales, and since 1987 in Scotland, all police forces have collected statistics on racial incidents. In 1987, the London Metropolitan Police reported 2,179 racial incidents, including 270 cases of serious assault, 397 of minor assault, 483 of criminal damage, 47 of arson and 725 of abusive behaviour. This is in a population including approximately 1 million people of non-Anglo/Celtic origin. However, there is convincing evidence that only a fraction of racially motivated incidents are actually reported to authorities. A 1987 survey in Newham, a borough of London, revealed that only 1 in 20 racially motivated incidents had been reported to the police (Home Office 1987).

The British approach to monitoring differs from the United States in that data is only collected in relation to racially motivated offences, and victim perceptions of the offender's motivation are given equal weight to the perceptions of the police. All persons reporting a crime or incident to police are asked whether they consider that the incident may have been motivated by prejudice. The police officer taking the report is also required to comment on this aspect of the incident. This information is recorded as a part of the standard crime incident report filled out for all incidents reported to the police.

Given the accepted difficulty of identifying motivation for the purpose of defining a racial incident, the British approach is to give importance both to the context in which the incident takes place (as assessed by the police) and to the victim's perceptions. The onus for the decision as to whether racist motivation was a factor does not therefore rest solely with the police. The British approach of giving equal emphasis to the victim is seen to provide better information in relation to policy development, rather than simply attempting to measure the extent of racist violence. The method also provides some recognition to the problems of under-reporting by considering specifically the victim's assessment of the situation.

Establishing a Pilot Program for Police Monitoring of Racist Violence

In ensuring the implementation of the recommendations referred to above, the Human Rights and Equal Opportunity Commission decided to assist in the development of a data base model for use by police in the collection of information on racist violence. The aim was to provide a means for the systematic collection of information nationally, both as a social indicator and as a source of information for policy development in preventative policing strategies.

There was also the recognition, however, of the importance of collecting data by non-government agencies. A variety of sources of data collection is desirable as each may serve as a check on the reliability of others. In particular, non-government community and advocacy agencies might be expected to have access to information not normally available to law enforcement agencies. Options for data collection among community agencies include: community legal services, Aboriginal legal services, dispute resolution/mediation centres, and ethnic and ATSI community centres.

Options for data collection within the justice system include victim impact statements, court statistics, Ombudsman's Office statistics, crime statistics and police intelligence reports. The project reported upon in this paper was designed to establish a model for the collection of data by police. The intention was that

this model should be applied nationally. Two options were initially considered. The first was to work from the national level to establish a mechanism for the collection of data on hate crimes from police records through the National Uniform Crime Statistics Unit (NUCSU) of the Australian Bureau of Statistics (ABS). The second option was to work at the local level establishing a pilot project with a particular police service.

Although the NUCSU was ostensibly the most appropriate agency to undertake this project, it had only recently been established and was not able to take on the additional role. The NUCSU were still concerned with finding ways of making existing data collection comparable across jurisdictions, whereas we wished to include a whole new area of information. Once their base information format is established across jurisdictions, the field of hate crime statistics could readily be included in the national crime statistics collection, provided each jurisdiction adopts the same format. It is our view that it is imperative that a national system be developed.

Local Level Pilot Study with the NSW Police Service

The NSW Police Service established a Task Force to respond to the Report of the National Inquiry into Racist Violence. Following a meeting between the Task Force and the Human Rights and Equal Opportunity Commission, it was proposed that the two agencies could work together through a Steering Committee to establish a pilot project for the monitoring of racist violence. There were two objectives to the project as follows:

- To test an approach to data collection which might establish uniform procedures for the collection of statistics on incidents and allegations of racist and other violence, intimidation and harassment which is motivated by prejudice;

- To establish awareness amongst police officers of the relevance of such information for the provision of services and the development of preventative policing strategies within the context of effective community policing.

A project strategy was devised for a small number of patrols in metropolitan Sydney, selected on the basis of likely support for the project and willingness to be involved in developing new strategies for effective preventative policing. The three patrols selected already had experience of working in a culturally diverse community, and had also been involved in introducing other community policing strategies. They were Cabramatta, Bankstown and Campbelltown. The latter was of particular interest because of the earlier study of racist violence in the area (Newell 1990), and because subsequent research by the Liverpool Migrant Resource Centre (Yamine & Elias 1992) had proposed strategies for improving community relations in the area which involved police.

The project was initially concerned with the monitoring of incidents motivated by racial prejudice. However, it was proposed by the NSW Police that the model should be extended to include other forms of prejudice—so called "hate crimes". Religious prejudice had always been an issue associated with racial prejudice and racial violence. Homophobic violence was also of considerable public concern, particularly in NSW. The NSW Police also were of the view that sex and age be included.

The Project Committee considered both the British and US models for data collection before deciding to adopt the British model. This was the model of giving equal weight to the perceptions of the police and the victim as to whether prejudice was a motivating factor, rather than the US approach of placing the onus for the decision on the police. This approach was seen to place a more appropriate level of validity on the perceptions of the victim, and to place less reliance on the awareness of individual police officers. This was in recognition that a general level of awareness of issues associated with "hate crimes" is not currently a feature of police services in Australia. In addition, the US model required a level of prerequisite training that was not feasible within the time-frame or resources of the pilot project. It was anticipated that the process of asking victims about these issues and having to consider the factors themselves, would in itself be a learning experience for many officers, who may not have previously considered issues such as racial motivation as a salient factor in a crime.

It was determined that all incidents brought to police attention should be included in the study. This was in recognition that many of the incidents which caused distress may not in themselves be defined as criminal offences. These may include jostling in the street, racist abuse and insulting behaviour, dumping of rubbish or racist graffiti on the victim's property. Such incidents when repeated over time create an insidious atmosphere of intimidation and harassment. The National Inquiry into Racist Violence found that the existence of a threatening environment was the most prevalent form of racist violence confronting people of non-English speaking background (NIRV 1991, p. 397). Both the US and British research have noted that, in hate crimes, it is the awareness of the perpetrators' motivation that transforms what may be otherwise a trivial incident into something that is more than usually distressing and frightening both for the victim and for other members of their community (Home Office 1989, para. 12; Wexler & Marx 1986, p. 210).

We were concerned to be able to access information about these types of incidents and to develop ways for police to use the information to recognise patterns of activity, to identify perpetrators and to anticipate and prevent future incidents. Accordingly police were instructed to include the questions concerning motivation and prejudice of all incidents recorded on all Crime Information Reports (P40) and Intelligence Reports (P41). The latter are records for the use of Intelligence Officers and may be used to record information about incidents which do not constitute a crime, and are therefore not included as part of the State crime statistics collection.

Methodology

All police officers at the three nominated patrols were instructed to seek information on all incidents to determine whether the victim considered that any form of prejudice was a factor in the motivation of the offender. Victims were then to be asked to identify the form of prejudice involved from a list including race, ethnicity or cultural background, sex, religion, sexual preference (gay or lesbian), or other prejudice. Officers were also required to provide the same information from their own readings of the situation. The victim and police officer's

perceptions were each to be entered on the standard Crime Information Report (P40 CIR) or Intelligence Report (P41 IR).

A major problem was that the questions were not printed on the CIR form, and had to be manually added into the narrative space at the bottom of the page. The use of the space in the narrative section placed the burden on the police officers of remembering to ask the additional questions.

A booklet was produced which explained the purpose and outlined procedures for the implementation of the project. It included the exact wording of the question to be asked by the police officer, and was translated into 17 community languages nominated by the Patrol Commanders as being required in their area. The booklets which fitted inside the standard police pocket notebook, were issued to each police officer serving in the three patrol districts. Officers were instructed to show the translations to any person making a complaint who were not able to communicate in English. The introduction to the booklet also cautioned officers of the necessity to be discreet in asking these questions and to use telephone interpreter services when required. The Telephone Interpreter Service were advised of the project and copies of the booklets sent for their information should their services be called upon. We are unaware if the interpreter service was used at all in relation to the project.

While the emphasis was on the practical requirement of collecting the information for statistical purposes, it was the expressed intention that methods of collecting the information would be devised to enable intelligence officers and tacticians to identify patterns and trends, and therefore develop preventative policing strategies. Tacticians, intelligence officers and the domestic violence liaison officers from each patrol attended an orientation session at police headquarters to enable them to act as a resource person to patrol staff. In particular we were concerned to ensure that patrol police were able to confer with senior officers if they were unsure as to whether bias was evident as a factor in a particular case. Senior officers were also responsible for ensuring that patrol police did complete the questions on the Crime Intelligence Reports.

The chief statistician for the police service visited each patrol and advised the intelligence officers on procedures for including the information collected in their crime and intelligence computer data base systems. Arrangements were

also made for these questions to be included as fields on the new computerised intelligence information system known as Computerised Operational Policing System (COPS). Although the system is unlikely to be operational before the end of 1994, it was necessary for notice of the requirement for these fields to be included at this stage in anticipation of the outcomes of the pilot study.

All incidents reported to the police in these patrols during the trial period of three months were to be included in the study. The Campbelltown Patrol commenced the trial on 16 June 1992, Cabramatta and Bankstown commenced two weeks later on 1 July 1992. Training for patrol police was integrated into regular on-the-job police briefings.

Summary of the Results

A full discussion of the results of the pilot project can be found elsewhere (de Rome 1993). It should also be remembered that the pilot project was not primarily intended to assess the incidence of hate crimes in the selected patrol regions, but rather to devise a model which would provide an operational means for monitoring hate crimes at the patrol level, while also providing data for State and national statistics.

However, in summary the following information was retrieved:

- Cabramatta

  In 6 per cent of reported incidents, the victim identified prejudice as a motivating factor (in 32 of 563 incidents). The most frequent response for the type of prejudice was that based on race, culture or ethnicity (14 of the 32 incidents).

  In 7 per cent of reported incidents, the police identified prejudice as a motivating factor. However the type of prejudice was most frequently recorded in the "other" category, so the nature of the perceived bias is not immediately obvious.

■ Campbelltown

In 2.5 per cent of reported incidents, the victim identified prejudice as a motivating factor (in 34 of 1342 incidents). The most frequent response for the type of prejudice was recorded in the "other" category, followed by the category of race, culture or ethnicity.

In 2 per cent of reported incidents, the police identified prejudice as a motivating factor.

■ Bankstown

In 7 per cent of reported incidents, the victim identified prejudice as a motivating factor (in 53 of 730 incidents). The most frequent response for the type of prejudice was recorded in the "other" category, followed by the category of race, culture or ethnicity.

In 7 per cent of reported incidents, the police identified prejudice as a motivating factor.

Overview

Up to 7 per cent of all incidents were perceived by the victim to have been motivated by prejudice. The offences with which the perception of prejudice was most frequently associated were assaults and malicious damage.

The overall incidence of hate crimes at Campbelltown appears to be much lower than in Bankstown or Cabramatta. However, the project was able to compare the figures for completed Crime Intelligence Reports (CIRs) for the trial period held at police headquarters with those provided for the project by the patrols. Theoretically they should have been the same number. There was considerable variation with the highest rate of completed returns obtained from Cabramatta (91 per cent), then Bankstown (73 per cent) and finally Campbelltown patrol (66 per cent). In Campbelltown patrol less than a quarter of the assaults reported during the test period were included in the study.

There were also differences between patrols as to whether victimless crimes (such as drug offences, gaming and betting offences) were included in the study. Cabramatta excluded these

offences but the two other patrols did not. It would seem appropriate that victimless crimes at least be excluded from calculations of the extent to which offences are motivated by prejudice.

The discrepancies between the patrols in the proportion of CIRs which were coded for the study are likely to be associated with the procedural inconvenience of the trial format and would be overcome once the questions were included as a standard and mandatory part of the CIR format and through training and supervision. For instance in Cabramatta, which had a high return rate, intelligence officers were required to return any CIR forms to the responding officer, if the questions on prejudice had not been asked. This process reinforced the requirement for compliance with the study.

The pilot study confirmed that collecting, collating and analysing data at the patrol level is possible. Patrol commanders at each locality reported no difficulties in obtaining or recording the information provided adequate training and supervision is provided.

The pilot study has also confirmed that a proportion of incidents, particularly assault and malicious damage are perceived by both victims and responding police to have been motivated by prejudice. Such findings should be considered in conjunction with the findings of the NIRV Report, the research by Dr Newell, and a further study of community relations in Campbelltown by the Liverpool Migrant Resource Centre (Yamine & Elias 1992) which indicate that only a small proportion of incidents are reported to the police. This is consistent with overseas experience that victims of hate crimes are less likely than others to report the incident to the police (Home Office 1989; Wexler & Marx 1986).

Analysis of the Data for Intelligence Purposes

The incorporation of the data into the local operational intelligence data base is obviously essential if it is to be of use in preventative policing strategies. However, there also needs to be a means of information retrieval that is readily accessible and appropriate for such intelligence purposes. Bankstown and Cabramatta incorporated the additional information into new fields on their Police Intelligence Tracking System (PINTS) data

bases and were able to provide basic information on the type of offence and category of prejudice. National implementation of the model will need to consider the variations in police intelligence/crime reporting systems and the extent and nature of computerisation.

It had been an important feature of the project proposal that procedures should be developed to ensure that information could be incorporated into an intelligence collection so that police could identify potential problems and patterns of behaviour. There was no attempt at any of the patrols to develop a system for analysing patterns of incidents as a problem solving/preventative strategy; however, this is perhaps understandable given the small pilot nature of the project.

It is of more concern that despite the original brief which stated that "all incidents" should be included in the study, only incidents which constituted actual offences and were recorded on the Crime Intelligence Reports have, in fact, been included by any of the patrols. This means that we were not accessing information on many neighbourhood disputes and other incidents to which police were called but which are either resolved on the spot or referred to other agencies such as the Community Justice Centres. It is through accessing this level of information together with the more serious incidents recorded as crime statistics that we had hoped to develop a community policing model.

The inclusion of age and sex did not appear to contribute anything to the identification of patterns of offences motivated by prejudice beyond information that is already collected on the CIR. Crimes motivated by the victim's age seemed to be more related to opportunity than to prejudice. If the police were seeking to identify patterns of offences against a particular age group, age of victim is already coded on CIRs, as is the age of the suspect/offender. Similarly, sex as a motivating factor was identified primarily in relation to domestic violence and sexual assault. While not denying the sexist basis to such offences, the question arises as to whether the inclusion of this category for the purposes of identifying hate crimes contributes anything more to the information already collected and analysed. Crimes by men against women could indeed be classified as hate crimes, but the sex of the victim and the suspect/offender is already recorded on the CIR. In addition, there are a number of

questions on the CIR relating to domestic violence which include the victim's relationship to the offender. It is our view that relevant information is collected in relation to age and sex without being included in an additional "hate crimes" category.

Accordingly, it is recommended that the model for the implementation of data collection on the incidence of hate crimes be restricted to the following categories of prejudice:

- race, ethnicity or cultural background;

- religion;

- sexual preference;

- other form of prejudice (please specify).

By including the "other" category, but requiring it to be specified, incidents which are not adequately covered under the first three categories are able to be included.

It had been intended that each patrol would advise their Community Consultative Committee about the pilot project and would publicise the objects of the study. This was to ensure that communities were aware of the initiative and did not misunderstand the study as an indication of an escalation of racial violence in their area. It was also a strategy to encourage people who were the victim of racist harassment and violence to report such incidents to the police. The community liaison aspect of the project proposal was, unfortunately, not followed up.

Prior to the implementation of the pilot project, concerns had been expressed about the sensitivity of the issues to be raised by the questions and the potential for a negative reaction from or impact on the non-English speaking and Aboriginal and Torres Strait Islander communities in the regions under study. Despite the absence of a community information campaign, none of the patrols reported any negative response from people (n=2635) on being asked the questions.

Conclusion

The under-reporting of hate crimes is the experience of monitoring agencies in Britain and the United States. The types

of incidents least likely to be reported are those described as vandalism and where serious physical harm is not caused to person or property (Home Office 1989). Much of the behaviour which creates an atmosphere of oppression and harassment in a community may not be recognised as a criminal offence by the victim or the police, and for that reason may not be reported or recorded. This is a matter of concern as it is recognised that the hatred and prejudice which motivates this type of incident is a more potent cause of emotional injury to the victim, than the actual damage caused by the behaviour (Home Office 1989; Wexler & Marx 1986). In addition, perpetrators of relatively minor abusive and harassing behaviour who are not checked, may assume a level of social sanction which confirms the basis of their prejudice, and may lead to an escalation into more serious abuse and violence.

Authorities in the United States have placed considerable onus on the police for responsibility for identifying, monitoring and dealing with hate crimes; including placing a high priority on investigating all incidents involving a racist element to a successful conclusion or until all leads have been exhausted. In Britain, the emphasis has been more on the involvement of the community and other agencies in preventative strategies. However, the objective on either side of the Atlantic has been to create an environment in which both victims and perpetrators know that racial violence and other hate crimes will not be tolerated by the police or the community. This is the environment that needs to be established in Australia.

The pilot project reported upon in this paper has demonstrated that collecting information on the incidence of crimes motivated by prejudice is a relatively simple procedural matter which could readily be introduced to existing systems with appropriate training and supervision. In addition, new police practices are increasingly turning to problem oriented policing which involves the systematic analysis of patterns of incidents, and the development of actions required to solve the underlying problems which precipitate them. Information on hate crimes should be seen as fundamental to a problem-solving approach to policing.

The data collected during the study should not be considered an accurate indication of the level of hate crimes in the trial areas. There were obvious sample selection problems and the

normal difficulties of introducing a new element into a system. However, the incidence of offences which were considered to have been motivated by prejudice is an indicator which should be considered seriously, particularly as these figures are likely to represent only a minority of those that actually occur due to the extent of under-reporting of such incidents.

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Youth Violence: Myth and Reality

Kenneth Polk

The press coverage on youth has not been good in recent times. The world watched with horror as the story unfolded from England of a young child who had been killed by two other children not yet in their teens. In Australia, stories appear in the press of attacks on the elderly by teenage offenders. From the swell of concern around such events, there is the danger that we shall undergo yet another pseudo-crime wave, one which, on the one hand, mis-states the facts of violence, while, on the other hand, may lead to a misguided tide of punitiveness which would only serve to aggravate the fundamental causes of youth isolation and alienation.

The purpose of the present discussion is, first, to describe the nature of violence in Australian society, and the role that young people play within that picture. A starting point in any discussion should be an assessment of what the empirical data tell us are the dimensions of the problem. Second, the analysis can turn to the question of the public policy options that might be considered. Of particular importance here, as we shall see, are those options that address the forces that are tending to push large numbers of present day Australian adolescents and young adults well to the margins of conventional society.

Youth and Violence: The Empirical Picture

To what extent is violence in Australia today a youth problem? The absence of quality research on youth issues generally in

Australia (a reflection of national priorities which lie elsewhere) makes it difficult to provide a fully comprehensive answer to this question. It is possible to weave bits and pieces of information together which provide at least a partial answer.

Starting with police arrest data for Victoria (Victoria Police 1993) in the 1991-1992 year, it can be seen that there were some crimes where young persons played a significant role (Table 1). These tended to be property crimes; however, rather than crimes of violence. Of all offenders, in cases of theft, juveniles (persons between 10 and 17) accounted for 34 per cent of offenders, in motor vehicle theft juveniles accounted for 28 per cent of offenders, while in burglary they accounted for 30 per cent of offenders. In other words, young offenders make a hefty contribution to property crime in Victoria.

Table 1

**Percentage of Offenders Under the Age of 17
Proceeded Against by Offence, 1991-92, Victoria**

Offence	*Percentage Young Offenders*
	%
Homicide	5
Serious Assault	10
Minor Assault	11
Robbery	21
Burglary	29
Theft	34
Motor Vehicle Theft	28
Fraudulent Offences	4

Source: Victoria Police 1993.

When it comes to crimes of violence, however, the picture is quite different. Juveniles accounted for 21 per cent of robbery offenders, 11 per cent of minor assault offenders, 12 per cent of rape offenders, 10 per cent of serious assault offenders, and only 5 per cent of homicide offenders. While some crime is youthful, the general conclusion from these figures would have to be that violent crime is most likely to involve persons aged 18 and over.

This reflects only a portion of community concern, however. A further issue is the question of whether there is a growing tide of youth crime. Here, again, the answer is in the negative. Over the ten-year period from 1982 to 1992, and again drawing upon police arrest data from Victoria, across the board there is no increase in the proportion of offences made up of juveniles. The proportion of juvenile offenders in crimes of violence has been relatively stable over the ten-year period (in homicide, serious assault and robbery, the ten-year average for offence proportion is within 1 per cent of the 1991-1992 proportions). In property offences, if anything the trend is downward, since in crimes like burglary where juveniles accounted for roughly half of all offenders in the 1982-1985 period, the proportion of juvenile offenders had declined to below 30 per cent in the last four years reported (Table 2).

National data are available (Strang 1992) for one major violent crime, homicide. Analysis of these data on homicide offenders lend general support to the observation that violence is a problem of adulthood (Table 3). In this instance the age categories are slightly different, since the youngest age grouping is for persons aged 0-19, this category accounting for all but 18 per cent of all homicide offenders. Turning this around, 80 per cent of all homicides are accounted for by offenders over the age of 20 (there were 2 per cent where the age of the offender was unknown).

This investigation reports one further detail that helps round out the picture, that being the age and gender rates of homicide offenders. Here it can be observed that homicide is significantly higher at all ages for males, and that especially for males the offence is relatively low in the 0-19 age period (their rate being 2.1 per 100000) with the offending rate for males peaking between 20-29 (where the rate was 8.8 per 100000) and 30-39 (where the rate was 4.8 per 100000). This general picture is supported by the homicide analysis conducted in New South Wales, where offenders aged 10-19 accounted for 17 per cent of all homicide offenders (Wallace 1986, p. 34).

Thus, the recent findings support the observations made by Mukherjee a few years ago:

> There is absolutely no evidence that juveniles, proportionate to their population, are over-represented in the total arrest for violent offences (Mukherjee 1983, p. 72).

Table 2

**Percentage of Offenders Under the Age of 17
Proceeded Against by Offence, 1982-1992, Victoria**

Offence	1982 %	1983 %	1984 %	1985-86 %	1986-87 %	1987-88 %	1988-89 %	1989-90 %	1990-91 %	1991-92 %	Ten Year Average
Homicide	4	3	7	6	3	5	2	3	5	5	**4**
Serious Assault	12	12	15	10	9	10	9	7	9	10	**10**
Robbery	23	25	23	17	20	18	20	14	19	21	**20**
Rape	13	11	19	10	1	5	12	5	13	12	**10**
Burglary	55	51	47	38	42	38	27	26	28	29	**38**
Theft	41	36	37	38	34	32	30	31	34	34	**35**
Motor Vehicle Theft	44	42	48	34	35	29	29	21	30	28	**34**
Fraud-ulent Offences	12	9	10	6	9	10	5	4	4	4	**7**
Total Major Crime	**40**	**36**	**36**	**33**	**32**	**30**	**24**	**23**	**27**	**27**	**31**

Source: Victoria Police 1993.

Table 3

**Homicide: Age of Offender by Sex¾
Number and Rate per 100 000, Age Specific Population,
Australia 1990-1991**

			Age of Offender						
Sex of Offender	*0-19*	*20-29*	*30-39*	*40-49*	*50-59*	*60+*	*Un-knwn*	*Total*	*%*
Male	54	123	64	34	15	8	7	305	90
	(2.1)	(8.8)	(4.8)	(3.1)	(1.9)	(0.7)		(3.6)	
Female	6	13	10	1	2	1	-	33	10
	(0.2)	(1.0)	(0.8)	(0.1)	(0.3)	(0.1)		(0.4)	
Total	60	136	74	35	17	9	7	338	100
%	18	42	22	10	5	3	2		

Source: Strang 1992, p. 30.

Similar to the Victorian data noted above, Mukherjee (1983, pp. 14-15) was unable to establish any obvious trend for youthful violent crime in the 1964 to 1980 period, and certainly no clear indication of any wave of violent crime among juveniles. These general findings are also found in overseas research, as in the US where property crimes are proportionately more likely to involve juveniles, with rates of arrest for violent crimes remaining consistently lower than adult rates. There is, further, no evidence of any pattern whereby violent crime is emerging as a distinctly youthful phenomenon. If anything, in fact, rates of violent crime for juveniles remained stable in the US in the 1980s, while there was a general trend upwards in the rate of adult violent crime (for an overview, *see* Empey & Stafford 1991, pp. 81-7).

Qualitative Data on Youthful Violence

It is at this point that the problem of data begins to be more pressing, since there is much that we need to know about where and why some violence is found among young people.

Qualitative data suggest that at least some amount of youthful trouble and violence is found in open, public spaces that feature so dominantly in accounts of contemporary adolescent life. There are a variety of social and economic forces which have pushed many young people into the "streets" in search of social contacts, fun, and recreation (Polk 1992; White 1990). The gregarious character of youthful life results in the coalescing of groups of adolescents in public spaces, often distinguished by personal and clothing styles that identify the youngsters as "Bogans", "Headbangers", "Skegs", "Goths", or some similar appellation.

In turn, this collective character can have implications concerning violence. Certainly, the movement of the young through social space can create the possibility of conflict, especially around distinctively masculine challenges to "honour" or "reputation". The following, drawn from case studies of homicide (Polk & Ranson 1991) is typical of such conflicts:

> Late one Saturday night, Anthony N. (age 19, unemployed) was walking back towards their home after attending a local "Octoberfest". They had enjoyed a pleasant evening of drinking at that event (Anthony's blood alcohol level was later established at .08). In a small park, they met up with another group, including Don B. (age 18, unemployed) and Peter T. (unbeknown to Anthony and his group, this second group had armed itself in advance with broken billiard cues and knives).

> One of the young women in Anthony's group was part of the triggering of the confrontation between the two groups when she asked if she could ride Peter's bike. He replied: "You can have a ride if I can ride you". Insults and challenges began to flow back and forth between the two groups. At one point, Anthony is recorded as having said to Don: "You're a bit young to be going to Octoberfest, aren't you? Don responded with: "Don't call me a kid."

> The exchanges escalated into pushing and shoving.

> Anthony said: "If you want to have a go, I'll have a go back." Don then threw a punch at Anthony, and the fight was on. At first it was a general group scuffle, and at one point Anthony broke a beer stein (obtained at Octoberfest) over the head of a member of Don's group.

> The main group conflict began to simmer down, but Anthony and Don sought each other out and continued their personal dispute. At

first Don was armed with the broken pool cue, but Anthony was able to take it off of him. Peter then handed Don a knife. Witnesses agree that at this point, Anthony kept repeating to Don: "I'll kill you, I'll kill you."

Don was able to come in close to Anthony, however, and slashed out with his knife, stabbing Anthony in the left thigh, right hand, and finally the left side of his chest. By now all eyes of the groups were on the two. They saw Anthony stagger, and he began to bleed profusely. The two groups broke off the fight, each going their separate ways.

One of Anthony's friends asked if he was feeling all right, to which he replied: "I think I have been stabbed". The friends helped him to a nearby house and called an ambulance, but Anthony died before medical help arrived. Don had no idea of the seriousness of the injuries he had caused, and was said by his friends to be "shocked" when he was informed the next day of Tony's death (Case No. 3661-85).

This conflict was one which took place in the distinctly public space of a neighbourhood park. Involved were two groups who happened to pass each other in this space. Both groups had been drinking earlier. Insults were exchanged, which in retrospect seem trivial when placed alongside the consequences (thus constituting an example of what Wolfgang 1958, has termed a "trivial altercation" as the starting point of a homicide). In its early stages, the conflict took the form of a group fight. Out of the great multitude of such group encounters, this one became distinctive because it resulted in the death of one of the participants.

In another illustration of youth violence, the conflict took place in a beach-side area:

The dispute broke out between a group of "Old Australian" and Vietnamese youths on St. Kilda beach, just behind Luna Park. It had started, according to observers, when Donnie (age 16) and his friend Sam were walking up and down the beach "looking for a fight".

They approached one young person and said: "You fucking fat shit. . . do you want a fight?". The two apparently moved on after this boy backed off saying he didn't want to fight. Donnie and Sam as they moved away from the one encounter, found themselves amongst a crowd of Vietnamese young people.

In the jostling, the conflict shifted to the Vietnamese. Taunted, one of the Vietnamese boys kicked Sam "in the guts". The two Anglo boys drew out their knives and threatened the Vietnamese youths. This initial confrontation was broken by the girls in the Vietnamese group and the two clusters separated.

The Vietnamese group moved off some distance, while the Anglo boys stood around, playing with their knives, and showing off. One of the smaller Vietnamese lads walked over and offered his hand, trying to smooth things over. The Anglo boys responded by telling him to "piss off", saying "᾽. . we'll keep on fighting".

The Vietnamese group decided to leave. The boys went to the nearby changing rooms. Donnie moved up and challenged the Vietnamese youth who had kicked his friend, again pulling out his knife. The Vietnamese boy pulled out an even bigger knife. At this point, apparently, Donnie put his knife down with the intent of engaging in a fist fight to even things up. As he was doing so, Tan V. (aged 14) slipped up from behind and stabbed Donnie once with his knife, then quickly dashed away. Donnie collapsed and died before medical help could be summoned (Case No. 4189-86).

Again this conflict took place in a public arena. The initial events, as in the previous account, involved challenges between males which resulted in a fight. In the course of the fight, knives were produced, and a fatal wounding resulted.

Similar dynamics can be found in locations such as parties and BBQs:

It was a pleasant spring afternoon, and a group of mostly teenagers gathered at the home of Mel B. (age 17, unemployed) for a BBQ. By 5 p.m., the party had run out of beer, so Mel, as host, gathered up a couple of friends and they went to a local pub to replenish the supply of drink. When they returned, Mel noted that Avery B. (age 17, unemployed) had consumed two cans of beer from the private stock of Mel's father. Mel had explicitly directed Avery not to touch that beer, and an argument developed. Witnesses stated that the two had been at each other earlier in the day, and on previous occasions as well. By then, both had consumed a fair quantity of alcohol (Avery's blood alcohol level was later found to be .133). Being fed up with Avery's attitude, Mel ordered Avery to ". . . get out". Avery then punched Mel with a fist to the face, and the two began a minor scuffle which was broken up by friends. The friends managed to calm the two down a bit, and Avery moved off a short distance, then again threw some taunts Mel's way. Mel went into the house, picked up a knife, and returned outside. Mel then lunged at Avery, stabbing him in the abdomen. Avery staggered a few

steps, then collapsed. His friends took him by car to a nearby hospital where he died a few hours later (from massive blood loss). When approached in the evening by police, who indicated that they were trying to clarify the circumstances of the stabbing, Mel said (according to the police report): "So what? I was stabbed once and the police didn't do anything about it". When pressed further by the police who informed him that Avery was in a "serious condition" (this was before the report came through that Avery had died), Mel became irate, repeating: "The police didn't do anything when I got stabbed. I don't know why you are here now" (Case No. 3211-85).

As in other accounts this involved young males, in this instance in the social setting of a party. Insults and challenges to honour provoked the violence which quickly took lethal form. In some instances, ethnic identities can provide the spark which provokes the violence:

As was his usual custom, Edgar L. (age 19) left his suburban home to go into the China Town section of the city in order to take Kung Fu lessons. He met his friend Keith L. in Little Bourke Street, where they played some of the machines in the "Tunza Fun" amusement parlour for a few minutes, then went off to their Kung Fu lessons. Their class finished at 2.30 pm, and the two first had coffee with friends, then returned to the Tunza Fun at about 3.30, and started playing the Kung Fu Master machine which was their particular favourite. Suddenly, six Vietnamese youths approached and started to strike both Edgar and his friend. Edward then turned and challenged the group, saying (according to one witness): "Come on, I'll do ya". One of the Vietnamese group came in close, produced a knife, and stabbed Edgar once in the chest. The Vietnamese group then quickly slipped away. Edgar staggered outside, and collapsed on the sidewalk, where he died a few minutes later (the knife had penetrated his heart). The police investigation was able to pull together only scanty details of this homicide. They were unable to identify or locate any of the six Vietnamese young people involved. One of Edgar's friends recalled seeing the Vietnamese group sitting outside a Little Bourke Street restaurant earlier in the afternoon, and commented that this group had previously caused trouble for Chinese young people in the street. Further there was some provocation on Edgar's part, since earlier he and his friends had been yelling out anti-Vietnamese insults in Chinese as they had been walking down the street on their way back from their lessons (Case No. 1047-85).

While pubs and discos appear to feature less in fatal encounters involving youthful combatants than adults, the

following tale shows how youthful violence can occur in such venues as well:

> Colin (age 17) was a member of a loosely organised group known as "Bogans" while Charles (age 19) was identified as a "Headbanger". Both were at a disco in a local tennis centre, when a group of the Bogan males became involved in an argument with a group of girls who were hanging out with the Headbangers. After a brief exchange of taunts and insults, one of the girls punched Colin, who retaliated with a punch in return.
>
> Charles came over and attempted to pull the girl away.
>
> Colin called Charles a coward and a wimp, and began to throw punches at Charles. At this point, a general fight began between the two groups, involving 10-12 people. Charles then pulled out a knife, and stabbed Colin several times in the chest and abdomen. Colin died shortly after (his blood alcohol level was found to be .079) (Case No 1931-87).

The setting is again a form of leisure space, but one which is likely to bring groups of young people into contact with each other. The visible group identities (Bogans vs. Headbangers) provided the social backdrop for the challenges involved in this violence.

Given the group nature of the conflict found in many of these accounts, a natural question which follows concerns the extent to which these findings indicate the presence of gang behaviour in Victoria. The media, certainly, have popularised the idea of gangs and gang violence in Melbourne. Melbourne newspapers have focused attention on the behaviour of groups such as the "3147 gang" (so-called because of the postal code of the neighbourhood), and one forensic specialist was quoted as being concerned that Victoria was "... heading towards becoming a state of warring gangs" (Melbourne *Herald Sun*, 7 August 1991, p. 2).

There can be little doubt that often conflict between young males is collective in nature, but Australia has not yet produced the highly formalised, territorially-oriented gangs wearing distinctive colours and other insignia of gang membership. While groups are involved in Australian violence, the collectives do not have a formal leadership structure, they do not wear insignia which sets them apart from other gangs, and there is not a clear identification with, and protection of, their local

territory. While violence, some of it extreme, may be a result of group activity in Australia, it does not resemble the gang conflict found in the larger cities of the United States.

Rather, the conflict seems to be moulded to the contours of Australian life. Virtually all of the youthful homicide was contained within what has been termed elsewhere the "confrontation" scenario (Polk 1993). The violence is definitively masculine, and involves threats and challenges to masculine honour or reputation.

A common pattern is that where groups of young people pass each other when moving through such public locations as streets, shopping malls, parks, train stations or bus-stops, or even on public transport itself. Rather than staying on, and feeling a need to defend their home territory, these groups are likely to coalesce at some point close to public transport, then flow along public transport lines searching out other readily available, low cost scenes of leisure, through which they circulate seeking fun, recreation, and ways to pass their time. Time and again, it appears that it is this pattern of circulation, and resultant social friction as groups pass each other, that sees the stage of emergent violence.

Walmsley (1986) has observed a similar form of group movement, friction, and confrontations over honour in the United Kingdom:

> One trouble spot in Newcastle was a small area of about four streets containing twelve pubs. Groups of young people moved from pub to pub during the evening and this led, towards closing time, to friction between groups suddenly arriving at a pub.. . Such situations produce violent incidents whether inside or outside the pub. Again violence sometimes occurs when large numbers of people leave rival establishments (for example dance halls) at about the same time. Ramsay describes three violent late-night incidents at burger stalls. In each case "individual worth and identity were at stake, in front of other bystanders, in an impersonal setting". Provocative remarks were made, or something was seen by one party as provocative and the incidents escalated into violence (Walmsley 1986, pp. 17-18).

While drinking seems a common feature of the Australian accounts, as in this description of youth conflict from the UK, it would appear that pubs do not feature quite as centrally as they do in this English account (although pubs are a common venue

for confrontations among older Australian males, *see* Polk 1993). At the same time, the conflicts over "individual worth and identity" which flare up between groups flowing through distinctly leisure spaces seems a common theme shared in these locations.

Of interest as well are forms of violence rarely found among adolescents. Among the masculine scenarios of homicide, there were patterns of primarily male-on-male violence whereby males took the lives of (in most cases) other males either during the course of other crime, or as a planned out way of resolving a personal dispute that had developed over time between victims and offender (Polk & Ranson 1991).

These two patterns are highly unlikely to involve young persons as the offenders, at least to date based on the Victorian research (in the US, in contrast, some amount of gang homicides involve attempts to settle quarrels over drugs and drug distribution).

When serious youth violence is found in Australia, it is apparently more likely to be expressive rather than instrumental, with the events building rapidly and spontaneously to the point where the killing occurs. Rarely will these homicides among youth involve the planned and premeditated use of violence. One indication of the sharp difference to the United States is that these confrontational encounters rarely involve guns as the lethal weapon, and in the five years of Victorian data there was not one case of confrontational violence involving the use of a hand gun.

To summarise the information up to this point, then, while violence is primarily a matter involving adults, there is some amount of quite serious youthful violence in Australia. This violence tends to be male and collective in character, and has its roots in the compulsion that some males feel to defend their honour or reputation, especially when challenged in front of their mates (for a description of this pattern of violence in defence of honour *see* Daly & Wilson 1988). This violence typically occurs in leisure scenes, and most often the events build rapidly from an initial insult to the fatal injuries.

Youth as Victims of Violence

Up to this point the analysis has proceeded with the basic focus on youth as perpetrators of violence. It is important to note, of course, that the young are also likely to be victims of violence as well. Unfortunately, there is little systematic victim-based data across all crimes for Australia, so again it is necessary to put together bits and pieces of data to obtain a picture.

One starting point where reasonable data are available are the larger studies of homicide. While the grouped data show that overall there appear to be roughly the same proportion of youthful victims as offenders of homicide, there are some important differences in the internal age distribution of the victim data. Examining, first, the data on homicide for New South Wales from 1968 to 1981 (Wallace 1986, p. 37), homicides involving victims age 0-19 account for 18.9 per cent of all homicide victims, but the largest single group of victims were age 0-4 who contributed 8.4 per cent of all victims, followed by those age 5-9 (1.6 per cent), 10-14 (2.3 per cent) and then a slightly larger group between 15-19 (6.6 per cent).

Roughly comparable findings are reported in the national data (Table 4). In Australia in 1990-91, 16 per cent of all homicide victims were age 19 or under (Strang 1992). The rate of victimisation for persons under the age of 1 year is extraordinary, the overall rate per 100000 for that one year alone (3.5 per cent) being higher than any other ten-year-period examined (for those between 20-29, for example, the rate was 3.0 per cent). At the same time, the victimisation rate for the 10-19 age group was relatively low (1.0 per cent); in fact, lower than any of the older age groupings examined. Most homicide victims, like most offenders, are over the age of twenty.

One further bit of data which supports these general findings consists of information on alleged assaults reported to St. Vincent's Hospital located close to the Kings Cross area of Sydney. This study reported that males accounted for 85 per cent of presentations, and the average age of persons presenting for alleged assaults was 40. The modal age category was 20-29 years, this grouping accounting for 52 per cent of all assaults (Cuthbert, Lovejoy & Fulde 1991, pp. 139-40). Again, these victim data suggest that violence is a phenomenon most likely to involve older males.

Table 4

Homicide: Age of Victim by Sex¾
Number and Rate per 100 000 Age Specific Population,
Australia, 1990-91

Sex of Victim	Age of Victim									
	< 1	1-9	10-19	20-29	30-39	40-49	50-59	60+	Un-knwn	Total
Male	3	9	15	42	40	36	15	17	27	204
	(2.3)	(0.8)	(1.1)	(3.0)	(3.0)	(3.2)	(1.9)	(1.5)		58%
Female	6	11	12	41	23	15	7	14	18	147
	(4.8)	(1.0)	(0.9)	(2.9)	(1.7)	(1.4)	(0.9)	(1.0)		42%
Total	9	20	27	83	63	51	22	31	45	351
	(3.5)	(0.9)	(1.0)	(3.0)	(2.4)	(2.4)	(1.4)	(1.2)		100%
%	3	6	7	23	18	15	6	9	13	

Source: Strang 1992, p. 22.

The young are caught up in some amount of violence, of course. Studies of homeless youth in Victoria, for example, suggest that "street kids commonly experience violence, often severe enough to require their hospitalisation". Alder and Sandor observed that:

> . . . contrary to some popular images, homelessness is not a carefree freedom enjoyed by rebellious teenagers. It is filled with anxieties about survival. Nearly all homeless youth spoke of feeling scared for their personal safety; they often spoke of vulnerability to violence as a major source of fear. The findings also indicate that this fear is well grounded. These young people are victims of a particularly high level of violence. Most of the young people had been hurt by someone since they had left home (Alder & Sandor 1989, p. 50).

The most common source of that violence would be other young people. For males, the social dynamics often conformed to the elements of the confrontation scenario noted above:

> For the young males . . . violence most often involved a physical attack by other young males—a fight. These frequently took place in the locations where they spent most of their time, that is, public

spaces such as the street, railway stations and near pubs . . . Public space is the "private backyard" of these young men but it is not safe (Alder & Sandor 1989, p. 50).

For young homeless women, on the other hand, while they had also experienced high levels of violence, the source of that violence was more likely to be a "boyfriend," and three-quarters of the women interviewed had been sexually assaulted since leaving home (Alder & Sandor 1989, p. 18). As Alder has observed:

. . . . while the young men were victims of violence in public places, the young women were most likely to suffer in the places they sought out for rest and sustenance, in their living spaces, in private. Their violators were the men they looked to for support and/or protection (Alder 1991, p. 12).

A disturbing finding of research on homeless young people has been the common report that such youth are also likely to be victims of violence at the hands of police.

In the research of Alder and Sandor (1989, p. 19) over half of the homeless young people interviewed had been assaulted by police, a finding supported by other researchers as well (for example, Hirst 1989). While there are methodological issues regarding such studies, and the findings are contentious, they nonetheless raise the issue that for this most vulnerable group, an important potential source of help is seen instead in terms of fear and anxiety.

The Issue of Public Policy

By its very nature, violence among young people does not lend itself to easy public policy options. For present purposes, three lines of inquiry might be suggested.

Schools: Role-playing of Violence and Alternatives

A first mode of response might focus on programs concerned with schooling. These educational programs should reflect what we know about youth and violence. Violence, especially in its most dangerous forms, is likely to involve males as offenders and persons caught up in underclass or troublesome forms of youth culture. As well, the violence is likely to be collective,

with the social audience playing a major role as the violence unfolds. The scenarios of violence most likely to be amenable to such educational intervention are those which arise spontaneously, such as the contests over honour among males that make up the confrontational scenario.

Among this cluster of factors, one which complicates educational strategies is that violence is most likely to occur among those identified with "outsider" youth cultures, which often are explicitly anti-school in their orientation. As such, traditional classroom-based teaching methods, cast within the "adult as experts" mould, are not likely to reach the group at greatest risk of involvement and participation.

This problem is easily overcome by providing a prominent place within any program for "youth consultants" drawn from the target group who can provide expertise both regarding how best to organise the language and locales of any schooling effort, as well as to provide some of the key teaching staff for the program. Young people themselves, in other words, are able to advise on such questions as the language that should be used, where and when the programs should be carried out, and provide key parts of the actual teaching. This would increase the sense of ownership among the adolescents involved.

A format that can be suggested would consist of preparing "scenarios of violence" within which youngsters are able to role play the parts of the various participants in scenes of violence. These scenarios can be constructed so as to provide roles not only for potential offenders and victims, but also for various parts of the social audiences for violence.

The students themselves, given instructions regarding the nature of the scene, some specific elements to be considered in terms of the roles involved (potential victim, potential offender, and various roles within the social audience), can then take on the task of writing a script which would produce the violence.

The students can then consider ways of altering the scenario to explore the options that are available to the different roles that might deflect the unfolding scene away from violence. What specific steps might be taken by members of the audience, by the victim, or by the offender which would alter the direction of the social dynamics?

To guide this work, some consideration might be given to the work of Luckenbill (1977) who provides a step-by-step analysis

of what he argues are six phases that homicides move through from initial "opening moves" to the violence itself. In addition, Athens (1980) has provided a description of what he terms "restraining judgments" that serve to deflect potential violent actors from a course of violence. Both could contribute key elements to the scenarios used in the role-playing exercises.

Policies of Youth Integration and Enhancement

A second and more long-range policy issue concerns addressing economic and social causes of youth alienation. We live in a world today which leaves many young people with a sense of isolation, meaninglessness and the lack of any feeling they contribute to the society in which they live. In a very short period of time, Australia has been changed from a world in which most adolescents entered adult life in the sense of going to work at age 16, to one which suspends the entry into work for some until well into their twenties, while for others a message is being conveyed that there may never be a place in the world of work (for a review, *see* Polk 1992). Youth unemployment rates continue to hover at high levels, leaving many young people with a message that for them there is little to hope for in terms of a future. One of the most tragic findings in studies of the unemployed is that many young people, when asked what they see for themselves in the future, the reply is that they will soon be dead (Alder 1986).

What is needed is a general policy of youth development which is specifically concerned with significantly improving the quality of life available to young people. Such a policy could be guided by principles of integration which aim at creating social forces which in a centripetal fashion pull young people into the centre of community life (rather than stigmatising processes which tend to act centrifugally to push youth to the outer boundaries of the community). These would be analogous to the conditions of "interdependence" and "communitarianism" which are addressed by Braithwaite (1989) in his influential writings.

Of late, however, Braithwaite (1992) has been concentrating his attention on programs which originate in the criminal justice system. As essential as these are, I would urge as well that more weight be given to programs which address issues of long-term youth unemployment, and the enormous sense of

alienation from school felt by many young people who are now being retained in schools, but feel no sense of educational purpose or direction.

Positive youth development programs could be constructed around job creation and new school experimentation. New ways need to be found to channel the useful skills and talents of young people into programs that permit them both to work and to accumulate new forms of educational qualifications. While these will call upon both private and public resources at a time when such demands go against the climate of social cost cutting, the failure to address the sources of youth alienation can only mean a continued expansion of the pool of marginalised young people, a pool which may become denser in terms of social problems as they age into adulthood without becoming enmeshed in conventional community life.

The Role of Gun Control

Finally, these findings only reinforce earlier observations about the importance of rigorous controls on guns. The major form of serious violence among young people consists of masculine challenges to honour which flare suddenly and spontaneously. These scenes can be exceptionally violent, and the probability of a lethal outcome would be increased greatly if guns were readily available. As matters now stand, guns are not commonly used in confrontational encounters, and in most cases when they are employed an offender must break off the interaction to fetch the gun to bring it back into the confrontational scene. It can be argued that it is precisely this form of spontaneous violence where gun controls can have their greatest impact, since such regulation creates what amounts to an effective barrier between a potential offender and a weapon. Impressionistic evidence suggests that other forms of violence, especially that where the violence is carefully planned, may not be so easily controlled by gun regulation. Given time, resources, and determination, a potential offender may find a number of illegal or legal ways to circumvent gun regulations. Reasonably taut regulations will be less easily penetrated by a young person in the grip of anger which will quickly pass.

Conclusion

In pulling these observations together, it should be clear how easy it is to get it wrong when we take up the topic of youth and violence. Despite common perceptions, most violence involves adults, and there does not appear to be any evidence of a wave of youth violence. There have been in the past, there are in the present, and there will be in the future, incidents of ugly violence which involve young people. The portrayal of these in the media may easily provoke a move toward increased punitiveness which will only serve to aggravate high levels of youth isolation and alienation, especially if the young feel that they have become particular targets of the criminal justice system. While currently unpopular given the mood of economic rationalism, more sensible and humane policies would aim at educational and employment programs specifically designed to increase the sense of youth integration and development. Our young people need better schools, more jobs, and above all a sense of hope, much more than they need more policing, or tougher laws.

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Child Abuse Homicides in Australia: Incidence, Circumstances, Prevention and Control

Heather Strang

Child abuse and neglect are worldwide problems, crossing national and cultural boundaries (Finkelhor & Korbin 1988). Since the pioneering work of Kempe (Kempe et al. 1962), it has been accepted that child maltreatment is responsible for serious levels of childhood morbidity and mortality in many countries, including the United States, Western Europe and Australasia (Christoffel et al. 1981).

Despite the widespread recognition given to the seriousness of the problem of child abuse, data on incidence and prevalence remain patchy even in many developed countries, which share with developing countries difficulties with the identification and reporting of both fatal and non-fatal events. In addition, World Health Organization (WHO) data, the major source of information on mortality internationally (*WHO World Statistics Annual*), does not nominate child abuse and neglect as a category: thus it is not possible to use these data to address questions such as the relative importance of socioeconomic

status or family structure as variables in explaining or understanding these deaths.

Indeed, several researchers have commented upon the paucity of reliable data and published studies on child homicide generally (Unnithan 1991; Crittenden & Craig 1990; Silverman & Kennedy 1988). Crittenden and Craig, in observing that child homicide is poorly understood and rarely studied, suggest that this may be partly because of "the lack of a single pathogen upon which to focus prevention or treatment efforts" (1990, p. 202).

It is generally accepted, however, that a strong link exists between fatal and non-fatal child abuse, and that the extensive body of literature and research which focuses on non-fatal events (for example, Gelles 1985; Straus & Kantor 1987) provide useful insights into the aetiology of fatal events. From the reverse perspective, Fiala and LaFree (1988) conclude from their study of cross-national determinants of child homicide that because fatal incidents are so often preceded by less serious forms of abuse, the characteristics of these homicides help us understand the aetiology of non-fatal events. In addition, homicides are more often reliably recorded than non-lethal assaults of all kinds, particularly those inflicted on children, which may escape detection and reporting entirely, depending on the degree of vigilance on the part of medical and hospital authorities and idiosyncratic, unstandardised protocols for dealing with injury to children.

Thus, patterns in child abuse homicide have great potential value for permitting identification of those most at risk both of victimisation and perpetration of abuse, and of providing markers for preventive strategies for both lethal and non-lethal abuse.

However, even if there were not a strong link between fatal and non-fatal events, with the consequent possibility of generalising from one to the other in terms of intervention measures, child abuse homicides require examination. They are a significant cause of childhood mortality, having since the mid-1970s been among the five leading causes of death for those under the age of five in the United States (Christoffel et al. 1981; Christoffel 1983): in Australia they consistently equal or exceed categories such as motor vehicle traffic accidents, accidental poisonings, falls and drownings as cause of death for

those under the age of one year (Australian Bureau of Statistics 1988, 1989, 1990, 1991)—categories frequently the subject of public health campaigns and expressions of community concern.

Thus the starting point for this paper is that both because of the seriousness of the prevalence of child abuse homicides and because of what we can learn from them about non-fatal events, a detailed study of the characteristics of these deaths is a potentially valuable exercise.

Australian Homicide

Since 1989 the Australian Institute of Criminology has been monitoring the characteristics of all homicide incidents reported to or coming to the attention of police, and the victims and offenders involved in these incidents. The principal aim of this ongoing program is to provide data which will, over time, permit the detection of patterns and trends in Australian homicide. Such information not only provides for basic public understanding about homicide risk, but can also serve as the foundation for the rational formulation of public policy in such areas as family law, firearms and, importantly, child protection.

Australia's overall homicide rate is around 2 per 100000, a figure more comparable with Western European countries than the United States, where the current rate approaches 10 per 100000 (Federal Bureau of Investigation 1991). However, homicide victimisation is not spread evenly across the population: both the Australian and American figures mask enormous differential risk between identifiable groups. For example, when we look at geographical location the rate for major American cities in many cases is more than ten times that for rural areas (Federal Bureau of Investigation 1991), whilst in Australia the rate for one jurisdiction, the Northern Territory, is around eight times that for Australia as a whole (Strang 1993). When we look at race, differential risk emerges strongly in both countries: in 1990 in the United States the homicide rate for the black population was ten times that for the white population (Federal Bureau of Investigation 1991), whilst in Australia the rate for Aboriginal Australians was nine times that of the population as a whole (Strang 1993).

Likewise, information relating to the age of homicide victims in Australia has revealed a phenomenon found in a great many countries, namely the enhanced risk faced by children under the age of one year. The public concern which this finding has elicited in Australia has confirmed the need to examine more closely the character of child homicide in Australia and, as a priority, to examine the characteristics of those incidents resulting from child abuse or neglect.

The Data Set

The data set concerns all homicides recorded by Australian police in the period from July 1989 to June 1992. Information relating to these incidents has been obtained from police records alone. It is important to note that these cases do not necessarily include all homicides committed in this period: indeed, it would be astonishing if they did, as an unknown number of homicides escape detection either because the cause of death is not apparent to the doctor or coroner or because remains are not discovered.

A special question mark hangs over the figure relating to young children. For children under twelve months of age, apart from those who die as a consequence of prematurity or congenital abnormality, by far the biggest single category for cause of death is "Sudden Death, Cause Unknown" (Category 798) (Australian Bureau of Statistics). It is possible that a proportion of these deaths are deliberately inflicted but escape detection. An indication of the possible scale of misdiagnosis is given in a study by Armstrong and Wood (1991), which examined the deaths of nine infants who had been previously the subject of hospital inquiry regarding possible abuse. All deaths had been initially ascribed to Sudden Infant Death Syndrome (SIDS), but autopsy findings in six suggested death was not accidental and in the other three significant doubt was raised by the history. The investigators conclude that

> inappropriate death recording procedures may result in some sudden deaths being recorded as SIDS when in fact they are caused by child abuse (Armstrong & Wood 1991, p. 593).

In addition, a number of children reportedly the victims of accidental falls or other misfortunes may also have been the victims of intentional injury. The detection of some of these cases clearly represents major difficulties for both medical and hospital authorities, child welfare agencies and the criminal justice system.

Despite these caveats on the completeness of the data, useful information can be gleaned from this data set. In the three years for which information has been collected, there were 1011 victims of homicide recorded by police throughout Australia. Of these, 86 were aged under 15 years. The great majority of these (n=59) were killed by their parents or de facto (that is, non-biological) parents. Most of the remainder were killed by other family members or acquaintances: only three were known to be the victim of strangers, whilst for a further seven the offender's identity was unknown.

For these children the primary precipitating factors in their deaths were various: about one-third of them (n=25) died as a consequence of a family dispute, usually relating to the termination of their parents' relationship. Often in such cases, a spousal partner was the primary victim and the child/ren became caught up in the lethal violence which ensued from a domestic altercation. Others died whilst in the temporary custody of one parent, usually the father, whose suicide frequently followed the murder. A further 20 per cent (n=16) were victims of the mental disorder of the offender, most often a parent: these cases tended to be bizarre in character and inexplicable except in terms of the offender's state of mind. These events deserve special examination from the psychiatric viewpoint, but are beyond the scope of this paper.

About 30 per cent of these children were assessed as being the victims of fatal abuse or neglect (n=24), and this paper will concentrate on these incidents.

Child Abuse Deaths

In three years the deaths of 24 children were classified by the police as resulting from deliberate abuse, in many cases suffered over the course of their lives. Although not great in number, the deaths of children in such circumstances have been referred to as "sentinel" events in society (Greenland 1987); that

is, no matter how few such incidents there may be in absolute numbers, each one engenders such a degree of public outrage—outrage approaching moral panic on occasion—in the society in which it occurs that each attains a special significance. The deaths of young children through the abusive actions of their care givers are often seen as such sentinel events.

Many ironies are implicit here: as a society Australians do not give enough attention to the stresses of parenthood nor, often, do we believe it appropriate to intervene directly when we have the evidence of our own senses that children may be at risk. Nonetheless, public reaction to those incidents which the media have highlighted as egregious examples of child maltreatment has been severe indeed.

Although the number of identified child abuse killings are small in this data set, the nature of these incidents and the characteristics of the victims and offenders involved in them can provide insights into those circumstances and individuals where risk of fatal abuse is greatest.

The Victims

The 24 victims of fatal abuse were all aged under 4 years and 17 of them were less than 12 months of age. There were 16 girls and eight boys. Eighteen of these children died as a consequence of assault, three from strangulation, burns and neglect, whilst in three cases the cause of death was unknown.

Children aged less than one year are consistently the highest risk age group for homicide in Australia: most recent available figures indicate a rate of 3.5 per 100 000, compared with the overall rate of 2.1 (Strang 1993). This is due to both the physical fragility of this age group and their absolute dependence. However, the character of these deaths varied enormously. Some were the victims of "shaken baby syndrome", inflicted by a care giver whose abusive behaviour resulted from the stress of the moment. Such stress is vividly illustrated by the following statement to police by the father of a five-week-old baby who died after being shaken.

> She's had bad colic since she was born. It's hard to take. I lost my temper. She cries all the time . . . this crying problem, it drives us crazy, for a few seconds there I didn't care what happened to her as long as she stopped crying.

Other babies died after the infliction of injuries over a prolonged period, bearing evidence of healing fractures and bruising sustained over the course of their brief lives. In a typical incident, a nine-week-old baby who had been home from hospital only five weeks died from a skull fracture, but was found to have facial injuries and fourteen rib fractures in various stages of healing. In another, a child born three months premature died nine days after being taken home from hospital: the post mortem revealed that in addition to a subdural haematoma, which was the cause of death, the child had numerous bruises, marks, scratches and other injuries, including a broken leg.

The injuries sustained by children over the age of 12 months were of a severity commensurate with their greater robustness. All but one died as the result of an assault (the exception died of scalding burns): all appeared to have been victims of abuse over a prolonged period. The characteristics of the incidents involving these older children differed in a number of important ways from those involving children under 12 months; they will be discussed in more detail.

Offenders

The modal offender was a young male living in a de facto relationship with the victim's mother: seventeen offenders were male and eight were female (four of the latter being charged jointly with their partners). Nine of the offenders were aged less than 21: a further 11 were aged from 21 to 29 and four over 30, whilst the age of one offender was unknown. In three cases the identity of the offender was unknown. In all but one case involving female offenders, the victims were under six months of age.

Relationship

Seven of the offenders were mothers of the victim: eight were biological fathers whilst seven were de facto fathers, that is, unrelated to the victim but living with the victim and his/her mother. In a further three cases the offender was baby-sitting at the time of the incident and for three victims the relationship was unknown.

Circumstances

A more vivid picture of the character of these incidents emerges from examining the circumstances of the deaths of these children disaggregated by their age.

Two babies died at or shortly after birth, and their bodies located after being hidden, presumably but not definitely by their mothers.

Eleven other children were aged less than 6 months at the time of death. In three cases the mother alone was the offender and in one a female baby-sitter: three of these women were aged under 21. In four incidents both parents were charged and in the remaining four cases three offenders were the father of the victim and one the de facto father.

There were four cases where the victim was aged between 6 and 12 months. Three of the offenders were variously a male baby-sitter, a father and a de facto father; in the fourth case both parents were charged over the death which was due to neglect.

There were three victims aged between one and two years. In one case, the identity of the offender remains unknown, whilst in the remaining two the offender was the de facto father whose relationship with the victim's mother had been of only brief duration at the time of the incident.

In the remaining four incidents, three of the victims were aged two and were killed by their de facto fathers. The third, who was 3-years-old, was the victim of a 14-year-old male baby-sitter responsible for four children under 5 years of age at the time of the incident.

In summary, in this data set mothers were less often the offenders than other studies have suggested (de Silva & Oates 1993; Goetting 1988), and where mothers were the offenders, almost always the victims were less than six months of age. For children over twelve months of age, the risk appeared to lie disproportionately with their mothers' new partners, to whom they were not biologically related, especially if those partners were very young.

Court Disposition

The way in which those charged have been dealt with by the courts provides an insight into what is perceived as the relative

seriousness of the offences. This appears to be determined by a combination of the circumstances of the incident and the age of the victim. Generally speaking, the older the victim the more severe the penalty imposed, but that trend is also linked to the severity of the injuries sustained—clearly, more force is entailed in the *killing* of older children.

Information has been obtained relating to the outcomes of twelve of the fifteen cases involving children under the age of 12months for which an offender was charged (most of the remaining three are still sub-judice). A review of these cases indicates that special difficulties appear to exist in the prosecution of fatal child abuse cases involving these very young victims. In one case a third trial is under way after two previous convictions, one for murder and the other for manslaughter, were appealed and quashed; in another the prosecutorial authorities refused to proceed because of the uncertainty of the evidence. Two further cases resulted in acquittals, one on the grounds of the accused's state of post-natal depression, the other because of a dispute over medical evidence.

In eight cases involving children under twelve months of age a conviction was sustained: in seven of them the offenders were found guilty of manslaughter, with sentences ranging from a good behaviour bond to five years imprisonment. In only one case was the offender found guilty of murder, resulting in a sentence of seven years. Both the manslaughter and murder sentences are relatively light by Australian standards.

Police involved in child maltreatment often refer to the special difficulties faced in bringing successful prosecutions in cases involving the deaths of infants. There are occasions when, despite doubts, medical staff are unable to assert categorically that injuries were intentionally inflicted. In addition, there are usually no witnesses to these events, apart from a partner who may be under pressure from the offender not to make admissions. In addition, the majority of these young victims have not come under the notice of welfare authorities before their deaths, so there is no documented history of abuse. The victims included in this data set may therefore represent only a proportion of the actual number of infants who have died as a consequence of abuse.

Information is held on the dispositions of five of the seven cases involving child victims over 12 months of age, two of

which resulted in acquittals. Sentences for the remainder reflected the varying nature of the incidents: in the case of a 16-month-old victim, her de facto father was convicted of manslaughter and sentenced to three years. The two remaining cases involved prolonged abuse of 2-year-olds and resulted in sentences of 17 and 22 years.

Patterns in Fatal Incidents

What do these cases teach us about the risk factors in fatal child abuse in Australia?

The most obvious factor in terms of absolute risk is the child's age. Indeed, several researchers have suggested that in attempting to identify coherent patterns in cases of child homicide generally, the child's age is the most useful explanatory or risk variable (Straus 1987; Christoffel 1983; 1984). Given that 13 of the 24 victims were aged less than six months, clearly risk is greater for these very young children, but it is not possible to say on the available data whether any age-related factor besides their physical vulnerability was involved. The two abandoned neonates should be noted in this context: Crittenden and Craig (1990) suggest that in the United States many neonates are discarded and not found, making the overall rate of neonaticide considerably higher than official figures suggest, and that situation may apply in Australia as well. They also suggest that many of these deaths are not intended, but the consequence of conditions associated with birth outside hospital.

In this data set, gender also appears to be a risk factor, given that there were twice as many female victims as male victims. They were especially over-represented amongst the younger victims: there were 12 girls aged under 12 months, compared with five boys. It is difficult to know whether this is a significant finding or merely an artefact of the small number in the data set, but it certainly needs to be kept under observation.

However, perhaps the most important fact to observe is that for the great majority of these children the predominant condition of their lives was family instability. Their mothers were often living in uncertain relationships with the father or a subsequent partner. Not only were relationships unstable, but financial circumstances were as well: only one of the 25

offenders was known to be in employment at the time of the incident.

This combination of lack of specific attachment, such as can be anticipated between a child and his/her mother's partner where no biological relationship exists, and financial insecurity with resultant stress, is a clear marker for increased risk of abuse. Such an outcome was suggested by Daly and Wilson (1981) in considering risk purely from an evolutionary perspective: in addition, both these factors figure strongly in check lists of risk of abuse compiled by welfare authorities (Greenland 1987).

Another salient aspect of these cases is the youth of the offender in many cases. Where mothers alone were the offenders, all but one were aged under 21. Many of the male offenders also were aged under 21: some of these were in some sense responsible for two children at the time of the incident, one or neither of whom may have been biologically theirs. The over-representation of de facto fathers is notable: setting to one side the four cases in which both parents were charged, there were four other cases in which the offender was the father alone and seven in which he was the de facto father. All of the four victims aged 2 years or more were killed by men who were not their biological fathers: three of them were aged under 21.

Strategies for Intervention

When the problem of child abuse was first recognised in the early 1960s, it was primarily through the efforts of medical practitioners. As a result, attempts to explain abuse behaviour were mainly in terms of individual psychopathology (Wolfe 1991). Later research broadened the perspective on the aetiology of child abuse. Gil (1970; 1978) and Garbarino (1977; 1982) documented the role of poverty, disadvantage, social isolation and chronic stress as factors in abuse: abusive families were also found to experience health problems, alcohol abuse and spousal violence (American Humane Society 1984).

It seems clear that both social-structural and individual factors must interact to bring about incidents of serious abuse. Greenland (1987) states that such incidents:

are, almost invariably, situationally specific events. Ill health or excessively demanding behaviour in the child, maternal distress or depression, an unstable or unhelpful male partner, when combined with social isolation, poverty and poor housing, may precipitate a perilous or lethal family situation. The infant's powerlessness and inability to escape defines him as a victim (p.20).

These factors usefully define the population at highest risk of abusive behaviour, and the victims and offenders involved in the fatal incidents described above certainly fall within this identified group.

However, the problem in devising strategies for intervention on the basis of the present study and similar findings of other studies is that these offenders do not differ sufficiently from a much larger population of socially and economically disadvantaged young parents for them to be identified specifically prior to the event. It is evident, therefore, that intervention strategies must be directed at the wider at-risk population.

At the level of primary prevention, most parents, especially the very young, would benefit from education for parenting, whether at school, as part of perinatal care or through the media. After all, parenting is the one job that most people will have to do in the course of their lives, and it is difficult to think of any other task with commensurate responsibilities for which so little education and training is available. Much abusive behaviour is the consequence of ignorance of reasonable child-rearing practices and of the possible consequences of these actions. Parents need to be educated in alternatives to hitting their children: this is especially the case for infants, where physical discipline is especially inappropriate and where consequences may be dire.

At the secondary prevention level, it is clear that high risk families and situations are discernible during pregnancy and in the maternity setting: in particular, parent-infant bonding problems in the perinatal period need to be taken very seriously (Armstrong & Wood 1991). Promising non-stigmatising interventions designed for this specific population are currently being evaluated in the United States. One salient example is that being undertaken by Olds (1992), who has investigated the value of home-visiting services to compensate for the absence of adequate support for parents. A randomised trial of prenatal

and infancy nurse home-visiting indicated that these measures can make a big impact on levels of serious child abuse and neglect, if it is begun during pregnancy and continued through the second year of the child's life—the period which all evidence indicates to be the most vulnerable period for the child.

Finally, at the tertiary level, although precise identification of pre-homicidal families is impractical, it is possible to put in place a coherent response once a serious injury has occurred: indeed, it is imperative that such action is taken, as the risk of repetition is acknowledged to be very high, especially for young parents lacking social skills and social support (Greenland 1986). The problem frequently lies, however, not with the competency of the health and welfare professionals and agencies involved in this process but in the coordination and communication between them. High risk cases usually involve many individuals and agencies: one of the cases included in the data set described above involved 21 in the two months prior to the fatal incident, and several prominent cases in Britain featured well-documented failures in inter professional communication (Greenland 1987).

Conclusion

In his study, Olds (1992) specifically comments on the consequences for society at large if action is not taken to deal with the abuse and neglect ensuing from the isolation and lack of family support experienced by many parents, especially those already leading lives of social and economic disadvantage—comments which are relevant far beyond the United States. They concern the cycle of violence experienced in so many abusing families, whereby the childhood experience of physical abuse predisposes the survivor to violence in later years.

Kempe et al. observed in 1962 that in their abusive actions parents may often be repeating the type of child care practised on them in their childhood. Much has been learned since then about the intergenerational transmission of violence within families. A review of research by Kaufman and Zigler (1987) showed that around one-third of maltreated children will abuse their own children: others will perceive themselves as victims deserving the violence later inflicted upon them by abusive

partners. A recent Australian study (Goddard & Hiller unpublished) has found that the most frequently occurring antecedent stress factor in the cases of abuse they investigated was reported childhood abuse of at least one parent.

In considering the consequences of abusive experiences in the wider context, Widom (1989a; 1989b; 1992) has undertaken extensive research on the link between child abuse, neglect and violent criminal behaviour. Widom compared a study group of substantiated cases of childhood abuse and neglect and a matched group not officially recorded as maltreated and tracked them through official records over a 15-20 year period. She found that abuse increased the odds of future delinquency, adult criminality overall and, specifically, arrest for a violent crime, by around 40 per cent.

It is evident that a renewed commitment is needed by society at large to give the highest priority to the prevention of child abuse and neglect. When Kempe and his colleagues first drew attention to the battered child syndrome, little was known or understood about the causes and correlates of abusive behaviour. Today a great deal is known: we know that poverty and disadvantage provide the milieu for this violence, that isolation and ignorance exacerbate the stresses of parenting and that the experience of being a victim of child abuse has important consequences for later adult behaviour. It is vital that adequate resources be committed to the provision of assistance beneficial to all parents and essential to identifiable high risk parents, in order to reduce the levels of abuse, both fatal and non-fatal, which exist in our society.

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Domestic Violence Victims in Emergency Departments

Gwenneth Roberts

I n the early 20th century the domain of interest by the medical profession in domestic violence (or family violence, as it was more commonly named) was in the field of psychoanalysis. Pre-Freudian psychoanalysts gave the standard diagnosis to a wife beater as feeble-mindedness combined with dementia praecox, in other words mental retardation combined with schizophrenia. Abused wives and battered adolescents were often similarly diagnosed. Freud and his followers had new ways of viewing family violence and his ideas contributed to the decline of interest in family violence (Freud 1966). The ideas of Helene Deutsch regarding female masochism had a profound effect on the way that wife beating was understood and this became the dominant theory for the explanation of victimisation of women (Deutsch 1930).

Modern scientific research about domestic violence began only in the 1970s and it is still the case that what is unknown about domestic violence still far exceeds that which is known (Rosenbaum 1988). National community surveys were conducted in the USA in 1975 and 1985 (Straus & Gelles 1986). There have been no national surveys conducted in Australia and prevalence figures which are quoted for domestic violence in the Australian community are usually from the USA.

It has been recognised that domestic violence is a major health problem in western societies, including Australia, and bodies such as the Australian Medical Association (1989) and the Public Health Association of Australia (1990) have called for the development and evaluation of protocols to increase identification and enhance the management of domestic violence victims. Indeed, one of the recommendations of the National Committee on Violence in Australia (1990) was that medical education, whether undergraduate, postgraduate or continuing, should include components dealing with all aspects of violence. Studies have shown that victims of domestic violence consult doctors more often than they consult police, social workers or any other group of helping professionals (Dobash & Dobash 1979; Dobash et al. 1985).

An epidemiological study was conducted by the Department of Psychiatry, University of Queensland, at the Royal Brisbane Hospital Emergency Department from 1990 to 1993. The rationale for this study was based on findings from studies in the USA (Stark et al. 1981; Goldberg & Tomlanovich 1984). These showed that 1 in 5 women who present at the Emergency Department has a history of domestic violence. These studies which examined the medical records of those who disclosed a history of domestic violence revealed that only 5 to 16 per cent were recorded as victims of domestic violence. They concluded that doctors treated physical injuries or symptoms but failed to pay attention to the psycho-social aspects of domestic violence; in other words they treated their wounds but failed to address the abuse. Other studies on Emergency Department staff responses to domestic violence victims attribute these low rates of detection to inappropriate attitudes of health professionals and lack of education and training regarding domestic violence problems (Davis & Carlson 1981; Kurz 1987). It was found that medically ill patients rather than those with physical injuries constituted the larger proportion of domestic violence victims. The studies established a strong association between domestic violence and psychiatric illness, para-suicide and alcohol and drug abuse. They also noted the association between domestic violence and the increased risk of emotional and behavioural problems in children.

It was found in an Australian study (Roberts 1988) that health service costs constituted the greatest community service costs for victims of domestic violence. There may be cost savings in health services if there is early intervention with victims of domestic violence who are identified and treated appropriately.

The aims of the present study were:

- to develop methods of screening attenders at Emergency Departments for a history of domestic violence;

- to measure the prevalence rates of victims of domestic violence who come to an Emergency Department;

- to enhance staff detection and management of domestic violence related problems.

In epidemiological studies of domestic violence there have been two major problems: how should violence (or abuse) be defined and which relations should be included as domestic? (Stark & Flitcraft 1988). The definition of domestic violence which was used in this study is congruent with that which was used by the Centres for Disease Control, Atlanta (Elsea et al. 1990) which included physical assault in emotionally intimate relationships at the time of or before the assault (for example, legal marriage, de facto, boyfriend/girlfriend, siblings, child-parent of other relatives). However, their definition was extended to include emotional and sexual abuse. The operational definition for a victim of domestic violence therefore was persistent abuse of an adult 16 years of age or over, during or after a family or close relationship, where one partner was afraid of and/or being physically hurt by the other. The underlying assumption was coercive control by one person over the other in an intimate relationship (Okun 1986), so that it could be considered more than a heated domestic argument.

Methods

Figure 1 illustrates the design of this study.

Figure 1

Overview of Domestic Violence Project

Stage 1: Pilot Study
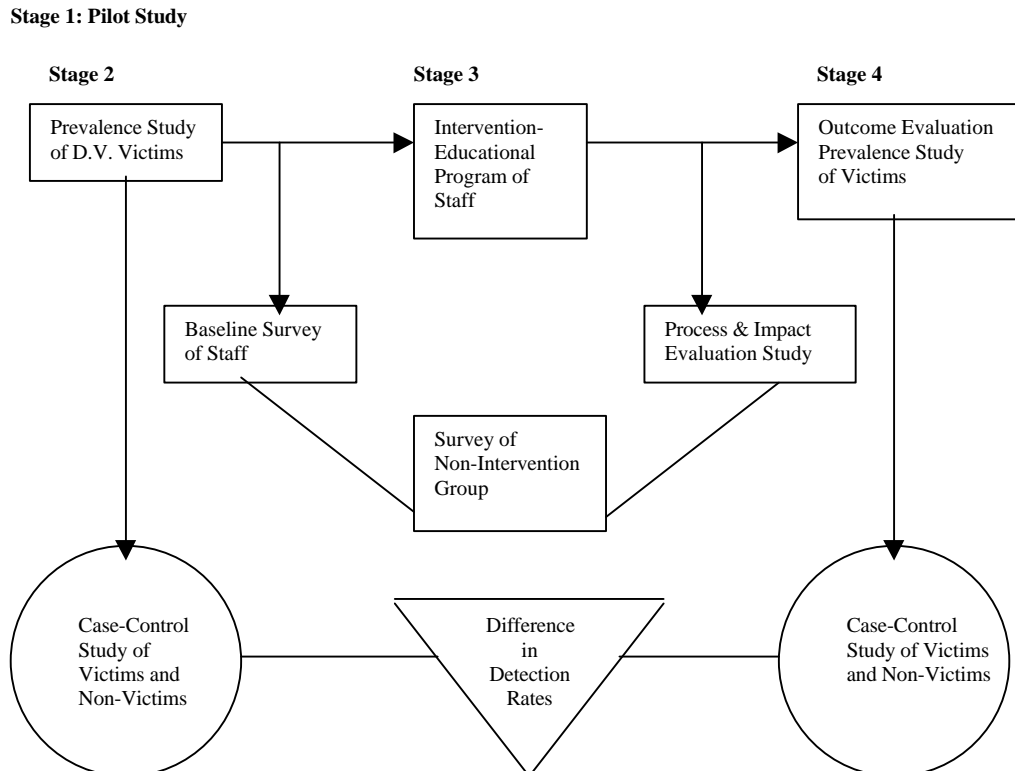
Stage 1

In 1990 feasibility studies were conducted in the Emergency Department to test instruments and methods which could be used in the main prevalence studies and the case-control studies. A brief screening questionnaire was developed which asked whether subjects had ever experienced domestic violence; the type of violence; relationship to the abuser; and whether the person had experienced abuse as a child. Those who self-reported domestic violence were asked further questions regarding their usage of health services in relation to domestic violence. If they had revealed domestic violence to health

professionals they were asked to give their perception of the response of health professionals, ranking the response from "advised me what to do" to "said or did things that upset me". A sample of 985 attenders (507 males and 478 females) at the Emergency Department was screened for a history of domestic violence. They were screened both in the Acute section which caters for greater severity of illness (operating 24 hours, including overnight stay) and the Non-Acute section which offers ambulatory care services (9 a.m. to 5 p.m.). A series of case-reports was obtained through in-depth interviews which were conducted with 41 female and 7 male victims of domestic violence.

Stage 2

In April to June 1991 a prevalence study was conducted using randomly selected 8-hour nursing shifts (49) in the Emergency Department. This enabled representation of attenders at all hours. People excluded from the study were those under age 16, those who were too ill, those who were unrouseable, mentally retarded, confused, senile or illiterate, those from non-English speaking background or those who were accompanied by a person who would not leave their side. The latter consideration was that the subject would not give valid answers to the questionnaire. The confidentiality of the questionnaire was emphasised to all who were approached. There was a response rate of 93 per cent of those who were approached to participate in the study and the sample comprised 1213 attenders (656 males and 557 females).

Data from the prevalence study is being used to conduct a case-control study which compares the self-report of victims who disclosed domestic violence in the prevalence study with their medical records. Each victim is matched for age, sex and point of entry to the Emergency Department with a non-victim from the prevalence study. The medical records of victims (n=141) and non-victims (n=141) are being examined by a senior psychiatrist, who is "blind" to the status of the subjects. The self-report of victims is compared with their medical record over a period of 5 years. The aim of the study is twofold: to determine detection rates by doctors of victims of domestic violence, that is, whether they have been recorded in their medical history as

victims of domestic violence, and to examine their characteristics, for example, do victims present more frequently to the Emergency Department than non-victims?

Stage 3

An educational intervention program was conducted with doctors and nurses in the Emergency Department from August to October, 1991. We hypothesised that an education program on domestic violence would increase the rates of detection of victims of domestic violence by medical and nursing staff and result in more appropriate management of these victims through referrals to social work staff and reporting of criminal assaults to police. The evaluation of the education program used a similar design to McLeer et al. (1989) with pre- and post-intervention surveys and case-control studies to provide process, impact and outcome evaluations. A knowledge, attitudes and practices survey of the staff was conducted before and after the education program. The same questionnaire tested their knowledge about victims and perpetrators of domestic violence, their attitudes regarding management by health professionals and their own level of clinical and social contact with victims and perpetrators. The baseline questionnaire was administered in August and the post-education questionnaire in November. Response rates were: doctors—43 per cent baseline, 63 per cent post-education; nurses—75 per cent baseline, 77 per cent post-education. These response rates reflect the itinerant nature of resident medical officers who have only 6 weeks' rotational terms in the Emergency Department compared to the more stable component of nursing staff. They may also reflect a greater interest by nurses than doctors in the topic of domestic violence. Another group of doctors and nurses from Princess Alexandra Hospital, Brisbane, with similar characteristics to the Royal Brisbane Hospital group, were surveyed using the same knowledge, attitudes and practices questionnaire in November, 1991. The purpose was to compare a group who had received no educational intervention (PAH) with a group who had received intervention (RBH).

The education program was conducted as part of the regular in-service training of medical and nursing staff in the Emergency Department. It was designed specifically to fit the

ethos of the Emergency Department and consisted of the following components:

- Workshops of one hour's duration were given separately to doctors and nurses by research staff, social workers and police.

- Case presentations of one hour's duration, taken from the prevalence study, were given by a senior psychiatrist, to doctors and nurses.

- A protocol (A4 poster) which had been developed by Queensland Health was evaluated in this study. It was placed on notice boards in the Emergency Department.

- The research team developed a pocket card (8 by 12 cm) which was an aide memoire to the information presented in the workshops and case presentations (Appendix 1).

- A literature kit containing relevant information was sent to all participants in the program.

Because of the brevity of the education program the identification and appropriate referral of victims was emphasised, as well as the legal aspects of domestic violence, particularly the obligation that doctors have under the *Medical Act* to report suspected criminal assault (including domestic violence).

Stage 4

A second prevalence study was conducted in the Emergency Department from July to September 1992 under the same conditions as the first prevalence study. It used the same random time sampling procedure, the same exclusions in the selection process of eligible subjects and the same screening questionnaire as in the first prevalence study. An extra question was included in this study which asked victims if they were presenting with domestic violence to the Emergency Department at the same time as they completed the questionnaire. The sample comprised 670 males and 553 females.

A second case-control study is being conducted with data extracted from the prevalence study, with the same aims and methods being used as in the first case-control study. The medical records of victims (n=183) and non-victims (n=183) matched on age, sex and point of entry to Emergency Department are being examined by a senior psychiatrist. The aim is to determine the detection rates of victims of domestic violence by doctors and to examine characteristics of victims of domestic violence as compared to non-victims.

The outcome of the educational intervention with doctors and nurses in the Emergency Department is being evaluated in the following way. The results of the first case-control study will be compared with the second case-control study, with the differential domestic violence detection rates by doctors being the measure of the effectiveness of the educational intervention program with doctors and nurses.

Results

The results of the first prevalence study which are reported in this paper reveal that 14.1 per cent of the sample of attenders (n=1214) self-reported a history of domestic violence. Prevalence rates were 23.3 per cent for females and 6.3 per cent for males. Table 1 shows the risk of each type of abuse among males and females. While males and females were equally likely to report child abuse, females were much more likely to report abuse as an adult or the double victimisation of both child and adult.

The "raw" relative risk of any abuse for females compared to males was 2.31 (95 per cent confidence interval 1.83-2.91), while the relative risk adjusted for age, history of child abuse and country of birth was 2.06 (95 per cent confidence interval 1.69-2.50). Victims of child abuse, adjusted for age, sex and country of birth, had 2.21 times the risk of disclosing domestic violence compared to those without a history (95 per cent confidence interval 1.80-2.72).

Males between the age of 20 and 40 were most likely to report being a victim of domestic violence. While women age 20 to 29 had the highest reported prevalence rate of domestic violence, even at older ages the prevalence rate approached 10 per cent.

Table 1

Prevalence of disclosure of domestic violence among attenders at Emergency Department Royal Brisbane Hospital, April-June 1991

History of Abuse	*Males* *(n=654)* *%*	*Females* *(n=557)* *%*	*Total* *(n=1211)* *%*
Not abused	86.9	69.7	78.9
Any Abuse	13.1	30.3	21.1
- As an adult	4.6	15.1	9.4
- As a child	6.9	7.0	6.9
- As child and adult	1.7	8.3	4.7

Respondents were asked the identity of their abuser. Domestic violence was categorised into spousal violence (marriage and de facto relationships), boyfriend/girlfriend ("dating violence"), other adult abuse (siblings, child-parent, other relatives or close friends). Child abuse was the report of an adult who was abused as a child. Females were more likely to suffer violence by a spouse, boyfriend or de facto while males were more likely to be abused by a spouse, de facto, father or brother. While relative risks of abuse by each type of person were similar for males and females, women were much more likely to report violence perpetrated by boyfriends than males were by girlfriend abusers (Relative risk 10.17, 95 per cent confidence interval 1.43-72.14).

Table 2 shows how recently the domestic violence was experienced by males and females. Although most of the episodes of reported abuse had occurred more than a year previously, 8.3 per cent of the episodes occurred within the last 24 hours. If the assumption is made that those people will most likely be presenting to the Emergency Department with domestic violence, we can infer that 1 in 50 women is presenting at the Emergency Department with domestic violence. Of these victims, 79 per cent presented to the Emergency Department between 5 pm and 8 am, typically when referral sources such as social workers were unavailable.

Table 2

**Domestic violence reported by males and females in Emergency
Department: how recent was the experience?**

	Males (n=41) %	Females (n=130) %	Total (n=171) %
Within 24 hours	7.3	8.6	8.3
Within 1 week	4.9	3.1	4.7
Within 1 month	7.3	7.8	7.7
Within 6 months	7.3	14.8	13.0
Within last year	12.2	5.5	7.1
Longer than 1 year	61.0	60.2	60.4

Victims of domestic violence were asked to identify the type of violence which they had suffered from a family member or intimate friend. The types of violence were categorised as pushing, shoving, grabbing, slapping; kicking, biting or hitting with a fist; throwing objects; choking, strangling; "beating up"; use of a weapon; serious threat to life of victim and/or children; sexual abuse; emotional abuse, including verbal abuse, social isolation and economic deprivation. Sexual abuse was significantly greater among female than male victims (X^2=36.54, p<0.00001).

One woman described her main problems as financial and verbal abuse. She was an unemployed professional woman whose husband was unemployed (on social security benefits) and allowed her very little money, scarcely enough to travel to the Emergency Department. She had been treated by her general practitioner for symptoms of depression but she had not disclosed the abuse to her doctor. The reason she gave was that she was too frightened of her partner to talk to the doctor about the abuse.

There were significant findings in this study about those who were doubly victimised as children and as adults. When the severity of abuse was examined for the adult abuse only group and the adult and child abuse group there was an increase in the more severe forms of violence for the doubly victimised

group. In the category of sexual abuse there were 18 per cent of the adult group compared to 35 per cent of the adult and child abuse group. There was a statistically significant difference between the two groups (X^2=5.3, df=1, p=0.025). Of those who were surveyed in the overnight stay accommodation of the Emergency Department the doubly victimised group was over-represented and there were three times as many in the doubly victimised group as those who were not abused. When recency of abuse was reported, 21 per cent of the doubly victimised group had experienced abuse within 1 week compared to 6 per cent of the adult abuse only group.

One woman who had experienced childhood incest described three violent adult relationships. In the worst of these relationships she described how her husband killed her pets in front of her. Although she was presenting to the Department with a diagnosis of abdominal pain, she believed that her present condition was related to her past history. She had left the relationship 20 years ago but she was still fearful of the abuser. She was currently in a non-violent relationship, but could not talk to her present partner about the past, and feared that the past may be a hindrance to her present happy relationship.

When respondents were asked about their usage of health services, 60 victims (35.1 per cent of total number of victims) reported injuries or health problems related to domestic violence during the last year. Of this group, 47 had received treatment by health professionals for injuries or health problems during the last year. Most (51.1 per cent) had attended a general practitioner; 40.4 per cent had attended Royal Brisbane Hospital Emergency Department; 10.6 per cent had attended other hospitals; 10.6 per cent had seen a psychiatrist; and 2.1 per cent had seen a counsellor (multiple responses).

Discussion

The findings from this large study have given the first Australian data on the presentation of victims of domestic violence at a major public hospital Emergency Department. They support the findings of Stark et al. (1981) and Goldberg

and Tomlanovich (1984) from studies conducted in Emergency Departments in the USA. This study emphasises the hidden phenomenon of domestic violence in the hospital setting. It has raised the awareness of doctors and nurses about the large numbers of domestic violence victims, particularly women, who attend the Emergency Department of a major public hospital. The study will provide useful information on the response of health professionals to domestic victims from two perspectives—the survey of knowledge, attitudes and practices of doctors and nurses, and the perceptions of health professionals by victims. The random sampling time frame method used in this study makes the findings more likely to be generalisable to Emergency Departments of major public hospitals in Australia.

The risk for adult victimisation for women compared to men confirms that women are at much greater risk than men for being victims of domestic violence. The results show not only the risk for women of being abused by husband and de facto partners, but the high risks for young women in "dating violence". Young men were also at risk for abuse by fathers and brothers.

The risk of being abused as an adult was significantly increased if a history of child abuse was reported. Other research has shown that a history of childhood abuse appears to be a contributing factor to chronic victimisation, and one of the major factors predisposing a person to becoming a psychiatric patient (Carmen et al. 1984; Herman 1992). It was noted in this study that more of those who were doubly victimised as children and adults than those who had only been abused as adults were interviewed in the Emergency Department overnight stay accommodation, suggesting that the reasons for their attendance were more serious than other victims, or that they were retained for social or safety reasons. Also, a greater number of the doubly victimised group were abused by their fathers in adulthood which suggests that abuse by fathers continues into adult lives. It was noted that the doubly victimised group suffered more severe forms of violence than those who were only abused as adults.

One of the significant findings in this study was the fact that almost 80 per cent of victims presented between the hours of 5 p.m. and 8 a.m. when no referral sources for social work

consultation were available. It was observed by the research assistants that when victims presented doctors and nurses often did not know how to address the issue of the abuse. While they ably sutured their wounds and carried out X-rays of their fractured bones, they did not know what community resources were available for referral regarding the abuse and were often extremely busy with other urgent cases in the Department. During the study a business professional woman was observed who presented to the Emergency Department with stab wounds as a result of an assault with a knife by her husband. The woman's wounds were treated, but the assault was not mentioned. She was subsequently discharged without any report being made to police or referral to a social worker. The woman was admitted four days later with an overdose of the tranquillisers which had been prescribed for her emotional problems by her general practitioner.

A vital area which has been addressed subsequent to the findings of this study, is the establishment of an after-hours social work service at Royal Brisbane Hospital. Social workers have been called to the Department on average for 3 to 4 serious cases per week, with consultation times taking between 2 to 5 hours.

One of the limitations of this study relates to the collection of data by self-reporting and misclassification of victims. If those who are truly victims deny their experiences or fail to disclose them our prevalence estimates are likely to be underestimates. The extent of this is unknown because 19 per cent of the study population was missed and perhaps, more importantly, 1 per cent of potential respondents were unable to fill in the questionnaire because an accompanying person would not leave their side.

Another limitation of the study is that measurement of the types of violence is inconclusive. It does not take into account the frequency, intensity, meaning and impact on the victims of various types of violence and the context in which the violence takes place. The potential consequences of violent acts which are described by the same labels, such as "beating", may be different for males and females. In a study by Berk et al. (1983) their data showed that the violence of men against women is more severe and results in greater physical injury than the

violence of women towards men. To obtain an accurate picture of this difference more reliable measures need to be developed to incorporate these factors.

Recommendations are made from this study for the education of doctors and nurses in the topic of domestic violence at undergraduate and post graduate levels. Medical and nursing colleges and associations should be encouraged to address the issues of awareness and education of their various members about domestic violence. The findings of this study which show that general practitioner services are those most utilised by victims of domestic violence is particularly relevant information for the Royal Australian College of General Practitioners. The principles of education for doctors and nurses and materials used in this training program have been adopted by Queensland Health for training doctors and nurses in Queensland public hospitals about the topic of domestic violence.

To augment education programs, systems also need to be instituted in the Emergency Department for identification of victims of domestic violence, such as routine assessment of those attenders who are suspected to be victims of domestic violence. This may be a specialist area for nursing staff with the training of clinical nurses for these positions.

This epidemiological study points to the need for further research to more clearly define the nature, pattern and extent of post-traumatic psychiatric morbidity that occurs for victims of domestic violence. There is to date no systematic scientific data defining this psychiatric morbidity in terms of standardised diagnostic criteria. There is clear evidence of the high costs of health care utilisation, and the lack of satisfactory responses by health care systems. The capacity for revictimisation is clearly evidenced in this study. All of these factors highlight the critical need for more in-depth research to delineate the nature of post-traumatic morbidity associated with domestic violence, its course over time and ultimately its most effective prevention and treatment.

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ACKNOWLEDGMENTS

Appendix 1

Two sides of pocket card (8 by 12 cm)

SIDE 1

DOMESTIC VIOLENCE

ASK alone

↓

BELIEVE
the story

↓

CALL

↓

DOCUMENT
history

↓

ENSURE
SAFETY

→
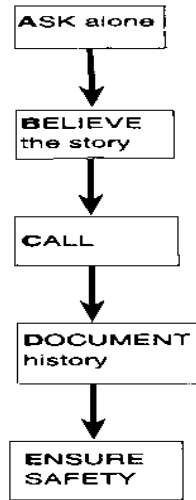
SOCIAL WORKER
(8.00-5.00 pm)
EXT .... or.......
(PAGER)

CRISIS CARE

(AFTER HOURS)
PHONE NO.

SEE DUTY REGISTERED
NURSE

→ POLICE

→ PROTECTION
ORDER

→ OVERNIGHT
HOSPITAL STAY
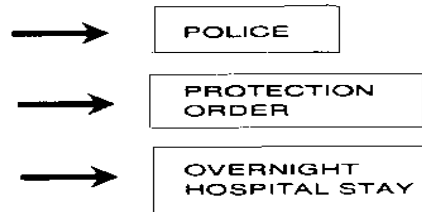
SIDE 2

WHEN TO SUSPECT DOMESTIC VIOLENCE

A. Injuries that are difficult to account
for as accidental.

B. Patient seems evasive, embarrassed,
ashamed of the injuries -
"I walked into a door, Doctor"

C. Injuries on an area of the body normally
covered by clothing.

D. Substantial delay between time of
injury and presentation for treatment.

E. An accompanying partner wants to
speak for a patient and/or insists on
staying close to the patient.

F. Repeated use of Emergency services.

G. Medical history reveals many
"accidents"
with injuries of suspicious origin.

H. Vague complaints or pain without
physiological cause.

I. Suicide gestures or attempts.

J. Alcohol or drug abuse.

Young People and Violence: A Focus on Schools

(A Report of a Pilot Study)

Judith Bessant with Rob Watts[1]

Recent Research on Youth Violence and Crime

Popular and academic discussion about young people in recent years has paid considerable attention to "teenage gang violence" and the "gang problem". There has been widespread concern about the levels and forms of violence and vandalism associated with gangs, graffiti on public buildings and urban transport systems, assaults in schools, the use of underground utility tunnels as gang headquarters, and the movement beyond vandalism to serious crime such as stabbings, rape, armed robberies and the like (Wilson & Arnold 1986; Alder & Sandor 1990).

Estimates of the costs of gang activity in the early 1990s have reached $15 million (*Sunday Age,* 20 August 1989). Police and law enforcement agencies express concern at what has been seen as the emulation of United States-style "bandanna" and "colour" adolescent gangs. In a criminological version of

"cultural cringe" some have suggested that American models animate our indigenous "youth cultures" and collective "youth" actions especially in the urban areas which suffer from widespread socioeconomic decay and dislocation, leading to a breakdown of "normal family" life and socialisation patterns (Flint 1991).

Australia's high levels of youth unemployment since 1975 have been accompanied by considerable community anxiety about social effects, such as adolescent violence and gang activities. Increased youth joblessness and its social and personal effects have been the subject of concern and analysis. This has been causally related to family conflicts, family break-ups and young people on the streets (Eckersley 1988; Jamrozik 1991; *The Age,* 23 April 1993). Both popular discourses and academic research acknowledge that long-term unemployment is damaging to both the individual as well as society (Dixon 1992; National Committee on Violence 1990). Particular concern has been expressed over a perceived link between youth unemployment and various manifestations of violence to property and person (White 1991; Junankar & Kapuscinski 1992). Current research and popular representations of "troublesome" adolescents present their activities as causally related to high levels of youth unemployment (Chiriocos 1987; Junankar 1984.)

In this context many researchers have linked youth unemployment with a range of personal and social problems such as substance abuse (Auld, Dorn & South 1984; Smith 1987), poverty (Browne 1987), sexual abuse (Wallace 1986), psychological problems (Wilson & Arnold 1986), criminality (Mukherjee 1986), and general anti-social behaviour such as graffiti, vandalism and gang activities (Windschuttle 1984; Junankar 1984; Cunneen 1985; Carrington 1989; Kapuscinski, Chapman & Braithwaite 1991). Finally, the personal and social effects resulting from homelessness have also been related to the difficulties young people experience with securing a place in the labour market (Fopp 1982; Burdekin 1989; MacKenzie & Chamberlain 1992).

All of this research belongs to a commonsense tradition of research into delinquency that is based on a number of widely accepted and admired models for performing social science research. Since the mid-1970s, Australia, along with most other

OECD countries has experienced rapid and consistent increases in youth unemployment and general levels of joblessness (EPAC 1992; Junankar & Kapuscinski 1991). However, there are some serious limitations with such an approach.

Much of the contemporary discussion also implies that the type and level of teenage violence and gang activity is new in itself as well as being the product of new factors, especially with regard to youth unemployment. However, a reading of Australian history demonstrates very clearly that the phenomenon of teenage gangs and violence is not new, nor is it driven by urban poverty or high levels of unemployment. From at least the 1970s in Australia we have seen recurrent expressions of adolescent gangs and high levels of violence manifested by the larrikins (Murray 1974; Bessant & Watts 1992a) and other groups of young people, both male and female, especially since the 1940s. Furthermore, a critical reading of the more recent literature on violence and young people indicates that it does not provide a number of important insights into the patterns of behaviour which are perceived as troublesome.

The Limitations of Traditional Models for Explaining Youth Violence and Crime

As Polk points out: "How we respond to a social problem is a consequence of what we think causes that problem" (Coventry & Polk 1985, p. 50). However, methodologically, as Agnew (1989, pp. 98-9) has noted, most explanations of delinquency are dominated by the positivist program. This style of research seeks patterns which can then be used to generate "causal links" or explanatory/predictive theory. In substantive terms it conceptualises juveniles as constrained to engage in delinquency by biological, psychological and/or social forces (Matza 1964; Vold & Bernard 1986).

Surveys of Australian research literature on juvenile delinquency (Biles 1985, pp. 349-62) confirm the dominance of the positivist framework. Mainstream research begins with the insistence that delinquency commences when juveniles are constrained to initiate delinquent activities through their involvement with delinquent peers (Davies & Dax 1974;

Bartlett 1980; Vinson & Hemphill 1983). (This approach relies heavily on differential association and social learning theories, especially when the research is looking for group variables and explanations.) Considerable effort has been expended on objective measurement of the factors likely to best predict and explain juvenile delinquency. However, despite its long tradition and the positivist framework which has been persistently used to explain or interpret acts of violence in terms of "youth culture" or "juvenile delinquency" and gangs', life is highly problematic (see Bessant & Watts 1992b; Bessant 1993).

The major problem is that the positivist tradition and its search for causal patterns of hereditary, psychological, and socioecological conditions of crime simply does not work (Katz 1988; Bessant 1993). As Katz argues, the positivist and its associated functionalist tradition prizes the capacity to generate "explanatory" theory. However, very little of this model of research has significant explanatory power capable of saying why it is that people knife each other, thieve, or vandalise. Furthermore, many of those which are in the "seen to be causal" categories do not commit acts of violence or crime as it is predicted they will. Many who do commit the violence and/or crime do not fit the causal categories. Many who do fit the background categories and later commit the predicted crime, go for long stretches without committing the crimes to which the theory directs them.

There is here what ethnographers call a "break", a problem of understanding that confronts the researcher. This may indicate the need for an alternative approach that can better approach the task of establishing why young people do violent things. An ethnographic or interpretative research project into the life-worlds of young Australians is called for. Such an approach will help to illuminate the nature and quality of the appeals of and reasons for violence, crime or gang membership. A more comprehensive understanding of why young people engage in acts of violence and crime may assist in producing more effective youth policies and responses to "the problem". This discussion has a Victorian focus although many of the findings and methodology have national applicability.

Method and Sample

Katz (1988) addresses the limitations of the traditional approaches with a resolution that focuses on a phenomenological and ethnographic framework which is also sensitive to structural issues such as class, gender and race.

The emphasis on material deprivation which refers to factors like high levels of unemployment, however well-intentioned they might be, misses many of the more informative points that provide insights into why young people involve themselves in violence. A more rounded interpretative or ethnographic framework begins with the lived experience of those young people who are actually engaged in the act of "doing the evil" (Becker 1977; Agar 1983, pp. 32-48).

The data derives from interviews only carried out in Melbourne suburbs with thirty-seven young people all of whom were either currently in school, in statutory care or who had just left the secondary schooling system. (At a later stage in the project a more direct "participant observer" method will be used.) No rigorous attempt has been made at this point to construct a representative sample, though an attempt has been made to capture a heterogenous sample. The subjects ranged from 13 to 18 years of age. Thirty boys and seven girls have so far been interviewed. Most were Australian born and of Anglo-Celtic descent with a small number (five) who were of Asian descent. All came from families whose parent/s were in employment and over half could be described as coming from middle-class families, with a medium to high level of family income. One-third had attended or were attending a private school including several well known private Melbourne schools. About one-third were in a family where divorce and or blended family reformation had been experienced. Approximately one-third of the sample lived in Melbourne's northern and western suburbs, the balance coming from the southern and eastern suburbs. Contact with subjects proved generally easy to initiate.

Because of the nature of the issues for discussion, full anonymity was offered and accepted by all subjects (all names used here are pseudonyms). All interviews were carried out with the aid of a portable and unobtrusive tape recorder, in a variety of locations with the conditions of anonymity spelled out before commencing the formal interview. Interviews usually

lasted for between thirty to sixty minutes. Some were conducted in small groups of two or three subjects. There was a general rule about not giving the names of other people or gangs, or to not disclosing such information. The same kind and sequence of questions were used, with plenty of flexibility about follow-up explorations of particular issues. There was considerable variety in the degree of disclosure. All those interviewed had direct experience of violence, either as direct participants or as close observers of gangs in school or outside school, and appeared to be fully conversant with a wide range of norms, rules and codes of behaviour.

Katz (1988) suggests that "evil" and the doing of evil is not the consequence of material deprivations on people so much as it is often an ethically driven experience. Katz' ethnographic project focuses centrally on the expressive creativity, sensations and the ways of living involved in doing things, often repetitively, which others define as criminal. According to Katz doing evil is often about "overcoming a personal challenge to moral, not material, existence". This hypothesis has formed the basis for the pilot study, which opens up a number of dimensions around status, righteous anger, codes of honour, the protection of territory, a sense of loyalty and the relationships of masculinity and being a "hard man" (Connell 1987; Messner 1990).

The Moral and Sensual Nature of Violence and the Seduction of Crime

For young people in this study activities such as shoplifting, fights or vandalism were related to a number of factors, some of which were simply the rush of excitement, the enjoyable feeling of defiance and potency in just "getting away with it".

Being tough, by virtue of being a "gifted" fighter confers status and some popularity. As 13-year-old David commented, it is common knowledge at school that:

> The better fighter you are, the better you are. People think that you are tough (David, May 1993).

Being a good fighter is also a strategy used for establishing leadership orders. Eddie explains this with his experience:

> He was the head of them all. I was up the front [of the class] he kept throwing clay and kept hitting me. . . I just ignored him and he kept going and he threw a piece and it got me in the eye. I got up and started choking him and smashed his head on the table a few times and started kicking into him a bit. . . After that they all wanted to be my friend.. . . After I beat him up that's when all his mates wanted to be my friends (Eddie, May 1993).

Activities such as theft, vandalism and fighting demonstrate personal competence, especially in the case of shoplifting and vandalism, if it is accomplished in the presence of adults. Such "triumphs" become a powerful, "exciting" and seductive attraction. David, for example, understood that the young people he knew who "got into vandalism" do it because: "They get a bit of a thrill out of it" (David, May 1993).

To understand why some young people do things, often habitually, that are disapproved of, may relate to the attractions inherent in "doing bad". With regard to vandalism, sixteen-year-old Rene explained how:

> . . . people have tags and they are like a specific word that they write everywhere. They take a word and it is called their tag, and it is like a trademark and everywhere they go they write their mark. It's like I'm saying, "I am the greatest. I managed to get my tag here. . ." (Rene, May 1993).

For sixteen-year-old Scott, vandalism and graffiti, demonstrated "guts" and a display of potency:

> Vandalism is to leave your mark. . . they are tags to show you could do it (Scott, May 1993).

Similarly, when asked why young people engage in these activities Rene replied:

> When they are younger its a bit like grouping. Big lots of kids go and do it then they get addicted to it and they can't stop it. They get so into it they just can't stop doing it. When you are older you do it on your own. People like to do it because it's like something really bad to do (Rene, May 1993).

For Peter certain fights were good. The more personal and private fight between just two young men brought aerobic,

tactile and very emotional, expressive and physical enjoyment. He argued for the value of a decent "blue" in terms of a method for facilitating male-bonding as well as the opportunity for initiating new friendships.

> Most people appreciate fights these days because more and more people know how to fight properly. At the end of the fight they say: "Wow that was good mate—thanks. What's your name?" and we make friends over it (Peter, May 1993).

Peter was arguing that a form of integrity surrounded "a one-on-one fight" between young males. This was perceived as being very different to the big gang brawls where:

> . . . one person might have to take on five people. They get their heads beaten in so bad they end up in hospital. In most of those big brawls people are prepared and they bring a bat or say, "I'll bring a knife". . . (Peter, May 1993).

Moral Emotions, Identity and Territory

Alternative framing assumptions that are informed by the insiders' views provide valuable insights into why young people commit acts of violence and crime. Moral issues, notions of potency, righteousness and expressivity, which are related to issues of dignity, pride, family and personal honour, and the protection of territory or property, are often seen by the actors to be very important to their inner lives and relations with each other as "moral beings" (Bessant & Watts 1992b; Katz 1988). Insulting remarks about relationships with mothers and the family name are a powerful and almost universal provocation—a form of baiting that is not uncommon amongst boys and young men today:

> They usually say something about your mum. They might call you a mother fucker or something like that. Then they go over to you and start pushing you around (David, May 1993).

Moral emotions, pride, honour, loyalty, the "instinct" to protect one's own, family and cultural identity, protection of territory motivate nations to war. They are the often the same motives that drive young people to acts of violence. In inner city

areas characterised by their multiculturalism, it is not surprising that young people form collectives based around their cultures and countries of family origin. Jamie described the situation at his school:

> There are lots of Lebanese families who go around in like tribes. . . There's the Sards and Tolebs . . . they have heaps of cousins and they come into the school. So if you mess around with one of them you are in trouble . . . Sometimes the Lebanese kids start fights. They push you around . . . and fight in the park, but the fights usually get broken up by their bigger brothers (Jamie, May 1993).

Damien's experience was that:

> a lot of the stuff we got involved with was. . . pay back for our friends getting beaten up . . . At the start of this year, a friend of mine got beaten up at school. He was jumped by nine Asian guys on the way home from school. He's Asian himself, so me and a group of other friends managed to find out where they all . . . hung out and one night we attacked them. . . We showed them a shotgun and said; "You ever touch him again and this is what is going to happen" . . . If a mate gets beat up we get revenge, its a code (Damien, May 1993).

Not all groups, however, are based on a common ethnic or cultural identity. "The Nips" said to be based in Dandenong and who visit a number of inner city schools are racially mixed (Principal Trevor, May 1993). A recent incident at the Glenferrie railway station which attracted considerable media attention was said to be based on racial issues. Jessie reported her observations of the initial fight on Friday in the lane way:

> There were bottles thrown. There were about three Vietnamese people, and Rob was a real racist. About Friday about fifteen kids turned up with a knife and base-ball bats. On Monday there was a big fight. They stabbed Rob three times and pushed him to the ground (Jessie, May 1993).

When asked why the violence occurred the explanation was given:

> He [Rob] had just got expelled from. . . [the school] and he was cross because he believed that the reason why he had been expelled was so his place could be taken by the Vietnamese kids (Jessie, May 1993).

Sarah argued that a lot of the racially motivated fighting went on at her suburban school. Fights went on:

> between the Greeks and the Chinese, what we called the wogs. One day everyone was getting on the bus to go to Shoppingtown—which is the local hang out. One of the Chinese pulled out a knife and there ended up being warfare from then on (Sarah, May 1993).

Sarah continued on to describe the exhilaration and excitement she felt at the sight of such mass violence:

> It was always a huge adrenalin rush to see these huge fights going on (Sarah, May 1993).

Eighteen-year-old Adam described the gangs around his area, inner suburban Thornbury, as "mostly wogs". He speaks openly of racism, and of displays of bravado and machismo between the groups of young males contesting for dominance over space and each other:

> All the Greeks and the Italians hang around together. . . Anyone who messes with the Aussies well, they get theirs back. I mean its our country. . . When we [the Aussies] see them we walk straight through them. They won't do nothing . . . The most smart-arsed wogs you can get are the Lebos, the Lebanese. They don't fight by themselves. When you see them by themselves they are like mice. You walk by and they won't say nothing, but when there's a couple of them, it's "Oh, whatta you lookin' at Aussie? Eatee muckem, eatee muckem", you know and they start talking in their fucking bullshit speak. It sounds like they're barking (Adam, May 1993).

Retribution also motivated a major group fight between students from neighbouring Melbourne schools involving an estimated 20 to 30 young people at a west suburban open-air marketplace.

> The week before, people from the other school were hitting our friends from our school . . . On Friday they hit our friend at the station, so we all came down on the Monday to the station. We didn't have weapons . . . and they all had weapons. There were about five of us, about twenty or more of them We all walked up to the fight and told them we weren't going to fight if they used weapons. They just started then. They had chains, nun chukkers, knives, crutches that were all used. I was stabbed with a cork screw. It all happened very quickly . . . The police were involved and I was charged as well (Scott, May 1993).

The Thrill of Stealing

Rebecca, a secondary school student from an affluent high status family and living in a Melbourne bay-side suburb, explained some of the techniques and excitement involved in what is referred to as "racking"—shoplifting:

> Kids in my school engage fully in shoplifting everyday. . . they steal something that is worth a lot of money . . . the next day you go in and say that your grandmother gave it to me and it doesn't fit and I'm also not happy with the colour, can I have my money back? Its like a bank, its really cool. . . It really works, I can't believe it (Rebecca 1993).

Rebecca explained the importance of shoplifting to give the impression of affluence; she argued that material deprivation is not necessarily the causal factor for such behaviour:

> . . . you can't shoplift successfully if you don't look prosperous. If you walk into a shop and look really spic and span no-one is going to think you are going to steal anything and it is easy to get away with it. If people look rough and they walk into a shop, they are watched and eyed all the time—they are watched like a hawk (Rebecca 1993).

In Rebecca's case it was not necessarily the attraction of material goods that motivated her to participate in shoplifting, but rather the "excitement of doing it and actually getting away with it". Katz (1988) presents us with a challenge to go beyond seeking causal connections between psycho and social structural factors (like high levels of youth unemployment) and crime. He focuses, without neglecting structural factors, on the very personal, the moral and ethical motives that drive us all in his explanations of why people "do wrong" such as the feeling of competence, potency and excitement. For young people who have spent most of their lives in positions of inequitable power relations, often in institutions designed to prolong dependence, the attraction of feeling strong, effective and adventurous must often be extremely seductive.

This is not to say that young people do not shoplift and get involved in other forms of crime for material rewards. Jamie explained that after "racking" shops like Myers:

some kids wear the gear. Some kids sell [the stolen clothes]. . . You can buy this stuff at school (Jamie, May 1993).

Similarly, the selling of marijuana produces financial benefits:

I know kids whose parents grow it [cannabis]. They [parents] usually want their kids to sell it to other kids. I know some kids who do this in year seven (David, May 1993).

New Struggles over Territory and State Government Policy

In some of the interviews, subjects drew attention to changes in their experience as a result of recent cuts to Victorian education. Education cuts of $86m in late 1992, the closing of 55 schools, increases in the number of teachers declared "in excess", encouragement of voluntary redundancies, the contracting out of certain services to private companies, and a scheduled closure of 130 more Victorian schools are all part of recent policy changes. Important work by other researchers has suggested that recent education policies might have a significant effect on the lives of young people (Knight 1993).

Already some evidence is emerging from teachers that there are problems. The principal of a recently amalgamated inner city secondary college made the comment that:

This has been an exceptional year in the level of disputation and violence on a school level (Principal Trevor, May 1993).

At a hearing of the Equal Opportunity Board evidence was given that government closures and amalgamations of schools:

. . . had ended in predictable violence at Kew school and the John Gardiner Secondary College in Hawthorn. The first incident involved former Richmond students and Kew students hitting each other with a cricket bat. In the second incident, fights between former Richmond students and those from John Gardiner ended with three former Richmond boys being told that they were "no longer required" at the school (*The Age,* 4 May 1993).

School closures and amalgamations are not just administrative and economic issues. They also slice into the

fabric of community life and personal experiences. Some school closures are running on top of already severe economic and social dislocations. Rough estimates from those who work with young people in the inner eastern areas of Melbourne such as Richmond and Collingwood put at 2500 young people who are now under the compulsory leaving age of 16 and not in school. Part of the explanation for this huge "drop out rate" is that most of those concerned were the children of migrants, primarily Vietnamese, who had settled into the area and the local school. For those who are close to the compulsory attendance age—14 to 16—shifting and relocating in a new school after the closure of their own was not an option. The numbers of young people aged less than 16 who are not in school is estimated to increase significantly as schools continue to close. Workers predict more young people will be "roaming the street".

These disruptions and tensions caused by the disestablishment of old groups and contests involved in the formation of new groups brought with them increased absenteeism from school. As former Principal of Richmond Secondary College, Margaret Donald explained:

> Some students have not bothered to go to any school after the Government officially closed Richmond, believing they would not be accepted. Others had not bothered to attend any school for fear of being rejected by their peers (*The Age,* 4 May 1993).

What has been the effects of recent amalgamations and closures of many post-secondary schools? Is the increased incidence of conflict between groups of students who came from the previously separate schools —a consequence of this policy? According to one principal who received a number of new students from a neighbouring school that was forced to close:

> Those that came voluntarily were OK. There were many others who came with a chip on their shoulder. They came to this place, which didn't suit them. They had been in schools that they liked. This upset the dynamics of the school culture. It was not just the new students, it upset the whole balance of the school (Principal Trevor, May 1993).

In the mind of sixteen-year-old Peter from a north-eastern suburban school threatened with an impending closure, the trend towards bigger and fewer schools has its disadvantages:

> There is a lot of pressure on competing schools. . . some wanted to be better than kids from other neighbouring schools. This was around clothes, hats, shoes, bags, they'll pick on anything. . . bringing kids to one school causes lots of fights between a lot of students. Kids always have one person who knows them, that wants to get them. I feared that. I had a kid from. . . [a nearby school] who always used to chase me home every night and I thought that he was coming here, but that all worked out fine—he didn't (Peter, May 1993).

Explanations for conflict between those groups of students and displays of bravado begin when we recollect the potency in people's experience of the ways they invest territory with significances. Ethnographically, conflict over territory, the disestablishment of old power hierarchies and leadership patterns and the re-establishment of new ones within the student body, are all likely to be troublesome in the wake of school amalgamations. David observed the marking out of now common space between previously separate groups of students:

> The kids that came from. . . [the closed school] . . . a group of them live up around Phillips Crescent. . . They're pretty tough and they are all friends, so we all know that no-one should mess with them. . . People come to know about them so they don't touch them (David).

Attention also needs to be given to struggles over new power rankings and contests over meanings. What may be revelatory is to consider what is likely to happen when you combine previously separate, often resentful and antagonistic groups of students who may be feeling strong grievances about the "loss" of their old schools and they are forced together within a newly amalgamated school. Rebecca explained her view of why there were student fights at her school:

> At the start of the year we had a whole lot of people come. They all came from schools that had been closed, especially . . . High. We had like 30 students that tried to take over our school and we weren't happy about it. . . They came from Richmond and. . . wanted to establish themselves in our school. Previously they'd obviously done that by means of violence. . . You could tell this by their attitude, by the way that they walked around. You know. . . "Oh I'll fight you mate. . . " Just to assert themselves. They [former . . . High students] tried to cause heaps of fights. They tried to beat my friends. Mind you this is all boys. There was

hardly any fighting amongst girls. . . There was a lot of racial tension. All the people from Richmond were "huckers" [Vietnamese] They were a race of "huckers" . . . They felt threatened because they expected us to be racist against them . . . It was really distressing for all the students and staff because it just wasn't the environment we were used to having (Rebecca 1993).

This research is suggesting already that there are serious consequences of current government cutbacks to schooling in Melbourne.

Conclusion

The aim of the project is to reveal from an insider's perspective why certain individuals and groups of young people engage, often repeatedly, in violent activities and behaviours that they know to be socially unacceptable.

The intention of the research is to discover some of the patterns of meaning that are internal to the life-world of the young people and which explore the collective behaviour of certain individual and groups of young people. It is does not assume that the life-world of young people who engage in violence or crime can be explained by simple reference to external structural determinants such as the economic crisis, or the severe economic deprivation or social dislocation associated with unemployment.

We have suggested that in the lives of many young people issues of personal integrity, righteous anger, codes of toughness, loyalty and the protection of territory are what motivate violence, yet to outsiders these driving forces may be of inexplicable significance. They do, however, explain much of the patterns of behaviour by young people who involve themselves in acts of violence and crime.

The moral and social point of this is subversive. Posner (1980, pp. 103-12) accused some ethnographers of voyeurism, "sociological chic" and subverting "societal values". Contra Posner, the significance of Katz' ethnography is to suggest that once you actually look through the light show of "moral panic" about young people, you discover a comprehensive range of distinctive very human dispositions. Exercises in "ethnic cleansing", systematic rape of women in time of war, corporate takeovers, police brutality, media hype at times of military

invasions by one country of another, and the systematic use of torture by governments across the world, suggest that a narrow focus of outrage about young people's irresponsibility and violence seems a little misplaced or blinkered. An ethnographic uncovering of aspects of the human constitution relating to violence and young people can help in reinstating those who are so casually and quickly marginalised as "feral adolescents", back into the realm of the human condition, and in so doing we may then look into a common mirror.

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No-Man's-Land: Negotiating Spaces for Women and Men in War and Peace

Stephen Wallace

T he problem of sexual violence is becoming recognised as a significant social problem. Explanations for this violence have ranged from the micro (for example, the individual pathology of the offender), to the meso (for example, the result of peer group pressure in sexual/violent situations) and the macro-level (for example, the continuing war waged against women by men).

Whereas males have traditionally been viewed as the problem, given that sexual violence against women is usually committed by males, it is suggested that some male micro-actors may also play important roles in activating strategies to eliminate violence against women. It is clear that there are two obvious sides for men to take in the war against women. The adversarial male role is well recognised in the feminist literature, whereas there are a number of less-recognised roles taken by men which may be useful from the perspective of women—even from unexpected quarters. However, there are a number of real problems for male micro-actors wishing to enter this discourse which limit their contributions. In this paper I discuss some linguistic, political and personal difficulties for such contributions drawing upon ideas and data from some

(feminist) philosophers and sociologists of science, and from mainstream (patriarchal) media.

Let me start with the thesis that men have no place in the discussion of sexual violence against women. This thesis denies males any territory in this discussion. It is no-man's-land. Men are the problem, they are only interested in symbolic shows of solidarity to buttress their eroding hegemony. They can't be trusted. It is men who have done this to women and they will continue to do so.

So I recognise the standpoint of those who would insist that, on the basis of some chromosomal presence or absence, I have nothing to contribute to this discussion. I might suggest that my ignorance, lack of compassion, feeble-mindedness, boring content or presentation might be more relevant disqualifiers. Some have expressed great disdain that males are even present at such conferences as this. This view I take seriously. And yet I treat it as another example of the strong biological determinism that I believe underlies some of the determinants of violence against women. By biological determinism, I mean the view that says, not only is biology destiny, but that males have a particular response and world view that disqualifies them from understanding and hence discussing any issue which comes under the feminist rubric.

Despite the fact that a number of feminist writers (Hrdy 1991; Whatley 1991; Keller 1992; Namenwirth 1991) have been critical of strong biological determinism, it is still influential in many popular social movements, including some feminist philosophies. Consequently, I may again find little space in which to make a contribution to this discourse.

From another, less important, perspective, males find difficulty in joining this discussion. Leaving aside the above disincentives for the moment, the perceived and actual costs of defecting from the patriarchal position are significant. Males who are (at best) uncommitted to the masculist view or (at worst) sympathetic to feminist philosophies, are viewed and treated with utmost suspicion by their male counterparts, especially in the more masculist domains of sport, commerce and academia. Little wonder that few men leave the safety and refuge of patriarchal territory.

But there is a more significant problem which I raise here. And it concerns the very business of scientific knowledge construction. Although it is still often assumed uncritically that scientific and professional practice is gender-neutral (Keller 1992), others (Cockburn 1985; Haraway 1991; Rosser 1991; Namenwirth 1991; Fee 1991) have made persuasive challenges to this claim and it is now well recognised (at least within the feminist critiques of science) that the technologies or processes of knowledge production themselves are engendered: that is, they embody and are constituted by the very patriarchal and masculist viewpoints ("methodolatory") of their (usually male) authors. In particular, some (Harding 1986; Bleier 1992) have recently argued that the "objectivist" stance in science represents a core of the masculist perspective. Shapin and Schaffer (1985) have also shown how the use of literary technologies, which include writing styles and conventions, serve to secure scientific acceptance, credibility and authority. Given that traditional papers delivered at conferences are written in scientific, impersonal, objectivist style and format, and recognising the mandates from the organisers of this conference, I again find myself in no-man's-land.

Inscribing The Margins

I will move away from the solid and sacred ground of conventional literary technology, and disarm myself by forsaking what I recognise as the "phallogocentric", scientific conventions involved in writing a paper.

If Latour (1992) is right about the reflexive nature of the relationship between the scientist and the "subject" of study, then I want my study to be open to interpretive flexibility rather than authoritative, definitive and non-negotiable. Schaffer (1991) claims that the power of scientific texts resides in their literary channelling and that the perfect scientific text in conventional terms is "closed", especially to interpretive flexibility. Since I have opted to abjure scientific conventions which serve the interests of male (scientific) hegemony, I therefore relinquish any claims to a powerful (scientific) text

and embody this claim in a text which is imperfect, open and perfectly "monstrous" (Haraway 1992). While scientific texts serve to lever out the majority of people (Schaffer 1991), I want to include as many readers and their interests as possible, as only then do I have the possibility of translating a whole new and enlarged set of actors for my purposes.

If distance can be created by textual style and "distance lends enchantment" and certainty to the text (Collins 1985, p. 145), then I aim for an intimate style. I will adopt the first person in my text, in line with both feminist (Irigaray 1989) and reflexive perspectives (cf Woolgar 1988).

I am reminded that one of the first documented attempts to take male voices seriously in the field of feminist discourse occurred at the 1984 Modern Language Association Convention.

A Problem of Depatriation¾
Finding a Voice

While infiltration and double-cross remain the staple of masculist hegemonic defensive strategies, it is also recognised that other, more subtle, patriarchal moves involve the heroic representation of the oppressed by "sympathetic" voices of patriarchy. It is thus understandable that some wish not to grant any vocality to male actors (no matter how micro) in such a forum as this. But I would like to propose that the war against women may be too important to let political correctness outweigh expedient and strategic use of strange and unaccustomed allies. In granting the claim that any micro-actor can confer upon him or herself the right to negotiate useful strategies in addressing issues of social concern, I would like to suggest that there are a number of male micro-actors (including myself) who are deeply concerned about the problem of sexual violence and may well have something useful or interesting to say to those who care passionately about the value of women in this society.

The issue of credentialism has been well recognised in the feminist discourse by a number of writers (Boone 1990; Smith 1987) and whereas the rhetorical appeal of being a feminist "insider" or "outsider" (and thereby well entrenched in the masculist traditions) is appealing, I wish to claim none of that

rhetorical high ground. It is not my intention to gain acceptance into the feminist camp any more than I wish to be re-appropriated as a spokesman for the masculist push.

I represent neither the most nor the least powerful of male voices: I carry no formal constituency and regard myself as a fairly innocuous amateur. So at the outset I profess a desire to dismantle any pretence of authority in this field (especially that based on traditional constituencies); but rather wish to establish some temporary truce for the purposes of ongoing negotiation. In taking this stance I am acutely aware of the risks, yet the foregoing of "mastery" troubles me less than the fear of self-recrimination if I were not to address this subject directly (Heath 1987).

Having made some attempts to renounce the shelter of the patriarchal world, and recognising my statelessness in an admittedly feminist space, I feel very much the outsider: the deviant, the monster. So rather than adhering to a collectivist identity (for example, former card-carrying males, men who want to be a woman, or femmeninists) I enjoy none of the solidarity that is offered to those enrolled by these macro-actors. It may be, however, just this marginal position which allows me to make some useful comments about sexual violence. Despite the difficulties of this standpoint, I wish to resist the impulse to be intimidated into silence, and offer some thoughts on a problem I wish to address. For those who wish to disenfranchise my analysis I have no further rejoinder, save to say I may tell a good story, but beyond this I will spend no more rhetorical space in attempting to demolish any masculist or patriarchal claims to authority.

Moving to the Boundaries

There can be little doubt that it is dangerous for a male to be located in a feminist space. Indeed it might be described as a "high tension zone": a kind of zero point between dichotomies (Star 1991, p. 47) or great divides such as Latour (1991) wishes to dismantle. Nonetheless, I aim to move to such a space for the purposes of the present discussion. Lest this move appear as the traditional masculist ploy of offering oneself as a critic outside and removed from the discourse one is analysing (although my

professed reflexivity prohibits this), I wish to abjure such an "objective" status (cf Boone 1990, p. 14), and propose the possibility of being a fringe dweller, one who lives on a critical boundary—in this case between two oppositional engendered worlds. Indeed Star reports that "one of the great lessons of feminism has been about the power of collective multiplicity" (Star 1991, p. 50). She argues that the double vision of being simultaneously an "in" and "outsider" is that which has truly extended political theory. The advantages of marginality have been discussed elsewhere, but Star reasserts the advantages of being simultaneously a member of more than one community. Some (Star & Griesemer 1989; Star 1991; Fujimura 1992; Traweek 1992) have called this political activity "boundary work". Lest this sound merely like a plea for more powerful analytical tools, I hasten to say that my purpose here is political rather than contemplative, following Barthes' dictum that "the only effective marginalism is individualism" (Barthes, cited in Heath 1987). Surely this again places me in no-man's-land.

Although some would see this marginal multiplicity of selves (a male/feminist/thinker/actor) as arising out of the shifting social order, I am wanting to use this multiplicity as an agent capable of reflexively shifting the social order. I would like to represent more than one voice within the network; perhaps some of the invisible (male) voices of feminism which will not otherwise be granted a hearing. My aim here is to bring the stranger's eye to this issue (Star 1991). This concept of multivocality, in all its complexities and paradoxes, just happens to be one of the strengths of the feminist philosophy as well as one of the most useful and interesting literary technologies.

Moving along several of Star's dimensions of power simultaneously, I wish to resile from the position of masculist torturer of monolithic authority, even if it involves being rendered as (personally) invisible or being marked as a monstrosity. A convenient move may be to re-assign my gender, which may help to preserve my safety through either invisibility and/or acceptability: I would like to accept Star's challenge.

Star is critical of the "claims that the standard network is the only reality that there is" (Star 1991, p. 48) and I agree with her. If feminist thought can be described as, at least, a stabilised network, then I would like to test Star's thesis that

monsters can be useful in revealing the standardised aspect of stabilised networks, such as the "standardised" feminist view of the place for males in this discourse. Given the necessity to deal with monsters they may as well do something useful. So I have opted for the territory of visible monster rather than invisible micro-actor. The invisible males within the feminist network should be "seen" on their merits. It is just this invisibility which I wish to neutralise for political purposes at this juncture, for it may be those who wish to remain invisible prove much more threatening and dangerous than those who are prepared to be seen (perhaps temporarily) as monsters.

Winning the War and Losing the Peace

I now turn to the problematics of enrolment. It is asserted by Latour (1988) that intellectual battles are won by sheer weight of numbers. But clearly this is not enough, given the majority of women in this society, unless something else is going on—like defection. It appears that we cannot rely on truth or biology as allies any more.

If Star is right that every enrolment entails "a destruction of the world of the non-enrolled" (Star 1991, p. 49), then I would have thought this to be a good thing in terms of the masculist hegemony. Even granting that this destruction is rarely total, it may well be useful strategically to decouple commitment from consistency. As Traweek suggests, "Irony and paradox are the rhetorical strategies heard from the margins of power" (Traweek 1992, p. 442). Although some, like Boone, will rail against opportunist males jumping on the "feminist theory bandwagon" (Boone 1990, p. 17), I take a political rather than a logical position. As Haraway puts it:

> Politics only exists where there is more than one voice, more than one reality. Politics is about difference; its recognition, negotiation, suppression, constitution, exaltation, impossibility, necessity, scandal and legitimacy (Haraway 1991, p. 85).

But the mere enrolment of trustworthy or unaligned allies to the cause is fraught with other dangers. Let a fringe dweller explain. While one stands at the fringes and urges the dominant culture to take up unpopular causes (for example, establishing

the safety of women in the community) one may have some success in defining, appropriating and directing the campaigns addressed to the broader community. However, if one is lucky enough to be successful, a most paradoxical situation arises. Just as the meso-actor succeeds in getting the community (the macro-actor) to appropriate its concerns, this process of translation of interests involves the congealing of the meso-and the macro-actors—they are now speaking with one voice. All very well politically, except the issues are now owned by the now much enlarged macro-actor, who is much more difficult to direct. Recognition here leads to invisibility. I believe there are signs of this happening to the women's movement, which leads to great concern, not only in the hearts of the masculists, but in the very soul of feminism. The finding of an identity means the loss of difference.

I would like to take the view, however unpopular, that the war has taken a critical turn in favour of the women, and that the feminist movement has been perhaps the critical ingredient in this situation. But the price of victory may be shallow if an important meso-actor is not going to be part of the post-war peace process. The question here is how will the feminist movement deal with an outbreak of peace? But is this premature without some evidence for my belief that we are on the brink of victory?

It is evident that the phase of negotiations in the war against women has reached a crucial phase. Witness the patriarchal media's recent flood of interest in this discourse (*The Age* series, "The war against women", June 1993; Sixty Minutes television report on murder of Indian female babies, 6 June 1993). One only has to see how the medical and legal professions, the electronic and print media (and more recently the police) have embraced this issue to realise that powerful and diverse social interests are now publicly and collectively lining up on the side of women. And this, of course, is a sure sign of success from my perspective: just as failure is an orphan, success has many parents.

If recent history is any guide, it is evident that the issue of violence against women cannot be owned or appropriated by any single social group. Despite its impossibility, I find it socially undesirable for women to circumscribe this issue as theirs alone to suffer and remediate. Those males who are not now active

participants in the war against women are quite likely to be part of the post-war environment. As I have said above, there are decided political advantages for the feminist movement in enrolling a host of heterogeneous allies in this political/social struggle.

In an ironic twist, it may be that some males are willing to become a technological/political resource for the advancement of women just as women have been classically cast in this role–especially by science.

Crypto Allies

Given that we have entered an unprecedented phase of the war against women, in that the balance of power has shifted significantly against the dominant tradition, there exists another two groups of boundary males, who are proving problematic for their traditional (patriarchal) allies in the struggle for hearts and minds. Although both these groups would be hardly classified as friendly or sympathetic to the women's movement, and hence unlikely to be welcomed by it, I argue that both can be useful allies of women.

One group are the representatives of unashamed masculinity who blunder unconsciously into the late twentieth-century wearing not even the emperor's clothes. Typical of this meso-actor is the masculist judiciary who have recently been adding fuel to the community's ire over the multiple raping of women (by the offenders, by the investigation/evidence collection, by the court process, and by the sentencing remarks) (cf Magazanik 1993; Middleton 1993).

It is unlikely that the recent publicity given to the remarks of judges presiding over trials involving sexual violence has harmed the women's movement. Such remarks perform a number of functions: they serve to arouse the committed into ever more extreme episodes of political frenzy; they stimulate the activity of the community's watchdogs (the media and politicians) who publicly test (and thereby authorise and promote) public response to the accounts given; they act to create a distance between the sophisticated architects and captains of patriarchy and their bumbling storm troopers; and

lastly they destabilise the formerly uncommitted micro-actor who is now available and predisposed for enrolment.

The second group has been pejoratively described by Boone as "male entrepreneurs jumping on the feminist bandwagon" (Boone 1990, p. 17). Although relatively invisible now, these fellow travellers will make themselves immediately available and apparent at the first hint of victory. While some feminists argue that they do not want men jumping on their bandwagon, I follow Latour's view that any political movement which makes claims on mainstream culture needs all the bandwagon jumping it can arouse.

Fightback

If it were ever the case that feminist philosophy only attracted the radical/lesbian/loony left (as has been recently argued by the Victorian Barrister lobby group), then it is certainly no longer true. But this claim is a favoured patriarchal defensive bulwark against feminism. Yet the value of feminist thought is yet to be properly appreciated. As a critique of scientific activity feminism has proved a persuasive and sharp analytic instrument. As an example of a critical social philosophy that is both breathtaking in its range and significant in its import, feminism has no par in the recent history of philosophy. As an overarching disciplinary study which brings disparate academic rubrics together, it has enjoyed increasing popularity in the academies. All of these areas involve large numbers of non-traditional feminists and uncommitted males. But there is equally no doubt that the patriarchal forces are now engaging in a desperate rearguard action (Middleton & Magazanik 1993). In recognition of the irresistible tide of feminist influence, they are now committed to a final defence of their hegemony.

Some of the surest signs that the penultimate stages of the war are being fought come from the mainstream culture. Existential tragedies are now being coined by the hardly-done-by/misunderstood/unfairly-put-upon representatives of male decency and goodness (Reilly 1993), and in the post-feminist era the sexual harassment of men cannot be tolerated (*The Age* 1993). The cinematic world is now attempting to deal with female power but can only see it one-dimensionally (cf *Fatal*

Attraction, *War of the Roses*, *Indecent Proposal*). Newspaper features, too, are giving space to thinly-disguised but shallow critiques of feminism (Debelle 1993). All these attempts to portray contemporary woman as dangerous, aggressive and meretricious show just how poorly some micro-actors (such as Michael Douglas, Camille Paglia) are coping with the ascendancy of feminism. Their acceptance in the marketplace represents nothing more than the doomed nostalgia for the old days, but equally there can be no doubt that these films serve to mobilise those who long for this kind of philosophical retreat. As such they constitute a threat to the direction of the war. From another direction, some men's "sympathy"/rights groups are now being established and some even co-opt a female spokesperson to represent their interests—surely a telling sign of Queen Bee syndrome (Rosser 1991).

A Personal Space

I would like to offer a personal reflection. My feeling is that the balance of power has recently shifted significantly as a result of the feminist voices staking their claims more forcefully and being heard. This situation proves most uncomfortable for men in spaces where these voices are most clear. Such an occasion was a conference in Melbourne in 1992. Despite the fact that this was my home city, and I could seek the familiar and supportive refuge of my home each night, despite the fact that my paper was located within the dominant rubric, and my feel for my content was comfortable, I was struck by the palpable hostility of a gendered world which I had entered. At first, I wanted to leave this scene, and return to more secure places. I sensed a number of both men and women, too, felt this. But I reflected upon this unease and soon realised how much I had to learn. It was a peculiar experience for me to live in a hostile, engendered world. And it was the first time I really felt like I knew something of the emotional pain of this struggle. I would like to say that I am better for it and I feel on top of it now, but I do not really believe that. I think the pain of being a male in an inappropriately engendered space was very helpful, if painful for me in my learning. I was struck by the power of this discomfort in a philosophical sense—not in the traditional ascetic

or deprivatory sense. And so I return, more comfortable that I have appropriated for myself some significant emotional understandings about this struggle. I think that gender is the most significant undiscovered scientific frontier. It has taken me a long time to get to this point. It has been tremendously helpful and exciting for me to discover this amazing field of intellectual/political discourse. But I am making no promises to myself. I wonder if I can last the distance.

Conclusion

Given that my analysis is likely, then a crucial time for establishing the certainty of victory and thereby the terms of peace is fast approaching. At this time, the best a fringe-dweller can offer is a perspective rather than a critique: a view from the edges of two competing cultures which try to negotiate irreconcilable differences.

First, it is very clear to me that feminist thinking has crossed over into mainstream (patriarchal) culture. There is no turning back. The movement is now being taken out of the hands of the feminist core. It has been appropriated by a significant segment of the community and it is being constituted by them for their own purposes. Whereas many feminists will rue this outcome, it is the delicious irony of a successful political movement. While one agitates from the edge and urges the mainstream to embrace a particular set of interests, one can control the direction and impact of the strategies and moves. But once the fringe-dweller is enrolled by the mainstream, it is consumed and subsumed by the host culture. This may be an example of what Akrich (1992) describes as the "Naturalisation effect" whereby the process of becoming indispensable must be effaced. It is my view that feminism has been embraced irreversibly within the formerly dominant masculist culture, which in turn will be transformed by this "incorporation".

The second perspective arises out of the first and constitutes evidence for the validity of my first realisation. And that is that the entrenched masculist forces have recognised the breach in their cultural fabric and are fighting back seriously. If the strength and depth of the resistance is as I think it will become, then the war is entering a new phase of hostilities. Inexorably,

the cause and destiny of feminists is now firmly expropriated from the women's movement and will be constituted and renegotiated by the broader community. A new treaty or new phase of hostilities will follow.

It is probably little consolation to recognise that this most exciting and revolutionary movement was too rich and resourceful to be ignored by (female and male) investigators, critics and creators in the mainstream culture. As a philosophy, the time has come for feminism. The counter-revolution has already begun and the patriarchs are unlikely to take any prisoners. But I am not sure that the future will resemble the past, and strangely I think many men feel this way, even if they cannot express their fears explicitly. Whilst not attempting any pretence as a disinterested observer, I watch the patriarchy grow ever more desperate and ruthless as their territory virtually erodes beneath their feet, but they are running out of time as well as territory.

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Pro-feminist Educational Programs run by Men for Male Offenders: Is it Wise? Is it Possible?

Ron Frey and Chris Bellotti[1]

The purpose of this paper is to outline a program conducted by Men Against Sexual Assault (MASA), Brisbane, at the Gwandalan Community Corrections Centre in Brisbane. MASA is a nation-wide organisation of "pro-feminist, gay affirmative, male positive" men who are attempting to help men come to terms with the masculine propensity towards violence in Australian society. MASA argues that, in order to achieve a safer and more peaceful society for women, children and other men, men must come to terms with the social forces which pre-dispose so many men to violent behaviour. MASA acknowledges that the predominance of men in the statistics of perpetrators of all violent crimes is not accidental but derives from the role men believe they must play in society.

Frey and Douglas (1992) outline specific aspects of this role which make it more difficult for men to understand the

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perspective of the victim of crime. These aspects include the tendency towards objectification; that is, viewing other people instrumentally, as either fulfilling or blocking one's own desires, and the tendency to feel that the expression of anger and violence is manly, coupled with the suspicion that the expression of nurturing and tender emotions might be less manly. When MASA was contacted by the social worker at the Gwandalan Community Corrections Centre about the possibility of presenting a series of educational programs, the opportunity was presented to test these principles by designing a program aimed specifically at those aspects of masculinity which predispose men to violence.

The Gwandalan Community Corrections Centre

The Gwandalan Community Corrections Centre embodies the view of the Queensland Corrective Services Commission that positive self-development of the incarcerated individual forms the basis of the prevention of future offences. Owned and managed by a private company, The Brisbane Tribal Council, Gwandalan was opened in 1991 as a community-based correctional centre originally exclusively for Aboriginal and Torres Strait Islanders. Due to a low number of Aboriginal people, however, about 70 per cent of the current population is Aboriginal and the remaining 30 per cent non-Aboriginal. Wherever possible, the Centre is staffed by Aboriginal people and the goal of the centre is to re-integrate primarily Aboriginal men into the community. Gwandalan consists of several adjoining houses in the Brisbane inner-city suburb of Woolloongabba which provides an open environment giving the men access to community facilities and community sources of assistance. The Brisbane Tribal Council hopes that by so doing, these men, many of whom have been incarcerated for long periods of time, will begin a gradual process of re-integration into the community.

At the time of our program, March/April 1993, there were 25 residents at Gwandalan. As Gwandalan is the only facility of its type in Queensland which accepts men who have committed violence offences, many of those in residence are serving

sentences for armed robbery, assault, rape and murder. Residents have been incarcerated for periods of up to 14 years and are often heavily institutionalised by the time they are received at Gwandalan. The population is very heterogeneous, with an age range of 17 to over 60 years, and they have widely varied personal, familial, educational and cultural backgrounds. Many of the residents of Gwandalan come from other parts of Queensland, and find adjusting to city-life where they have few family members or friends an additional stressor.

Chris Bellotti, the social worker at Gwandalan had several aims in mind when she approached MASA to introduce a gender education program. A number of the residents at Gwandalan have some form of counselling stipulated by the Queensland Corrective Services Commission as part of their rehabilitation program. This counselling can include Anger Management, Assertiveness Training, Self-Development and a Sex Offenders Relapse Prevention Program. Further, a large proportion of the offenders at Gwandalan share a background of abuse and disadvantage during their formative years which may have played a contributing role in the men's offences. It was considered that both of these needs could be best met through a more comprehensive program which avoided stigmatising specific men but which dealt directly with a number of issues that seemed relevant to all. Previously, programs on conflict resolution, cross-cultural aspects of self-development, and family therapy had been conducted at Gwandalan. The current program was the first attempt to offer a specifically pro-feminist program to the residents of Gwandalan.

Why A Pro-feminist Program?

It may seem a bit unusual for men to be presenting a program to other men with a pro-feminist perspective. Besides the issue of whether men are actually ever able to present a pro-feminist perspective to anyone (which will be considered below), it may also not seem obvious how such a perspective relates to male prisoners. (Indeed, this was the initial reaction of many of the men themselves.) To understand why this perspective was chosen (and we would advocate its wider use in programs of such a nature with prisoners), it is necessary to explain why

MASA believes men must take seriously the feminist critique of gender and gender development, and how current gender development connects to violence offences committed by men.

MASA views feminism as providing a way of treating the construction of gender as problematic rather than part of the natural order of things. It provides a way of criticising masculinity, the development of gender and gender roles as well as being a project of liberation for women. Most importantly, it suggests that men do not become "masculine" because they are "born that way" but through the interaction of complicated social, familial and personal factors (cf Connell 1987) and what is so produced can also be changed. Family therapist Ann Ganley, summarises some of the common elements in the various forms of feminism:

> Central to the philosophy is the assumption that ideology, social structure and behaviour are interwoven: Hence, women's and men's behaviour stem more from socialisation and institutional sex roles than from biology. . . A feminist analysis highlights the harmful effects of such sex role stereotyping for both women and men while also being clear that women's economical and political status is more negatively affected than men's (Ganley 1991, p. 5).

(MASA is not attempting to "co-opt" feminist theory which is, of course, written by women from their own experience for women, but pays tribute to its ability, in challenging gender roles, to also liberate men).

The relationship of masculinity to violence has been extensively discussed elsewhere (cf Alneida & Bograd 1991; Frey & Douglas 1992; Ganley 1991; Kokopeli & Lacey 1990; Patton & Poole 1985; Shapcutt 1988; Smith 1992; Stoltenberg 1990). Basically, most commentators are struck by the fact that so much violence against others is produced by men —indeed, one might even call violence a male domain. Men often respond defensively to these statistics and point out that not all men are violent towards others. This, of course, is undeniable, but it is nonetheless a fact that most of the world's violence is produced by men, and this fact requires explanation. Feminism is also concerned with male violence so it seemed a very appropriate standpoint from which to examine the connection between violence and masculinity. Many of the residents of Gwandalan have participated in other programs designed to curb future

violence; however, MASA chose to focus specifically on the links between masculinity and violence. As many of these links have been discovered by feminists, feminism seemed a natural choice as the theoretical framework for our program.

Thirdly, many men resist the insights of feminism as they do not feel powerful but rather also oppressed themselves. This seems particularly true for prisoners, many of whom seem to feel themselves victimised by the system which incarcerates them. For the Aboriginal prisoners who have also experienced the oppression inherent in racism, this feeling may be even stronger. Too often, this feeling of oppression gets projected as anger towards women. Feminism has the potential to put men's feelings of anger and oppression into the wider context of patriarchy which sets up hierarchies which disempower both men and women and forces men and women to conform to rigid sex roles which cause them to deny vital aspects of their personalities (such as tender emotions in the case of men). Connell (1987) has brought a very sophisticated analysis of masculinity to bear on this issue, and suggests that there are actually a number of "masculinities" which are arranged into a hierarchy of a dominant ("hegemonic") masculinity and sub-masculinities, so that most men experience masculinity as difficult to achieve, and oppressive:

> It was often pointed out by the "men's movement" writers in the 1970s that most men do not really fit the image of tough, dominant and combative masculinity that the ideologists of patriarchy sell. That image was not intended to fit. The celluloid heroism of John Wayne or Sylvester Stallone is heroic only by contrast with the mass of men who are not (Connell 1987, p. 110).

It therefore seemed appropriate to use pro-feminist thinking as the context against which the male experience of patriarchal oppression can also be explored. In short, MASA advocates the use of feminist theory in working with male prisoners, especially those who have committed violent crimes against others. Feminism helps men understand how their violence behaviours develop, how they are linked to the men's conceptions of masculinity whilst holding them responsible for the violence they have committed. It also offers the greatest possibility of change, as it argues against essentialist views that

men are not able to change because masculinity is somehow fixed genetically or biologically.

The Program's Content

Appendix A contains the content of the education sessions. Each topic was chosen because they are part of the building blocks which form the structure of masculinity. The first two weeks were of an introductory nature, designed to present both the program and the pro-feminist standpoint MASA adopted for the program. It was assumed, accurately so, that the residents would not know a great deal about feminist thought but might have some negative stereotypes as a result of the "backlash" phenomena described so well by Faludi (1992) and French (1992). Sessions three through five attempted to explore how the social and familial forces interacted to produce masculinity. They especially focussed on the common experience of the brutalisation of boys during their formative years. As mentioned earlier, many of the men had internalised violence suffered and witnessed in their early childhood (often from their fathers). One of the presenters, a developmental psychologist, attempted to inter-relate this experience and the acquiring of a sexist masculinity that led them to commit violence against others as an adult.

The next two sessions explored how "hegemonic" (Connell 1987) masculinity relates to other men and to women. Issues addressed in men's relations with other men included the role of competition, homophobia and fear of intimacy, and particularly relevant in the prison context, the role rape plays in maintaining male hierarchies. In dealing with the "hegemonic" masculinity's relations with women, misogyny, physical and sexual abuse and the use of pornography were discussed. A final week was set aside to review and summarise the course.

In its context, the course reflected the analysis of masculinity MASA Brisbane was using at the time. Aspects of this analysis have also been presented to high school and university students, theologians and ministers, people working in community mediation, Lifeline counsellors, therapists working with male sexual assault survivors, other prisoners, and in seminars to the public at large. Although the analysis

changes with increased self-growth and further reading and thinking by MASA members, it is still suggested that a program specifically targeting the links between masculinity and violence should contain many of the elements presented at Gwandalan. No other framework is as effective as feminism in exposing the roots of violence in men.

Is Pro-feminist Education with Male Offenders Possible? Reactions to the Program

Many factors combined to make pro-feminist education at Gwandalan difficult. In the experience of MASA generally, it is often difficult to engage men on these topics as men often deny links between violence and masculinity. Elsewhere (Frey & Douglas 1992) it is suggested, borrowing an analogy from Child Sexual Abuse education, that there is a "discount hierarchy" of denial around these issues by men:

> Just as a "discount hierarchy" was once developed to chart people's willingness to come to terms with child sexual assault, there is a sort of discount hierarchy amongst men who MASA attempts to educate. The first level is "This may be true of some men who are sick and deviant, but is not true of me". The second is, "OK, it may be true of many men, but feminists have gone too far". The third is, "OK, the feminists are right but there is nothing I can do about it for genetic, biological, etc. reasons". The fourth is, "The feminists are right, but I've already changed." The final level, where we at MASA try to live, is that "change is an on-going process and we must continually challenge our beliefs and attitudes and ask ourselves are we a part of the problem, or a part of the solution (Frey & Douglas 1992, p. 12).

The experience at Gwandalan provided yet another source of confirmation of the existence of this hierarchy. Even in as clear a presentation as the video of the Montreal Massacre (where a man in 1989 in Montreal, Canada, entered a school of engineering and shot dead 14 female students, cf video, "After the Montreal Massacre", Canadian Television, 1990), most of the men were not able to hear the statements of the women interviewed, that the massacre represented the extreme end of a spectrum of insults they endured daily as women. Most of the prisoners chose to interpret the massacre as the act of one man,

who for totally unknown and unexplainable reasons, went mad and began killing people. Some even felt "feminists" somehow provoked this man. Throughout the program, the men resisted the view that men need to change and can change as well as the view that their current behaviour might have childhood or historical roots. These men seemed to take an ahistorical view of their lives, choosing not even to question (at least publicly) the behaviour that led them to be gaoled in the first place. (Several men even stated they felt being gaoled was the seminal event of their lives because it proved they could survive in a "tough" environment).

Once the need for change was demonstrated, the men generally argued that change was either impossible for men (who are born "that way") or too utopian to contemplate in our current society. The men generally gave the impression that they were victims of "bad luck" which they had neither the ability nor the desire to question and change. It is suspected that some of these attitudes may have been formed under the condition of incarceration; however, it is important to note that, at least in the experience of MASA, these attitudes are also common to men generally, as our discount hierarchy suggests.

Other problems seemed more specific to the prison setting of Gwandalan, and many had been encountered in previous programs conducted at the centre.

One problem was fairly frequent changes of residents participating in the program partly due to the fluctuating population at Gwandalan. This made it almost impossible to ensure continuity from one class to the next. (Oddly, although good rapport established on one night seemed to have no carry-over effect to the next session, any ill will generated seemed to last throughout the entire program.) Originally, each of the eight sessions was designed to be a module in itself which did not require reference to preceding sessions. More difficult for the three presenters, however, was establishing rapport with the residents in each session which usually occurred by the session's end, only to have to begin the following week as if we had never presented at Gwandalan before.

Part of the difficulty in establishing rapport was caused by resistance generated from the fact that the administration at Gwandalan decided to make the program compulsory for the residents. (This was not, however, actually enforced by the

custodial staff at Gwandalan, leaving the men confused about whether or not they were required to attend.) This was coupled with the confrontational nature of much of the material, the fact that a pro-feminist orientation was perceived as "unmanly" which generated a peer group pressure against attendance, negative experiences the man perceived with previous "counselling" programs, and, especially amongst the Aboriginal residents, a tendency to doubt the cultural relevance of much of the material (all three presenters were non-Aboriginal).

As difficult as these institutional factors are, none should prohibit such a program from being tried. Future MASA programs with prisoners will probably include a preliminary meeting at the beginning of the program, where a MASA member and a member of the gaol's program staff will meet with each of the men individually and explain the sessions form a part of the rehabilitation program for the prisoner, answer any questions the men may have, and seek a commitment from the prisoner to complete the program. Attendance records would then be kept, and only those residents who commit to attending most sessions would be given credit for having participated in the program. This would be made very clear in the individual session at the beginning of the program. With fuller cooperation thus secured, it is hoped a lot of the issues around attendance would be resolved. Residents would also have the opportunity to discuss in advance the orientation and likely content of the program, and hopefully have the chance to understand how this program contrasts with and supplements other such programs the men may have already participated in. Greater opportunities to question and clarify the nature of the program at the beginning will break down much of the resistance which was experienced.

It would be ideal in future programs to use Aboriginal presenters, and it would probably also be useful to experiment with the gender mix of presenters. MASA is limited here by the nature of its membership (mostly white males although of varied social class background), but it may be wise to include non-MASA members as presenters. The three white presenters felt significantly hampered by a lack of knowledge of gender relations in traditional Aboriginal society, and perhaps, as a result, lacked credibility with some of the residents. It was felt that communication was more effective with the non-Aboriginal

residents (who included men from a variety of ethnic backgrounds). However, in other residential programs, this may not be an issue.

There are a number of arguments for including a female presenter. Often, the discussions were centred around how it was felt women viewed issues, and a woman presenter could have greatly assisted in clarifying this. The issue of whether men can be trusted to talk to other men about feminist perspectives will be dealt with in the final section of this paper, but having a woman presenter would also serve to ensure the perspective presented is not coloured too strongly by male biases. It would also hopefully give the presenters a chance to model respectful male-female relations for the residents.

The final major complicating factor was generated by the difficulty in establishing an atmosphere of trust which would enable the men to share at a greater depth. This lack of trust prevented the use of many of the methods of teaching that are used with groups, including group exercises, discussions in pairs and sub-groups, and so on. It was even very difficult to begin with group discussion, so frequently a video clip was presented to set the tone for the discussion. After watching the clip, the men felt more ready to discuss the issues it raised. The issues were depersonalised by discussing clips which mirrored men's experiences without requiring them to reflect directly on their own lives. Most of the men were able to draw parallels between the videos and their own lives but did not have to reveal themselves openly in a group of men they were not inclined to trust. This gave the residents more freedom to move from an intellectual to a personal discussion at their own pace in an environment which does not encourage personal disclosure. This sort of "parallel counselling" is similar to the techniques one of the presenters uses with his own human development classes at Queensland University of Technology. If an intake process such as that outlined above is adopted, it may be possible to ensure a more consistent pool of residents who may eventually feel safe enough to share more personally. However, it would also seem desirable to make private counselling available in future programs to deal with issues that cannot be safely aired in the group environment.

Having described a fairly "soft" approach, it is important to state that sexist attitudes were readily challenged, and we often

used confrontation as a way of demonstrating to the residents inconsistencies in their own viewpoints. In addition, the video clips chosen (which included depictions of male rape, family violence, school bullying, and child abuse) were very confronting, as were the topics themselves. A number of men told the presenters they appreciated the straightforward manner in which views were presented.

Despite these problems, there is reason to view the program as at least partially successful. Attendance varied, from about four to twelve attending depending on what other activities competed. Feedback from staff at the Centre indicates that at least some of the men made genuine changes in their attitudes, and discussions were often so animated that our two-hour sessions lasted for one extra half an hour or forty-five minutes. Several of the men requested further reading when the program concluded. Overall, we found the sort of attitude change we hoped to produce difficult, but worth the effort.

Pro-feminist Education Conducted by Men: Is it Wise?

There is probably validity to the claim that men cannot be trusted to present a feminist critique to other men. To some degree all men have been tainted by a patriarchal system which, although costly, profits men considerably more than women. For this reason, MASA uses both feminist and gay reference groups to double-check the content of the programs for biases. A female co-presenter would also greatly enhance this process in future programs.

However, although we cannot speak for women's experience, we can apply the feminist approaches to the construction of our own masculinity where we can reflect directly on our own experience. If, through the application of this perspective to masculinity, it is possible to see ways of changing ourselves, it seems appropriate to try to liberate other men as well, especially those who seem at risk of harming others. As such we can model some of the changes men need to make in order to have a safer and less repressive society.

Gloria Steinam, in her forward to a recent volume in which women respond to the men's movement, addresses this very point:

> Make no mistake about it: Women want a men's movement. We are literally dying for it. If you doubt that, just listen to women's desperate testimonies of hope that the men in our lives will become more nurturing toward children, more able to talk about emotions, less hooked on a spectrum of control that extends from not listening through to violence, and less repressive of their own human qualities that are called "feminine"—and thus suppressed by cultures in which men dominate . . .
>
> In short the question we must ask—and both men and women must keep asking—is not why women can't escape male violence, but why men do it. Is the men's movement uprooting the politics of patriarchy, or just giving a new face? (Steinam 1992, pp. v-vii).

In taking Steinam's challenge seriously, MASA hopes men will be able to make some contributions to a safer world for everyone.

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Appendix A

Gwandalan Gender Education Program
Course Outline

Week 1:   Introduction to the Program: The Nature of Violence

Explain the course: its structure, rationale and aims.
Introduce and discuss the course outline.
Invite suggestions of possible alterations to the course.
Discussion of why our society is so violent:
Are people violent by nature (biological determinism)?
What is the relationship between masculinity and violence— are   men more violent than women?
Are there alternatives to violence?

Week 2:   Why Feminism?

What does feminism say about/to men?
Why are we using feminism as opposed to another   perspective   (for example, a medical model or psychological   behaviourism)?
How can a man be pro-feminist?
What is patriarchy? What does it mean to live in a   patriarchal, sexist society?
How do issues of class, race and gender interact?

Week 3:   Learning to Be a Man—Part 1

What have our families taught us about relationships, power and masculinity?
Who "role-models" what it means to be a man for us?
How is power used and expressed in families?
How do families interact?

Week 4:   Learning to Be a Man—Part 2

How do children learn to protect themselves against the   abuse   of power in families?
What are the implications of these strategies to the   development   of masculinity?

Introduce a theoretical framework addressing how men   develop based on feminist theories and developmental   psychology.

Discussion of the experience of boys, adolescents, and young   adults.

Explain the notion of masculinity as a "template".

Week 5:   Self-violence

The use of "self-violence" in repressing our own "feminine" traits.

The role of objectification and emotional truncation in the   creation of masculinity.

How we personalise these societal imperatives.

Week 6:   Our Relationships with Men

Homophobia.
Competition.
Fear of intimacy.
The threat of rape.
How our sexuality develops.

Week 7:   Our Relationships with Women

Sexuality continued.
Physical and sexual abuse.
Pornography.
Misogyny.

Week 8:   Feedback and Course Synthesis

Summary of the topics covered.

Synthesis of the issues discussed to emphasise the ways in   which they are interconnected.

Feedback from the course participants.

Alcohol and its Contribution to Violence: New Directions for Policing Alcohol-related Violence, Crime and Anti-social Behaviour in New South Wales

Inspector C.S. (Steve) Ireland

Alcohol related crime, violence and anti-social behaviour are not new phenomena. Scullard (1959), commenting on the popularity of mystical worship of the Greek wine-god Dionysus (Bacchus) in ancient Rome, records its celebration was often accompanied by intoxication, crime and immorality—so much so, that in 186 AD the Senate checked the spread of this cult which it regarded as a threat to public order.

Almost 2000 years later the National Committee on Violence (1990) noted:

> It is self-evident that a strong association exists between alcohol and violent behaviour, although the exact nature of the relationship is not clear. . .

This very strong association between alcohol, violence, crime and anti-social behaviour has been the focus of recent research in Australia. In 1968, Bartholomew (1985) found 59 per cent of Victorian prisoners had consumed alcohol before committing their offences. Repeating the study, fifteen years later in 1983, he found that the percentage had increased to 81 per cent. Of particular interest is the finding that more prisoners with offences against the person reported consuming alcohol before their offences than those for property offences. Surveys of prisoners in Tasmania (White & Boyer 1985) and Western Australia found similar results (Taylor 1988; Indermauer 1990). An analysis of a random sample of 1988 New South Wales Police Incident Reports found 40 per cent of serious assaults and common assaults were "alcohol related" (Robb 1988). In 1991, Bradbury (1984) found 84 per cent of a sample of violent offenders in New Zealand had consumed alcohol prior to commission of an offence.

In a literature review, including examination of American prison studies, Smith (1983) reported that a range of between 8 and 100 per cent of offenders reported drinking at the time of their offence. He also reported estimates of positive alcohol readings in assault cases ranged between 24 and 72 per cent for various samples. The Senate Standing Committee on Social Welfare (1977) cited a study of 644 violent assaults in which 73 per cent of the offenders had consumed alcohol before committing the offence.

Research examining convicted Victorian rapists (Hodgens et al. 1972) found that 49 per cent reported they were heavy drinkers or alcoholics; 66 per cent reported that they had been drinking before committing the offence; 10 per cent said they had been drinking heavily prior to the offence and a further 10 per cent said that they were drunk. The Western Australian Task Force on Domestic Violence (1989) has reported that 42 per cent of domestic violence incidents involved alcohol. Interestingly, a similar level of alcohol involvement was obtained in recent New South Wales research (Ireland & Thommeny 1993).

Research in England (Jeffs & Saunders 1983) found a strong relationship between previous alcohol consumption and offending behaviour, particularly for public order offences (roughly equivalent with street offence incidents in the New South Wales research below). It established a strong connection between alcohol consumption, offending and anti-social behaviour; almost 80 per cent of assault offenders, more than 80 per cent of breach of the peace offenders and almost 90 per cent of criminal damage offenders reported consuming alcohol in the 4 hours prior to commission of the offence. The research also reported the impact of police enforcement of existing liquor control legislation, similar in most respects to New South Wales (and generally Australian) liquor laws, on the reported levels of some classes of crime. After the enforcement intervention there was a significant reduction of 19 per cent in public order and in other alcohol-related crimes. Similar results were obtained by Sussex Police (UK n.d.).

American research by Roncek et al. (1989; 1991) examined the association between residential blocks with and without bars and taverns in United States cities. The studies found that residential blocks with bars and taverns were "hot spots", with higher levels of "Index Crimes"[1], than residential blocks without bars and taverns.

In addition to the strong contribution of alcohol to offendingbehaviour, Fulde et al. (1991) and Arro et al. (1992) have also identified its equally strong connection with victims of violence.

Alcohol-related crime and violence impacts in various ways on our society. There is heavy impact on emergency services including: police, ambulance and emergency hospital wards. The annual costs (health, economic and social) to the Australian community of alcohol-related problems is estimated to be in the order of $6 billion (Lapsley & Collins 1990). Although less tangible, there is also significant loss of enjoyment and social utility through fear of crime in the general community. The misuse of alcohol and the problems associated with it have substantial costs to the community in terms of crime, violence, anti-socialbehaviour, injury, illness, disability, death and family disruption.

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1.   United States Federal Bureau of Investigation—Uniform Crime Index Reports.   Crimes include: murder, rape, assault, robbery, burglary, grand theft, car theft and arson.

Deverey (1992) in an examination of assault and break and enter incidents in the Sydney municipality of Waverley found that a large proportion of assaults occurred in locations in the vicinity of clubs, hotels and restaurants. Homel et al. (1991a; 1991b) and Arro et al. (1992) have also highlighted the very strong connection between licensed premises and violence.

In the light of the evidence then available on the connection between alcohol, crime and violence, the New South Wales Police Service established an Alcohol, Crime and Licensing Task Force to examine issues surrounding alcohol consumption and licensed premises, their impact on crime, violence and particularly policing. The Task Force produced a report (New South Wales Police Service 1992b) and conducted research (Ireland & Thommeny 1993) into the impact of alcohol on policing by way of an incident survey conducted over a four-week period in six metropolitan Sydney Police Patrols during 1991. The main findings were:

- of 684 incidents 427 or 62 per cent were alcohol-related;

- 77 per cent of public order incidents (assaults, offensive behaviour, offensive language) were alcohol-related;

- 60 per cent of the alcohol-related incidents occurred in or near licensed premises;

- 50 per cent of alcohol-related offences occurred on Friday and Saturday;

- 62 per cent of alcohol-related incidents occurred between 10 p.m. and 6 a.m.;

- 41 per cent of incidents occurred between 10 p.m. and 2 a.m.;

- 91 per cent of all incidents between 10 p.m. and 2 a.m. were alcohol-related.

Results for each incident category are set out below.

- Offensive behaviour 84 per cent;

- Assault 73 per cent;

- Offensive language 70 per cent;

- Noise complaints 59 per cent;

- Malicious damage 58 per cent; and

- Domestic violence 40 per cent.

Levels of alcohol involvement were very high, with 77 per cent of street offence incidents (assault, offensive behaviour and offensive language) found to be alcohol-related. Also identified was the high proportion of offences occurring in or near licensed premises. Sixty per cent of all alcohol-related street offences were included in this category. Other offences which also received high alcohol-related assessment were noise complaints 59 per cent, malicious damage 58 per cent, and domestic violence 40 per cent. Drink driving offences were, by definition, 100 per cent alcohol-related.

Broadly similar research by the Queensland Police Service on the connection between alcohol and police calls for service conducted in South East Queensland (Arro et al. 1992) also found disturbingly high levels of alcohol-related incidents. The study found:

- approximately one-quarter of all incidents attended by police were alcohol-related; and over one-third of incidents that occurred in the inner city areas were alcohol-related;

- specific offences that had a higher likelihood of being alcohol-related were disturbances (especially street disturbances, domestic disturbances and noise complaints) and offences against persons (especially serious assault, assaults and stealing with violence);

- almost half of alcohol-related incidents occurred in or near licensed premise where the alcohol was consumed; over one-quarter of these occurred within five metres of the premise;

- the majority of alcohol-related incidents occurred between 6 p.m. and 6 a.m.; and the majority of these

occurred during the weekend period of Friday, Saturday and Sunday.

Results for each incident category are set out below:

- serious assault   82.4 per cent;

- assault   45.9 per cent;

- stealing with violence   66.7 per cent;

- attempt suicide   63.6 per cent;

- street disturbances   62.8 per cent;

- domestic disturbances   53.3 per cent; and

- noise complaints   46 per cent.

These results demonstrate very high correlation between alcohol and calls for police service and are similar levels to those found in the New South Wales study. Both demonstrate a disturbingly high correlation between alcohol and offending behaviour. Of particular concern in the Queensland study is the very high correlation with incidents of a violent nature: 82.4 per cent serious assault; 45.9 per cent assault; 66.7 per cent stealing with violence were found to be alcohol-related.

While some differences in incident classification are apparent between the New South Wales and Queensland studies, there is a broad similarity in results which is best shown in tabular form. Table 1 sets out the alcohol-related proportions for incidents found in the New South Wales and Queensland studies (*see* Table 1).

The broad literature on the connection between alcohol, violence, crime and anti-social behaviour—in particular the New South Wales and more recently the Queensland results—may surprise some in our community, particularly the alcohol industry. They are certainly no surprise to police officers and health workers who must confront the reality of alcohol, violence, crime and anti-social behaviour on a day-to-day basis. While it is true to say that the available data on alcohol, violence, crime and anti-social behaviour are disturbing it is necessary to move from mere recording, to formulation of a

strategic position on the policing of alcohol. The New South Police Service has developed a comprehensive strategy which has moved from narrow and simplistic regulation of licensed premises to one concentrating on identified alcohol, violence, crime and anti-socialbehaviour locations.

Table 1

Comparison of Alcohol-related Incident Proportions for New South Wales and Queensland Studies

Incident Class	Incident Type	New South Wales	Queensland
Behaviour	Offensive behaviour	70.0	
	Offensive language	70.0	
	Street offence incidents (Assault, offensive behaviour, and offensive language)	77.0	
	Street disturbances		62.8
Noise	Noise complaints	59.0	46.0
Damage	Malicious damage	58.0	
Violence and Self Harm	Serious assault		82.4
	Stealing with violence		66.7
	Assault	73.0	45.9
	Domestic disturbance		53.3
	Domestic violence	40.0	
	Attempt suicide		63.6

The New South Wales Police Strategy

The study results, while confirming widely held police beliefs about the impact of alcohol on police service delivery, were so significant in terms of alcohol-related violence, crime and anti-social behaviour that the New South Wales Police Service had to rethink its traditional approach to this issue which has largely been based on the concept of regulating licensed premises by specialist police. While licensed premises are an essential component of policing of alcohol, its effectiveness needed to be improved. The current narrow licensing approach does not take account of the large number of alcohol-related crime incidents that occur away from these premises.

The issue of alcohol-related crime is high on the list of the New South Wales Police Service corporate priorities. It has been determined as one of the organisation's six key result areas for the period 1993-1996 to achieve the Service corporate vision of: "The safest streets in Australia by the end of the decade" (NSW Police Service 1992).

The New South Wales Police Service approach to impact on alcohol-related crime, violence and anti-social behaviour is consistent with the Draft National Drug Strategy; the New South Wales Alcohol and Drug Strategy represents a strategic focus on the issue instead of a traditional law enforcement agency response through regulation of liquor licensing laws. The broader concept of alcohol-related crime is the prime goal of the police strategy.

Until recently, the "licensing approach"—that is the basic combination of specialist police focussing on licensed premises—has remained the standard police approach to alcohol-related crime. The theory was that alcohol-related crime problems would be largely controlled if the situation inside the licensed premises was regulated. While the New South Wales research and that of others has identified hotels and clubs as prime locations for alcohol-related crime and violence, these locations do not account for all such incidents.

Adoption of the wider alcohol-related crime definition broadens the enforcement focus, applied by police:

- Locations are increased. Licensed premises are only one of the problem areas. Trouble spots may include street locations, domestic situations, as well as licensed premises.

- The range of legislation used is expanded. The Liquor Control Acts[2] are used as before, but other legislation, whether alcohol specific or not, is brought into play where alcohol problems occur.

- The range of offences seen as alcohol-related is expanded. Rather than looking only at alcohol specific offences, other offences such as assaults where alcohol plays a significant part are included.

The approach being promoted is one which addresses the particular needs of groups most vulnerable to alcohol-related crime and violence, and acknowledges the relationship between levels of crime and anti-social behaviour and social, economic and environmental conditions.

The new NSW Police Service approach is based on the following principles:

- Focus to be on the NSW Police Service corporate objective of achieving the safest streets in Australia by the end of the decade.

- The broader concept of alcohol-related crime is the prime goal of the police strategy, not the narrower concept of licensing.

- Regulation of licensed premises is one part of the alcohol-related crime strategy. It also includes other sources of alcohol-related problems in the streets, waterways, residences, shopping malls, parks, beaches and roadways.

- Serious crime trouble spots require equal attention to activities inside licensed premises as to activities in the general neighbourhood.

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2.   In New South Wales the legislation comprises the *Liquor Act 1982* and the *Registered Clubs Act 1976* which control hotels, clubs, bottle shops and other liquor outlets. In other States and Territories similar legislation applies.

- Use of intelligence criteria to determine what premises and locations are serious alcohol-related crime spots.

- Not to regulate all the licensed premises in NSW. Police should pay attention to the problem premises.

- Alcohol-related crime is a patrol policing problem and not simply a licensing problem for specialists.

- Development of patrol plans for alcohol-related crime.

- Legislation used against alcohol-related crime is not to be restricted to the Liquor Act and Registered Clubs Act.

- Use four operational strategies against alcohol-related crime:
  - intelligence based identification of trouble spots;
  - problem oriented approach to long-term trouble spots;
  - increased enforcement but more tightly targeted on trouble spots; and
  - greater community involvement.

The reduction of alcohol-related crime, violence and anti-social behaviour requires commitment at every level within the Police Service. To date the following implementation initiatives have taken place:

- Launch of the video and resource manual package has been conducted at Parliament House and endorsed by the Minister for Police, Minister for Health and the Chief Secretary.

- A progressive launch of the video and workshop package has been conducted at each Region meeting to Region Commanders and District Commanders.

- Each District will hold an alcohol-related crime workshop for all Patrol Commanders within the District.

- Each Patrol will develop an Alcohol-related Violence and Crime Strategic Plan to guide policing within the Patrol.

Possible Strategies to Impact on Alcohol-related Violence, Crime and Anti-social Behaviour

Alcohol-related violence, crime and anti-social behaviour have very complex origins. They clearly will not be amenable to simple solutions but will require a mix of community, legislative, behavioural and industry initiatives to reduce the significant associated social, human and economic costs. There are a number of strategies that might be followed. Some possibilities are set out below.

Interagency Approach to Alcohol-related Violence and Crime

There is no single cause of violence, crime and anti-social behaviour. It follows there is no single remedy. Solutions must be developed in partnerships which involve all appropriate agencies, the general public and licensed premises within coordinated and comprehensive policies.

The Police Service approach through the Alcohol Crime Connection video is one of partnership. Three New South Wales government agencies were involved in its production: Department of Health, Chief Secretary's Department and the Police Service. In addition, there was significant contribution from industry members and the community.

Working with the Community

The new NSW Police Service direction on alcohol, violence and crime includes cooperation and support for local community initiatives to deal with alcohol-related violence and crime.

One particular community project developed by the Council of the Municipality of Waverley is a pilot to promote application of responsible serving practices in hotels and clubs in the area and this has received Police Service support. While there is cooperation from managers and owners at the local level, unfortunately, some of the industry associations have been less supportive.

The Police Service, with the Eastern Sydney Area Health Service, is jointly replicating the West End approach to alcohol-related violence in and around licensed premises in the Kings

Cross and Oxford Street areas. This project has been supported by the National Campaign Against Drug Abuse Drug Crime Prevention Fund.

Working with the Industry

The Police Service has established Police Liquor Industry Consultative Committees in areas where alcohol-related crime, violence or anti-social behaviour are a problem. These committees provide an opportunity for police, licensees, managers and others to discuss problems in a non-threatening environment. They also provide an opportunity for solutions to be found without necessarily resorting to the criminal sanctions and court hearings. Prosecution through the courts remains as an option of last resort.

The New South Wales Police Service is aware that the hospitality industry, through its Liquor Industry Ministerial Advisory Committee, is developing an industry strategic plan aimed at reducing alcohol-related crime, violence and anti-social behaviour. While somewhat reluctant in the past, the industry has now recognised the role of alcohol in violence, crime and anti-social behaviour. The Police Service has offered to work in cooperation with the industry to deal with this problem.

There is scope for the industry to take a much greater role in dealing with associated problems. The English Portman Group has conducted original research into public order problems (Marsh & Fox Kirby 1992) and violence in and around licensed premises (Marsh 1990).

The Australian Associated Brewers and the Distilled Spirits Industry Council have recently produced a video based training package "No Worries" which is aimed at reducing violence in and around licensed premises. This represents a significant development in the alcohol and hospitality industry, for implicit in its production is acknowledgment of the very important and positive role that the industry can play in modulating behaviour excesses so often associated with alcohol consumption. It remains to be seen if the training package impacts on server and customer behaviour at the premise level.

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[3]   The Liquor Industry Ministerial Advisory Committee is a consultative committee established by the Chief Secretary, the Hon Anne Cohen, who has responsibility for the Liquor Control Acts in New South Wales.

It should be appreciated that the last major communication campaign involving the industry, a joint project between the National Alcoholic Beverage Industries Council (NABIC) and the National Campaign Against Drug Abuse, which involved issue of the National Guidelines for Responsible Serving of Alcohol to every licensed premise in Australia (NABIC and the National Campaign Against Drug Abuse 1991) whilst impressive in quality, content and distribution, had little effect at the premise level in terms of changes in the service of alcohol by licensees and their employees (Alexander & Ventoura 1991).

Alcohol and Domestic Violence

New South Wales Police Service research (Ireland & Thommeny 1993) has suggested that alcohol was involved in 40 per cent of domestic violence incidents. This is similar to the Western Australian Task Force on Domestic Violence (1989) which found 42 per cent of incidents alcohol-related. Queensland Police Service research (Arro et al. 1992) found that 53.3 per cent of domestic violence incidents were alcohol-related. Feminists have argued that domestic violence is significantly a male violence problem that rightly demands strong attention. They have also argued that to act against the substance alcohol is to blame alcohol and thereby deny or dilute the central role of underlying violence by some males to females. While accepting the broad feminist position on male behaviour, the very strong association between alcohol and domestic violence demands specific attention. There is a very large overlap between domestic violence incidents and alcohol-related domestic violence incidents and actions against alcohol-related domestic violence offers a win-win situation without threatening the significant feminist achievement of placing male violence against females on the public agenda. Research conducted by the New South Wales Police Service (Ireland & Thommeny 1993) suggests that alcohol related violence is a phenomenon of large proportion. Some 40 per cent of domestic violence incidents were alcohol related. The relative proportions of alcohol related violence and alcohol related domestic violence can be shown diagrammatically (see Figure 1).

Figure 1

The Overlap Between Alcohol-related Violence and Domestic Violence

Possible initiatives to address the alcohol-related component of domestic violence and more general violence offences which involve alcohol are to be found in the New South Wales *Inebriates Act 1912*. The Act is of interest for it has three potential applications to alcohol-related violence:

- first because it establishes a principle of dealing with intoxication in a positive and constructive manner;

- second, by dealing with alcohol-related offences, particularly those involving assaults or violence against women or children; and

- third, as it strikes at the proposition that those who are intoxicated at the time of their offences should have a possible defence or mitigation available.

While the *Inebriates Act* is currently in limbo and is programmed for removal from the statute books, its provisions offer some possible responses to alcohol-related domestic and other violence. Section 3(1) allows a person in appropriate circumstances to be required to enter a recognisance ". . . to abstain from intoxicating liquor and intoxicating or narcotic drugs . . . for a period of not less than 12 months". Application of

these provisions would create a situation where the violent behaviour could be addressed, where appropriate by arrest, or an apprehended violence order and the alcohol abuse problems could be addressed by a recognisance in relation to alcohol consumption. This application of the *Inebriates Act* would be very similar to the current apprehended violence order approach. Additionally, police alone should also be able to make an application under the *Inebriates Act* where alcohol is a factor in the commission of any violence offence.

Section 11 of the *Inebriates Act* also provides a useful framework for a top-up sentence where intoxication is a factor in a general offence or an offence involving violence to women or children is involved. Minor amendments to these provisions could facilitate a top-up sentence for intoxicated violence offenders.

Current actions by way of arrest or apprehended violence order do not ultimately address the real problem with many domestic disputes where an ongoing alcohol problem exists. While police often attend the same troublesome licensed premises, they also have a similar experience with domestic disputes. Their present options are to arrest, take out an apprehended violence order, utilise the Salvation Army or other assistance service or settle the dispute and leave. The victim frequently wants to withdraw charges a few days later. None of these options adequately attempts to deal with long-term underlying problems such as alcohol abuse. There needs to be an examination of new mechanisms to deal with domestic disputes that addresses long-term problems like the alcohol factor and how to deal with it.

It is not suggested that in proposing strategies to deal with alcohol abuse problems that there would be any dilution in effort to address male on female violence, but that there is a recognition that domestic violence is a complex phenomenon, demanding not single and simplistic solutions but a complex mix of policy actions.

In addition to strategies proposed by the use of the *Inebriates Act* provisions, the question of alcohol at the location of domestic violence locations also arises. Authority has been granted in New South Wales for seizure of firearms in domestic violence situations. This is based upon the use of firearms in a number of horrendous domestic homicides. It is argued on

similar evidence of a strong connection between alcohol and domestic violence incidents, that similar seizure action should be taken with all alcohol at the scene of domestic violence incidents. While it is appreciated that alcohol is readily available in our society in domestic violence situations, where alcohol is assessed to be involved, a bail condition of abstinence should be applied.

Reform of the Law to More Appropriately Deal with Intoxication

There is a paradox in the way our society deals with different classes of alcohol-related offences that can no longer be ignored. Alcohol is the central ingredient in drink driving offences where the responsibility remains with the individual when drinking and driving. It is also a central ingredient in culpable driving offences in New South Wales. Yet in more serious criminal offences the involvement of alcohol is not always considered so seriously. Alcohol consumption is not perceived as an ingredient of the offence. It can in fact contribute to a defence and as an integral element of diminished responsibility, sometimes resulting in a reduction of sentence in some cases.

There is a need to confront this paradox and to recognise the principle that alcohol is a central ingredient in other offences as well as drink driving, and to expand the principle of individual responsibility for alcohol affected behaviour to these other offences.

The High Court of Australia in *R v. O'Connor* [1979-80] 146 CLR 64 supported a defence in some circumstances in crimes of violence. The O'Connor defence is not often successfully pleaded. However, it arguably has effect on the decisions of police when investigating and charging, prosecutors when making case assessments and prosecuting, the defence in offering explanation for criminal behaviour, and courts in mitigation of sentence.

Daly (1978), discussing the difficulties presented to the credibility of our legal system by allowing an intoxication defence, commented:

. . . the criminal law is seen as failing in its purpose if it succumbs under pressure of judicial and evidential difficulties and allows a self-intoxicated man who acts in an anti-social way to go free or suffer a lesser punishment when it would condemn, or condemn more severely, the conduct on the part of a sober man.

A number of approaches to intoxication have been taken in other jurisdictions.

United Kingdom

Butler Committee (UK): In England, the Butler Committee (1975) recommended creation of a specific offence of "dangerous intoxication". Where a jury finds that intoxication showed that an offender did not have sufficient intent, but, the offender did commit the act, he/she could be convicted of an offence of dangerous intoxication.

The Public Order Act 1986: The British Public Order Act 1986 (s. 6) provides an intoxication defence for its offence of summary riot. It requires a person attempting to use intoxication defence to show that the intoxication ". . . was not self induced or that it was caused by the taking or administration of a substance in the course of medical treatment".

West Germany

The West German Criminal Code s. 330 creates an offence of "deliberate and careless intoxication":

> 330a (1) A person who deliberately or carelessly gets himself/herself into a state of acute intoxication through alcoholic drinks or other intoxicating substances shall be sentenced to imprisonment of up to five years or a fine, if in the state of intoxication he commits an act contrary to law and cannot be condemned because he was, as a result of the state of acute intoxication, not capable of legal guilt or because this lack of capacity cannot be excluded.

An Australian Example

The Northern Territory is alone in Australian jurisdictions in providing for top-up sentences where intoxication is a factor in

violence offences. The Northern Territory Criminal Code (s. 154) allows for top-up penalty in crimes of violence involving intoxication.

Adoption of similar approaches would help redress the present imbalance between the role of alcohol in drink driving and its central but as yet unrecognised role in other criminal offences. It would introduce a responsibility on the individual for his/her alcohol use when it leads to the commission of an offence.

Development of a National Criminal Code

The Senate presently has before it the Criminal Code Bill 1994 (Parliament of the Commonwealth of Australia the Senate, 1993-94) which sets out, inter alia, the General Principles of Criminal Responsibility, including provisions in relation to intoxication. The Bill is the first stage of the ultimate development of a National Criminal Code which, with appropriate joint enactments by the parliaments of the States and Territories, will make up a single code for criminal offences across Australia.

The intoxication provisions adopt the principles developed in the English *DPP v. Majewski* [1977] AC 433, [1976] 2 All ER 142 in place of current interpretation in the Australian High Court case *R v. O'Connor* [1979-80] 146 CLR 64 (*see* above).

Majewski provides that intoxication is not a defence to a crime of basic intent (for example, maliciously inflict grievous bodily harm) although it can amount to a defence for a crime of specific intent (for example, maliciously inflict grievous bodily harm with intent to cause grievous bodily harm).

Dram Shop or Server Liability Legislation

Homel et al. (1991a; 1991b) have identified intoxication as a significant contributing factor in violence in and around licensed premises. Liability legislation, or as it is more commonly known in North America and Canada, "Dram Shop Liability or Server Legislation", has been significant in influencing servers to implement responsible serving practices.

Dram Shop Liability Legislation is presently unknown to the Australian legal system. In many parts of the United States and Canada, a body of statute and common law liability operates under the rubric Dram Shop Liability Legislation. The form of this body of provisions ranges from specific statute law provisions, which aid claims under codified negligence provisions or create additional common law causes of action, to developed common law causes of action for negligence. Negligence under Dram Shop Liability Legislation has been applied to bar and tavern owners, managers and staff, employers[4] conducting staff parties, producers of alcoholic beverages and in some circumstances to social hosts[5]. Damages awarded to persons suffering injury or damage have been significant, in some circumstances amounting to millions of dollars. The legislation provides ". . . a remedy for a person injured by an inebriated [person] against the person who caused the inebriated [person] to become intoxicated" (Rodriguez-Schak et al. 1988).

It should not, however, be thought that these are novel legislative provisions, for Dram Shop Liability Legislation has a long andchequered history. Some of the Acts date from the 1800s with the first being passed in Wisconsin in 1849 and a second in Indiana in 1853, followed by Ohio and Pennsylvania in 1854, New York in 1857 and Maine in 1858. By 1870, 11 States had Dram Shop legislation in place (Goldberg 1987). The legislation, both developed common law negligence and specific provision, currently applies in some twenty States in the United States. The legislation may create a special status for persons seeking to establish a connection between supply of alcohol to a juvenile or a person who is intoxicated or merely to extend the general principles of the tort of negligence. One of the most comprehensive statutes is that in the State of Maine, where the Statute's purpose is stated clearly ". . . to prevent intoxication related injuries, deaths and other injuries" (Goldberg 1987). The Illinois Dram Shop Act provides:

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[4].   Where an employer aided an obviously intoxicated driver into a motor vehicle following a drinking to intoxication at a staff partyorganised by the employer on the employer's premises.

[5].   Where a social host aided an obviously intoxicated driver into a motor vehicle following a drinking to intoxication at a partyorganised by the host on the host's premises.

> . . . every person who is injured in person or in property by an intoxicated person has right of action . . . against any person who by selling or giving alcoholic liquor, causes the intoxication of such person.

The courts in some States have seen fit to extend the application of Dram Shop liability to include "Social Host" liability. Hosts, and employers acting as hosts, have been found liable under Dram Shop or extended common law negligence for the subsequent action of inebriated persons and juveniles supplied with liquor (Illinios Revised Statutes, ch 43, s. 135). Generally, it is the developed law of negligence that has been applied to "social host" negligence situations.

Dram Shop liability legislation had its origins in the legislative response to the temperance movement in the United States in the mid to late 1800s. It has undergone a resurgence under the influence of such groups as Mothers Against Drunk Drivers (MADD). Such groups have been concerned about the damage and injury caused by drivers of motor vehicles under the influence of alcohol.

One feature of the recent resurgence of interest in Dram Shop liability legislation has been *dramatic* changes in work practices within the liquor industry and in the level of professionalism exercised by employees, licence holders and owners of licensed premises, and perhaps most importantly by producers of alcoholic liquor. Creation of liability for producers offers perhaps the greatest likelihood of quick change. The stimulus of liability under Dram Shop legislation or extended common law negligence has been a very powerful engine for change in North America and has driven introduction of training programs such as alcohol serving and management programs. One such training program, "Techniques of Alcohol Management", was founded in Michigan in 1983 and through an eight-hour education program for bar and restaurant owners, employers and employees, seeks to increase knowledge of:

- the clinical effects of alcohol on the body;

- how to recognise the physical signs and stages of intoxication;

- how to moderate a customer's drinking rate; and

- how to deal with problem drinkers.

The Michigan Techniques of Alcohol Management Course is not similar to responsible serving guidelines introduced jointly by the National Campaign Against Drug Abuse and the Nation Alcoholic Beverage Industry Council representing the industry. To date, these guidelines, while strongly supported by the various industry associations, have received less than enthusiastic support from the industry at the grassroots level. In short, there has been little change at the point of sale or supply.

One of the major attractions of a Dram Shop Liability Legislation approach is its *self-enforcing nature.* Its enforcement is not reliant on busy police or other regulation agencies. As the provisions expose servers, producers and others, to civil liability, they must take strategies to reduce this liability. It is a straight commercial risk managementsituation—take action to reduce liability or expose the business or individual to large negligence payouts. Insurance would of course become expensive and cover difficult to obtain for establishments without approved training. Limitation of liability has been achieved in North America by introduction of strict house policies on the serving of persons to intoxication, service of intoxicated persons and juveniles and, most importantly, staff training in responsible serving techniques.

Dram Shop or Server Liability could develop at any time in Australia from the general actions for negligence. All the elements are in place. What is required is a specific failure of an individual to perform a duty of care or statutory duty, for example service of an intoxicated person accompanied by injury or death.

There are provisions in the liquor acts of each of the Australian States prohibiting the presence or serving of intoxicated persons. In the case of the New South Wales *Liquor Act* there is a reverse onus provision applied to a licensee once intoxication on licensed premises has been established and the onus shifts to the licensee to establish efforts and actions were taken to prevent intoxication. (Similar provisions are to be inserted in the New South Wales *Registered Clubs Act*.) There have been few prosecutions for this offence in any of the States.

Vicarious liability of employers for the unlawful actions of employees is presently enshrined in the Liquor Control legislation of all States. Dram Shop Liability could be viewed as merely an extension of this principle outside licensed premises. In addition, licensees are already responsible for events occurring outside their premises—quiet and good order provisions of the New South Wales *Liquor Act* (s. 104) (and s. 17AA of the *Registered Clubs Act*) where a licensee could be disciplined or licence cancelled due to offences, noise, intoxication, violence and vandalism occurring in and around licensed premises.

Developments in Server or Dram Shop Liability in Australia

A recent case before the New South Wales Supreme Court (*Speer v. Nash*, Judgment of Studdert J, Common Law Division, CW 26/90, 17 December 1992) is indicative of the potential for development of Server or Dram Shop Liability by developments in law of negligence in Australia.

In March 1984 David Speer was assaulted with a beer bottle by an intoxicated patron, Robert Taylor at the Imperial Hotel in Condobolin. The licensee was Mr Steven Nash.

Mr Speer arrived at the hotel about 10.15 p.m. and approached Mr Robert Taylor who he knew. Mr Taylor was already intoxicated and reacted aggressively to Mr Speer. Staff at the Imperial Hotel continued to serve Taylor after admonishing him about his behaviour and suggesting that he leave the premises.

Speer was later approached aggressively in the back bar by Taylor who jabbed Speer with his finger for about five minutes whilst being loud and argumentative.

Speer left the back bar to get away from Taylor and afterward went to the pool room until about 11.40 p.m. and then returned to the main bar. Here he intervened in a quarrel between two women when he heard Taylor's voice close behind him. Taylor struck Speer with a beer bottle, breaking it in the process and permanently disfiguring Speer's face and blinding his eye.

Patrons gave evidence that Taylor had been intoxicated since 4 p.m. Although the hotel staff and the licensee had known Taylor to be aggressive, staff continued to serve him.

Shortly before closing time, Nash the licensee, had served Taylor bottled beer in the bottle shop knowing him to be intoxicated.

Speer alleged, and the court accepted, that Nash as the licensee, was in breach of s. 125 of the *Liquor Act 1982* (NSW) which requires that a licensee shall not:

> 1. permit intoxication or any violent or quarrelsome conduct on licensed premises; and

> 2. allow any person on licensed premises to sell or supply liquor to any person who is at the time in a state of intoxication.

This breach was proof of a failure of the licensee's duty of care to protect his patrons.

The court found in favour of Speer and awarded damages against the licensee for injury, incapacity, loss of income and impaired earning capacity in the amount of $105,000.

Justice Studdert commented:

> . . . given that violence was a foreseeable happening, inevitably giving rise to the risk that somebody in the hotel could be injured, there really was no efficient measure in place to prevent such harm occurring.

The judgment was taken by Nash to the Court of Appeal where in 1994 consent orders were issued and the appeal dismissed. The damages award of $105,526 was continued.

Interagency Responsible Serving of Alcohol Training and New South Wales Police Service Enforcement of Intoxication Provisions

The New South Wales Police Service, with cooperation from the New South Wales Department of Health and the Chief Secretary's Department, has recently conducted a joint responsible serving of alcohol education program for licensees and staff and an enforcement campaign.

The operation has seen some 1200 licensees and staff participate in responsible service of alcohol training. Enforcement of the *Liquor Act 1982* (NSW) provisions in one of the four New South Wales Police Service Regions resulted in more than 40 licensees and staff being reported for service of

intoxicated persons. Penalties of up to $2000 have been imposed by the Licensing Court.

Situational Factors in Alcohol-related Violence

Homel et al. (1991a; 1991b) have commented on the contribution of situational factors to alcohol-related violence. There is a significant role for the industry in dealing with identified dangerous practices such as:

- overcrowding;

- poor air conditioning;

- lack of adequate seating;

- lack of bar counter space;

- aggressive bouncers; and

- cheap drinks and promotions that encourage high levels of intoxication.

Conclusion

The New South Wales Police Service has developed a strategic approach to alcohol-related violence, crime and anti-social behaviour. The strategy recognises that policing action concentrated on licensed premises has little likelihood of success. Included in the approach is a commitment to communicating the problems associated with alcohol to the community, as well as working with other agencies, the industry and the community.

Alcohol problems are not new. Solutions, particularly cooperative and interagency strategies, such as have been forged with drink driving in Australia, offer significant prospect for success.

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Survivors of Self-inflicted Firearm Injury: A Liaison Psychiatry Perspective[1]

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Recent years have seen an increase in suicide attempts with firearms (Cantor et al. 1991; Snowdon & Harris 1992; Dudley et al. 1992; Boyd & Moscicki 1986). By international standards, Australia has a high rate of male suicide by firearms (Cantor & Lewin 1990). By comparison, our overall suicide rate is moderate. Recently, the rate of suicide among young men has increased alarmingly and the principal means of death has been by firearms (Dudley et al. 1992; Cantor & Lewin 1990).

No Australian studies, and few studies worldwide, have examined survivors of self-inflicted firearm injuries (Frierson & Lippmann 1990; Frierson 1989; Conn et al. 1984; Peterson et al. 1985; Kost-Grant 1983; Mathog et al. 1988). Little has been established about the psychopathology of patients who survive violent suicide attempts. The Australian studies cited examined suicide by firearms, and have been primarily epidemiological in nature. In a study based on records at the Westmead Hospital, Sydney, the clinical aspects of patients admitted to the hospital with self-inflicted firearm injuries over an eight-year period

were reviewed and examined for the type and frequency of mental disorders in patients who survived attempted suicide by firearm.

Methods

A list was compiled from databases in the Trauma Unit, Medical Records and Psychiatry departments of all patients admitted to Westmead Hospital with firearm injury, regardless of cause, over the eight years from January 1985 to January 1993. (Westmead Hospital, a teaching hospital of Sydney University, is an 800-bed tertiary referral centre in the Western metropolitan area of Sydney). The medical records of all 140 patients were then reviewed, and a data collection sheet was completed and analysed.

One author (de Moore) reviewed the recorded psychiatric diagnoses, which were made in each case by a psychiatric consultant using the American Psychiatric Association's diagnostic and statistical manual (1987). Particular attention was given to those patients who shot themselves, irrespective of whether the shooting was stated to be deliberate or accidental.

Results and Discussion

One hundred and forty patients with gunshot wounds were managed by the Trauma Unit and appropriate specialist surgical teams. Deliberate self-inflicted firearm injuries represented 1 to 2 per cent of total referrals for deliberate self-harm received by the Psychiatry Department at Westmead Hospital over the eight-year period. This is a much lower figure than the 15 per cent noted in one study in the United States (Frierson & Lippmann 1990).

Demographic Profile

The demographic characteristics of the patients are summarised in Figure 1. After analysis, 33 patients were considered to be survivors of self-inflicted injury (*see* Figure 1).

Figure 1

Demographic Profile of Patients With Deliberately Self-inflicted Firearm Injury

Sex
  Male   31
  Female   2
Place of Birth
  Australian   23
  Overseas   10
Place of Residence
  Urban   23
  Rural   10
Marital Status
  Married/De facto   11
  Single   22
Occupation
  Blue Collar   13
  White Collar   5
  Unemployed   10
  Other Government Support   4
  Unknown   1
Living Arrangement
  Familyof marriage   7
  Family of birth   14
  Others (non-related)   3
Alone   7
Unclear   2

Number of Patients

Age Distribution (Median=29 years)
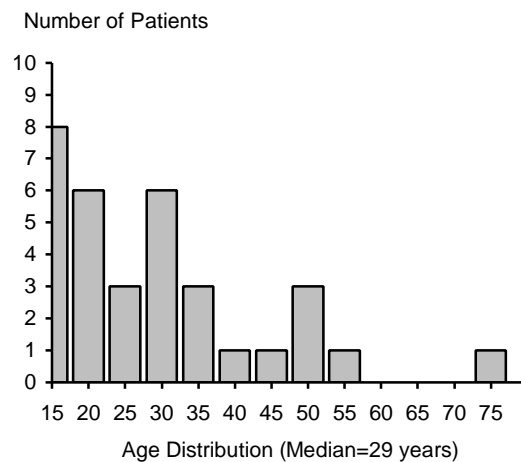
The age distribution is consistent with findings from similar studies in the United States (Frierson & Lippmann 1990; Peterson et al. 1985). Recent epidemiological data from Australia and overseas have shown a rise in the rate of suicide by young males, particularly in the 15-19 years age group. By contrast, the suicide rate of the older population in Australia appears to have declined (Cantor & Lewin 1990).

The small proportion of women is consistent with the established rate of female suicides by firearms in Australia (Cantor et al. 1991; Dudley et al. 1992; Cantor & Lewin 1990; Kosky 1987). The two women had features that in many ways aligned them more closely with the male group. One patient was a transsexual who was genetically female and receiving male hormone therapy. The other was a member of the Armed Forces and living as a relatively isolated female on a male-dominated military base.

In Australia, the most common method for suicide for females has always been ingestion of substances (Burvill 1980).

Clinical Profile

Psychiatric history and assessment: Eleven of the 27 patients for whom data were available had a documented psychiatric history. Of these, seven had a history of self-harm, three having shot themselves. For six patients, previous self-harm or psychiatric history was not recorded in the notes, often as a result of lack of patient compliance when the history was taken. Because of the variable recording in the medical notes, it is not possible to give a comprehensive account of family psychiatric history, or to clearly outline how many of the patients with previous psychiatric history had episodes of affective illness.

All 33 patients were psychiatrically assessed (*see* Table 1). The most common diagnosis was adjustment disorder: distress occurring over a short period in response to adverse life circumstances, such as the break-up of a personal relationship. Only three of the 33 patients were receiving psychiatric treatment at the time of the attempt. (Similar studies have also found that the prevalence of psychosis in this patient population

Table 1

Psychiatric Diagnosis of Patients With Deliberately Self-inflicted Firearm Injury

*Principal diagnosis**	*Number of patients*
Adjustment disorder (usually with depressed mood)	19
Alcohol abuse	10
Major depression	4
Dysthymia	1
Schizophrenia	1
Substance abuse	3
Frontal lobe syndrome	2
Transsexual	1
Personality traits	
Antisocial	10
Dependent	8
Other	7
Insufficient information	8

*Diagnoses are not mutually exclusive

is low (Frierson & Lippmann 1990)). One patient had been diagnosed with schizophrenia. His delusions about being harmed by others led directly to his shooting. One patient was being treated with antidepressants for major depression. The third patient had received supportive psychotherapy at the end of a personal relationship.

Only five patients reported taking any psychotropic drugs: the patient with schizophrenia was using antipsychotics, one patient was taking the antidepressant mianserin and three others were using benzodiazepines.

There would seem to be several reasons why so few patients were in psychiatric care at the time of the shooting. Many of the patients voiced suicidal concerns only in the days or weeks before the shooting, leaving little time to mobilise care. It is also possible that some patients, particularly in rural areas, may have had limited mental health services or may not have known how to access them. Patients with antisocial features, the most common personality type identified, demonstrated behaviour

which was episodically turbulent, and may not have provoked concern in some of their family or friends that shooting would occur on this occasion.

Four patients were diagnosed with major depression by the liaison psychiatry team after the shooting and were given tricyclic antidepressants as treatment in hospital. The others were diagnosed soon after hospitalisation. One patient with major depression required electroconvulsive therapy. Studies in the United States have shown that the frequency of major depression in similar patient populations varies— sometimes by as much as 40 per cent (Frierson & Lippmann 1990; Conn et al. 1984; Peterson et al. 1985; Kost-Grant 1983). It is unclear whether this reflects a true difference in the populations studied or different diagnostic practices.

Interpersonal conflict and stress: By far the most commonly stated reason for a depressed mood that resulted in a shooting related to interpersonal conflict, usually with a wife or girlfriend (Frierson & Lippmann 1990; Peterson et al. 1985; Kost-Grant 1983; Shuck et al. 1980).

Often these patients had evidence of stress in their lives that culminated in the final precipitant that led to the shooting. Themes of social disruption, isolation, unemployment and relationship difficulties which led to disenchantment about future prospects were described. It was often against such a background that the shooting occurred, after an escalation of interpersonal problems.

Most patients shared at least some thoughts of self-harm with other people in the weeks leading up to the shooting, which has implications for the prevention of such attempts. They clearly required psychiatric and social intervention during this period of acute despair.

Precipitants: Two of the 33 patients had significant chronic illnesses that were considered important stressors in the suicide attempts: one patient had severe asthma and the other suffered chronic pain from osteoarthritis.

In 21 patients interpersonal conflicts were important factors. Most related to disputes with sexual partners. Thirteen patients

had an argument with their partner or family, a critical factor in the 24 hours before the shooting.

Although alcohol use at the time of the shooting was important in a subgroup of patients, it was not universal. Many patients did not appear to be influenced by illegal drugs or alcohol. At least 10 patients consumed significant quantities of alcohol in the 24 hours before the attempt. It is possible that the true figure is higher, given the lack of cooperation of some patients in history taking. Blood alcohol levels were not routinely determined, so the level of intoxication of most patients at the time of the attempt is unknown.

It was unusual for the actual shooting to be well planned. More commonly, against a background of discontent, an intense stress led to an impulsive act of shooting. Five patients described intermittent suicidal thoughts during the previous three months; three of these patients were diagnosed with major depression. The patient with schizophrenia had suicidal thoughts for a year. All other patients noted such thoughts only at the time of shooting or in the two to three weeks before the attempt.

Only one patient was reported as having been exposed to a recent shooting suicide—the woman living on an Armed Forces base, where a serviceman had recently shot himself. She did not describe her choice of weapon as modelled on that shooting, but rather on the presence of a firearm in her room.

While the ownership and place of storage of the firearms were often not recorded, of the 13 patients for whom information was available all kept the guns at home or, in one case, at his parents' home. In no case was there a record of a patient buying the firearm specifically for the purpose of suicide. The immediate presence of the firearm within the patient's environment was commonly commented upon as being important in the choice of method for self-harm.

Mental state and choice of method of self-injury: This study is part of an ongoing analysis of patients admitted to Westmead Hospital as a result of violent self-harm. In another study of the Westmead data (Patel & de Moore, unpublished data) six of 12 patients who required surgical care after stabbing themselves (more seriously than minor lacerations or superficial cutting) were psychotic. The other six patients were

intoxicated, usually with alcohol, and had personality disorders, usually of the antisocial type.

Although the data are few, it seems that the psychiatric profiles of those who survive self-shooting and self-stabbing may differ. There is virtually no literature on the mental state of the survivors of violent self-harm, and whether different patient groups tend to choose a particular method. In discussions, such patients are often lumped together regardless of the method they chose. We suggest that mental state and factors such as intent and accessibility of a method are important determinants of the method of suicide, and that this may have some bearing on whether simple substitution of method would occur if access to firearms was limited.

Our data are incomplete, but we know of only one patient who actually had to leave his residence to collect the firearm for shooting. The impulsive nature of the shootings—within an interpersonal dispute—suggests that making firearms less available is an important means of prevention.

Figure 2

Overall Referral Pattern
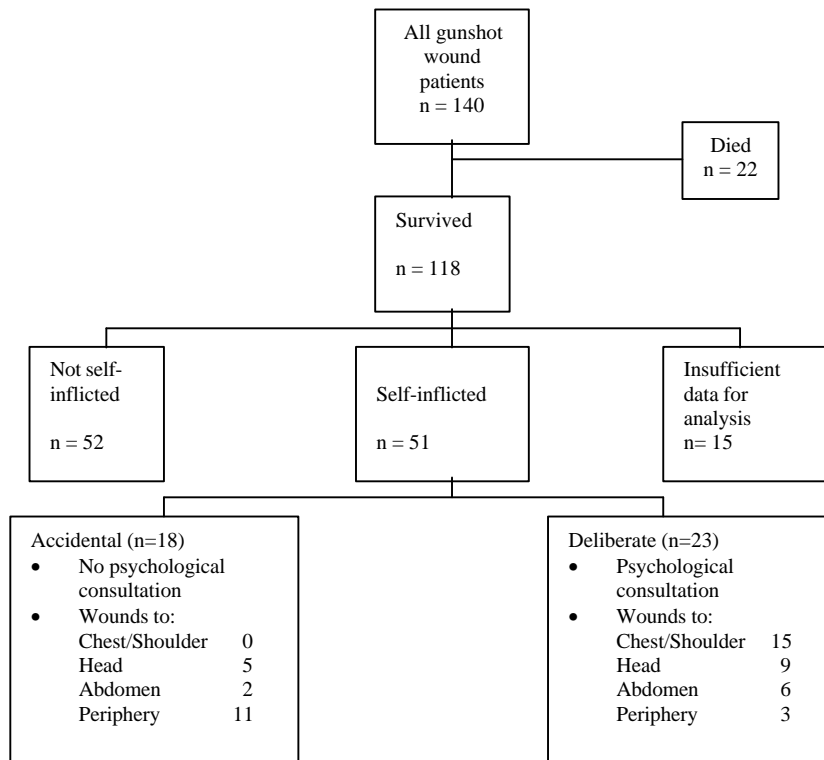
Accidentally self-inflicted injury: We carefully reviewed the 18 patients who claimed that they had accidentally shot themselves. It appeared from the medical records that none of these patients was psychotic, although they did not receive psychiatric reviews at the time.

Many had dubious stories and we suspect that at least seven had deliberately injured themselves. Four of these seven cases involved wounds to the head, and one to the abdomen. Any wound to the head or torso, regardless of the stated cause, should be viewed with suspicion (*see* Figure 2). Patients may try to minimise and deny the extent of their distress and suicidal thoughts—often to the point of lying as to how the shooting occurred. The most common disclaimer, which was often found to be false, was that the person was cleaning the gun at the time of the shooting. Once it was made clear that circumstances indicated a deliberate attempt, most patients would admit to this. It was often nursing staff or family who would highlight this history and set in motion the psychiatric referral.

Five patients initially denied that the shooting was self-inflicted, but at subsequent interviews acknowledged making the attempt.

Features that should suggest to the medical team that a patient's story of accidental shooting is suspect include:

- patients who are evasive and give an inconsistent history;

- the presence of circumstantial evidence that implicates a suicide attempt for example, the lack of cleaning equipment around the site of the shooting in those claiming to have been cleaning their weapons;

- the presence of significant stressors for example, a recent relationship break-up;

- the position of the entry site. Any non-peripheral wound should be viewed as evidence of suicidal intent until proved otherwise;

- the patient who presents with the wound a considerable time after the supposed accident;

- features of concurrent self-harm such as lacerations or evidence of an overdose;

- psychiatric or significant drug and alcohol history;

- previous documentation of risk-taking behaviour such as repeated presentations to the accident and emergency department.

Psychiatric Management

The length of time before psychiatric intervention varied with the extent of injury. The median time before a psychiatrist saw patients was two days after admission. Seven patients whose injuries were relatively slight and who spent only several days in hospital were seen only once by the psychiatrist. The other patients received, on average, four assessments from the liaison team as well as ongoing management in the hospital.

Most patients were generally cooperative in the sense that they complied with treatment. However, several patients who developed delirium, often secondary to head trauma, needed to be treated with an antipsychotic, such as haloperidol. When delirium was combined with underlying antisocial personality and poor impulse control, intensive nursing and security were required.

In general, suicidal thoughts diminished rapidly after hospitalisation and only three patients were deemed to be suicidal at the completion of their inpatient surgical care. Six patients were transferred to psychiatric units and of these only two needed to be involuntarily detained.

Importance of Liaison Psychiatry Management

The psychiatrist's role in this patient group in the general hospital is varied and includes:

- psychiatric diagnosis,

- initial treatment of a mental illness if present;

- assessment of suicidal ideation;

- behavioural management in the ward;

- assessing the impact of often debilitating injuries on patient and family (Conn et al. 1984);

- ensuring that the patients' psychopathology does not interfere with the adequate provision of investigations and treatment;

- feedback to the surgical staff.

Psychiatric input in the Westmead study centred on accurate diagnosis and immediate psychological support for the patient. The case notes reveal the importance of input from social workers, particularly in gathering information from, and supporting, family members. Neuropsychological assessments after head injury, and ongoing liaison with the rehabilitation teams were also important. Thus, liaison psychiatry is one of a number of disciplines required to appropriately manage this group of patients.

Of particular importance in the patients requiring psychotropic medication was intervention aimed at easing the environmental and social burdens these people faced; for example, by assisting with debts, accommodation and employment prospects in conjunction with supportive psychotherapy.

Conclusion

The principal clinical finding is that patients who deliberately shoot themselves and survive are young and male, do so in the context of interpersonal disputes and commonly use an accessible .22 calibre rifle. A subset of attempts involves intoxication with alcohol but this is by no means an inevitable finding. There is a striking relative absence of psychosis and major depression as psychiatric diagnoses.

This study indicates that both psychiatric and other medical staff could improve their assessment of patients with firearm injuries by attention to the details listed in Table 2.

Our study was limited by retrospective design, and prospective studies are required to answer further questions about this violent form of self-harm. Given the low base rate of such events at a single hospital, and the growing importance of

firearms and violence as an issue in Australia, a statewide or national database examining survivors of such injury is essential.

Table 2

Recommendations to Improve Management of
Self-inflicted Injuries by Firearms

- Any patient with self-inflicted firearm injuries, regardless of stated cause, should be reviewed by a psychiatrist to clarify diagnosis, assess suicide intent and provide immediate care if needed.

- All victims of shooting should have their blood alcohol level determined and undergo a routine drug screening.

- Questions about gun ownership, the legality of ownership and gun accessibility are vital. The police have often attended the scene of the shooting and will have valuable information. We believe the police are an underused source of information. If they have been involved, the police should be contacted to help complete the assessment.

- Most attempted suicides are impulsive acts and could be prevented by making firearms less accessible.

- Repeated interviews are often needed before a patient discloses the true nature of the injury. The patient's story should not be fully accepted until it has been corroborated by family or friends.

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Part II: Prevention and Policy

Violence Against Women¾A Social Responsibility

Rosemary Crowley

T his Second National Conference on Violence is taking place in a most interesting period of transition—a period in which issues of violence, particularly where they involve women and children, are being scrutinised and discussed by the community as a whole. There is a more vocal and public intolerance of violence against women, and a new community willingness to accept some of the responsibility for stopping it. There is an increased understanding that the fundamental basis of violence against women is the inappropriate exercise of male power: very often men have resorted to force as their only response in domestic and community situations. The issues discussed in this volume are a clear reflection of the widespread attention now being paid to this gender perspective on violence.

In the community, people are ready to work together towards changing a culture which has tolerated violence. This culture has protected the perpetrator by keeping violence secret or by blaming the victim and by blaming outside influences like alcohol or stress.

Also changing is the tendency to blame the violence solely on the attitudes or behaviour of particular groups or particular aberrant individuals. This has made it too easy to condone and excuse violence against women, leaving the bigger, more difficult questions of inequality and gender bias unasked. It has allowed a deferral of a collective responsibility to ensure that change does occur.

In recent times what has been more striking than the unacceptable, quoted comments of members of the judiciary has been the reaction to those comments in the media and in the community.

Criticism, which would have been unheard of 10 or 15 years ago in the daily press, has been the subject of several editorials around the country. *The Sydney Morning Herald* devoted an entire page to letters on the subject. And *The Age* in Melbourne has run a series of excellent articles on violence against women. This time the media attention has been sustained and observant, analytical and correct!

There is often criticism of the media for their treatment of violence against women and for their portrayal of women generally. They are now demonstrating the fundamental and positive role they can play in articulating community concerns. They are reflecting the change in the community and are contributing to it.

The realisation that violence against women is a serious issue in Australia did not happen overnight. Australian women have fought for a long time for governments, organisations and individuals to recognise the realities and accept responsibility for a coordinated response to see violence eliminated. There were a couple of very significant steps in this process.

In the early 1970s the first Women's Shelters and Rape Crisis Centres were established. Their use by women and their impact on our understanding of the extent of violence cannot be measured, but it has been powerful. It has, for example, given us the concept of the battered woman syndrome.

Next came the Government's sex discrimination legislation, introduced almost 10 years ago. That gave the legislative framework and the philosophical basis of human rights for women, and the understanding that violence against women is a violation of their human rights—the rights to safety and freedom from fear. It is also a discrimination against them. Out of the legislation has come the educational role of good law—the basis for community education.

In 1979, a Victorian judge said that "imprudent behaviour of many young women did not excuse offences committed on them, but lessened the moral culpability of the offender" (*see Australian Women Against Rape* 1979). There was outrage expressed then but there was no public outcry.

That there is an outcry about similar statements now is a measure of the change in Australian society since then.

Jocelynne Scutt's chapter in this volume outlines her perception of the shift in community attitudes. That is not to say that outmoded views are not still expressed by numbers of men and women in the community. Sandra Egger has warned throughout this current phase of the debate that concentrating on the so-called sick rapist or the antiquated views of some judges may obscure the reality. That is, that the problem lies with the prevailing attitudes of ordinary men and women from whom our judges, juries and rapists are drawn.

But what the media does appear to be reflecting is a sense that the community has had enough. Initially, the individual voices that were being aired were those of prominent women—politicians, lawyers and commentators. But significantly, those prominent women are being joined by very many women in the community, who now have the information and the confidence to make their voices heard too. There has emerged a ground swell of community outrage.

This ground swell has built on a new era of community awareness of violence against women with the emergence and participation of survivors of violence. Through phone-ins conducted by concerned community organisations and, in more recent times, by police, and also through their courageous appearances in the media, these women broke the silence on domestic and other violence.

Also significant in recent times is the fact that concern has been expressed by men as well as women. And with that concern comes some acceptance of responsibility—the responsibility of individual men to stop being violent and the responsibility of the society to say "we will no longer tolerate violence against women". We need also not to forget the need to care for men who cause violence while never forgetting that priority must go to the rights and safety of women and children. Chapters in this volume by John Braithwaite and Stephen Wallace focus particularly on the role of non-violent men.

Canadian Professor Kathleen Mahoney, an internationally acclaimed expert in gender bias in the administration of justice, defines gender bias as "a form of subtle but potent discrimination used by those in power"—which links back to my comments on the sex discrimination legislation. Professor

Mahoney explains how so much of what women have been feeling for a long time is encapsulated in the term "gender bias"—so much of what makes women uncomfortable begins to make sense when it is analysed as gender bias. In practice, it describes the systemic, unfair treatment of women by men.

In the face of this widespread concern and emerging cooperation between men and women, we find the language which allows governments, institutions and people to build towards real reform. We are all now speaking the same language.

I am concerned at the expression "political correctness", which is a shallow and trite dismissal of a basic truth, or an example of backlash against women. Women have fought for centuries for fair recognition under the law, including non-sexist language. "He" was taken to mean "she", but not when "she" wanted to vote. It was said that women were not fit for public office, for example, in 1959, when Jessie Cooper in South Australia faced the comment that a woman was not a person.

Australia, along with Canada, is at the forefront internationally in establishing government machinery and legislation to raise the status of women and to eliminate violence against women. We have played a significant role in the preparation of the Draft Declaration on the Elimination of Violence Against Women which was endorsed at the session of the United Nations Commission on the Status of Women. The Draft Declaration will now proceed to the UN General Assembly, where hopefully it will receive resounding support from the international community[1].

The Government has played a significant part in preparing the groundwork and is ready to respond to new opportunities. Strong statements made by the Prime Minister, the Hon. Paul Keating, abhorring violence against women and the clear commitment of the Government to enforce change have been significant in bringing this issue into the community consciousness.

The National Domestic Violence Education Program, "Domestic Violence: Break the Silence", which ran from 1987 to 1990 is credited with having brought out into the public area

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[1].   The UN Declaration on the Elimination of Violence against Women was adopted by the UN General Assembly in December 1993.

what was previously considered to be a private concern. Through a community attitudes survey conducted in February, 1988, by the Public Policy Research Centre, the Program ascertained that one in five Australians, men and women, considered the use of physical force by a man against his wife to be acceptable in certain circumstances. And with this research, the Program established a basis of outrage from which four in five Australians could begin to take responsibility.

Women in the community had identified violence against women and children as a major priority area during consultations for the first National Agenda for Women, and the National Domestic Violence Education Program represented the Government's first major funding commitment in this area.

In March 1990, we established the National Committee on Violence Against Women to pick up on issues identified by the National Domestic Violence Education Program as needing further attention. The Committee's mandate was deliberately broad and ambitious, allowing it to focus on the needs of women subjected to violence in all its forms and to aim for the elimination of violence against women from Australian society.

The first Committee has made a significant and lasting contribution in raising awareness of the reality and cost of violence against women. The Committee's commissioning of broad-based research into violence against women has provided invaluable input into the body of knowledge on this subject.

The work the Committee has done in encouraging legislative reform in the area of family law has promoted a new recognition of women's safety as a priority. Early in its life, the Committee called for the automatic cancellation of custody and access orders when protection orders are breached and death threats have been made. It was the Committee's strong view that decisions made by the Family Court should be consistent with decisions made by State and Territory courts under protection order legislation to ensure that the safety of women and children is paramount. The Committee has promoted this view strongly, for instance through its submission to the Joint Select Committee on Certain Aspects of the Operation and Interpretation of the *Family Law Act.*

Because of the interrelationship between Family Law and protection orders legislation, the Committee has also taken an active interest in examining the extent to which protection

orders can operate to protect women and children, especially where there are existing access orders.

Guidelines developed by the Committee for assessing the appropriateness of mediation between partners in crisis has again constituted a major breakthrough. This work was premised on the Committee's belief that violence cannot be mediated and it illustrated the power imbalances between violent men and their partners. That is, the usual process of counselling couples is not possible when there has been violence in the relationship. It is now known if not stated that just below the surface is fear—very real fear—that prevents honest comment or any basis of equal negotiation.

At the outset of its three-year term, the Committee had identified the need to encourage data collection through the establishment of an information clearing house. Recognising the paucity of data on violence against women and the need for specialised data collection techniques, the Australian Institute of Criminology has assisted in the establishment of the National Clearing House on Violence Against Women.

It was in the aftermath of the Strathfield massacre in 1991 that Commonwealth Departments were asked by the Government to develop proposals for new policies and programs addressing violence in the Australian community. In November of that year the Government announced a $12.6m package of initiatives including $3m to be devoted to community education on violence against women.

Announced at the same time, was the Gender and Violence Project for the Department of Employment, Education and Training. DEET received $1m to develop curriculum materials addressing the links between violence and gender inequality, and related teacher training.

The cornerstone of Year 1 of the Commonwealth Community Education Program on Violence Against Women has been a national grants program which has put $600000 into education at a local level. The 38 projects which received funding in December 1992 reflected the range of creative ideas from local groups in responding to specific community needs and concerns.

Darwin Centre Against Rape, for example, is using its grant to develop computer software on protective behaviours for girls and young women. Anglican Community Services in South Australia is developing a project to raise awareness (of violence

against women) within congregations and parishes around the State.

In February 1993, the Prime Minister launched the New National Agenda for Women in his Women's Policy Speech. At that time he reported on the government commissioned research on the opinions of ordinary Australian women. There were three areas women unanimously nominated as being of pressing concern to them: child care, violence against women and women's health.

In responding to the concern about violence, the Prime Minister said:

> We will establish a referral program in each state for women escaping domestic violence in rural and remote areas. This special program will provide practical help to women and children in remote areas in the form of an 008 phone number to call for help, and payment of transport to escape violent situations.

> We will also extend the life of the National Committee on Violence Against Women.

The Prime Minister also reminded us that the Attorney-General has asked the Australian Law Reform Commission to report to him on ways of ensuring equality before the law. Justice Elizabeth Evatt leads this inquiry, and the Commission has advised that violence against women will be a recurrent theme in the work of the reference. The Commission is due to report in June 1994.

Finally, the Prime Minister announced that the Government has provided funds to the Australian Institute of Judicial Administration to develop courses for magistrates and judges to help them identify prejudices that might impact on their judicial conduct towards women.

This gender awareness program is being planned by a committee headed by Justice Deidre O'Connor and will provide ongoing support to the Judiciary by the development of Australian materials and the provision of seminars. The program will be informed by the pilot project which Justice David Malcolm, the Chief Justice of the Western Australian Supreme Court, is undertaking on raising awareness of gender bias. Justice Malcolm has also announced the formation of a judicial task force on gender bias on the law to examine bias in

the State's laws and procedures, and in the organisation and work of the legal profession.

In addition, there will be a second round of grants to the value of $400 000. Community groups and service providers will be invited to apply for grants to fund as wide as possible a range of community education projects.

This time, special focus areas will include women with disabilities, women from non-English speaking backgrounds and key occupational groups including health workers, counsellors and welfare workers, interpreters, workers in women's services, lawyers and police.

As Minister Assisting the Prime Minister on the Status of Women, I will look forward to the reports and to working closely with my colleague, the Attorney-General, on consideration of its recommendations. I shall also continue to raise publicly and officially all issues of discrimination against women.

In 1994 we are celebrating International Year of the Family. This celebration will come under my portfolio. I am determined that it *shall* be a celebration of families in all their many manifestations. But I shall also be using this year to raise and deal with the issue of the dark side of families—the violence which threatens women and children in families—which strikes at the very heart of our understanding of what is good about families.

The community is capable of change. Beginning with the introduction of the *Sex Discrimination Act 1984*, which legislated behavioural change in Australia, we are starting to see profound changes in community attitudes. Nurtured and encouraged, these will build until we have a community which will no longer tolerate violence against women.

My colleague, Duncan Kerr, has said that women still do not feel protected by the law, especially by protection orders. There is still a long way to go in ensuring women are safe from violence in our community.

Much of this paper has focussed on community behaviour and changing community attitudes. But one great gap remains. If violence is considered a crime, why is it that so few arrests and convictions are made against perpetrators of violence against women? Anti-discrimination legislation has been the legal handle with which much of this has been considered. But it does not address the law of crimes of violence. A social

responsibility must surely address the sufficiency of the law. The human rights of women will be thus better protected when crimes of violence against them are seen as crimes, as well as grounds for changing community attitudes.

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Domestic Violence and Defiance Theory: Understanding Why Arrest Can Backfire

Lawrence W. Sherman

> *In the fell clutch of circumstance*
> *I have not winced nor cried aloud.*
> *Under the bludgeonings of chance*
> *My head is bloody but unbowed.......*
> *It matters not how strait the gate*
> *How charged with punishments the scroll,*
> *I am the master of my fate;*
> *I am the captain of my soul.*
> (Henley 1875)

Henley's poem shows the deep respect for defiance of authority that runs throughout Anglo-Saxon culture. Since Magna Carta, the nation that gave birth to the ideas of individual liberty and rights has sown the seeds of a major cultural contradiction: obedience to law, but only when the law is right. Since each individual is endowed by God with the moral responsibility to determine when the law is right, we condemn mindless obedience to authority such as the Nazi genocide of the

Jews. But the price we pay for this principle is its twisted application by madmen like David Koresh at Ranch Apocalypse in Waco, and not-so-mad but still quite angry men in more widespread crimes like domestic violence.

At the 1992 Australian Institute of Criminology National Conference on Homicide, I summarised the results of recent US experiments in policing domestic violence (Sherman 1993a), but did not address either their theoretical or their policy implications. The present paper begins by updating those experimental results from subsequent publications in order to focus on their implications. It then summarises a defiance theory of the effects of criminal sanctions in general which predicts and explains the experimental results (Sherman 1993b). The final section explores the policy implications of defiance theory for domestic violence and violent crime in general.

The Effects of Arrest for Domestic Violence

Imagine a drug that cures patients in some cities but makes them sicker in others. Imagine a drug that makes arthritis less painful among working people, but more painful among the poor and unemployed. Imagine a drug that relieves pain for a day, but increases it a year later. Imagine a drug that works well in hospitals with mostly white and Hispanic women patients, but does not work at all in hospitals with mostly black women patients. Suppose that doctors could predict who among us is going to get sick, but they are forbidden to do anything about it.

These, in effect, are the dilemmas that domestic violence poses for the police. Arrest is the "drug" that research has shown to have such diverse effects on misdemeanour, non-life threatening assaults. These dilemmas of arrest policy have only been recently discovered through controlled experiments, and are not yet well-incorporated into the policy making process. But they do reveal the complexity of good intentions in controlling violence.

In 1981-82, the Minneapolis Police Department collaborated in an experiment designed to determine the effect of arresting domestic violence suspects on their subsequent behaviour

(Sherman & Berk 1984). Approximately one-third of the suspects were randomly assigned to receive an arrest and at least one night in gaol. Another third were randomly assigned to be told to leave the home or else they would be arrested. The remaining third were assigned to be given some kind of "talking to" by police and left at the scene. Some 82 per cent of the cases were treated as randomly assigned, and the results were essentially the same when analysed as delivered or as assigned (Berk & Sherman 1988).

Results from this experiment supported a specific deterrent effect of arrest. While the authors cautioned against passage of mandatory arrest laws for domestic violence until further research could be conducted (Sherman & Berk 1984, p. 270), the results contributed to the passage of such laws in 15 states by 1991 (Zorza 1992). The results also led the National Institute of Justice to fund replications in six other cities. Findings from all but Atlanta are now available. Only two of these studies—Colorado Springs (Berk et al. 1992) and Metro-Dade in Miami (Pate, Hamilton & Anan 1991)—confirmed the victim interview results in Minneapolis by showing a six-month deterrent effect. Only the Miami experiment found a deterrent effect in both an official measure of recidivism and victim interviews, and even there only one out of two official measures showed deterrence (same-victim rearrests, but not repeat offence reports). More importantly, none of the other three replications—Omaha (Dunford, Huizinga & Elliott 1990; Dunford 1992), Charlotte (Hirschel et al. 1990) and Milwaukee (Sherman et al. 1991) found any support for a specific deterrent effect of arrest. All three of those studies, in fact, showed at least one measure with a statistically significant increase in recidivism from arrest.

One possible explanation for these diverse findings is that the samples selected in these six experiments differed in important ways. In the original analysis of the Minneapolis experiment, Sherman and Berk noted that "there is a good chance that arrest works far better for some kinds of offenders than for others" (1984, p. 270). Sherman (1984, p. 78) hypothesised from control theory that "more socially bonded people are more deterrable", and suggested that unemployed and unmarried persons would be least likely to be deterred by arrest.

That hypothesis was supported in a reanalysis of the Milwaukee experiment (Sherman & Smith 1992). Unemployment, but not marriage, then held up in similar analyses of the experiments in Omaha, Miami (Pate & Hamilton 1992), and Colorado Springs (Berk et al. 1992). The finding that unemployed domestic violence suspects become more violent when arrested, while employed suspects become less violent, is now one of the most firmly established empirical facts in the entire literature on the effects of criminal sanctions. It could only be stronger scientifically if the random assignment had occurred within the employed and unemployed groups, rather than across them. Whether it applies in other social settings besides the four US cities is still unknown, but the diversity in those cities seems to make it highly likely. Whether that would translate into similar effects in Australia is an important but open question.

Assuming that these findings do have broad external validity, two challenges confront us. The first is to make theoretical sense of the results. The second is to work out how to apply them to making policy for domestic violence control.

Defiance Theory

The experimental results do not fit any previous theory of sanction effects. Neither labelling theory nor deterrence can account for the diversity of punishment effects on different kinds of people. In a recent symposium of the *Journal of Research in Crime and Delinquency* (Sherman 1993b), I suggest a new theory that not only fits these facts, but many other findings from diverse settings–notably the Makkai and Braithwaite (1994) study showing that disrespectful treatment of nursing home executives in Australia is followed by lower compliance with the law, while a respectful and reintegrative style of inspections is followed by higher compliance.

The theory is summarised in Figure 1. It integrates four recent causal theories of crime in a way that accounts not for crime, but for the effects of criminal punishment. Most visible among the criminologists is Braithwaite's (1989) theory of reintegrative shaming. Most prominent among political

Figure 1

Defiance Theory: Summary

Dependent Variable:	criminal events by individuals & collectivities
Independent Variable:	criminal sanction content, certainty, dosage
Causal Mechanism:	emotions of shame & pride becoming rage

Theories Integrated:
1) Braithwaite, reintegrative shaming
2) Tyler, procedural justice
3) Scheff & Retzinger, sociology of emotions
4) Black, crime as social control

Key Concepts:
1) legitimacy of governmental sanctioning
2) offender social bonds to sanctioning community
3) shame offender acknowledges or denies
4) direct or displaced just deserts to victims

Necessary Conditions for Defiance:
(increase in crime caused by proud, angry reaction to sanctions)
1) offender defines a criminal sanction as unfair
2) offender is poorly bonded to community or agent
3) offender defines sanction as stigmatising personae
4) offender refuses to acknowledge shame

Sufficient Conditions for Perceived Unfairness:
1) stylistic disrespect by sanctioning agent
2) substantively arbitrary, discriminatory, excessive or undeserved sanctions

Sufficient Conditions for Denial of Shame:
1) indignation chosen over impotence
2) perceived weakness/ambivalence of sanctioning agents

Facts the Theory Fits:
1) main effects of sanctions increasing crime
2) interaction effects of sanctions with offender differences
3) null effects from countervailing influences
4) patterns of Defiance

	Specific	General
Direct	1	2
Indirect	3	4

Examples:
1 = Fighting police during arrest
2 = Ambushing police in South Africa
3 = Beating women more after a domestic violence arrest
4 = Rodney King verdict riots in Los Angeles
Indirect defiance = displaced just deserts (Black's theory)

scientists is the procedural justice school, notably Tyler's (1990) major study of compliance.

The third theory is Scheff and Retzinger's (1991) sociology of the "master emotions" of pride and shame that dominate human responses to experienced and vicarious sanctions. The fourth is Donald Black's (1983) theory of crime as social control.

Briefly, Braithwaite (1989) argues that criminal sanctions can be delivered in either "reintegrative" or "stigmatising" ways, the former by drawing social shame upon the act and the latter by shaming and rejecting the actor. Reintegrative shaming controls crime, while stigmatic shaming increases it. Tyler (1990) distinguishes between sanctions citizens perceive as fair or unfair. Fair sanctions increase compliance with the law by affirming the legitimacy of law enforcement, but unfair sanctions reduce compliance by reducing legitimacy. Scheff and Retzinger (1991) argue that individuals vary in their emotional response to sanctions or shaming of any kind, depending upon their social bonding to the sanctioning agent and to society in general. Black (1983) suggests that offenders commit many crimes as a form of punishment of their victims for prior "offences", the victims committed, either personally or as representatives of a collectivity that is held jointly responsible. In this view, crime is a direct or indirect (displaced) act of just deserts.

The integration of these four theories can be illustrated in part by a story about my son in a movie theatre, when I was not around to have prevented the story from happening.

Sitting in a movie theatre showing Stanley Kubrik's "2001", my ten-year-old son and my wife were talking. They started out in a whisper, then sotto voce, then got very loud when the music was loud. Finally another patron came over and rudely told them to shut up. They complied. But all the way home my son protested that the chastisement was unfair. As my wife tried to justify the patron's actions by the impoliteness of their having bothered other people by loud talking, my son became more defiant. He felt so humiliated by the rudeness of the patron's conduct that he denied the morality of the rule the patron was enforcing—arguing that people had a right to talk so that they could interpret the movie to each other. His only escape from the stigmatising shame he had suffered was a refusal to

acknowledge that shame, adopting a false pride in his own moral superiority over the rude and—in his view—unfair patron. This story highlights four key concepts in the emotional response to sanctioning experiences: legitimacy, social bonds, shame and pride. Foremost is the degree of legitimacy the sanctioned offender grants to the sanctioning agent's behaviour, driven more by the agent's respectfulness and procedural fairness than by the substance of the morality the agent enforces (Tyler 1990). Second is the strength of the social bond the offender has to the sanctioning agent and the community in whose name the sanctioning agent was acting (Scheff & Retzinger 1991). Third is the shame the offender either acknowledges or bypasses, respectively repairing or severing social bonds to agent or community (Braithwaite 1989). Fourth is the source of pride the offender feels in the aftermath of the sanction: social solidarity with the relevant community, or isolation from that community as an "unconquerable soul" (Henley 1875). These concepts allow a falsifiable statement of a "defiance" theory of sanctioning effects:

- Sanctions provoke future defiance of the law (continued, more frequent or more serious violations) to the extent that offenders experience sanctioning conduct as illegitimate, that offenders have weak bonds to the sanctioning agent and community, that offenders' shame goes unacknowledged and offenders become proud of isolation from the community.

- Sanctions produce future deterrence of law-breaking (desistance, less frequent or less serious violations) to the extent that offenders experience sanctioning conduct as legitimate, that offenders have strong bonds to the sanctioning agent and community, that the offender's shame is acknowledged and the offender remains proud of solidarity with the community.

- Sanctions become irrelevant to future law-breaking (no effect) to the extent that the factors encouraging defiance or deterrence are fairly evenly counterbalanced.

The question of how and when unfair sanctions lead to defiant retaliation is addressed by the sociology of the emotions.

Scheff and Retzinger (1991) theorise that any statement of disapproval (presumably including criminal sanctions) by one person about another's actions can evoke anger (presumably a definition of the sanction as unfair) when the statement is communicated disrespectfully by person A to a person B with weak or insecure bonds to person A or society.

Unfairness may thus be partially in the eye of the beholder. And even when a sanction is patently disrespectful or unfair, not everyone will fly into a rage as a result. Weakly bonded offenders are most at risk for refusing to acknowledge the shame they actually feel, substituting pride in their bold disrespect for the would-be shaming agent, for the rule the agent enforces, and for the society making those rules. A great deal of evidence suggests the best name for this proud and angry emotion—and the retaliation it causes against vicarious victims—is defiance.

Defiance is the net increase in the prevalence, incidence or seriousness of future offending against a sanctioning community caused by a proud, shameless reaction to the administration of a criminal sanction. Specific or individual defiance is the reaction of one person to that person's own punishment. General defiance is the reaction of a group or collectivity to the punishment of one or more of its members. Defiance is distinct from other hypothetical mechanisms by which sanctions increase crime, such as labelling (Lemert 1972), thrill-seeking (Katz 1988), imitation or brutalisation (Bowers 1988). Defiance theory explains variation in criminal events, not criminality (Hirschi 1986).

Defiance occurs under four conditions, all of which are necessary:

- The offender defines a criminal sanction as unfair.

- The offender is poorly bonded to or alienated from the sanctioning agent or the community the agent represents.

- The offender defines the sanction as stigmatising and rejecting a person, not a law breaking act.

- The offender denies or refuses to acknowledge the shame the sanction has actually caused him to suffer.

Sanctions are defined as unfair under two conditions, either of which is sufficient:

- The sanctioning agent behaves with disrespect for the offender, or for the group to which the offender belongs, regardless of how fair the sanction is on substantive grounds.

- The sanction is substantively arbitrary, discriminatory, excessive, undeserved or otherwise objectively unjust.

Offenders deny shame as one of two adaptive responses to alienation, as Karl Marx put it: "impotence and indignation" (quoted in Scheff & Retzinger 1991, p. 64). The first response accepts shame and seeks escape through retreat or intoxicants, as in Anderson's (1978) "wineheads". The second denies shame and insulates against it by anger and rage in reaction to insult, as in Anderson's "hoodlums". We lack sufficient evidence or theory to specify the individual or social conditions under which alienated persons choose these alternative responses.

Defiance theory therefore predicts three reactions to punishment defined as unfair.

- When poorly bonded offenders accept the shame an unfair, stigmatising sanction provokes, the sanction will be irrelevant or possibly even deterrent to future rates of offending.

- When poorly bonded offenders deny the shame they feel and respond with rage, the unfair, stigmatising sanction will increase their future rates of offending. This unacknowledged shame leads to an emotion of angry pride at defying the punishment. That pride predisposes the defiant offender to repeat the sanctioned conduct, symbolically labelling the sanctions or sanctioners, and not the offender's acts, as truly shameful and morally deserving of punishment. In the process, the victims or targets of the sanctioned acts become vicarious substitutes for the state or its sanctioning representatives.

■ The full shame-crime sequence does not occur, however, when a well-bonded offender defines a sanction as unfair. The unfairness may weaken the deterrent effect of the sanction and make it irrelevant to future conduct. But even if the offender (like my son in the theatre) denies the shame, proud defiance is unlikely since it is less valued than the pride associated with social bonds. In economic theory, the utility of defiance is generally less than the utility of social bonds. From this standpoint, there is no difference between a social control and rational choice theory of sanction effects (Berk et al. 1992), as distinct from crime causation (Hirschi 1986). Tyler (1990, p. 63) reports that when criminal justice loses legitimacy, peer disapproval of crime takes its place. Those who are bonded to peers (or for children, their handlers) who disapprove of crime would seem to be shielded from defiance.

But what about those who are not? For them, the theory raises major questions about the basic premise of the criminal law: that it will reduce, or at least not increase, the crimes it punishes. If justice merely causes more crime, that is a high price to pay for the moral fairness of leaving no bad deed unpunished. The dilemma this poses of justice versus safety is an enormous challenge. But it points all the more clearly to a solution drawn from juvenile justice innovations in New Zealand and Wagga Wagga (see Alder & Wundersitz 1994).

Controlling Domestic Violence

If defiance theory is correct, it implies that punishment of domestic violence need not necessarily backfire. If punishment could be imposed in a way that poorly bonded persons would deem legitimate, fair and duly respectful of their human dignity, then it may yet control domestic violence. At the least, it should mitigate the criminogenic effects of arrest.

But how might that be done? Defiance theory also suggests that poorly bonded persons are extremely sensitive to any statement of disapproval. Even Braithwaite's observations of nursing home executives show how enraged they become at the most polite and reasonable statements inspectors make about

violations of regulatory standards. And an overwhelming accumulation of evidence in the US and England suggests that police themselves are extremely defiant to disrespectful suspects, giving them summary punishment of the most disrespectful and stigmatising kind. Fair yet effective shaming of acts, not persons, in a noncommunitarian, individualistic society may require the temperament of angels and the skills of world-class negotiators. The current system of criminal justice seems almost certain to lack such traits.

Yet why limit our thoughts to an ancient system of justice that never even began to contemplate the weak level of community in our atomised and mobile modern world? Why not look for viable alternatives that preserve the due process principles of the Common Law but make better use of the only community power we have left: the social networks of victims and offenders? Incorporating primary groups into the process of punishment was the original premise of the Common Law, and can still be achieved today—even with weakly bonded people. Many models are possible. But we need look no farther than Wagga Wagga (Moore 1993, personal communication) to find one already in practice, at least for juvenile offences.

The basic idea of the Wagga Wagga program has been described at length elsewhere, and draws heavily on one of the four theories underlying defiance: Braithwaite's reintegrative shaming. By assembling the social networks of the victim and the offender in the same room, a coordinating police officer can lead a discussion of the act that was committed, the wrongness of the act, and the way in which the offender should pay for the act. Victims report very high levels of satisfaction with this process, perhaps because the police involved do have the temperament of angels and the skills of world-class negotiators. Whether it reduces or increases crime is still unknown, but could be found out clearly through a randomised experiment. Whether it would work for domestic violence is also unknown, but it should be trialled.

We will never know unless we try it. And if we do not try it, our alternative is two equally unacceptable choices: arresting offenders and running the risk of making them more violent, or leaving them alone and legalising domestic violence. Something new must be tested to solve the dilemma, and the Wagga Wagga plan is a good starting point.

If the Wagga Wagga approach is applied to domestic violence, the reintegrative shaming techniques may only work if they are applied very swiftly after the crimes in question. Lengthy delays could allow anger to cool down, only to be rekindled by a conference that backfires. American experience with police civilian review boards shows how conference-style formats can result in stigmatic, disrespectful shaming by victims that simply enrages the accused and may cause more brutality than they prevent. Defiance theory predicts both that the Wagga Wagga approach could work, but that it could easily backfire. Timing could be crucial, with enough time after the incident to detoxify any alcohol in the blood but enough speed to make the consequences of the crime clearly connected to it.

Other ideas may also work. The process of trial and error, and not any grand theory, is the best hope for ultimate success. In domestic violence control as in any other task, there is simply no substitute for hard work and perseverance. If we do live in a culture of defiance, we should welcome the chance to defy the odds against our success. And there may be nothing so defiant and truly righteous as creative thinking and bold experiments.

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Masculinities, Violence and Communitarian Control[1]

John Braithwaite and Kathleen Daly

Violence is gendered: it is in considerable measure a problem and consequence of masculinity. Contemporary state interventions to control violence are no less gendered: structures of response, from arrest through imprisonment, glorify tough cops, celebrate adversarial relations, and construct a virtuous "protective" state by incarcerating or, in some countries, killing "the bad guys". What alternatives are possible in an apparently closed system, where masculinity and masculinist structures are both the cause and putative cure of violence?

In this essay, we consider men's violence toward women and ways of responding to it. Recognising the failure of traditional justice system responses toward violent men, we outline a more promising approach, one compatible with the principles and visions of republican criminology (Braithwaite 1989; Braithwaite & Pettit 1990). This approach uses a community conference strategy adapted from the Maori culture in New Zealand as a key element in an overall regulatory ideal that repudiates exploitative masculinities (see Mugford & Mugford 1992). We elucidate the community conference, discuss its

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[1]   A revised version of this paper is included in *Just Boys Doing Business: Men, Masculinity and Crime*, edited by Tim Newburn & Betsy Stanko published by Routledge in August 1994.

strengths, and address vexing questions about its efficacy in different contexts.

Multiple Masculinities and Normal Violence

Multiple masculinities are implicated in the gendered patterning of violence. Men's violence toward men involves a masculinity of status competition and bravado among peers (Daly & Wilson 1988; Luckenbill 1977; Polk & Ranson 1991). Men's rape and assault of women reflect a masculinity of domination, control, humiliation, and degradation of women (Brownmiller 1975; Wilson 1978; MacKinnon 1987; Smith, 1990; Alder 1991; Snider 1992). Other types of harm involve a shameless masculinity or a masculinity of unconnectedness and unconcern for others. When called to account for exploitative conduct, men's responses may be rage rather than guilt, or an amplification of non-caring identities such as "badass" (Braithwaite 1991; Katz 1988; Miedzian 1991; Retzinger 1991). Some women may exhibit these masculine qualities, but their behaviour would likely be interpreted as pathology. They would derive little support for expressions of masculine violence from even the most marginal of subcultures.

For men, status competition through physical force, domination-humiliation of the less powerful, and knowing no shame have substantial cultural support. Few societies today contain majoritarian masculinity that sets its face against violence. In general, women's and men's social movements have failed to nurture credible competing non-violent identities for heterosexual men (*see* Carrigan et al. 1985; Connell 1987). When such identities are imagined or promoted, they are confined to men's potential to care for others in families, that is, to be loving or caring fathers, husbands, sons, or brothers. In fact, the caring masculine identities having some cultural support are more likely found within "the family" than outside it. To suggest that masculine caring is featured in family life is expected and paradoxical. It is to be expected in light of the physical separation for men of "work" and "home" with the rise of capitalism (*see* Zaretsky 1976); historically, emotional life for men became centred on the home or the family "as haven"

(Lasch 1977). Yet, in light of feminist research, it is paradoxical to associate masculine caring with family life. Evidence from the eighteenth and nineteenth centuries in Europe and the US shows that men exercised control over household members, including wives, children, servants, and slaves by physical force and violence, often with the support of religious and secular law (Dobash & Dobash 1992, pp. 267-9). Contemporary research indicates that women's experiences with physical and sexual violence are most likely to be within intimate relationships with men including fathers, husbands, boyfriends, and other men they know. Thus, while male identities in the family are a problem, the caring sides to those identities may be part of the solution.

Failures of Justice System Intervention

The failures of traditional justice system responses to men's violence against women can be summarised in three points.

Problem 1: Most men are not made accountable for acts of rape or violence against intimates. Women do not report the incidents (Dobash & Dobash 1979, pp. 164-7; Estrich 1987, pp. 13, 17; Temkin 1987, pp. 10-12; Stanko 1985; Dutton 1988, p. 7; Smith 1989). There are also perceived evidentiary difficulties or police indifference leading to non-prosecution (Chappell & Singer 1977; Edwards 1989, pp. 100-6, 172-3; Frohmann 1991; Hatty 1988; Temkin 1987, pp. 12-15; Buzawa & Buzawa 1990, p. 58; Stith 1990; Zorza 1992, p. 71), plea bargaining, and acquittals (Kalven & Zeisel 1966, pp. 249-54; Adler 1987, p. 121; Temkin, 1987, p. 15).

Problem 2: The men who are arrested and prosecuted for violence against women may have escaped retribution before and may have entrenched patterns of raping and assaulting women. This follows from the evidence cited under Problem 1. When criminal conviction is a rare event for perpetrators, repeat offenders will often be hardened by the time of their first conviction. Because they are hardened offenders, rehabilitation programs fail. They fail because they are attempted when a history of violence is so advanced; they fail because the prison

that is seen as necessary for a hardened criminal is the least likely site for rehabilitation; and they fail because they occur in a context where a man is stigmatised as a fiend when he believes that he has been a normal (violent) male for many years.

Problem 3: Women victimised by men's violence are re-victimised by engaging the criminal process. Complainants of intimate assaults may not be taken seriously by the police or courts (Stanko 1982; Ferraro 1989; Stanko 1989). Rape victims (or survivors) feel ashamed of coming forward and pursuing a complaint (Dobash & Dobash 1979, p. 164; Newby 1980, p. 115; Scutt 1983, p. 166; Stanko 1985, p. 72). The criminal process silences the victim. If the case goes to trial, the woman is denied the chance to tell her story in her own way. Rather, she becomes evidentiary fodder for a defence attorney. She is not allowed to tell the offender what she thinks of him, what he has done to her life. She has no opportunity to say what she thinks should happen to the man (Smart 1990; Real Rape Law Coalition 1991), and there is no ceremony to clear her character (Smart 1989).

For rape, the reform literature tends to concentrate on evidentiary rules at trial. Some feminists have become disillusioned with the possibility of changing rape law and procedure; they urge that energies be focused on the bigger battles against patriarchal structures rather than be dissipated on the minutiae of liberal legalism (Smart 1990; Snider 1990, 1992). For domestic violence, debate has centred on the merits of the conciliation model and law enforcement model (Lerman 1984).

The limitations of liberal legalism as a reform agenda are acknowledged. Moreover, it is important that a regulatory strategy not pit law enforcement against communitarian forms of control. Justice system institutions can be reformed that give voice to women and that continue the struggle against men's domination of women. A radical shift of paradigm will be required: it will treat victims and offenders as citizens rather than as legal subjects, empower communities at the expense of judges, and confront exploitative masculinities with pro-feminist voices. It involves a shift from a liberal to a civic republican frame.

Republican Criminology

Defended elsewhere (Braithwaite 1989, 1993; Braithwaite & Pettit 1990), republican criminology contains the following elements and claims. Shaming is more important to crime control than punishment, and the most potent shaming is that which occurs within communities of concern. Shame has negative consequences for offenders and victims unless it is joined with a ritual termination of shame (reintegration ceremonies). The criminal process should empower communities of concern, and it should empower victims with voice and the ability to influence outcomes (Eijkman 1992). Communities of concern must negotiate social assurances that victims will be free from future predation and harm.

A reform strategy that embodies these principles, albeit in a tentative way, is the community conference. These conferences can become a key building block of a political strategy against exploitative masculinities.

The Community Conference Strategy

The idea of the community conference comes from New Zealand, where, since 1989, it has been the preferred approach in responding to juvenile crime. White New Zealanders (or Pakeha) adapted the idea of family group conferences from Maori culture, where it has been used for centuries in responding to sexual abuse and violence in families as well as for a variety of more minor offences. Pakeha have been more cautious about applying the Maori approach in response to family violence, partly because of the legitimate concern that power imbalances among family members can easily be reproduced in family conferences.

The family group conference (FGC) approach in handling juvenile crime is as follows (*see* Maxwell & Morris 1993, ch. 1). After an offence is detected by the state, a youth justice coordinator convenes a conference. Those invited are the offender (let us assume here a male)[2] the boy's family members

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2.   Except when men's abuse of women is discussed, the generic "he" for the offender or "she" for victim, will not be assumed.

(often extending to aunts, grandparents, cousins), other citizens who are key supports in the boy's life (perhaps a football coach he particularly respects), the police, the victim, victim supporters, and in some instances, a youth justice advocate.

These conferences can be viewed as citizenship ceremonies of reintegrative shaming (Braithwaite & Mugford 1993). The theory of the FGC is that discussion of the harm and distress caused to the victim and the offender's family will communicate shame to the offender. The assembling of people who care about and respect the offender fosters reintegration (or healing as it is termed by the Maori) of social relationships. In a successful conference, the offender is brought to experience remorse for the effects of the crime; to understand that he or she can count on the continuing support, love, and respect of family and friends; and to agree on a plan of action to prevent further harm. All conference participants are given the opportunity to explain how the offence affected them and to put forward proposals for the plan of action. The offender and his or her family members then propose a plan, which is discussed and modified until it is agreeable to all FGC participants, including the police.

Two features of the conference maximise its potential for reintegrative shaming. Giving voice to victims and victim supporters structures shaming into the process; and the presence of offender supporters structures reintegration into the process. These features are conducive to reintegrative shaming, though they do not guarantee it.

Those familiar with the uses of mediation in domestic assault cases, or in family law more generally (Lerman 1984; Fineman 1991; Rifkin 1989), will immediately see the worry in this approach. It empowers a family structure already characterised by deep imbalances of power between men and women, abusing adults and abused children. However, traditional Maori diagnoses of power imbalance, while not feminist, bear some resemblances to a Western feminist analysis. For example, in some Maori tribes an accused male abuser would have no right to speak at the conference. Any statements in his defence would have to be made through someone moved to speak on his behalf. Maori responses also challenge statist solutions to crime problems. Statist thinkers see a problem of power imbalance in the family and assume state personnel (such as social workers or police officers) are the

best agents for correcting that imbalance. In Maori thinking, it is members of extended families who are in a better position to intervene against abuse of family power than the social workers or police officers. Communities of care and concern such as extended families are in a better position to exercise periodic surveillance of family violence or abuse, to talk with family members to ensure they are enjoying freedom from violence, to shame family members when abuse of power does occur, to enforce agreements such as not drinking alcohol, to negotiate understandings that an abused person has a safe harbour nearby to stay (a kin member's or neighbour's house), and to negotiate the circumstances of the abuser's removal from the household until there is satisfactory assurance of violence-free family life.

Viable extended families do not exist for many abused individuals who live in Western societies. In New Zealand, the state at times has been impressively proactive on this score. If there is an aunt who has an especially loving relationship with the offender, but who lives hundreds of miles away, the state will pay for her to attend the conference. Occasionally, an agreement is reached in which an offender, who has run to the streets to escape an abusive household, can live with relatives in another community.

In 1991, a variation on the New Zealand conference strategy was implemented in Wagga Wagga (Australia), a city of 60,000 people, 100 km west of the capital, Canberra. It has been introduced in other Australian jurisdictions, though taking variable forms (see Alder & Wundersitz 1994). One of the authors has observed the processing of 23 young people through conferences in Wagga Wagga and New Zealand during 1991-93; we shall draw from some of these conferences to illustrate its practice.

The genius of the Maori approach, as adapted in New Zealand and Australia, is that it is a particularistic individual-centred communitarianism that can work in an urban setting. The strategy does not rely on fixed assumptions of where community will be found. It does not assume that there will be meaningful community in the geographical area surrounding an offender's home. Nor does it assume that members of a nuclear family will be a positive basis of care, though it always attempts to nurture caring in families. It does not assume that members

of the extended family will be caring and effective problem solvers. It does assume one thing: if a group who cares about both the offender and victim cannot be assembled, this means the conference coordinator is incompetent, not that these human beings are devoid of caring relationships.

The challenge for a conference coordinator is to find the people in an offender's life who really care about him or her, wherever they are. One example of the handling of a male teenager in Wagga Wagga illustrates this point. The boy had been thrown out of his home. The coordinator discovered that his community of concern was the football team where he enjoyed respect and affection. At the football club, the coordinator asked whether the parents of other team members would be prepared to take him in for a time. Several offered. The boy chose the one he liked best but then found he did not like living there; he moved on to another set of football team parents and seemed to be happy at the second try.

Another important feature is that the conference approach is geared to a multicultural society. Anglo-Saxon liberal legalism has crushed the communitarian justice of the Celtic peoples, the Maoris, Australian Aboriginal people, native Americans, and Asian ethnic groups with a univocal imperial system that sacrifices diversity in problem-solving strategies to belief in equal treatment under one standard strategy. The community conference, in contrast, empowers particular communities of citizens who care about particular people to come up with unique solutions in ways that seem culturally appropriate to those people and circumstances. Western liberal legalism does have a valuable role in plural problem-solving: constitutionalising it and providing citizens with guarantees that certain human rights cannot be breached in the name of cultural integrity. Hence, when conferences are established, advocates can ring alarm bells to engage court intervention when sanctions are imposed beyond the maximum allowed according to more universal state laws. There must be methods of reviewing decisions to ensure that offenders are not coerced into admitting guilt for offences they claim not to have committed. The New Zealand state has attended to these issues in its reform agenda (Office of the Commissioner for Children 1991; Ministerial Review Team 1992). What we might aspire to

is a creative blend of empowered legal pluralism constrained by Western universalist legal principles (*see* Braithwaite & Pettit 1990).

Community Conferences in the Regulatory Pyramid

How would the community conference be used in responding to men's violence against women? We shall consider men who assault intimates, an estimated 10 to 33 per cent of whom also rape them (Frieze & Browne 1989, pp. 186-90). To do so, we first sketch how community conferences articulate with other forms of state intervention including powers to arrest and punish.

Republican criminology gives up on prison as the best way of responding to or containing men's violence toward women. It advocates minimalism in the use of imprisonment (Braithwaite & Pettit 1990), but it does not advocate abolitionism. Like Dobash and Dobash (1992, pp. 210-12), we are wary of an abolitionist agenda of returning men's violence toward women to an ill-defined "community", since power imbalances would reinforce patriarchal power. We are interested in the possibilities for communitarian institutions to empower victims "to use the criminal justice process to negotiate their own security with suspects/spouses" (Fagan & Browne 1990, p. 190; *see also* Mugford & Mugford 1992). Both mandatory arrest and abolitionism deprive victims of the discretion necessary for such negotiation. Some feminist abolitionist proposals (for example, Meima 1990) do contain an incipient conference strategy, but they do not allow for any accommodation of communitarian ideals with the option of imprisonment. If non-carceral approaches fail and if imprisonment of a violent man offers more protection of republican liberty than doing nothing, then the man should be imprisoned.

We envision the regulatory ideal in the form of an enforcement pyramid (*see* Figure 1). The existence of imprisonment at the peak of the pyramid channels the regulatory action down to the base of the pyramid. Regulatory institutions can be designed such that state power enfeebles community control or, as in the pyramid model, so that

Figure 1

Domestic Violence Enforcement Pyramid

Im-
prison-
ment

Arrest-
Imposition
of stringent
probation
conditions
by court

Third Community
conference
(further escalation
of intervention)

Second Community
Conference
(escalated intervention)

First Community Conference

Police called: warrant issued;
shelter provided; advocate from
shelter involved in case

Confrontation with family disapproval

Imagined social disapproval

Self-sanctioning with conscience

it enables it. The republican does not call for an informalism that replaces formalism, but for a formalism that empowers and constitutionalises informalism. The preference is to solve problems at the base of the pyramid, but if they cannot be solved there, they are confronted at higher levels. By signalling a societal capability of escalating through these levels, we communicate to a violent man that he should respond by bringing his violence under control. Otherwise, he will face one escalation after another of intervention in his violent life.

At the pyramid's base, the theoretical assumption is that violence within families is least likely when family members have internalised an abhorrence of violence, when masculinity does not depend on domination to persuade, when women are not socially subordinated, and when caring for others is valued. A long historical process of community and state involvement in shaming acts of intimate violence can create a society in which most citizens internalise the shamefulness of violence. The great historical agent of this process is not families or the police, but an active women's movement. Thus, most social control can occur at the pyramid's base by self-sanctioning with pangs of conscience.

If self-sanctioning fails, the history of community shaming of violence can persuade an abusive man that others will disapprove of him and his violence. No one has to confront the man with shame at this level; a man who understands the culture will know that those who learn about his violence will gossip disapprovingly. When gossip hits its target, it will do so without being heard by the target; it will be effective in the imagination of a culturally knowledgeable subject (Braithwaite 1989). But if a man is incapable of imagining the disapproval others feel, then someone must confront him with that disapproval. If family members are too intimidated, then public intervention is required. Consequently, the next rung in the pyramid involves the police being called and a warrant for arrest being issued.

Warrant for arrest is preferred over actual arrest at this level because there is evidence that arrest warrants may be effective in reducing subsequent violence—at least from a set of cases where offenders were absent when the police arrived (Dunford 1990). Sherman (1992) interprets this as a "sword of Damocles" effect. It is identical to the theory of the pyramid:

automatic punitiveness is inferior to signalling the prospect of future enforcement, hence channelling the regulatory game toward cooperative problem-solving (for the underlying game theory, *see* Ayres & Braithwaite 1992, ch. 2). Issuing an arrest warrant, even if the man is present, is the first intervention. When the warrant is issued, the police should advise the woman to move to a shelter and seek the advice and support of a shelter advocate. The man has time to think about the "sword of Damocles" that the warrant has put in place.

However, it recognises that for some men, an arrest warrant (like a restraining or protection order) will be merely viewed as a "piece of paper" (Chaudhuri & Daly 1992), especially for men who have been arrested before. When this is true, the remedy is escalation up the pyramid. Note also a key difference between a criminal arrest warrant and a civil restraining order. The restraining order enables escalation to enforcement action in the face of further misconduct; the arrest warrant enables prosecution for the violence that has already occurred in addition to enforcement directed at the further misconduct.

The design, meaning, and results of the original Minneapolis police field experiment and subsequent replications continue to be debated (Sherman & Berk 1984; Lempert 1989; Sherman 1992; Dunford 1990; Lerman 1992; Bowman 1992; Frisch 1992). Recall that the experiments randomly assigned different police "treatments" in responding to domestic violence calls: arrest, separation, and mediation. The original Minneapolis study (Sherman & Berk 1984) revealed significant effects of arrest over separation in reducing subsequent violence. The accumulated evidence from subsequent research suggests a simple deterrence model of arrest is inaccurate. Sherman (1992) now rejects the pro-arrest conclusions drawn from his previous research. For a subset of violent men in four of the Minneapolis replications, those white and employed, he concludes that arrest seemed to have a shaming effect that reduced subsequent violence (*see also* Hopkins & McGregor 1991, pp. 125-30; Williams & Hawkins 1989). But for another subset of men, those black (in three of the studies) and unemployed (in four), arrest seemed to promote rage or defiance rather than shame. For this group, arrest was another stigmatic encounter with the justice system, which increased the men's anger and violence. The stigmatic effect of arrest for the latter group was stronger

than the reintegrative effect of arrest for the former; thus, across the board pro-arrest policies may cause more violence than they prevent. This is why we favour arrest warrants as the first state intervention; these would be followed by community conferences before moving up the enforcement pyramid to arrest (*see also* Bridgeforth 1990, p. 76 cited in Sherman 1993).

Although arrest may subsequently escalate an abuser's violence, at the time of the incident, taking a violent man into police custody may provide an abused woman a measure of safety. There can be ways to achieve such safety without arrest. While the man is issued a suspended warrant by one police officer, another could take the woman aside and suggest moving to a shelter until a community conference is convened. Such a policy would mean shifting resources from police lockups under pro-arrest policies to community shelters. Although shelters are expensive, they are less costly to build and run than lockups. Another key benefit of encouraging shelters is that shelter staff are made available to abused women as caring advocates for community conferences.

The next rung of the pyramid is the conference. Several unsuccessful conferences might be held before warrants for arrest were acted upon, in the worst cases leading to prosecution and incarceration. Some may recoil at the thought of one conference failing, more violence, another failed conference, more violence still, being repeated in a number of cycles before the ultimate sanction of incarceration is invoked. But there can be considerable intervention into a violent man's life when moving from one failed conference to another. For example, there could be escalation from weekly reporting by all family members of any violent incidents to the man's aunt or brother-in-law (conference 1), to a relative or other supporter of the woman moving into the household (conference 2), to the man moving to a friend's household (conference 3).

There are many other possible ways to intervene. For example, agreement might be reached on a restructuring of the family's bank accounts so that the woman is economically empowered to walk out if she faces more violence. The conference might agree that the man move out for a month and participate in a pro-feminist counselling program (for evidence on the effectiveness of such programs, *see* Dutton et al. 1992; for violent men's reactions to such programs, *see* Ptacek 1988;

Warters 1993). When conference intervention escalates to taking away the man's home and handing it over to his wife, some will object that this amounts to a six-figure fine, higher than the fine any court would impose after due process. But if the man feels an injustice is being done, he can walk away from the conference, allow his warrant(s) to be activated and face any punishment a criminal court may impose. Agreement at a conference to hand over a house is therefore viewed as a consensual civil remedy to the breakdown of a violent relationship rather than as a criminal punishment.

While the pyramid strategy represents a preference for solving problems at lower levels before escalating intervention up the pyramid, this is a preference, not a rule. In appropriate contexts, it is necessary to jump levels to go straight to the peak of the pyramid. For example, if a woman will testify against a known serial rapist, he should be routed direct to court and prison.

Contrast our regulatory pyramid with what a pro-arrest or mandatory arrest policy yields: routine perfunctory criminal justice processing. One problem with contemporary police practices, noted in Sherman (1992), is that the police tend not to process any differently cases of domestic violence that are the first or the most recent in a repeated pattern of violence. Thus, if the incident is judged not to have caused significant physical injury to the victim, it will be treated similarly, whether it is the first or fifteenth time the woman has called. The idea behind the enforcement pyramid is that intervention is responsive to patterns of offending, where communities of care monitor those patterns with state back-up.

Men who repeatedly batter may ultimately have to be removed from their homes or imprisoned. But to repeat perfunctory arrests while waiting for the victim's luck to run out, waiting for the day when her arrival in the hospital emergency room or the morgue will justify locking him up, is a deplorable policy. Equally, locking up all assailants is unworkable: there are too many for our prisons to accommodate. A policy based on the enforcement pyramid is more practical and more decent.

Community Conferences and the Pyramid as a Response

We propose that a response to men's violence against women, which places a heavy, though not exclusive, reliance on community conferences, can address some of the failures in justice system responses. Let us consider each of the three problems.

Problem 1: Most men are not made accountable for acts of rape or violence against intimates. Women do not report rape or intimate violence because they feel ashamed and responsible for the violence; they fear family disintegration, physical reprisal, and being degraded in the courtroom. Institutionalising community conferences provides a means of exposing men's violence without re-victimising women. It is a route of crime control that is not dependent solely on the courage or tenacity of victims. The proposal is unreservedly for net-widening, except it is nets of community rather than state control that are widened. It is important that a court processing option is kept in place; indeed, the community conference option can be managed in such a way as to increase rather than reduce the number of prosecuted rape cases. How could this be?

When a woman is concerned with one or more of the above consequences of a criminal trial, she will not continue with the case. But she may be persuaded by police to go with a more private, quicker and less traumatic option of a community conference. At the same time, the police pressure the man to cooperate with the conference, proposing that he may do better and get the matter handled more quickly than if it goes to trial. The conference can proceed without any admission of guilt on the man's part, and he has the right to stop the conference at any point, insisting on his right to have the matters in dispute argued in court. The conference proceeds on the woman's allegations; the man may choose "not to deny" the allegations, though initially may decline to admit guilt. If the conference goes well, it might conclude with the man's admitting guilt and agreeing to sanctions that are less than a court would have imposed, yet more than an absence of sanctions, had the complaint been withdrawn. The empirical experience of New Zealand and Australian conferences is that defendants are

mostly willing to admit guilt to secure the gentler justice of the conference in preference to the uncertain consequences of a criminal trial. If the conference goes badly (for example, the man refuses to admit his guilt and nothing is settled), the support the woman receives at the conference might embolden her to press charges.

The availability of a community conference option can encourage more women to come forward and to be supported in their victimisation. It may both increase voluntary guilty pleas and supply a support that motivates more victims to proceed to a criminal trial when the defendant denies guilt. It can encourage many women who do report offences, but who do not want to proceed with criminal prosecution, to do something to confront the offender with responsibility for his wrongdoing at a conference. Whether by community conference or trial, increasing numbers of men would be made accountable for their violence against women. When accountability for the guilty becomes a more common outcome of complaint, police should become more willing to define as crime the complaints of rape and violence victims.

Problem 2: The men who are arrested and prosecuted for violence against women have likely got away with it any number of times before and may well have entrenched patterns of raping and assaulting women. When we consider the callousness of some men prosecuted for rape, we may question the plausibility of affecting them through reasoned dialogue and shaming. Equally, we may question the plausibility of deterring them through prison sentences. The objective should be to intervene earlier in these men's lives before they have reached a hardened state. Evidence suggests that abusive men were violent toward family members such as sisters, brothers and mothers when they were young (Straus & Gelles 1990). However, it should not be forgotten that violence sports, the military and juvenile institutions can also be learning grounds for masculine violence.

In the New Zealand and Wagga Wagga juvenile programs, the aim is to communicate shame to male adolescents for their very earliest acts of violence. When community conferences become well established, forums are made available to families and concerned citizens for bringing violence and exploitation to

light at early stages. The psychologists who dominated criminological thinking until the 1950s were strong advocates of early intervention, a position discredited by 1960s labelling theorists. On balance, we should be pleased that early intervention driven by psychotherapeutic models was defeated.

Republican criminology incorporates the labelling theory critique by calling for a radically different justification for and modality of early intervention: community intervention. One patriarchal legacy of labelling theory is a squeamishness about shaming, a "boys will be boys" approach to violent masculinity. We must distinguish between harmful and productive early intervention. We can and must be early interveners again: we can use the power of shaming to avert patterns of exploitation and degradation of women. This power will be sustained and amplified by a strong women's movement and pro-feminist men's groups.

A conference at Wagga Wagga illustrates the potential for early intervention. It concerned a teenage boy's assault of a teenage girl. Out of the dialogue among participants, it was revealed that the boy had assaulted other girls and had viciously assaulted his mother. Australia has a major problem of teenage boys assaulting their mothers, although one would not know this from media accounts or the scholarly literature, which focus on spouse abuse. While there has been a "breaking of the silence" with spouse assault, this has not occurred for son-mother assault. In a patriarchal culture, it is mothers not sons who feel shame and responsibility for these assaults. Traditional courts and justice system responses offer little chance to break the silence of maternal shame and maternal protectiveness of sons from a punitive justice system. A problem-solving dialogue among people who care for both victim and offender, such as occurred at this Wagga Wagga conference, offers a way to break the silence and to confront a violent boy before his patterns become entrenched.

Another recent Wagga Wagga conference concerned the sexual assault of a 14-year-old girl in a swimming pool by a 14-year-old boy. The victim was most upset by the way the boy had been bragging to his mates, within the victim's hearing, that he had "got one finger in her". The victim was not only re-victimised by this humiliation, but also by being labelled as a "dobber" (a "tattle-tale") by boys at her school after she reported

the incident. Gossip among her classmates was that she "deserved what she got". Dialogue at the conference clarified that this was not the case. It also made it impossible for the offender's father to believe, as he had before the conference, that his son had been singled out unfairly for a bit of "horseplay". Participants at the conference affirmed her "courage" for coming forward in the face of such social pressures. The offender not only apologised to the victim in a meaningful way, but undertook, together with five other classmates (1 male, 4 female) who attended the conference, to spread the word among their peers that her conduct was blameless in every respect, while he took responsibility for his totally unacceptable conduct. In this conference, an exploitative masculinity of 14-year-old boys and an excusing "boys will be boys" fatherly masculinity was confronted by six teenagers and the parents of the victim. Our hypothesis is that this is a better way to confront a misogynist culture than a criminal trial ten years later.

Problem 3: Women victimised by men's violence are re-victimised by engaging the criminal process. One reason rape victims are re-victimised at trial is that criminal trials are transacted in the discourse of stigma (*see* MacKinnon 1983; Estrich 1986; Smart 1989). Winning is the objective, and each side tries to win through maximum efforts to blacken the adversary's character. The rape trial is a ceremony that puts a highly trained practitioner at the defendant's disposal to deny responsibility, to deny injury, and to deny the victim (we draw from Sykes & Matza's 1957 "techniques of neutralisation" formulation here and below). The rape trial institutionalises incentives for a defendant to reinforce his denials, denials which he believed before the trial, and denials that may have encouraged the rape in the first place (*see*, for example, Scully & Marolla 1984, 1985). Faced with prosecutorial vilification of his character, the trained competence to exaggerate evil, the transforming of a partially flawed person into a demon devoid of any redemptive potential, the defendant is ever more equipped to condemn his condemners. If he started the criminal trial in a mood of moral ambivalence toward the victim, he may end up holding the victim and prosecution in utter contempt. The discourse of stigma in rape trials reinforces misogynist masculinities (*see also* Bumiller 1990). Even if a man is

convicted and imprisoned, he will be released eventually, perhaps a more deeply committed and angry misogynist.

When fact-finding processes are allowed to stigmatise, disputants slide into a vortex of stigma: stigmatisation is mutually reinforcing. More generally, as Lewis (1971), Scheff (1987), Scheff and Retzinger (1991), and Lansky (1984, 1987) find, when human institutions are designed to foster the by-passing or denial of shame, shame-rage spirals are likely. Justice system procedures promote such spirals.

The community conference is based on different principles. It is designed to minimise stigma. Participants are selected based on their capacity to provide maximum support to victims and offenders, not as in criminal trials, to exert maximum damage to the other side. The aim of community conferences is to reintegrate victim and offender, not to stigmatise.

Compared to the offender-centred criminal trial, community conferences, if managed well, are victim-centred. The victim can confront the offender in her own words in her own way with all the hurt she has suffered, and victim supporters add more. Offenders often admit there were effects they denied or had not realised. The aim of the process is to confront the many techniques of neutralisation offenders use. It is to engage in an unconstrained dialogue that leaves responsibility as a fact that is admitted and regretted rather than denied.

Victim reintegration can be accomplished by sub-ceremonies following the formal conference. For example, at a conference concerning two boys who had assaulted a boy and girl, the girl said she did not want the offenders to come around to her house to offer a more formal apology because she was still afraid of them. The coordinator asked the girl's family to stay, and in a post-conference session, the coordinator discussed what had been said, suggesting that the boys would not come after her or the other victim again. This session ended with the girl agreeing she was no longer afraid. Later, a minister at the girl's church confirmed that the victim reintegration session helped to allay fears and distrusts the girl harboured up until the conference.

In contrast to the rape trial, from which a victim can emerge more afraid, frustrated at not having any degree of control, and suffering more reputation damage than the offender, community conferences are designed to empower victims with voice and control. Victims and their supporters have the right to

veto the plan of action proposed by offenders and their supporters.

Conferences typically conclude with an apology by the offender. This is important for relieving the victim of any taint of blame. The apology can be a much more powerful ceremony than punishment in affirming moral values than have been transgressed, as the contrast between American and Japanese culture attests (Braithwaite 1989; Tavuchis 1991). When an offender rejects any suggestion that the victim may have been at fault and openly condemns the wrongfulness of the act, the censure of crime is reinforced and the cultural support for techniques of neutralisation is eroded.

One wonders how the Clarence Thomas hearings might have gone if American political culture would have allowed Anita Hill's allegations of sexual harassment to be handled in a community conference format. Would it not have been better for women if Thomas could have admitted his abusing Hill and apologised for his acts without his being stigmatised and professionally destroyed (Daly 1992)? If after he apologised and stated his commitment to upholding anti-discrimination law, Thomas was *then* appointed to the court, one wonders whether we would have had a less misogynist US Supreme Court.

When institutions trade in stigma and rule out apology-forgiveness sequences as outcomes, forces of exploitation are uncensored, reinforced, and legitimated. The community conference strategy attempts to break the shame-rage spiral, to intervene early in transgressors' lives, and to reintegrate rather than stigmatise victims and offenders.

Questions about the Conference-Pyramid Enforcement Model

We are advocating an alternative way of responding to men's violence against women. We are not tied to a standard ordering of the pyramid levels, only to the preference for a dynamic problem-solving model. Although our arguments are meant to be suggestively sketched, there are vexing questions about the conference strategy that should be addressed.

Question 1: Is this just another form of mediation with all of its attendant problems?

Traditional mediation has been criticised for failing to take violence seriously, lacking procedural accountability, "bar[ring] abused women from access to courts for enforceable protection" (Lerman 1984, p. 72), neutralising conflict by individualising and prophetising grievances (Abel 1982), and failing to deal with the unequal bargaining power of the parties. Balance of power questions will be addressed under Question 2.

Community conferencing is not like family counselling and traditional victim-offender mediation. The participation of other community members on the basis of special relationships of care for victims and offenders has a transformative effect on the nature of the interaction and on the agreed action plans. David Moore's research on the Wagga Wagga process (private communication with the author) concludes that "more is better" with regard to participants beyond the nuclear family, so long as they are participants who have a relationship of genuine caring with one of the principals.

We agree that traditional mediation hands unaccountable power to mediation professionals whose "assumptions about the nature and seriousness of family violence" (Lerman 1984, p. 72) should be open to public scrutiny. We agree that it is wrong to bar women from access to courts for enforceable protection. Accountability to the courts should be guaranteed for both sides. Victims, like defendants, should have the right to withdraw from a conference and insist on activating an arrest warrant. Accountability to courts is not the most important accountability, however. Accountability to those citizens who have concern for victims and offenders is the more deeply democratic form of accountability (Barber 1984; Dryzek 1990). The traditional justice process "steals conflicts" from citizens (Christie 1977), keeping victims and offenders apart. The community conference requires victims and offenders to confront their conflict, without neutralising their emotions.

We agree that traditional mediation risks a limited, prophesied justice. Scutt (1988, p. 516) argues that privatisation of justice is detrimental to the interests of the disadvantaged when it "shuts off from public view the very nature of the inequality from which the individual and group suffer" (*see also*

Allen 1985; Hatty 1985). In contrast to mediation, conferences are designed to encourage community dialogue on intimate violence.

Private justice does risk rendering "the personal apolitical" in the traditional dyadic form of offender and victim, mediated by a professional. Traditional public justice hardly does better in grappling with domination: it silences communities of concern by the disempowering roles of legal professionals (Snider 1990). The important question is not whether private or public justice is the bigger failure in communicating censure. It is how to redesign both, and the dynamic interplay between them, so that incidents of violence become occasions for community debates about brutalising masculinities and inequalities spawning violence.

Question 2: Can we expect "communities of concern" to be any less sexist or misogynist than traditional justice system responses or state intervention?

Some will think it naive that communitarian dialogue can work in places like Australia, where one-fifth of survey respondents agree that it is acceptable under some circumstances for a man to hit his wife (Public Policy Research Centre 1988). It is not naive precisely because four-fifths do not find such violence acceptable. The problem is that one-fifth are able to erect walls around the private space of the family to protect themselves from the disapproval of the four-fifths. Even if many of these four-fifths "condemn wife beating, and yet at the same time actively support the type of marital relationship that encourages it" (Dobash & Dobash 1979, p. 179), at least their condemnation can be harnessed in conferences.

Voices in defence of exploitation and brutality will be heard in community conferences. But exploitation and brutality flourish more in secretive settings, when they go unchallenged and unnoticed (Hopkins & McGregor 1991, p. 127). When intimate violence is noticed and challenged, rationalisations sustained in secret settings are opened to dialogue. It would not be possible to have regulatory institutions where only feminist voices were heard and misogynist voices were completely silenced. However, dialogic institutions favour parties who are on the moral high ground, and feminists are clearly on the high

ground. So we suspect that conferences can create spaces to advance struggles for feminist voices to be heard against those of misogynists. As a flexible process of community empowerment, conferences permit more latitude for redressing power imbalances than the inflexible procedures of the court. Balance can be restored by the collective might of a victim's supporters (as in the case of the Wagga Wagga teenagers who supported their friend after she was sexually assaulted). It can be restored by powerful men, for example, a doctor, a brother, an uncle, a teacher, a neighbour, who subscribe to an anti-violent masculinity and who are more than a match for a domineering husband. Women can create institutions that give male allies a chance to show their mettle. Power imbalance can be most effectively restored by organised feminists who work as shelter advocates. Here, one strength of our proposal is that a shift in resources from police lockups to shelters can provide a base for feminist organisation. Improved criminal justice institutions are no substitute for a stronger women's movement as the keystone to controlling violence against women. In the meantime, we can design criminal justice institutions to enfranchise voices from the women's movement, coupled with those of abused women and caring men.

Conference coordinators need training to be effective in organising conferences that are responsive to men's violence against women. Training could include speakers from the women's movement and shelters, and role playing of conference scenarios subject to feminist interpretations. Coordinators can readily be required to hear feminist voices during in-service training, while it may take longer to require judges to do so.

Question 3: Do conferences work? Are participants satisfied?

Evaluation of conferences for juvenile cases in New Zealand (Maxwell & Morris 1993; Morris & Maxwell 1993) suggests "there is much that is positive and novel about [this] system of youth justice" (Morris & Maxwell 1993, p. 88), including the diversion of most juveniles away from courts and institutions, involvement of families in decisions and taking responsibility, and acknowledgment of differences in cultural groups. The authors cite these problems, however: professionals often took over the process, adolescent offenders often did not feel

involved, and just half of victims said they were satisfied with the outcome. Levels of satisfaction with conference outcomes were substantially higher for offenders and family members (85 per cent) than for victims (51 per cent) (Maxwell & Morris 1993, p. 115-20). Victim dissatisfaction was explained by:

> inadequate conference preparation... about what to expect... and unrealistic expectations [for] likely... outcomes, especially with respect to reparation (Morris & Maxwell 1993, p. 86).

More research is needed and more is underway. In particular, we need methodologically sound outcome evaluations (from both juvenile and adult samples) on whether violence falls following conferences more than it does following criminal trials.

We do not wish to hide implementation failures of conferences in New Zealand or Wagga Wagga, the difficulties of struggling against domination and stigma, nor would we suggest that conferences are a panacea even when perfectly implemented. We are suggesting that community conferences open an avenue for addressing the failures of contemporary justice processes, which leave misogynist masculinities untouched by shame and victims scarred by blame.

Conclusions

Men's violence against women is a crime enabled by men's domination (Daly & Wilson 1988; Dobash & Dobash 1979; Evason 1982; Yllo & Straus 1990). Republican and feminist theory (Braithwaite 1991, 1993; Yllo & Bograd 1988; MacKinnon 1983) argue that a reduction in men's violence toward women will occur when gender inequality is reduced and when human social bonds are more caring. There are many ways of causing cracks in patriarchal structures that have barely been discussed here. Among the most central are transforming economic power, familial, and sexual relations toward greater gender equity and strengthening the political power of the women's movement and pro-feminist elements in other liberation movements.

Contemporary criminal justice practices may do more to cement over cracks in patriarchal structures than prise them

open. Current practices leave patriarchal masculinities untouched and victims more degraded and defeated; and to continue with more of the same policies may make things worse. This is not to deny a role for the criminalisation of violence and state intervention of the kind envisaged in the enforcement pyramid.

We have proposed an alternative way of thinking about responding to men's violence against women that is based on these ideas:

- the threat of escalated state intervention (formalism) can empower more effective communitarian intervention (in formalism);

- ceremonies can centre on reintegrative shaming of offenders and reintegrative caring for victims;

- communities of care can devise their own preventive strategies, and can be motivated to implement them by their affection and attachment to particular victims and offenders; and

- dialogue can be sustained within communities of care about the rejection of violent masculinities and, more optimistically, about the search for non-violent masculinities.

While non-exploitative masculinities have the potential to emerge in community conferences, their expression is largely foreclosed in courtrooms and prisons. The creation of institutions that require men to listen to women and that open spaces for apology and dialogue might clear the way for a collective wisdom to emerge. That communal wisdom may redefine masculinities beyond the wit of our individual imaginings. Though it may not be possible to design criminal justice institutions that prevent violence, we can fashion institutions that generate less violence.

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The Cycle of Violence[1]

Cathy Spatz Widom

Considerable uncertainty and debate remains about the extent of early childhood victimisation. It is estimated that 1.6million children in the United States experienced some form of abuse or neglect in 1986 (Westat Inc. 1988) and that over 1000 children die each year under circumstances suggestive of parental maltreatment (American Humane Association 1984). However, even less is known about the impact of this victimisation on children and adolescents. The immediate consequences may involve physical injuries or psychological trauma. The emotional and developmental scars that these children receive may persist into adolescence and beyond. Because many other events in the child's life may mediate the effects of child abuse or neglect, the long-term consequences of early childhood victimisation have been difficult to determine. How likely is it that today's abused and neglected children will become tomorrow's murderers and perpetrators of other crimes of violence, if they survive?

In the past, research on child abuse and neglect has suffered from a number of methodological problems that have hindered the assessment of long-term consequences, particularly outcomes into adulthood (Widom 1989b). Recently, as a result of a project to examine the relationship between early child

abuse and neglect and violent criminal behaviour, base rate information is available on one important set of consequences of early abuse and neglect —delinquency, adult criminality, and violence.

This research demonstrated clearly and convincingly that childhood victimisation increases the likelihood of delinquency, adult criminality, and violent criminal behaviour. It also indicates that the relationship is not inevitable, suggesting an opportunity for long-range violence prevention through appropriate early intervention.

The Study

In 1986, I began research to address the relationship between early child abuse and neglect and later delinquent and violent criminal behaviour using a design that overcame many of the methodological limitations of previous research.

This paper will describe findings from a study of 1575 children from a metropolitan area in the midwest, including a matched control group, who were followed through official records of delinquency and adult criminality for a twenty-year period after the abuse or neglect incident. This study was designed to have a clear definition of abuse and neglect, to have large sample sizes allowing examination of the consequences of physical and sexual abuse and neglect separately, and to document consequences over a twenty-year period extending into young adulthood. While these findings support previous research, this prospective study allows issues of causality to be examined and disentangles the effects of childhood victimisation from other potential confounding factors.

The abused and neglected group consisted of 908 substantiated cases of child abuse and/or neglect processed through the courts during the years 1967 through 1971. Excluded from the sample were cases of adoption, involuntary neglect, placement only, and failure to pay child support. These are cases of early child abuse and neglect, and the sample is restricted to children who were 11 years of age or less at the time of the abuse or neglect incident. The control group represents 667 children, who were matched on age, sex, race,

and approximate family social class during the time period of the study (1967 through 1971).

Most of the subjects were in their twenties at the time of this study (the mean age was 25 years), although they ranged in age from 16 to 33. Clearly, most subjects were old enough to have official records for delinquency and adult criminality. Arrest records were used to measure delinquency and adult criminality (with searches at local, state, and federal levels of law enforcement).

Major Findings

1.   Abused and neglected children have a higher likelihood of arrests for delinquency, adult criminality, and violent criminal behaviour than matched controls (see Table 1).

Being abused or neglected as a child increases a person's risk for an arrest as a juvenile by 53 per cent, as an adult by 38 per cent, and for a violent crime by 38 per cent. [Violent crimes include arrests for robbery, assault, assault and battery, battery with injury, aggravated assault, manslaughter, involuntary manslaughter, or reckless homicide, murder or attempted murder, rape, sodomy, and robbery and burglary with injury.]

Table 1

Extent of Involvement in Delinquency, Adult Criminality, and Violent Criminal Behaviour

Any Arrest	Abused and Neglected (n = 908) (%)	Controls (n = 667) (%)
Juvenile	26.0	16.8
Adult	28.6	21.1
Violent Crime	11.2	7.9

Note: All differences are significant.

2.   *Abused and neglected children are involved in delinquency and criminality earlier, commit more offences, and more often become chronic or repeat offenders than control children (see Table 2).*

Table 2

Other Characteristics of Offending

Characteristic	Abused and Neglected (n = 908)	Controls (n = 667)
Age at first arrest (in years)	16.5	17.3
Average number of arrests	2.4	1.4
Per cent chronic offenders (more than 5 arrests)	17.0	9.0

3.   *Experiencing early child abuse or neglect has a substantial impact even on individuals with little likelihood of engaging in officially recorded adult criminal behaviour.*

Although males generally have higher rates of criminal behaviour than females, being abused or neglected in childhood also increases the risk of adult arrest for females—by 77 per cent over non-abused and non-neglected control group females.

As adults, abused and neglected females are at increased risk for property, drug, and public order offences, but not for violent offences. Females in general are less likely to be violent on the streets (and to be arrested for street violence), whereas they appear more often in statistics on violence in the home.

4.   Black and white abused and neglected children have higher risks of offending than control children. However, the difference between white abused and neglected and control subjects was not as great as that between black abused and neglected subjects and controls (*see* **Table 3**).

In fact, for arrests for violent crimes, white abused and neglected children do not show increased risk over controls. This contrasts strikingly with the findings for black abused and neglected children in this sample who show dramatic increased rates of violent arrests compared to control children. This surprising apparent race-specific finding requires further examination. Because these findings are based on official records and because official records over-represent minority groups, one obvious reason for the higher rates of violent arrests among blacks is that there is bias and discrimination within the criminal justice system. However, this does not seem adequate to explain the differences within the blacks and the lack of differences within the whites.

Another possible explanation for these race-specific findings is that there is more parental violence among black families than whites. To the extent that this research can address this issue, these data indicate that this is not the case for this sample. Approximately 20 per cent of the white children were physically abused, compared to less than 9 per cent of the black children. Relative to whites in the sample, blacks suffered more neglect.

A third possibility reflecting a more subtle type of differential treatment may be at work here and may have influenced these differential long-term consequences. Recall that these are cases of abuse and neglect from the late 1960s and early 1970s. It is possible that the system responded differentially to black and white abused and neglected children at the time. For example, abused and neglected black children could have been subjected to more extreme victimisation than white children, or to victimisation which persisted for a longer period of time, before coming to the attention of officials. This would presume a justice system that expects and tolerates higher levels of violence among black families. Following this scenario, only the most extreme cases of physical abuse in black

families would be reported to the authorities, and thus these cases would not be comparable to the cases of physical abuse from white families. This would also mean that abused and neglected black children would suffer their victimisation experiences longer than white children, before any interventions might take place. It is important to examine these race-specific effects for violent arrests and to consider these possible explanations.

Table 3

Involvement in Criminality by Race

Any Arrest	Abused and Neglected (n=908) (%)	Controls (n=667) (%)	Significance
Juvenile			
Black	37.9	19.3	<.001
White	21.1	15.4	<.050
Adult			
Black	39.0	26.2	<.010
White	24.4	18.4	<.050
Violent			
Black	22.0	12.9	<.010
White	6.5	5.3	NS

5.   In a direct test of the cycle of violence notion, violent criminal behaviour was examined as a function of the type of abuse or neglect experienced as a child (*see* Table 4).

Defining a childhood history of violence as physical abuse only, the cycle of violence hypothesis would predict that compared to other types of abuse or neglect, individuals experiencing physical abuse as a child should show higher levels of violence. The findings indicated that being physically abused increases one's likelihood of committing criminal violence, but being neglected also increases the risk of engaging in criminally

violent behaviour (*see* Table 4). Even using more complicated multivariate statistics which control for age, sex, and race, the physical abuse and neglect groups have a significantly higher likelihood of having an arrest for a violent offence than the controls (Widom 1989a).

Table 4

**Any Arrest for a Violent Offence as a
Function of Type of Abuse**

Abuse Group	n	Percent with an Arrest for Violence
Physical abuse only	76	15.8
Neglect only	609	12.5
Sexual abuse and other abuse or neglect	28	7.1
Sexual abuse only	125	5.6
Controls	667	7.9

6.   Connection between Child Abuse and Neglect and Runaways

A recent national survey of *Missing, Abducted, Runaway, and Thrownaway Children in America* estimated that 446 700 children ran away from households in 1988. Pagelow (1984, p. 49) called attention to the growing number of professionals who work with status offenders or delinquents who increasingly recognised that "many runaway children are not running toward something, but rather are running away from something —a home life in which they were subject to abuse, particularly sexual abuse".

To what extent do current research findings indicate that being abused or neglected in childhood places one at high risk for running away as an adolescent? Only a handful of studies have attempted to describe the extent to which adolescents who run away report having been abused or report having run away because of abuse. The results of these studies suggest that

there may be a link between childhood victimisation and running away. Nevertheless, since these study designs do not include control groups, we do not know the proportion of children who run away even without abusive or neglectful experiences in their homes.

There was direct support for a relationship between early childhood victimisation and adolescent running away (Widom & Ames 1994). As adolescents (before age 18), male and female abused and neglected children were significantly more likely to have an arrest as a runaway than controls (5.8 per cent versus 2.4 per cent). Furthermore, in an ongoing follow-up which involves 2-hour in-person interviews, 699 of the original 1 575 subjects were asked whether they had ever run away from home and whether they had ever run away from home overnight (before the age of 15). More than half the abused and neglected group (53 per cent) reported ever having run away (versus 30 per cent of the controls), and 28 per cent of the abused and neglected group reported running away from home overnight before the age of 15 (in comparison to 14 per cent of the controls). Both sets of findings were significant. Indeed, controlling for age, sex, race, level of education, and criminal history, being abused and neglected was still a significant predictor for a person's reporting that they had run away from home.

In sum, victims of early childhood victimisation appear at increased risk of running away from home and being picked up by the police. Running away puts these vulnerable children at further risk since many of them report personal victimisations—being robbed or sexually or physically abused—after they have run away.

Self-destructive Behaviour, Depression, and Suicide Attempts

Given the pervasive acceptance of the notion that violence begets violence, it is not surprising that much of the work in this area has focused on aggression and violence. At the same time, the effects of early abusive experiences may be manifest in ways not related to delinquency or running away, but may

lie in more subtle manifestations of emotional damage such as low self-esteem, depression, withdrawal, or, in the extreme, suicide.

In the current follow-up study, it was found that the abused and neglected group are significantly more likely to have had thoughts about death and to have made suicide attempts than the controls (*see* Table 5). These differences remain significant despite controls for age, sex, race, level of education, and criminal history. Thus, not only are abused and neglected children destructive and abusive toward others, but they also appear to be damaging to themselves.

Table 5

Extent of Suicide Attempts: Preliminary Findings from Follow-Up Study in Progress

Attempted Suicide	Abused and Neglected (n = 416) (%)	Controls (n = 283) (%)
Overall	19.2	7.8
Males	12.8	9.5
Females	27.0	5.2

Note: Differences between groups and for females are significant.

Potential Protective Factors

One of the emerging findings from this body of research is that a substantial portion of abused and/or neglected children do not appear to manifest negative outcomes. Although abused and neglected children are at increased risk, not all of them grow up to become delinquents or violent criminals. While it would be premature to conclude that the majority of abused and/or neglected children do not show some problem behaviours in adolescence or adulthood on the basis of the existing literature,

given some of the findings, it certainly seems appropriate to speculate on what might make a difference for some of these children. Some ways of handling or responding to potentially traumatic experiences of child abuse or neglect might lead to better outcomes. The literature suggests a number of potential protective factors (characteristics of the child or life experiences) which may act as buffers against long-term negative consequences.

Individual characteristics, such as high intelligence and certain kinds of temperament, and cognitive appraisal and experiences, such as developing a relationship with a significant person or some out-of-home placement experiences, may serve as buffers for some childhood victims growing up. For most of these characteristics and experiences, one can only speculate about ways in which they might protect abused and neglected children. For some, there is conflicting or indirect evidence. A major gap exists in our knowledge about what makes a difference in the lives of abused and neglected children. It is evident that there is much to be learned about the effects of protective factors and individual characteristics such as these, and even more to be discovered about how they operate to increase or decrease vulnerability for dysfunctional and problem behaviours.

Although controversial, one potential factor that may act to protect abused and neglected children from more serious long-term consequences is *placement outside the home*. Proponents of out-of-home placements such as foster care point to the potential for serious future harm in leaving these children in the home. They acknowledge that although some children are injured by foster parents, the rate of reported abuse by foster parents is lower than that of the general population, and far lower than the rate of re-abuse by abusive parents (Bolton, Lanier & Gia 1981). Furthermore, they point to the potential benefits of foster care as compared to the relatively poor results of parent treatment programs (cf. Cohn & Collignon 1979; Herrenkohl et al. 1980; Magura 1981). Studies of adults who grew up in foster homes found no evidence of more problem behaviours, delinquency, criminality, mental illness, or marital failure than in the general population (*see* Widom 1991 for a review of this literature). Kent (1976), for example, examined

case records of a large group of court supervised abused and neglected children in Los Angeles and found that children who had been in foster care at least a year were rated by their social workers as being better off (physically and socially) than at the time they entered foster care. After a six-month period in foster care, Fanshel and Shinn (1978) found that the well-being of the majority of the children had improved in terms of physical development, IQ, and school performance. They did not find that the longer a child spent in foster care, the more likely the child was to show signs of deterioration, and most of the children maintained the improvement over the five-year period of the study.

On the other hand, it has frequently been asserted that social intervention strategies in cases of child abuse and neglect are, at best, ineffective and destructive and, at worst, harmful to the child. Critics of foster placement outside the home stress the need to maintain biological family ties and to minimise government interference in family life, the concern over the financial cost of placement, and the concern that foster care may actually be worse for children than leaving them in the home, even taking into account the potential risk for continued abuse (Hubbell 1981; Wald 1976). Some examinations of foster care experiences have described the inadequacy, failures and high costs of the system (Gruber 1978; Schor 1982), whereas others have reported a high rate of behaviour problems (Bohman & Sigvardsson 1980; Bryce & Ehlert 1977; Frank 1980; Littner 1974) and school problems (Canning 1974) among foster children. However, none of these studies compared rates of such behaviours in non-foster care children or presented information about these children prior to their placement.

While out-of-home placements may act to exacerbate already heightened levels of stress in children from abusive and neglectful households, recent evidence suggests that out-of-home placements for some abused and neglected children may not be detrimental, at least, in terms of criminal consequences. Using a matched historical cohort design with children who had been maltreated, Runyan and Gould (1985) studied the impact of foster care on the subsequent development of delinquency, comparing 114 foster children (aged 11 to 18-years-old) who

had been in foster care for three or more years with a (demographically matched) comparison group of 106 victims of child maltreatment who had remained in their family home. These authors concluded:

> Overall, there appears to be no support for the idea that foster care is responsible for a significant portion of later problems encountered by victims of maltreatment (Widom 1991, p. 562).

I described placement experiences for my sample of juvenile court cases of child abuse and neglect from approximately 20 years ago and examined the role of these placement experiences in relation to delinquency and violence. These abused and/or neglected children in foster care and other out-of-home placement experiences, who typically came from multi-problem families, are a particularly vulnerable group in that they have experienced both a disturbed family situation and separation from their natural parents. In this research, under certain circumstances, out-of-home placements did not necessarily lead to higher risk of arrest for delinquency and violence.

One of the factors examined was *amount of time in first placement*. The assumption was that the longer the time spent in first placement, the better off the child would be. This is based on the notion that, in the context of a stable cratering relationship, the child would have the opportunity to develop attachments and thus a stronger sense of self and self-esteem. Children who spent more than ten years in their first placement had the lowest overall rates of arrests as an adolescent for delinquency and for violence. *Age at first placement* was also examined. The percentage of children later arrested for delinquency and for violent crimes increased with age at first placement. Few of the children placed before the age of one year had arrest records (15 per cent) and none had arrests for violent crimes, whereas children placed initially at ages 4-6 years old, for example, had higher rates of delinquency (30 per cent) and arrests for violence (10 per cent). Some children may actually benefit from out-of-home placements.

The challenge for social workers and therapists is to recognise and to act upon the different needs of these children and their families. Caution should be used in extrapolating

from these findings to present-day foster care situations. Present-day foster care children may differ from the sample of children studied here in being older at age of entry, in care for shorter periods of time, and coming from families who may be more dysfunctional because of substance abuse, domestic violence, and homelessness (Widom 1991).

Implications

Not all children who grow up in abusive or neglectful households necessarily become problematic adolescents and adults. Certainly there are a wide variety of environmental stresses, potential triggering mechanisms, and other factors in the developmental process. Life experiences subsequent to the early childhood victimisation experiences certainly have an important impact on ultimate development. Nevertheless, these findings relating early child abuse and neglect to later delinquency, adult criminality, and violent criminal behaviour have important implications for policy.

One implication from the findings is that interventions with childhood victims of abuse and neglect need to occur early so that they can have an impact on early stages of development. Given the demonstrated increased risk associated with early childhood victimisation, police, teachers, and health workers need to recognise signs of abuse and neglect and take action to intervene early. Later interventions should not be ignored, but the later the intervention in the child's life, the more labour intensive and more difficult the change process becomes. Particular attention needs to be paid to abused and neglected children with behaviour problems noted early in their lives. These are likely to be the children who are at risk for becoming chronic runaways and at highest risk of becoming offenders and violent offenders. These children need a specialised approach.

Second, increased attention needs to be paid to neglected children. Nationwide, the incidence of neglect is almost three times that of physical abuse and neglect cases represent the majority of cases taxing the child protection system. Since neglected children are at significantly increased risk for becoming violent offenders, prevention efforts need to be expanded. Parent training and nurse-home visitation

programs, such as the one suggested by Olds (1988), need to be implemented and evaluated. In contrast to the explosive and episodic nature of physical abuse, neglect is a chronic condition which in some ways may be more amenable to intervention strategies.

Increasingly, efforts are being made to look at and distinguish different forms of child maltreatment. There is mounting evidence that many of the observed problems in abused children may be attributed to neglect. Some researchers have suggested that neglect may be potentially more damaging to the development of the child than abuse (that is, if abuse is not associated with neurological impairment), particularly in the areas of language development (Allen & Oliver 1982), psychosocial development (Egeland et al. 1983; Bousha & Twentyman 1984), and empathic responsiveness (Frodi & Smetana 1984). In one study of the influence of early malnutrition on subsequent behavioural development (Galler et al. 1983), previously malnourished children had attention deficits, reduced social skills, and poorer emotional stability when compared to comparison children and these deficits were independent of IQ.

These findings are of particular concern since according to a recent report (Westat Inc. 1988), the majority of official reports of child abuse and neglect are cases of neglect (rates were 15.9 per 1 000 children in 1986, as compared to 5.7 per 1 000 for physical abuse and 2.5 per 1 000 for sexual abuse). Very little is known about the long-term consequences of childhood neglect. My findings demonstrate a clear and direct link between neglect (as distinct from physical or sexual abuse) and later violent criminal behaviour.

Finally, there needs to be increased recognition that children are not doomed if their childhood includes abuse and/or neglect. Unfortunately, too little is known about the factors which protect children from the development of antisocial, delinquent, and adult criminal behaviour. There are clues in the literature about potential protective factors which have implications for the development of intervention strategies. Finally, we need to know more about the specific ways or mechanisms by which childhood victimisation leads to increased risk for problem behaviours and violence.

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Appendix 1

Details of Study

The abused and neglected group consisted of 908 substantiated cases of child abuse and/or neglect processed through the courts during the years 1967 through 1971. Excluded from the sample were cases of adoption, involuntary neglect, placement only, and failure to pay child support.

These are cases of early child abuse and neglect, and the sample is restricted to children who were 11 years of age or less at the time of the abuse or neglect incident. The control group represents 667 children, who were matched on age, sex, race, and approximate family social class during the time period of the study (1967 through 1971). Children who were under school age at the time of the abuse and/or neglect were matched with children of the same sex, race, date of birth (+ 1 week), and hospital of birth through the use of county birth record information. For children of school age, records of more than 100 elementary schools for the same time period were used to find matches with children of the same sex, race, date of birth (+ 6 months), same class in same elementary school during the years 1967 through 1971 and home address, preferably within a five-block radius of the abused or neglected children. Because of the matching of subjects, children in both groups are alike in important characteristics such as age, sex, race, and approximate social class. The children differed only in the officially reported abuse or neglect experienced in childhood.

The percentage of males and females was about equal (about half and half), and whites outnumbered blacks (approximately 2:1). About a third of the sample was under school age at the time of the abuse or neglect incident and the remainder (65 per cent) was in school.

Definitions

Physical abuse cases included injuries such as bruises, welts, burns, abrasions, lacerations, wounds, cuts, bone and skull fractures, and other evidence of physical injury.

Sexual abuse charges varied from relatively non-specific charges of assault and batter with intent to gratify sexual desires to more specific ones of fondling or touching in an obscene manner, sodomy, incest, and so forth.

Neglect cases reflected a judgment that the parents' deficiencies in child care were beyond those found acceptable by community and professional standards at the time.

These cases represented extreme failure to provide adequate food, clothing, shelter, and medical attention to children. Although the literature on childhood victimisation deals with several phenomena (including physical abuse, sexual abuse, neglect, severe physical punishment, and psychological maltreatment), this research focuses on the first four and only indirectly deals with psychological maltreatment.

Detailed information about the abuse and/or neglect incident and family composition and characteristics was obtained from the files of the juvenile court and probation department, the authorities responsible for cases of abused, neglected, or dependent and delinquent children. Juvenile court and probation department records were also examined for the control subjects. In addition to searches of law enforcement records, searches were made of the Bureau of Motor Vehicles and (for all females) marriage licence records to find social security numbers to assist in tracing subjects through criminal records.

Violence and Masculinity: A Commentary

Sandra Egger

This paper is a commentary on the three papers in this volume by Professors Sherman, Braithwaite, and Spatz Widom. The aim is to examine an emerging issue in contemporary research and theory on violence which is raised to some extent in all three papers. The papers take as their starting point the last two decades of research and theory which have identified masculinity as central to the issue of violence. In different ways, however, the authors attempt to develop further an understanding of the relationship between masculinity and violence and in doing so, question some of the current orthodoxy surrounding the precise role played by masculinity and the reliance placed on a simple criminal justice response as the central plank of policy.

The three papers start from a perspective which is informed by developments over the last two decades in feminist legal scholarship, and by the challenges posed by feminist critiques of law and society. I will not attempt to provide a social history of the vital role played by women in the community in the 1970s and 1980s in the recognition of the gendered nature of most violence in society: the breaking of the silence surrounding domestic violence, sexual assault and child sexual assault. The role played by the refuge movement, the sexual assault workers, the rape crisis centres, the domestic violence advocacy centres and women's legal resource centres was central to the recognition and redefinition of private violence perpetrated in

the private sphere of the family as public violence of major proportions in terms of both prevalence and harm inflicted.

Similarly, I will not present a review of feminist critiques of the way in which the law, the criminal process, and the criminal justice agencies define and respond to violence against women and children. There is now a large feminist literature examining research and policy in these areas. Indeed, feminist analyses of violence against women and children now represent the dominant intellectual tradition. The teaching of homicide, assault and sexual assault in most Australian law schools is informed by feminist critiques. Such critiques inform much of police education and the education of social workers, health workers and the other professions working in the area of violence. Policy formulation in every State and Territory in Australia has occurred in the context of these critiques and the policy developments have been largely in directions identified and advocated by feminist analyses.

Feminist politics and scholarship have changed the way in which violence is viewed in Australian society. Empirical research has demonstrated that masculinity is a major cause of violent crime. The overwhelming majority of violent offences of all kinds are committed by men. Masculinity has been identified as central to the question of violence. Domestic homicides by men are the single largest category of homicides in Australia. The prevalence of domestic violence is much greater than is revealed by the official statistics and its occurrence has been documented across class, race, and ethnic boundaries.

Policy related research has repeatedly demonstrated the failure of the legal remedies to provide effective protection to women and children. The reluctance of police to intervene and invoke the criminal process in cases of domestic violence has been reported in all Australian jurisdictions. Policy formulation has been informed by these findings and changes have been undertaken to the law, police training, and police procedures. The key policy initiatives in all jurisdictions in Australia in the 1980s have been in the directions advocated by feminist critiques: that the hidden and private domestic violence inflicted on women and children is a crime and that the criminal prosecution and punishment of perpetrators is the first and foremost goal of reform. These critiques have operated at both an instrumental and a symbolic level. At an instrumental level

these critiques represent an attempt to coopt and enlist the vast apparatus and resources of the criminal justice system to the protection of women and children. At a symbolic level they challenge the way in which the law and its selective enforcement creates "a cultural climate in which particular behaviours, including violence against women is condoned" (Edwards 1990, p. 149).

Feminist analyses of law and society have recast our understanding of violence and the policies addressing both the protection of victims and the prevention of violence. The issue under examination in the present paper is, however, an exploration of the limitations and dangers posed by a particular feminist theoretical framework which views an all-encompassing notion of patriarchy as the sole cause of violence in society (Fuss 1989). It is dangerous and limiting in two senses. Firstly, an essentialist feminist analysis which assumes that all social relations are predetermined by a general oppression of all women by all men and which views all violence in society as a manifestation of patriarchal relations fails to recognise the important empirical differences in patterns of violence in society and to allow an analysis of the other factors which play an important role. In the language of feminist scholars it fails to recognise interacting or intersecting oppressions (Rice 1990).

Secondly, by failing to recognise the different patterns of violence and the multiple interacting causes there is a danger that policy formulation in relation to both the prevention of violence and remedies for the victims of violence will remain rigidly fixated to a crude charge/trial/conviction mode of response at the expense of exploring other potentially effective societal responses. Implicit in this approach is the assumption that the remedy provided by a court hearing and conviction (and usually little else) is an effective deterrent for all perpetrators. It also assumes that police intervention is, or should be, viewed as positive and beneficial by all women irrespective of class or race. These two related issues are considered in more detail in the following sections.

The Causes and Patterns of Violence

The empirical results from research studies, official statistics and victims surveys provide unchallengeable evidence of the relationship between masculinity and violence. According to Heather Strang, male homicide offenders in Australia in 1990 to 1991 outnumbered females by a factor of nine. The disproportionate involvement of male offenders was evident in all age groups and across all jurisdictions (Strang 1992).

But masculinity is not the only cause of violence and the relationship between masculinity and other factors is complex. There are many other situational and structural factors which contribute to and determine the levels of violence in society. Amongst some feminist critiques (and it is important to recognise that there never has been and probably never will be a single feminist movement (Weedon 1987)), all other situational and structural factors are discounted as mere excuses. The role of structural factors such as class, poverty, race and colonisation is disputed by these critiques. The role of situational factors like alcohol use is also denied. There is, however, a growing body of empirical evidence which reveals a strong relationship between such structural factors and violence in Australia which creates considerable problems for this form of essentialist analysis.

Homicide is probably one of the best indices of violence in society: it is the most serious violent crime and it has a very high reporting rate and a high clear-up rate. The evidence of a relationship between race and homicide rates has been clearly demonstrated in the Australian research. In the Northern Territory, Strang found that Aboriginal people make up 22 per cent of the population, 70 per cent of homicide offenders and 56 per cent of victims (Strang 1992). In Queensland, Aboriginal people comprise 2.4 per cent of the population, 20 per cent of homicide offenders and 18 per cent of victims. In Western Australia, Aboriginal people are 2.7 per cent of the population, but constitute 32 per cent of homicide offenders and 35 per cent of victims. Furthermore, in Australia generally, Aboriginal women were ten times as likely to be a victim of homicide than non-Aboriginal women. Any account of violence in Australian society which does not acknowledge violence by Aboriginal

people and against Aboriginal people and the factors which contribute to these levels of violence is clearly deficient. The multiple and interacting contributions made by poverty, the dispossession of land, colonisation and gender must be considered. To recognise these factors is not to create excuses, it is central to the construction of an adequate explanation of the levels of violence.

A second illustration may be drawn from the analyses of the relationship between social class and homicide. Chris Devery from the NSW Bureau of Crime Statistics and Research conducted an analysis of domestic homicide in NSW and found that the regional variations in levels were associated with socioeconomic status (Devery 1992). Low socioeconomic status areas had higher levels of domestic homicide. He further examined the relationship between domestic homicide and reports of domestic assault and found a positive correlation. The conclusion of the report was that there is a relationship between domestic violence and class and certain recommendations were made as to the allocation of resources in these lower socioeconomic regions. The response to Devery's findings by some women's organisations and agencies was hostile and dismissive. It has been described by Brown and Hogg:

> The head of the NSW Women's Advisory Council, Jane Stackpool, . . . was quoted as saying that:
>
> the council . . . had worked hard over the past decade to convince the community that domestic violence was not confined to certain geographical or socioeconomic areas. We have been trying to get the message across that domestic violence is a serious crime which can happen to any woman, and that there are never any excuses for it. What this report does is to create excuses.
>
> The vehemence of this response may have been motivated by a tactical concern not to undermine the "Domestic Violence is Everywhere/Domestic Violence is a Crime" public awareness campaign. Nevertheless, the implication is that domestic violence is equally distributed across class, ethnic, cultural and other divisions. In other words, domestic violence is a paradigm expression of a generalised patriarchy. On this view, to acknowledge different levels of domestic violence across such divisions would disrupt the campaign by provoking an "excuse" for domestic violence (Brown & Hogg 1992, p. 8).

As Brown and Hogg pointed out, the victims of male violence include women, children and other men. The impact of male violence may be different depending on the vulnerability of the victim. The ability of the victim to prevent further victimisation may also be different. These differences are important:

> Masculinity is absolutely central to the question of violence. But some forms of masculinity are dangerous and oppressive to men, and to the young of both sexes, as well as to women. There is a difference between victims and non-victims. The differences in patterns of violence as they affect women from different backgrounds are of critical importance in analysing and responding to violence. They are not inconveniences to be wished away or silenced (Brown & Hogg 1992, p. 9).

The paper in this volume by Professor Cathy Spatz Widom may be seen as raising a similar issue in so far as it identifies a factor other than masculinity which is positively associated with violence. The cycle of violence hypothesis has long been regarded with suspicion within some feminist critiques. Again, it is regarded as a potential excuse which may detract from the centrality of masculinity as the cause of violence against women and children. The relatively poor methodology employed in many studies has enabled the positive findings of a relationship between child abuse and later violence perpetrated by that child as an adult to be dismissed as questionable. The very careful research conducted by Dr Spatz Widom is less easy to dismiss. Research of this kind is vital in establishing the differential long-term impact of violence on children as the most vulnerable victims and in suggesting policy directions for the development of programs and the allocation of resources to protect children.

Dr Spatz Widom's research also raises some difficult but important theoretical questions. Why does gender interact so markedly with the cycle of violence? Would the inclusion of complaints of child neglect and abuse by the adult (that is, the formerly abused child) as the dependent variable demonstrate a long-term impact of childhood violence on girls and women? Why do the majority of abused children fail to grow into violent adults? The answers to these questions do not detract from our understanding of the relationship between masculinity and violence: they add to it.

A final illustration of the complex relationship between the causes of violence may be taken from the research conducted on violence committed in the context of alcohol intoxication. Again, in some feminist critiques alcohol has been rejected as a situational factor in violence. The voices of some women victims of domestic violence who claimed that the violence only occurred after the offender had been drinking or that the violence was much worse after drinking were not heard. In these analyses alcohol is regarded as an excuse or at the most as facilitating the expression of violence. There is, however, a growing body of research suggesting a relationship between alcohol and violence. Heather Strang found that approximately one-quarter of homicide offenders in Australia were under the influence of alcohol at the time of the offence (Strang 1992). These figures are probably an under-estimate in that no information on the presence of alcohol was available for approximately half of the offenders. Roseanne Bonney found that nearly one-half (48 per cent) of all homicides occurring on Saturdays in NSW in the years 1968 to 1986 involved suspects who had been drinking in the last 12 hours (Bonney 1987).

Ken Polk in his study of male-to-male confrontational homicide in Victoria found that alcohol use by the victim or the offender had occurred in 89 per cent of homicides (Polk 1993). The role of alcohol in violence in Aboriginal communities has been documented by Audrey Bolger, Peter D'Abbs and many others (Bolger 1991; D'Abbs 1991). Robb found that 40 per cent of serious assaults in NSW reported to the police involved alcohol (Robb 1988). Homel and Tomsen have more recently examined the relationship between alcohol and violence in assaults committed around pubs and clubs in Sydney (Homel & Tomsen 1993). The relationship between alcohol and violence cannot be dismissed as an issue not requiring consideration because it creates complications for theory, nor because it can be portrayed as an excuse. The extent to which alcohol is implicated in violence, the cultural and historical significance of alcohol in Australian society, the abuse of alcohol, and its relationship with masculinity are all issues which may further our understanding of violence and violence prevention. An understanding of the causes of violent crime (such as masculinity, class, poverty, marginality, race) and the ways in

which they interact are vital to the development of policies to prevent and reduce levels of violence in society.

The Remedies

The recent history of policy development in the area of domestic violence has been dominated by the call for the criminalisation of violence within the family. The single aim of law reform and policy in most parts of the western world in the last two decades has been to apply the criminal process to domestic assault: the greater use of police powers of arrest, the prosecution and punishment of offenders in the courts, the incarceration of offenders. These demands have been central to feminist critiques of law and society. The private sphere of the family is regarded as the site of women's oppression and the failure of the legal system to regulate the family is both an expression of and a symbolic re-affirmation of male domination of women. Professor Sherman's research was instrumental in the acceptance by police forces and governments of pro-arrest policies in North America, Europe and Australia. Sherman and Berk in the famous Minneapolis study demonstrated a specific deterrent effect of the arrest of domestic violence offenders (Sherman & Berk 1984). The results of the study were heralded by many as evidence supporting the effectiveness of criminal justice intervention in domestic violence. Whilst presumptive arrest was not adopted in any Australian jurisdiction, all States and Territories reformed the law and changed police procedures and training in the direction of pro-arrest. Unlike in the USA, the Australian reforms have never been properly evaluated. However, the replications of the Minneapolis study in six other American cities described by Professor Sherman in this volume have some important implications for domestic violence policy. The most significant finding was that for some offenders in particular situations, arrest failed to deter violence and in some cases actually exacerbated the violence (Sherman 1992). The implications of this research are not that we should resile from the campaign to criminalise domestic assault, nor that the criminal justice system should not be used, rather that the deterrence and prevention of domestic assault is more complex than envisaged by a simple law and order model. Reforms to the

law should remain a central plank of domestic violence policy, but they may involve reforms in the civil sphere (for example, apprehended violence orders, family law remedies, anti-discrimination laws) as well as in the criminal law.

The pro-arrest policy should also be further examined, developed and refined. It is possible, for example, that in the Sherman and Berk replications the violence was not deterred in the short term, but in the longer term the criminal justice intervention made it easier for the victims of domestic violence to escape the violent relationship. Violence deterrence is obviously the foremost goal of intervention but it is not the only measure by which we should evaluate remedies.

Furthermore, even prosecutorial remedies within the criminal justice system may contemplate a range of sanctions within "the pyramid of criminalisation" as suggested by Professor Braithwaite. A five-minute hearing in a magistrate's court and a good behaviour bond or a fine is hardly likely to constitute an effective deterrent. Braithwaite's book on *Crime, Shame and Reintegration* provides an interesting analysis of the social condemnation and stigma attached to criminalisation (Braithwaite 1989). As he points out, however, criminalisation does not and has never meant simple and universal prosecution and incarceration. There has always been a range of both formal and informal sanctions available to condemn certain conduct, and some of those may be reintegrative and others disintegrative. The application of this approach to the problems of violence in society is a topic worthy of examination and debate.

The protection of the victims of violent crime must remain the foremost goal of policy in this area but reforms may include "an appreciation of the potentials for supporting secondary forms of social control which may work to sanction and prevent [violence] and/or safeguard victims without (exclusive) reliance on the criminal process." Furthermore it may be possible to contemplate reforms to the law governing the conduct of the criminal trial which incorporate some of Professor Braithwaite's suggestions regarding victim participation and shaming.

In conclusion, I would like to stress that this critical and questioning account of domestic violence theory and policy does not detract from feminist analyses of violence against women and children. I regard myself as working within this tradition

and will continue to do so. The aim of this commentary is to encourage feminist analyses to develop in directions which recognise the complexities of gender inequalities, social change and violence prevention.

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Alternative Dispute Resolution in Aboriginal and Islander Communities: The Community Justice Program's Experience

Christine Nolan

Nils Christie, Professor of Criminology at Oslo University, in a seminal article called *Conflicts as Property* (1977) has argued that in modern times people have had their conflicts stolen from them by the state.

He argues that we ought to think of conflicts as property and furthermore that we ought to guard our conflicts jealously and not allow them to be stolen from us, or to give them away. Christie says that in modern Western societies conflicts have been taken away from the parties directly involved and in the process have either disappeared or become someone else's property. This is a problem, he argues, because conflicts are potentially very valuable resources for us as individuals and as communities. A range of personnel including lawyers, mental

health professionals and bureaucrats, have colonised our conflicts.

Nowhere is this whole process more painfully apparent than in the operation of the criminal law, where offences have become offences against the state, and others, primarily lawyers, generally speak on behalf of both victim and offender.

The outcomes of this process are well known. Offenders are isolated from the personal consequences of their actions by the formality of the process and the frequent delays in finalising matters. Victims are often doubly victimised—first by the offender and then by a criminal justice system which leaves them at the mercy of the schedules and agendas of officials.

The operation of the civil law is not immune from this critique either. As Christie (1977, p. 4) says:

> Many among us have, as laymen, experienced the sad moments of truth when our lawyers tell us that our best arguments in our fight against our neighbour are without any legal relevance whatsoever and that we for God's sake ought to keep quiet about them in court. Instead they pick out arguments we might find irrelevant or even wrong to use (Christie 1977, p. 4).

If you accept this analysis, alternative dispute resolution becomes an important strategy for empowering individuals and communities. Mediation, for example, enables the parties to define the dispute in their own terms; to "own" and to share their feeling response to the conflict; to explore a range of options for resolution; and to settle on a mutually agreed solution. I should at this point define what I mean by mediation.

> Mediation is the intervention into a dispute or negotiation by an acceptable impartial, and neutral third party who has no authoritative decision-making power to assist disputing parties in voluntarily reaching their own mutually acceptable settlement of issues in dispute (Moore 1989, p. 14).

Christie's conceptualisation of the role of the state as a coloniser of conflict is particularly relevant to the plight of indigenous people in this country. Aboriginal people have had not only their conflicts, but every aspect of their lives "stolen" by the state. Aboriginal people are doubly oppressed, both by social conditions arising from the experience of being colonised which in many communities have resulted in high levels of social

disorder and violence; and subsequently by the state's response to those manifestations of disorder including application of the law, as manifested in the statistics on Aboriginal incarceration rates and deaths in custody.

Traditional methods of dispute resolution have been taken away and/or fallen into official disrepute. Nothing—save litigation—has yet replaced them. Whilst the average Australian in the street is likely to be dissatisfied with aspects of our current legal system (such as costs, delays and formality), the concerns of Aboriginal people regarding the operation of the legal system are of a far more serious nature, even of a life and death nature. There is an urgent need to find new justice strategies for Aboriginal communities which are flexible enough to allow both systems of law, customary and western, to be entertained and adapted to circumstances.

The Community Justice Program has been conducting a pilot Aboriginal mediation program for much of the last two years. This paper outlines activities and achievements in this regard, and highlights some key issues and dilemmas.

The Community Justice Program

The Community Justice Program has been operating for almost three years. It was an initiative of the Queensland Attorney-General, Dean Wells, and was originally conceived as providing mediation services in primarily neighbour and family disputes.

Since those early beginnings the Community Justice Program has expanded its focus. It now provides dispute resolution services and training in a wide variety of contexts including workplace disputes; environmental and land use matters; citizen complaints against police; and crime victim-offender mediation.

The Program operates from four offices—Brisbane, Logan, Townsville and Mt Isa, but services a much wider area of the state through 008 call facilities. For example, there is a panel of mediators which has been recruited and trained in Cairns. When members of the Far North Queensland public want assistance they contact the Townsville Office via a 008 number.

They are interviewed by telephone and a mediation arranged which is held in Cairns at a suitable venue.

The Program has a staff establishment of eighteen of which the Aboriginal Mediation Project Officer is one. He is not the only person working on Aboriginal issues. Most of the staff, other than administrative staff, have been involved in mediating in disputes in Aboriginal communities or in disputes involving race issues. It has been a very exciting time for most of us as we are increasingly exposed to the experience and perspective of indigenous people.

In addition to the eighteen staff, there are approximately 110 mediators employed on a sessional basis as required. They are recruited on the basis of aptitude, not formal qualifications and undergo a rigorous 72-hour training course which is conducted on a pass/fail basis. They range in age from 17 to 70 and are from all sorts of backgrounds. Large panels of mediators are needed so that disputants can be matched with mediators with whom they will feel comfortable.

The mediators are paid A$20 per hour. The Program exercises a number of quality assurance strategies:

- mediators always mediate in pairs;

- they are required to debrief one another at the end of each mediation and to prepare a report to the Program on a range of matters, including their own and their co-mediator's performance;

- feedback questionnaires are forwarded to all clients three months after the mediation;

- once a year mediators undergo a skills audit involving a videotaped and observed, simulated mediation.

To date, the Community Justice Program has opened over 4000 dispute files, conducted almost 1200 mediations and trained more than 150 mediators.

The Community Justice Program operates under legislation—the *Dispute Resolution Centres Act 1990* (Qld). This Act provides a number of important legal protections for mediators and for disputants.

It provides for confidential and privileged mediation sessions; it specifies the voluntary nature of mediation; it specifies that agreements reached in mediation are not enforceable at law; it preserves the legal rights and remedies available to the parties; it empowers police and magistrates to refer matters to mediation as an alternative to proceeding with charges with the exception of domestic violence.

The Aboriginal Mediation Project

There was interest in mediation from Aboriginal people from the very earliest days of the Program. Representatives of the Aboriginal Coordinating Council in Cairns approached the Attorney-General in 1990 even before the Community Justice Program opened its doors seeking assistance in developing a mediation service for Aboriginal communities.

In March 1991, nine months after the Program commenced operations, we received an invitation to assist the people of Doomadgee who were experiencing conflict about the management of alcohol and alcohol related violence on their community.

Prior to the team of three mediators flying into Doomadgee, the consent was sought of all the major groups on the community. This is important because it cannot be assumed that the community endorses the representational role of any one body such as an elected Community Council. Such representational structures are not consistent with traditional forms of authority and decision making. Consequently, representational issues, that is, questions of who can speak, with authority, about what, are complex and often vexed for outsiders. The mediators met with groups separately and eventually together over six days to assist the community to identify options and strategies for managing the problems.

Doomadgee was only the first of a number of visiting mediation services provided to communities. Alongside the main activities of the pilot project, the Community Justice Program has been responding to requests for dispute resolution on communities by flying in mediators, often on very short notice. I briefly outline some of this work later in this paper.

In September 1991, the Department of the Attorney-General provided special funding of A$90000 a year for two years for a pilot Aboriginal Mediation Project.

Joan Welsh, one of the mediators who visited Doomadgee, was appointed as a temporary project officer to undertake consultations with communities and relevant agencies to research the issue and to prepare a proposal for the pilot project. She found strong support from Aboriginal people for the introduction of formal mediation services into Aboriginal communities.

Strategies

Strategies developed for the project were:

- extensive consultations with Aboriginal and Islander people including consultations about the general value of alternative dispute resolution and negotiations with specific communities about their participation;

- employment of an Aboriginal and Islander Mediation Project Officer to develop, in consultation with ATSI communities, culturally appropriate alternative dispute resolution processes;

- production of a video on the Community Justice Program mediation process to raise awareness within communities of alternatives in managing conflict;

- provision of training in mediation processes and conflict management skills to a core group of Aboriginal and Torres Strait Islander people who could be used throughout ATSI communities;

- trialing the establishment and operation of an alternative dispute resolution process on a Trust Area community which integrates traditional dispute resolution processes.

Project Officer

In March 1992, Alex Ackfun was employed as the Project Officer. Alex's previous employer was ATSIC. His personal skills and networks have proved critical to our ability to build

relationships with Aboriginal and Islander people, and to gain entree to various disputes. Alex has made a significant contribution to the success of this project.

Role of the Aboriginal Coordinating Council

At about the same time that the Community Justice Program appointed Alex Ackfun, the Aboriginal Coordinating Council appointed a community justice project officer who works closely with the Community Justice Program on the mediation initiative. This is Daisy Caltabiano. The Aboriginal Coordinating Council and its staff have been extremely supportive and cooperative and this has been an important factor in the project's success.

Video

The video, *Talk About It*, was launched in July 1992. It was filmed in part in Doomadgee and we were privileged to have Kev Carmody write and perform the title song for us. The video has proved a very useful strategy for spreading the word and building the Program's legitimacy.

Cairns ATSI Panel

In June 1992, the Program conducted a one-week pilot mediation training course in Cairns for a select group of people comprising fifteen Aboriginal and Islander and three non-Aboriginal participants. The three white persons selected are all actively involved with Aboriginal initiatives in Cairns.

The course was very successful and a further one week of training was provided in September 1992, which enabled those who successfully completed both weeks to receive accreditation by the Attorney-General. Fourteen trainees started the final week with eleven reaching the required standard.

This panel of mediators now provides a general service to the community as well as being utilised for visiting mediation services.

Mediation Services for a Deed of Grant in Trust Community

Much of Queensland's Aboriginal and Islander population reside in isolated communities, formerly reserves. These are commonly

known as Deed of Grant in Trust or Trust communities. Legislation passed by the previous government in 1986 provided for new land arrangements— deeds of grants in trust.

The Program held consultations during the second half of 1992 with several communities with a view to selecting one community to pilot a mediation service.

A number of principles informed the manner in which the task was approached:

- commitment to skilling local people to mediate in disputes within their own community;

- recognition of the need to commence and develop the project in consultation with a community. Broad community support was required in view of representational dilemmas referred to earlier;

- concern not to undermine the authority of elders and traditional dispute processing mechanisms which are in place to varying extents in different communities;

- acknowledgment that mediation is only one of a number of community justice mechanisms and that it would function to best advantage as part of a comprehensive set of interlocking strategies to address disputation and violence;

- development of culturally appropriate mediation models and training material.

The community ultimately selected was Hopevale, a community of approximately 1000 persons located one hour's drive from Cooktown and 360 km north of Cairns. Hopevale was originally a Lutheran mission which brought together Guugu Yimidhirr speaking clans from the Cooktown region and further North who had originally been dispossessed by the Palmer River Gold Rush and the spread of the cattle industry. The church continues to exercise a degree of influence, although more secular Western values have assumed greater influence in recent years.

I am pleased to report that training of mediators at Hopevale is now in its final week. The two trainers are Alex

Ackfun, the Aboriginal Mediation Project Officer and Patricia Hovey, the Program's full-time Training Officer.

The major issues facing the Community Justice Program in developing and implementing a mediation training package for an Aboriginal community were:

Selection of mediators: This was seen as pivotal to the success of the initiative. Ideally, those selected needed to be broadly representative of the community (this, in the context of customary law and authority systems and modern adaptations/impositions, is not easy to define), acceptable to the whole community, committed to the concept of mediation, available to undertake the training, and in possession of the interpersonal and analytic skills necessary to engage and manage the disputants and to track the content of the dispute.

Various options were considered for recruiting and selecting mediators including:

- advertising in the community;

- adopting a ready-made list of interested people provided by an elder;

- asking each of the major family groupings to nominate someone; and

- asking the Council to nominate people.

Ultimately, participants self-selected following a number of visits to the community by Program staff, both to give information about the training project including demonstration role plays, and to mediate in an earlier dispute.

Self-selection may not necessarily be the best basis for choosing mediators in Aboriginal communities because of traditional cultural patterns which favour self-deprecation in communication. Those most vocal and ready to take up such an opportunity offered from the outside may not be the persons with most influence or acceptability within the group.

An observation by Kolig is relevant here (1989, p. 56 cited in Rowse 1992, p. 47):

> Expressing their prominence in rather subdued tone (outstanding men) would easily have escaped the attention of a person not

intimately familiar with the situation. They shunned the limelight of public speeches, grandiose gestures, or self-exhibitionism.

Thinking back, it strikes me that these men sported a relaxed, affable style being jovial, smiling and mild of manner. Yet a word casually uttered or jocularly said, rarely failed to make a noticeable impression. Their behaviour contrasted with the style of what I might call the lower level elite, those men aspiring to yet higher status, most of whom it appears to me now, were stern, tense, serious men (Kolig 1989, cited in Rowse 1992, p. 47).

Alternatively, members of marginalised families may feel unable to put themselves forward. As an outsider, only visiting the community, it is very difficult to develop a comprehensive and accurate understanding of these matters.

Sixteen people enrolled for the program. Nine persons actually commenced the training course on 10 May. The trainers report that of those attending none appear to be inappropriate choices for this community. All are respected and represent families within the community. Two are community police; one is a primary school teacher (a local person who went to Adelaide for teacher training and then returned to the community); one is the wife of a regional ATSIC Councillor and Chairman of the Cape York Land Council. The age range is from the late thirties onwards. Unfortunately only one of the participants is a woman.

Content and structure of the course: The Community Justice Program's standard training manual and training scripts for role plays were not considered culturally appropriate for the Hopevale course. A special manual was developed and new role-play scripts. The trainers were determined to be flexible and responsive to input from trainees. This need for flexibility has been borne out.

The role-play scripts required further amendment once the course commenced. The presence of only one woman in the group created difficulties as many of the role-plays revolve around family feuding and require female roles. Male participants were very uncomfortable with role-playing women.

Role-play content was also amended by participants who wanted them to reflect actual disputes they had experienced at Hopevale. In an attempt not to offend local sensitivities, the trainers had originally written "neutral" situations which could

not be construed as reflecting any current disputes on the community.

In order to accommodate the local lifestyle which would inevitably require participants' absence from the training course on family and other business, the course was extended from the usual 72 hours to 96, conducted between approximately 9.00 a.m. and 3.00 p.m., Monday to Thursday over four weeks, commencing with a two-week block, followed by a week's break, and then the remaining two weeks.

Attendance as expected has varied on a day-to-day basis from a maximum of nine people to a minimum of three as a result of participants' other obligations.

Post training phase: Major challenges remain in the post training period to support trainees and maintain and enhance their skills as they attempt to exercise the role of mediator in an isolated community, and to evaluate the success of the initiative. Community willingness to use the local mediators as such is one of the factors which the Community Justice Program will be attempting to monitor in coming months.

Provision of Visiting Mediation Services

Another strand of the Community Justice Program's work with Aboriginal and Islander communities has been the provision of a visiting mediation service, often on a crisis response basis. Requests for visiting mediation services have come from several sources—the Aboriginal Coordinating Council, police, the offices of the Minister for Family Services and Aboriginal and Islander Affairs, and the Minister for Tourism, Racing and Sport who is responsible for liquor licensing and communities themselves where they have been familiar with the Program's work.

Mediators have visited seven communities to offer or provide a service, some on several occasions.

Providing services in this way is clearly a very expensive option for the Community Justice Program, although in a number of instances, Community Councils have assisted with expenses. The Community Justice Program is nevertheless committed to fulfilling its role in the Queensland "Whole of Government" approach to service delivery within Aboriginal communities.

Whilst it is very demanding for mediators to enter an unfamiliar community on short notice, communities themselves often see the outsider role of the mediators as an advantage in terms of neutrality.

Some people may be familiar with the work of the Aboriginal Alternative Dispute Resolution Project in West Australia. It is a project of the Special Government Committee on Aboriginal/ Police and Community Relations conducted with funding provided by the Office of Multicultural Affairs. It has a specific focus on inter-family feuding (Chadbourne 1992).

Whilst a number of the mediations conducted by the Community Justice Program in Aboriginal communities also have had this focus, we have been involved with a broad range of matters including:

- a contested land claim under the Queensland *Aboriginal Land Act 1991*;

- conflicts between elected Community Councils and residents' groups;

- whole community planning for law and order and the management of alcohol;

- facilitation of discussions between a statutory authority and a community.

Conflicts between Community Councils and residents' groups is in part a by-product of the perceived/actual emergence of alternative power loci within communities, particularly women's groups in receipt of external funding. In view of the patriarchal nature of adopted structures, funded women's groups facilitating an independent women's perspective may be viewed as threatening existing arrangements and interests.

In addition to dispute resolution services provided to communities, the Community Justice Program has mediated in a number of disputes involving Aboriginal people in country towns and urban centres, and facilitated several consultation processes between government departments and Aboriginal stakeholders.

Issues here have included:

- inter-racial violence in a country town;

- conflict between river bed dwellers and traders in a country town;

- large-scale family feuding;

- conflict over the management of an Aboriginal owned enterprise;

- facilitation of a three-day meeting convened by the Department of Family Services and Aboriginal and Islander Affairs to develop a strategy for caring for returned human remains and burial artefacts;

- facilitation of a one-day consultation with Aboriginal people convened by the Department of Environment and Heritage on cultural heritage management;

- facilitation of a planning exercise for the Health Minister's Aboriginal and Torres Strait Islander Advisory Council.

Our mediators who are trained in a structured twelve-step process of mediation have found mediating in some of these disputes the most challenging of any area of our work. Because of the nature of social organisation and wider levels of involvement in disputes in Aboriginal communities, many of these exercises have involved up to 400 participants in meetings.

In entering a community in dispute mediators have difficult assessments to make about how matters might be best handled–whether by bringing key protagonists together for mediation, or whether large public meetings will more effectively address the conflict. Mediators must bear in mind that exclusion from a process, and even part-inclusion, allows for repudiation of both process and the results by any person with a continuing grievance. Mediators also need to quickly identify local power brokers, assess whether and how their support or opposition will affect process and outcomes, and gain their support for whatever dispute resolution process is planned.

Issues and Dilemmas

Some of the hallmarks of classical mediation are severely challenged by adaptations to the Aboriginal community context. For this reason, there is no plan at the current time to accredit the mediators trained at Hopevale, under the *Dispute Resolution Centres Act 1990*. It may not be possible nor appropriate for them to operate under the constraints imposed by the Act, nor would it be easy for the Director of the Program to meet legal and program accountability requirements for mediators operating under the circumstances envisaged at Hopevale.

Neutrality

The actual and perceived neutrality of the mediator is considered a significant factor in the success of mediation. This is not lost on Aboriginal and Islander people who, in many of the cases with which the Program has dealt, welcome the importation of outside mediators.

The Community Justice Program, whilst offering a visiting mediation service, is committed to skilling local Aboriginal people to resolve their own conflicts wherever possible, consistent with a principle of empowerment of indigenous peoples. Marg O'Donnell, the Director of the Community Justice Program, has said:

> As with the issues of voluntary attendance and confidentiality, neutrality is a concept which will have special and sometimes limited application in the management of disputes on Aboriginal communities. It would be expected that local rules and procedures governing these fundamental concepts would emerge on a community basis (Community Justice Program 1993).

We are yet to witness the working out of these issues at Hopevale in the aftermath of the training course.

Voluntary Attendance

The voluntariness of mediation is enshrined in the legislation governing the operation of the Community Justice Program.

The relationship between mediation and various forms of formal or informal authority on communities is yet to be worked out. It has been suggested (Cedric Geia, personal

communication, 1992) that mediation may only be considered acceptable on some communities if a respected older person "orders" mediation for parties as the prescribed method of dispute settlement in particular cases. The alternative dispute resolution process is flexible enough to accommodate these variations. They should be considered by communities and decided according to local needs.

Confidentiality

In Western culture, the confidentiality of the mediation process is a key element which enhances the attractiveness of the mediation option for parties and contributes to its success through enabling a free and frank discussion without fear of legal consequences.

In Aboriginal society, privatisation of disputes as experienced in mainstream urban culture, is not possible, nor even necessarily desirable, in view of physical living arrangements and kinship obligations.

In many disputes, extended family or even the whole community are usually well aware of the history and causes of the dispute and will need to be aware of the outcomes of the mediation for resolution of the conflict to be achieved and any agreements implemented. A formal recognition of resolution, rather than solely resolution, may thus be required at this stage in some communities.

Discretion and sensitivity must be exercised by the mediators in managing information during all stages of the dispute resolution process.

Domestic Violence

The Community Justice Program has a policy of not mediating between spouses where domestic violence is a problem. The Program's policy is consistent with that adopted by the National Committee on Violence Against Women (Astor 1991). Domestic violence is considered to represent too great an imbalance of power between the parties to enable justice to be done in mediation. Mediation may expose the victim to physical danger or further harassment and intimidation as well as proving detrimental to her long-term interests as she attempts to negotiate from a position of weakness.

Aboriginal people commonly identify family fighting and domestic violence as concerns suitable for mediation. This has always represented a policy dilemma for women's advocates who seek to safeguard the interests of abused women, yet accommodate Aboriginal perspectives.

The Community Justice Program has not been called to mediate between Aboriginal or Islander spouses to date. The disputes with which we have dealt have been on a larger scale. It would be fair to say that there is general acknowledgment that further policy development informed by experience is required in relation to this sensitive issue. Rowse (1992, p. 59) says:

> Aborigines from a number of places have been observed to strive to make decisions according to an ideal of consensus rather than by means of adversarial procedures accepted within non-Aboriginal associations. The hierarchical structure of such processes, and particularly their impact on Aboriginal women, require further analysis (Rowse 1992, p. 59).

Astor (1991, p. 19) says:

> Alternative methods of resolving disputes, such as mediation, may be useful or appropriate for Aboriginal women, but it should be for Aboriginal women to decide if this is so, to decide what types of ADR are appropriate and whether alternative methods provide sufficient protection for victims of violence (Astor 1991, p. 19).

Conclusion

The Community Justice Program has now had two years' worth of experience in introducing mediation services to Aboriginal and Islander communities. The process has been far more complex and challenging than has been conveyed here. The results to date are very encouraging, although it is as yet unclear where the journey will take us.

To what extent alternative dispute resolution as practised by the Community Justice Program will be adapted to indigenous needs and processes is yet to be seen. Also yet to be determined is the valuation to be placed on such adaptation by our Program and its political masters. Will adaptations which deviate in significant respects from the ideal of mediation we hold up, be

regarded as a measure of success or of failure of the Aboriginal mediation initiative?

The following extract from the *Mt Isa North West Star* of 5 January 1993 (p. 1) illustrates the ability of Aboriginal culture to adapt to changing circumstances by selecting and co-opting aspects of the dominant culture and making them their own.

Justice Program used to settle dispute

Community Justice Program (CJP) information was modified and used to successfully settle a family dispute at Doomadgee yesterday.

Doomadgee spokesman Mr Greg Sutherland said CJP information and a video sent to the town, had been modified by elders for use in Aboriginal communities.

He said its success would be documented for use in other Aboriginal and ethnic disputes.

Members of the Waayni and Gungaleda tribes started arguing about four days ago in the town, continuing a long-running dispute between two families.

"We believe the way we settled the problem was a positive reaction to a disappointing experience," Mr Sutherland said.

"A meeting of the Council of Elders in Doomadgee has solved most of the problems leading to the dispute."

Mr Sutherland said discussions would be held to consider a curfew for children, sly grogging and dealing with problems the traditional way.

Although sly grogging is a problem in Doomadgee, Mr Sutherland said alcohol was not an issue in the problems.

"It was not a riot and it was not a drunken melee," he said.

"It was a family dispute and with Aboriginal extended families, this can mean a lot of people."

Aboriginal and Islander Police Liaison Officer Senior Constable Chris Castley, who attended a meeting of elders held in Doomadgee yesterday, said the elders had successfully solved many of the problems.

Constable Castley said about 20 elders from the two tribes attended the meeting.

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The Voice of the Rapist

Jocelynne Scutt

You should be able, as a human being, to say "No" and be heard.

Jacinta, victim and survivor. Quoted *Sexual Assault—The Law v. Women's Experience*, Real Rape Coalition, February 1991, p. 17.

n 1977, in its *Final Report*, the Royal Commission on Human Relationships commenced discussion on rape and society with the words:

Attitudes towards rape, and the parties involved in it, vary greatly from those who believe that rape is an act of male aggression towards women to those who believe that there is no such thing as rape and that any woman who complains of rape must have been cooperating with her attacker (Royal Commission on Human Relationships 1977, p. 161).

Little is startling in that statement. It is such a confirmation of reality, that even today we can accept it without requiring a survey or statistics to back it up. Yet the statement becomes more infused with meaning when the question is asked and answered, of where individuals and institutions range along the spectrum. Who, and what institutions, believe that rape is an act of male aggression towards women? Who, and what institutions, believe that there is no such thing as rape and that any woman who complains of rape must have been cooperating with her attacker? Where do individuals and institutions line up along the continuum?

The Rapist

In September 1992 the Australian Broadcasting Corporation filled the airwaves for two weeks in succession with the voices of rapists. The first program in the *Without Consent* series was designed (apparently) to convey the experience of the victim and survivor. Even then, the voice of the rapist intruded: part of the program was passed over to the views of one of the rapists. The second program was devoted almost entirely to rapists: these men were projected into television rooms around the nation as stars of the screen. Their voices were heard without criticism or analysis. The only leavening was the questioning by the documentary maker: "What specifically happened? How did you go about doing it?" (Gilling 1992, p. 40).

There's no such thing as rape? Precisely so, according to one of the ABC documentary rapists: if a woman is drunk and unable to resist, then it cannot be rape. It was not rape, it was "making love" said others on the program: "she opened her legs"; I was "caressing her breasts"; "after we [sic] finished" (Hooks 1992, p. 14).

Some victims and survivors report the offender as seeing himself as a "lover". Diana E.H. Russell in *The Politics of Rape—The Victim's Perspective* records a survivor observing that the rapist:

> . . . sat on the bed next to [her] and started talking quietly. Things like "I love you . . . I would do anything in the world for you . . . Oh, what's your name again? . . . (Russell 1975, p. 273).

In her ovular work, *Against Our Will: Men, Women and Rape,* Susan Brownmiller saw a similar attitude in the rapists who carried out their attacks on women as representatives of the United States government in Vietnam. "That's the first time I've made love with my boots on", says one GI after collaborating in a brutal gang rape of a Viet Cong soldier. Thus, rape is not "rape", but "love making".

For rapists who rationalise their conduct in this way, the woman is always a consenting partner. This is so, even if she struggles, screams and shouts, her clothing is torn, she is bruised, and even when she suffers severe physical damage. The idea that "no" means "yes" is firmly entrenched in the minds of some rapists. Thus Anne Summers reports in *Women and Crime*

the case of herself as prison visitor, convinced that the man imprisoned in Long Bay for rape was wrongfully incarcerated. "She consented", was his repeated claim. Anne Summers later discovered that the woman had suffered a broken jaw in the attack (1981).

In *Wilson v. The Queen* (1984) 13 A Crim R 39 at 40-41 the victim/survivor was 14-years-old at the time of the offence. She went with friends to a party at Rockingham. Two men who had not been invited were persistent in their attempts to have the young woman leave the party for a drive with them. She refused. Martin (one of the men) took her bag, putting it in Wilson's utility, and refusing to let her have it unless she agreed to go for the drive. One of her friends retrieved it. Some time later, a third man, Boggin, asked her to go for a drive, to which she agreed, and they "parked" by the ocean where, in the back of the van, (apparently) consensual sexual intercourse took place. Martin and Wilson and a group of other men arrived, opening the rear door of the van. The young woman tried to cover her legs but Martin set upon her, placing his body so that she could not move her legs and, while Wilson held her arms, he effected intercourse with her continually protesting, asking him to stop. As soon as he had finished, Wilson effected intercourse. She again protested constantly. She called him an animal. When they finished, they left. Boggin helped her retrieve her clothing and drove her back to the party. The young woman was crying and continued to cry during the journey. Boggin let her out of the car at the party, then drove away because he was ashamed of what had happened. Two people who saw her immediately upon her return described the young woman as visibly distressed, and one of them said (several times) that she was "distraught".

At the trial, the following exchange took place in cross-examination:

Q. Did you hear Boggin say on Friday that while you were getting on top of her she said, "No" or "No, don't" several times? Did you hear that evidence on Friday?

A. Yes.

Q. Do you agree with it or not?

A. Yes.

Q. If the girl told you "No" or "No, don't" and also seemed undecided, why did you have sexual intercourse with her?

A. Because she wasn't moving her body or anything like that. She wasn't alarmed (*Wilson v. The Queen* (1984) 13 A Crim R 39 at 53).

It is not unusual for accused men in rape cases to argue consent where observable physical damage has been done to victim/survivors. Indeed, it is rare for rape cases where there is no observable physical damage to the victims/survivors to go to court. Consent is the defence in a large proportion of rape cases (Russell 1982, p. 135). In one notorious New South Wales case in the early 1980s consent was the defence, where the woman was bashed over the head with a wheel brace, and raped. By arguing "consent", the accused are asserting that the act which was the subject of the charge was consensual intercourse—or what is often colloquially described as "making love". Many rapists see no difference between rape and consensual sex.

The notion that rape is "not rape" but "making love" extends even to the infliction of sexual intercourse upon children. On 12 April 1992 a man convicted of raping his six-year-old niece described his actions as "love making". A 31-year-old, he pleaded guilty to four charges of aggravated sexual assault and one of aggravated indecent dealing (*The Age*, 13 April 1992).

In some circumstances, notions of "right" and "ownership" confirm rapists in the view that rape is "not rape". Women who are wives are raped by husbands who deny their aggression as rape. Rather, it is "their right" and their wives' "duty". In *Rape in Marriage,* Diana E.H. Russell refers to various categories of wife rapists, including those who enjoy both rape and consensual sex:

Mr Goodner, the husband of one of our survey respondents, appears to have believed that his wife had a duty to satisfy his desire for oral or anal sex; if she would not do so voluntarily, he forced her to do as he wished (Russell 1975, p. 243).

Ms Goodner described her husband's conduct:

There were certain positions I didn't want to do. I'd tell him so and he'd get defensive. He would fuck [sic] me real fast and get it over with. I didn't like oral sex at all. I thought it was degrading and that he should respect my feelings. He'd force me to do it. He'd push my head down on top of him and hold it there. He made me do it

because I was his wife. "It's your duty", he said (Russell 1975, p. 243).

Sometimes a rapist turns the submission-to-rape-in-marriage-as-a-duty on its head, to conclude that because he's "had sex" with the rape victim, she has a duty to enter into an ongoing relationship with him. Some rapists make statements and engage in conduct which infers that they are (as far as they are concerned) "making love to a girlfriend". Some victims report receiving marriage proposals from the rapist (*see* Wilkins 1993, p. 5).

Rapists can commit rape with "no more feeling involved and no more neurosis than just, "I want you, and I can't have you, so I'll take you". Or:

> All I wanted was a convenient place to get rid of my desire for a thrill. . . The easier the better . . . I wanted this beautiful fine thing and I got it. . . I wanted things as easy as I could get them. . . (Russell 1975).

The Survivor

Some victims/survivors are hesitant in defining what has happened to them as rape. In a national study of crime in the family, published in *Even in the Best of Homes—Violence in the Family* (Scutt 1990), eleven of the fifty-seven women raped in marriage saw sexual intercourse in marriage as a duty, and to which they had no choice but to submit. Some said: "I didn't think about it as rape at the time, because I thought it was duty" (Scutt 1990, p. 154).

Yet however exculpatory some women's views were of their husbands, significantly each considered that, at a particular point in their sex lives, her husband had adopted rapist tactics, subjecting her to his wishes regardless of hers.

For some of the women, a recognition that the husband's actions amounted to "rape" came into focus when the marriage finally broke down and the parties divorced. Ultimately, none of the women in the study had any hesitation in classifying her husband as a man who had raped her (Scutt 1990).

Where rape occurs outside marriage, whether by a person known to the victim and survivor, or a stranger, the

victim/survivor recognises that she has been sexually assaulted but is not sure that what happened would be regarded in the law as sexual assault. In *No Real Justice* the Real Rape Law Coalition publishes research resulting from a confidential phone-in on sexual assault. The phone-in took place over the weekend of 27 and 28 April 1991, following promotion through printed circulars, posters and a community announcement for radio and television. Over 50 counsellors spoke a total of seven languages in addition to English. Of 369 callers, complete information was recorded about 267 assaults from 255 callers. (Information from 114 of the calls was not incorporated into the analysis for various reasons.) (Real Rape Law Coalition 1992, p. 16). More than one in three fell into the category of themselves classing the attack as sexual assault, but uncertain whether the law would accept that classification (Real Rape Law Coalition 1992, p. 16). That is, they experienced what happened as "bad", as against their well-being, as impinging on their sexual and personal autonomy and freedom, but were not sure that their experience was valid in the eyes of the legal system. Thus an experience they class as sexual assault or rape is provisionally defined out by them, in the expectation that the dominant culture as represented in the legal system will not accept their experience as valid.

Often, women class the acts imposed on them as unwanted (because they did not want the imposition to occur), but see themselves as to blame, or at least partly complicit. Fifty per cent of the 14 callers in the Real Rape Coalition phone-in where assaults were recorded did not take the matter up with police "because they felt guilty in some way, or blamed themselves" for what had happened. A typical example:

> A little girl of nine years was raped by a neighbour in the 1950s after playing in the swimming pool in his garden. "I was blamed, I thought I'd done something wrong. I was wearing bathers so I thought I might have caused it" (Real Rape Coalition 1992).

Thus these women fall into a position on the continuum which includes a position which at first sight might be seen as contradictory:

> Attitudes towards rape, and the parties involved in it, vary greatly from those who believe that rape is an act of male aggression

towards women to those who believe that there is no such thing as rape and that any woman who complains of rape must have been cooperating with her attacker (Royal Commission on Human Relationships 1977).

The victims/survivors in the Real Rape Coalition phone-in "believe rape is an act of male aggression towards women" because that is how they have experienced it. At the same time, they fall into the category of being unsure that there "is such a thing as rape" in the law—at least so far as their rape is concerned: or that a woman who complains of rape must have been cooperating with her attacker. They see themselves as "cooperating" or "causing" the attack. This sharply illustrates the dissonance between the reality of rape and the perception women have of the way the law "sees" rape, or accepts (or does not accept) rape as a crime.

What of "no"? Do women think "no" means "yes", or might mean "yes" —or do they use the word "no" because they think it has the ordinary, normal, everyday English meaning of the word "no"? The *Herald Sun* conducted a survey in the second week in May 1993. Of the 53 women who participated, all said they had been raped by a man who did not accept their refusal to have sex. To the question: "Did your attacker realise you were not a willing partner?" comments included:

> Yes, I was screaming, begging, etc.

> Yes, they knew I didn't want to but at 16 what chance did I have of getting away.

> Yes, I repeatedly begged him to not hurt me and repeated "no". (*Herald Sun*, 11 May 1993)

As for the value of "no" to sexual abuse within the family:

> . . . His hands were probing my small form. The words struggled out, "Daddy please don't, you won't go to heaven". "It's all right", he repeated, "I am just trying to make you feel good. "But Daddy", I pleaded, "you don't kiss me like that, that's the way you kiss your sweetheart". "Quiet", he insisted suffocating me with his massive weight. Tears clouded my vision. My words had meant nothing. It was no mistake. Childhood was over (Open Forum 1984).

The Community

When the Royal Commission on Human Relationships made its statement that attitudes vary from those believing rape is an act of male aggression against women to those believing there is "no such thing as rape" and "any woman who complains of rape must have been cooperating with her attacker", the Commission was referring to rape and society—what society generally "thinks" about rape.

Studies conducted in the United States in the 1960s and 1970s revealed that many people believed that the status of the victim and the circumstances of the rape had a significant bearing on the level of the victim's responsibility for the attack. For example, Kalven and Zeisel (1966) in their study of jury trials found that jurors:

- refused to credit the accusations of women who were sexually active with other person/s;

- took into account that the victim was unmarried, and had borne two illegitimate children;

- held against the woman that she had been drinking in a bar prior to the rape;

- held against the woman that she had voluntarily accompanied the man to the place where the rape occurred (Kalven & Zeisel 1966, pp. 251, 254, 242-5).

Similarly, in simulated jury studies Feldman-Summers and Lindner (1976) found that the assessment of the incident as "rape" was most often made where the victim was a virgin or a married woman.

Twenty and up to almost thirty years have passed since these studies. Parts of the Australian community appear to cling to these notions, but there are significant changes in the way a large proportion of the populous regards rape and women's "part" in it. (It may be, also, that people who were not able to air their views publicly, through the media, in the past because of impediments to access are now reported.) The "tolerance" level of violence against women, whether in the home or on the streets, by "friends and neighbours" or family

members, or strangers, remains relatively high in a small percentage of the population (cited in Scutt 1990).

However, that there is a discernible change is evident in (some) jury decisions, and in public response to publicly reported statements from the courts.

In 1991 a judge of the County Court of Victoria followed a 1981 Supreme Court decision (as he was bound to do), holding that where the victim and survivor of rape (and kidnap and indecent assault) had been working as a prostitute immediately prior to the attack, the psychological impact of the rape was not as severe as it would have been, had she not been a member of her trade or profession. Newspapers were inundated by "letters to the editor", the vast majority of which deplored the decision. Of all the letters written to and published in the *Age*, only two supported the judge—and of them, one was somewhat confused. On 12 August 1991 letters appeared from the Minister of Housing, a senior tutor in law at the University of Melbourne, and the Acting Chairperson of the Ministerial Advisory Committee on Women and Housing, Department of Planning and Housing. "Access Age", a column of telephone letters of 50 words or less, was headed "Law's double standard". Of thirteen letters appearing, eleven referred to the case, all disagreeing with the judge. (There were women and men letter writers.) The preamble to the Access column said that the telephone line had been "jammed" with calls "from readers upset at the court's reasoning [sic]". On 15 August 1991 three columns appeared in "Letters to the Editor" headed "Sex laws outmoded" dealing with seven letters written by *Age* readers. Of four men and three women correspondents, only two approved of the judge's approach, although the applause of one was reserved solely for the fact that the man had been convicted (of rape of a sex worker) at all—it "would have been unlikely 10 years ago" (*see* Scutt 1994a).

There was further public comment when the decision of a judge of the Supreme Court of South Australia was reported, the case involving five charges of rape in marriage. In his summing up, the judge said, amongst other matters:

> Bear steadily in mind—I am sorry to be repetitive—it is for the Crown to prove the lack of consent. "Consent" means free voluntary agreement to engage in an act of sexual intercourse at the time

relevant. Submission is not consent. Of course, you may run into considering in this case the question of, shall I say, persuasion. There is, of course, nothing wrong with a husband, faced with his wife's initial refusal to engage in intercourse, in attempting, in an acceptable way, to persuade her to change her mind and that may involve a measure of rougher than usual handling. It may be, in the end, that handling and persuasion will persuade the wife to agree. Sometimes it is a fine line between not agreeing, then changing of the mind, and consenting. You will bear that in mind when considering the totality of the evidence about each act of intercourse (quoted in *Director of Public Prosecutions v. Respondent*, unreported, Supreme Court of South Australia, 20 April 1993).

It was difficult to find anyone who agreed with his Honour that "a measure of rougher than usual handling" was acceptable in effecting sexual intercourse in marriage. Rather, correspondents appeared to consider this advice to be in concert with notions of wife-as-chattel. "Marriage violence can't be condoned" was the title heading a letter to the *Age*, published on 14 January 1993, from Alan Goldberg, president of the Victorian Council for Civil Liberties:

Changes in attitudes towards rape and in the social roles and expectations of women in recent times has finally come to be reflected in reforms to the law with regard to what constitutes sexual harassment, rape and rape in marriage.

However, . . . Justice Derek Bollen's appalling comments to a rape jury that it was acceptable for a husband to exert "rougher than usual handling" to persuade his wife to engage in sexual intercourse are not only unacceptable but require us to ask exactly how extensive these necessary changes in attitudes towards women are reflected in community attitudes.

The South Australian Director of Public Prosecutions should not have to ask the Full Court of South Australia to decide if Justice Bollen was correct in his statements to the jury. His statements were wrong.

Violence and aggression, within and outside marriage, cannot be condoned. Any person has the right to accept or refuse to take part in sexual activity without fear of violence being exerted to help him-her make that decision. Any suggestion that these rights to freedom of choice and freedom from aggression and harm are limited in any way is unacceptable.

All Australians must proclaim the fundamental rights of freedom from harm and of a person not to engage in sexual activity and ensure that these rights are protected fairly by the interpreters of the law (*The Age*, 14 January 1993).

Minimal support for Justice Bollen appeared, one assertion being that he had "only been applying the law as it then was": an allusion to the confused and confusing "rape in marriage" provision contained in the 1976 amendment to the *Criminal Law Consolidation Act* (for analysis of this amendment *see* Scutt 1977). This stance was effectively refuted by Justice Bollen himself, when his statement to the review court was reported as being to the effect that he was not advocating rape, but indicating that "vigorous pinching, squeezing or hugging" was "acceptable persuasion". If the assertion was made that Justice Bollen had been "quoted out of context", it is difficult to see that it could have any merit, for two judges of the Supreme Court (of the three who sat on the review) considered his comments to be a mis-statement of the law.

Their comments were in line with those of Justice Bollen's community critics. Obviously, the Supreme Court judges' reference point in considering the matters of the appeal was the transcript of his Honour's summing up: his remarks in context.

On 19 January 1993 Tania Hawting replied, in the *Age*, to one of Justice Bollen's supporters:

Of course, "the courts should have no place in the bedrooms of the nation" (*The Age*, 16/1). If we were to allow law and feminism into the bedroom it may well be inferred that the state is offering protection within the marriage and we certainly couldn't have that could we?

Your correspondent Henry Hamilton (16/1) is something of an anachronism. He is obviously unaware that when a woman marries she no longer becomes the property of the husband.

It is not feminism (militant or otherwise) that has "no place in marriage". It is violence and rape that have no place there. Marriage is not a certificate to allow and justify violence and rape. It is misconceptions like these that feminism challenges (*The Age*, 19 January 1993).

The notion that "no" means "yes" is, it was asserted on 14 January 1993 —again in the "Letters to the Editor" of the *Age*—

moving out of community acceptance. Meryl Sexton, in a letter headed "State laws moving with the times" commented that Victorians "outraged by . . . Justice Bollen's recent remarks can take heart that, at least under the law in Victoria, he would have got it wrong". She went on:

> While the abhorrent attitude clearly still exists that female complainants, and not just in marriage, say "no" when they really mean "yes", it is disappearing from the community's sub-conscious. The laws of this state are moving with the times, not running to catch up . . .
>
> I, too, am appalled by . . . Justice Bollen's remarks; but the way to eradicate such remaining troubling attitudes is to continue to educate the community, not just the judiciary. After all, when a judge chooses to comment to a jury, the jury are told it is up to them to accept or reject those comments. The decision of these ordinary members of the community to accept or reject will be based on their commonsense, experience and, hopefully, enlightened attitudes . . . (*The Age*, 14 January 1993).

Women around Australia demonstrated against the Justice Bollen stance. Central to the protest was the notion implicit in his summing up that "no" does not necessarily mean "no".

Apart from the jury in the "rape in marriage" case, how has the jury performed in recent times in the instance of sexual assault? In 1989 in Victoria, a jury heard the tale of a man charged with rape, who had met the woman on a holiday and invited her to spend the weekend with him in Melbourne. A sports scientist, he lived in South Yarra or that vicinity. He met the woman at the airport and after depositing her belongings in his apartment, the two went out to dinner where as well as food being eaten, wine was drunk. Upon the return to his home, the question of sexual intercourse arose. The woman agreed, but on the stipulation that the man wear a condom. He refused and went ahead anyway. He was convicted (Melbourne County Court, Victoria, unreported).

In Western Australia at approximately the same time, a man was convicted of rape where he had "met" the woman on the "party line"—a telephone service provided by Telecom, where people who are unacquainted may telephone and speak to one another, sometimes holding conversations with multiple parties all at once: the "round robin" call. He gave his telephone

number to the woman and she subsequently telephoned him and an arrangement was made for him to visit her at his home. He did so. Time was spent talking and watching television. The man propositioned the woman. She refused. They remained watching television, him sitting face on to the television set, she sitting sideways on the lounge next to him, her feet stretched out and resting in his lap. As it grew late, she said it was time for him to go. He indicated he had a need to go to the lavatory, which he did. They then went out to the driveway, to his car. He said that he wished to go to the lavatory once more. Thinking that as it was the second time there would be a short time only before he had finished, the woman waited outside by the motor vehicle. Suddenly, she saw the light go on in her bedroom. She went to investigate as she was alone in the house. The man was in the bedroom and he again propositioned her. She refused and he forced her to watch him masturbate, then again demanded sex. Afraid that she would be hurt more if she did not comply, she submitted. The man was convicted of rape. On appeal against conviction, the Supreme Court of Western Australia dismissed the appeal, holding that the jury's verdict was not unreasonable in the circumstances (Western Australia Supreme Court, unreported).

In Melbourne in 1989 a man was convicted by a jury of rape where he, together with a male friend, visited the woman in her flat. He was acquainted with her. His friend comatose on the couch as a consequence of imbibing liquor, the man demanded sex of the woman. She declined. He was forceful in his demand. She said to him, ultimately, that the act should take place not in the bedroom (where her children were sleeping) but in the kitchen, on the linoleum floor (*Ram Singh* Victorian Supreme Court unreported). It is difficult to imagine these verdicts 15 or even 10 years ago. The traditional way of regarding rape is to consider it as a crime committed only by men from the lower end of the socioeconomic scale. The idea that a conditional acceptance of sexual intercourse would be seen as just that, by a jury, is an advance. That is, the jury did distinguish between consent to sexual intercourse in stipulated circumstances, and lack of consent to sexual intercourse because the stipulated circumstance was not present: sexual intercourse with a condom versus sexual intercourse without a condom. Similarly, that a woman can meet a man on a holiday, visit him at his everyday

address, wine and dine with him, then return to share his bed and be accepted by a jury as not consenting to sexual intercourse and, on the contrary, being raped by him, is unlikely to have been accepted 10 or 20 years ago. Further, that a woman can invite a man into her flat, where she is living alone with her children, and be considered by a jury to have been raped by him, is another advance.

The Judge

Where do the courts and judges stand on the continuum? Historically, the law did not consider there was "such a thing as rape" where marital sexual violence was in issue. At least, the Chief Justice of England during the eighteenth century, Matthew Hale, thought marital rape did not exist, or at least that it was incapable in law of existing: "By the matrimonial consent she hath given up herself to her husband" and can never more "gainsay" him. As distinct from the United Kingdom, where the House of Lords in 1990 declared that a wife did have the right to consent or not consent to sexual intercourse in marriage, by holding rape in marriage capable of qualifying as a crime, in Australia it was not the courts but legislatures which redefined woman's status in marriage, to render marital rape capable of being prosecuted as rape.

Indeed, the change in Victoria was specifically precipitated by a case where a judge expanded the law of so-called "marital rape immunity" to include anal rape. In 1985 a judge of the County Court (who placed a ban on publication of his name on the basis as he said to prevent the woman from being identified) dealt with a case where the man was charged with (amongst other matters) rape of his wife. At the time, the law in Victoria was that rape in marriage was a crime so long as the parties were living "separately and apart". As a consequence of marital abuse, the woman had left the matrimonial home. As she had gone with only the clothes she wore, she returned the following day in the expectation that her husband would be at work as he would have been, had he followed his usual pattern. Her purpose in returning was to secure personal items, including clothing. Her husband remained at home and raped her. The judge held that as "rape" had been redefined to include both

vagina and anal penetration, the marital rape immunity extended to anal penetration. The man could not be found guilty of marital rape, because there was no adequate "living separately and apart".

Thus in 1985 in Victoria it appears that at least one member of the judiciary did not hold the view as expressed less than ten years later, in 1993, by the president of the Victorian Council for Civil Liberties that "violence and aggression, within and outside marriage, cannot be condoned. Any person has the right to accept or refuse to take part in sexual activity without fear of violence. . . ". Indeed, he did not hold the view as expressed in 1985 by the vast majority of the members of the Parliament of Victoria: the amendment to the *Crimes Act* rendering rape in marriage a crime whether or not the parties were "living separately and apart" went through the legislature within some two weeks of the judge's decision.

It seems therefore that at least where rape in marriage has been concerned, the courts generally, and some judges in particular, have been at the end of the continuum which asserts "there is no such thing as rape"—at least, rape in marriage.

In a particular cultural context, courts have declared "there's no such thing as rape". Jane Lloyd, an anthropologist working with the Pitjantjatjara Council in Alice Springs, and Nanette Rogers, lawyer with the Central Australian Aboriginal Legal Aid Service (CAALAS) in a paper delivered to a conference in Melbourne in October 1993 reported an attitude in the courts that Aboriginal women "are not raped". Michelle Gunn in "Aboriginal rape tragedy puts justice in dock" *Weekend Australian,* 31 October-1 November 1992 reports:

> When a young Aboriginal woman was raped by two Aboriginal police aides and a community warden while in police custody, she placed her faith in the white judicial system. But white justice failed the woman when the judge instructed that rape was a lesser crime when committed within the Aboriginal community.
>
> "There is no crime of rape known in your community", the judge said in his sentencing remarks. "Forcing a woman to have sexual intercourse is not socially acceptable, but it is not regarded with the seriousness that it is by white [sic] people".
>
> All three men entered guilty pleas. . . The rape victim has been ostracised and is now living in a wiltja (a traditional shelter) on the

outskirts of the community (*Weekend Australian*, 31 October-1 November 1992).

Audrey Bolger (1987), in an extensive report on violence against Aboriginal women, estimates that a third of the Northern Territory's female Aboriginal population is gravely assaulted, including by sexual assault, every year.

What of other aspects of rape and the Royal Commission's spectrum of attitudes and beliefs about rape (or "not rape")? The foundation of the law, both in relation to evidence and procedural aspects such as the "corroboration rule" and the "prompt complaint" rule, has also found its level in the "no such thing as rape" or "any woman who complains of rape must have been cooperating with her attacker ideology". Another notion firmly fixed in the law has been that a woman is likely to be telling lies about having been raped. As Judge Sutcliffe said at the Old Bailey in England in 1976:

> It is well known that women in particular and small boys are liable to be untruthful and invent stories.

Judge Sutcliffe was echoing the words of Chief Justice Hale, which entrenched themselves formally in the law until the 1980s and are still lingering with constitutional fortitude, despite expressions of misgivings (in very recent times) by a very few judges:

> [We must] be the more cautious upon trials of offenses of this nature, wherein the court and jury may with so much ease be imposed upon without great care and vigilance, the heinousness of the offense many times transporting the judges and jury with so much indignation, that they are over hastily carried to the conviction of the person accused thereof, by the confident testimony sometimes of malicious and false witness. . .

> It is true that rape is a most detestable crime, and therefore ought fairly and impartially to be punished with death; but it must be remembered that it is an accusation easily to be made and hard to be proved and harder to be defended by the party accused, tho never so innocent.

This statement is the foundation of the rule in rape cases that the word of the victim and survivor (the woman) is "really" insufficient on its own: the jury must be told to look for corroboration.

In the 1980s, the Parliaments, not the courts, around Australia passed legislation providing that the "corroboration warning"—the notion in the law that women are deceivers in sexual offence cases and not to be believed—was no longer to be mandatory, but to be given at the discretion of the judge only. Judges continued giving the warning with regular monotony. Even the High Court lacked the ability to analyse the "value" of this rule, reiterating it—that a sexual offence charge is one "easily made and hard to be defended"—without question in an appeal from the Family Court in 1988. The following year Justice Deane alone, of all the High Court judges, addressed the question, acknowledging that charges of sexual offences are not "easily made"—the humiliation and embarrassment that so wrongly falls upon victims and survivors is so extreme as to militate against the making of many complaints; nor are complaints "hard to be defended".

In *Director of Public Prosecutions v. Respondent*, the South Australian Supreme Court addressed the question: this was the second string of the order to review in the "Justice Bollen case" or the "rape in marriage case". Although the judges have been taken as firmly discounting the notion that juries should as a matter of course in every case be warned of the dangers of convicting where the evidence of the woman stood alone, one of them appears to be erecting a new rule: that in cases of rape in marriage, the jury should be automatically warned of the dangers of convicting where the evidence of the wife stands alone (Chief Justice King in*Director of Public Prosecutions v. Respondent*, unreported, Supreme Court of South Australia, 20 April 1993).

As a consequence of legislative action it is no longer the case that an automatic warning should be given. But it is interesting to observe that the corroboration rule fits well with the end of the continuum expressed by the Royal Commission on Human Relationships (1977), that any woman "who complains of rape must have been cooperating with her attacker". Apart from the rule that the evidence of children should be corroborated, the only other area in the law where judges had developed such a rule was relating to accomplices giving evidence against one another: that is, if an accomplice gives evidence against his confederate-in-crime, the judge has to give the jury a warning against convicting on the evidence of the accomplice alone.

Thus, the words of a woman giving evidence about having been raped (that is, about her having been a victim of a crime) were put on a par, by the judges, with the words of an accomplice to a crime (that is, a person-who collaborated with another in doing a criminal act; a person who "was cooperating with his colleague-in-crime").

The "prompt complaint rule—also a judicial development—holds that if a woman does not complain promptly of rape, then it is highly likely that she is lying: "no rape happened". If she does complain promptly, then that is not evidence that she was raped; it is simply evidence that she said she was raped—relatively close to the time she was raped. And woe betide her if she complains to one person and not another, as the woman found in *Ram Singh*, a Victorian case. The jury found the man guilty of rape. The Supreme Court of Victoria quashed the conviction, one of the reasons being that the woman's story was "inconsistent": she had complained of the rape to two friends shortly after it happened. But she failed to complain of it to her priest, whom she telephoned after the friends, and again not long after the acts occurred. That the man's story was inconsistent—he at first denied to the police that he'd even had sexual intercourse with the woman, much less raped her; next day he went to the police station and told another story—that there had been sexual intercourse, and it was consensual. This was seen by the Court of Criminal Appeal as a sign of his truthfulness *Ram Singh*, unreported, Victorian Supreme Court). All the research is consistent in showing that a woman will not complain, necessarily, to every person who presents her or himself. Women use a discretion about to whom a rape is reported, which is no support for the notion that women are lying about it. Indeed, logically if a woman is lying, wouldn't she tell everyone and leave no one out? Better than resting on "long experience in the courts" the courts would be wiser to open their minds to research which has been in the public domain for some years.

Meryl Sexton's joy that the "abhorrent attitude" clearly still existing that women "say 'no' when they really mean 'yes'" is "disappearing from the community's sub-conscious" no doubt was met with a rude shock in the report on 6 May 1993 in the *Age* that "No to sex can often mean yes, says judge". Michael Magazanic reported:

. . . In an exchange during the plea, the prosecutor, Mr John Sanders, said that immediately before the rape the victim had said, "Stop it". Judge Bland then said: "And often despite criticism that has been directed at judges lately about violence and women, [and] men acting violently to women during sexual intercourse, it does happen, in the common experience of those who have been in the law as long as I have anyway, that no often subsequently means yes (*The Age*, 6 May 1993).

The "contributory" aspect observed in jury decisions in Kalven and Zeisel's 1966 *The American Jury* study finds its counterpart in judicial decision-making. In 1979 Australian Women Against Rape published statements made by Judge Jones in the District Court of Western Australia. In July 1979 Judge Jones said

. . . imprudent behaviour of many young women did not excuse offences committed on them, but lessened the moral culpability of the offender". He said there were " . . . too many young women hitching lifts and accepting rides with cars full of young men" they did not know. They fraternised and drank with men they did not know, in bars, and did their best to bring disaster on themselves. "These foolish young women should behave with more dignity and show some elementary prudence. . . " (quoted in Scutt 1994b).

In that same year, Judge Begg in the Central Criminal Court of New South Wales said, in a rape case:

Judges [have] warned women "time and time again" against hitch hiking or accepting lifts with strangers. . . such behaviour all too often [leads] to sex attacks . . . (quoted in Scutt 1994b).

That the rape "didn't happen", or if it did, it did no or little damage, is a notion well entrenched in some courts, at least. It is not unusual to find judges saying of sexual imposition that happened to young girls some years ago, that there has been no long-term damage: presumably the judges form this view because the women, now grown older, are standing perpendicular in the witness box when they give their evidence. In a well-reported case in February 1993 in New South Wales, a man of 75 pleaded guilty to one charge of sexual intercourse with a girl of nine years of age. (One columnist apparently saw this as less than serious because the penetration was digital rather than penile.)

The judge deferred passing sentence upon the offender entering a recognizance, and to be of good behaviour for five years. Judge John O'Reilly gave two reasons for the sentence. One was "his reluctance" to send someone of that age and ill-health to gaol for any period. The other was the victim and survivor's age and "the good prospects for her to recover and not suffer any long-term effects from the assault. . . " (*The Age*, 11 December 1992, p. 3).

Sadly, this judge did not have recourse to an earlier decision by Justice Wootten, then of the Supreme Court of New South Wales, where he acknowledged the long-term effects, the humiliation and distress caused by rape (quoted in Scutt 1993).

In April 1993, Judge Sinclair in the New South Wales District Court rejected an appeal to increase the $15,000 compensation paid to a victim and survivor of rape. The woman was raped by two men in 1988. The judge was reported as saying that she "must not have suffered any substantial psychological damage because she had continued to live with her boyfriend" and "obviously continued to have intercourse with him". "Contributory negligence" was also, apparently, read into the woman's actions prior to the rape. Late at night, and abandoned by her boyfriend outside an hotel, she accepted a lift from three men whom she did not know (quoted in Scutt 1993).

Not only is there a too-often instanced ability to downgrade the traumatic consequences of *any* rape, some judges appear to see "rape" and "consensual sexual intercourse" as almost interchangeable. This is the apparent effect of the decision of the Supreme Court of Victoria in *Harris'* case, and of the County Court and Supreme Court in *Hakopian's* case. The notion that a woman suffers less trauma from rape because she works as a sex worker or because, as was held, she is "sexually experienced", is understandable only on the basis that the court considers that engaging in sex acclimatises a woman to rape. At least, this is the inevitable conclusion to which a reader of the decisions is drawn. No notion of a rape is a rape, consensual intercourse is consensual intercourse—and rape is not consensual intercourse, nor anything intrinsically like it appears to be contained in these decisions.

The Voice of the Survivor

In "An Exploration of Self-Reported Sexually Aggressive Behavior" Christine Alder examined propositions derived from feminist literature regarding male attributes that may distinguish sexually aggressive males from others. She concludes:

> A significant relationship was found between sexual aggression and attitudes that legitimise the sexual victimisation of women (for example, attitudes such as "any woman who goes to a bar alone at night deserves whatever happens to her", and "most women enjoy being forced to have intercourse"). Men who more strongly hold such attitudes are more likely to report sexually aggressive behaviour. Although no direct relationship was found between sexual aggression and more general attitudes toward women, such attitudes appear to have an indirect effect that is mediated through the more specific attitudes that legitimate sexually aggressive behavior (Alder 1985, p. 326).

The legal system is a highly significant part of the social fabric. Those who speak from a position of authority within that system are influential. When one looks at the statements of rapists, those of the survivors, of the community and of the courts, what is striking is the similarity between the statements made by the first of those groups, and the statements made by the last. The courts, it seems, are lagging behind the community in the recognition of rape as a crime of sexual aggression against women. The voice of the survivor is being heard, but it is being heard most clearly by the general community, and less well by the courts and the rapists.

Rapists do not bother to listen to the victims they exploit and viciously attack. Or rather, they do hear their victim's protests and experience the women's lack of desire, terror and agony. But rapists have an expert facility for publicly denying the reality of those protests, the lack of desire, the terror and the agony. The legal system supports them in their exchange of reality for a false picture of what rape is, or of what the activity is in which they have just engaged. Or rather, the activity they have just imposed upon another human being.

In the recently reported instances of judicial decision-making (which ought not to be seen as isolated incidents: there are many others), the most often reiterated justification is that the

judges have been "quoted out of context". The second most frequent defence is that "feminists" are "getting on the roller coaster"—or "the wagon"—or "pushing a feminist barrow" and deliberately (or stupidly) distorting what has been said. Ironically, this approach places feminists and judicial members of (some) appeal courts in an alliance.

"Putting a judge's words into context" is the title to a letter which appeared over Greg Lucas' name in the *Age* of 19 May 1993:

> Recent treatment by media and commentators suggest that in a judgment of . . . Justice O'Bryan last year, the judge did not see a crime involving the assault, rape and attempted murder of a teenage girl as having a deep and traumatic effect on the victim (*The Age*, 19 May 1993).

> Reference to the judgment shows the reverse was true. In sentencing the prisoner, the judge said:

> One should have regard to the circumstances of the victim and the impact these crimes have had upon her to date and will have in the future . . . Unfortunately, the knife wound has left your victim scarred for life and she still experiences physical discomfort with swallowing. Whilst scarring of the neck is obvious and disfiguring, not so obvious is the nature and degree of psychological trauma suffered by the victim. It cannot be gainsaid that the terrifying ordeal your victim suffered will live with her and affect her life indefinitely. . . One may only hope that during a long term of imprisonment you will come to realise that violence, particularly towards females, is abhorrent.

> A further short passage from the judgment quoted by media and commentators that the rape itself was not traumatic was, when read in context, a reference limited to trauma during the rape. Further the judge was not expressing his personal view on the matter, but based it on the contents of the pre-sentence report revealing the victim had no recollection of the rape and she was probably comatose at the time.

> This case is, therefore, wrongly described as displaying judicial bias. In fairness to the community, the victims of crime and the judiciary, those who raise for public debate important issues of this kind have a duty to provide balanced facts. In this instance, balance has been lacking, resulting in the unwarranted denigration of highly esteemed people like His Honour who have made

significant contributions to the justice system and community during their lives (*The Age*, 19 May 1993).

The point is exactly as indicated in this letter: what was recognised by "commentators" and by the appeal court, was that the judge saw no trauma as resulting from the rape: a further short passage from the judgment quoted by media and commentators (and by the appeal court) that the rape itself was not traumatic was, when read in context, a reference limited to "trauma during the rape". Indeed, reading that paragraph in context of the remainder of His Honour's judgment makes the proposition all the more startling: it is acknowledged that a woman having her throat slit will "probably" suffer probably long-term trauma—but asserted that because she was comatose during the rape, she will and did suffer no trauma from it. As Justice Marks pointed out in his leading judgment, it could well be that being unconscious during rape may be more likely to bring about trauma.

As for the judge "not expressing his personal view on the matter" but basing it "on the contents of the pre-sentence report revealing the victim had no recollection of the rape and she was probably comatose at the time" —judges do not rely blindly on reports submitted to them. It is the role of the judge to weigh up the material and then to make her or his own considered opinion of the facts and the material. The judge it was who came to the conclusion, quite clearly stated in his judgment and referred to and rejected by the appeal court that because she was probably comatose at the time, she suffered no trauma and the offender's sentence should be mitigated by that judicial assessment.

Then, on 27 May 1993 the spouse of one of the County Court judges swept to the defence of the bench. In response, a letter to Access *Age*:

> Thank you, Michele Neesham (27/5) for setting in perspective the ridiculous situation concerning criticism of the judiciary. I suggest a "fact awareness program" not gender awareness, for those irresponsible reporters and feminists (so-called) who jump on any bandwagon, crying fire, while destroying any credibility their cause may have (*The Age*, 27 May 1993).

Any feminists (so-called) (or not so-called?) who "jumped on the bandwagon" following the Justice Bollen decision or that of

Justice O'Bryan sat alongside Justices Marks, Southwell and Harper of the Supreme Court of Victoria, and Justices Perry and Duggan of the Supreme Court of South Australia, with the Chief Justice of South Australia on the "bandwagon" for half the ride. If the feminists were "crying fire", the voices were mingled with those of the Supreme Court benches as they overturned the decisions of their brethren.

Yet it is frequently true that women's voices are not accompanied by the voices of judges in acknowledging the defects of the legal system, particularly where it deals with violence against women. Despite this, the Women's Movement, working on the efforts of women throughout the nineteenth century and before, has created a climate where the victims and survivors are able to speak out and, in speaking out, be heard. It is the voices of the survivors that speak the truth about rape, and about violence against women generally. The reality of rape is gaining credence within the community, and at some levels of the legal system. It is even gaining credence with some of those who sit at the top of the legal system, the judges. Sadly, however, too few of the members of the judiciary are actually listening to the reality that is spoken by women who are victims and survivors of rape. This failure to listen means that they are continuing to give support to men who exploit women through sexually aggressive and intrusive acts, or abuse women through sexual aggression and the imposition of power, force and violence.

When the voice of the survivor is heard, the reality of rape will be seen and accepted. It is the absence of the voice of the survivor, or the ignorance of that voice, which has allowed the voice of the rapist to dominate in courts where, when violence against women is in issue, not only is justice not being seen and heard to be done, it is not being done.

> Attitudes towards rape, and the parties involved in it, vary greatly from those who believe that rape is an act of male aggression towards women to those who believe that there is no such thing as rape and that any woman who complains of rape must have been cooperating with her attacker (Royal Commission on Human Relationships 1977).

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Partnership for Personal Safety: Preventing Violent Crime in and around Licensed Premises

An exemplary project of the South Australian Crime Prevention Strategy

Jane Fisher

During l992-1993, the Crime Prevention Unit undertook a project, Partnership for Personal Safety: Preventing Violent Crime in and around Licensed Premises, as an exemplary project of the South Australian Crime Prevention Strategy. The project officer was Chris Matthews, who worked with the Crime Prevention Unit on secondment for 12 months. The pilot projects undertaken and the material arising from them were the result of his work with the licensees and managers of the hotels and clubs, and I am indebted to them for their work.

Background to the South Australian Crime Prevention Strategy

The aim of the South Australian Crime Prevention Strategy is to prevent and reduce crime and improve community safety. The Crime Prevention Unit, in the Attorney-General's Department, has four programs for implementing the Crime Prevention Strategy:

- Local Crime Prevention Committees;

- Coalition Against Crime and its Working Groups;

- Aboriginal Programs;

- Exemplary Projects.

The Partnership for Personal Safety project is an exemplary project under the Crime Prevention Strategy. Like other exemplary projects it arose from the work in other areas of the Strategy. Many Local Crime Prevention Committees have given priority to crime prevention needs arising from hotels and other licensed premises; this is increasingly so with committees in country areas of the State. The Coalition Against Crime Working Group on Alcohol, Drugs and Crime also identified the need to reduce crime related to hotels and nightclubs as a priority in reducing alcohol-related crime. A review of interstate work and an assessment of the limited information available on the level of crime and violence in and around hotels and clubs[1] supports the concerns of these two arms of the strategy, and the project has been one of the major exemplary projects undertaken to date.

Background to the Partnership for Personal Safety Project

Violence and other crimes in and around licensed premises such as hotels and clubs make significant contribution to the level of

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[1].   The term "club" refers to nightclubs, discos and dance clubs, not to sporting clubs which were not included in this project.

assaults reported to police. They also contribute to fear of crime in the community. This is periodically highlighted by media reporting of specific incidents. Immediately prior to the Crime Prevention Unit beginning the project, incidents which received widespread media coverage included violence allegedly involving sporting professionals at a hotel in Glenelg (a beach front suburb), the abduction and rape of a woman outside a licensed venue in Salisbury (northern metropolitan suburb), and the sexual assault and murder of a woman after she left a licensed premises in the inner city.

Drink driving offences are commonly cited in discussions about hotel and club related crime. Theft or vandalism of cars in car parks are crimes identified by both patrons and managers of hotels.

Less commonly acknowledged are ongoing incidents of violence within licensed premises, between patrons but also sometimes involving security or crowd control staff. Also receiving little attention are incidents of harassment of both staff and customers, petty theft and minor assaults, and sexual assaults occurring within premises. Both interstate work and our preliminary discussions with police and the industry indicate that there is a feeling among both licensees and victims that victims contribute to offences against them because they are using alcohol. This may limit the likelihood of victims reporting offences occurring within licensed premises. There appears to be a significant level of incidents occurring in licensed premises which are not reported to police.

As well as the actual level of incidents, the experience of offences or other behaviour such as harassment creates a feeling of lack of safety in a premises. Once again, work in other States and industry representatives suggest that people do not continue to use a premises in which they feel unsafe. Public awareness of crime and danger associated with hotels and clubs does two things—it deters some people from using the venues, and it attracts others who enjoy an atmosphere which includes apprehension and possible danger. Particularly when accompanied by an economic recession, the result is fewer people using hotels and clubs, and less diversity among those who do use them. Media coverage of the events mentioned was of acute concern to licensees and to industry bodies when the project began as it was viewed as unfairly scaring people away

from venues which licensees considered "safe" rather than simply warning people about "unsafe" venues.

The Structure of the Project

The aim of the project was to develop means of reducing violent and other crimes, and to improve the safety of hotels and clubs, through identifying and piloting strategies for use by licensees and managers in their own premises.

The issues to be addressed by the project were:

- means of assessing environmental features of premises and surrounds, including car parks (such as, safety audit, informal surveillance) which can reduce or prevent crime and contribute to safety;

- management practices, including crowd control, private security, and server responsibility and awareness, which can contribute to crime prevention and safety.

The project piloted strategies with licensees and managers in two places: in a suburban hotel containing a number of bar and entertainment venues (McMahon's Dance Club in Salisbury, a northern suburb) and in an inner city location with a large number of licensed premises—Hindley Street in the city centre. It was intended to capture both the situation of a hotel used by local residents, and premises which aim to attract a wider custom. It was also hoped to learn something by comparing crime prevention strategies suited to a relatively isolated premises with those suited to premises in close competition with each other.

The Crime Prevention Unit developed the brief for the project by working with the Intra-City Cooperative Action Group (local crime prevention committee for the inner Adelaide area), Task Group on Drugs and Alcohol and the Coalition Against Crime Working Group on Alcohol, Drugs & Crime. During the project, a reference group reviewed progress and considered its direction. Members were:

- the Crime Prevention Unit;

- the Intra-City Cooperative Action Group, whose representative also represented the Drug and Alcohol Services Council;

- the policing arm of the Liquor Licensing Commission;

- the Hotel and Hospitality Industry Association Training Foundation; and

- a licensee not participating in the pilots.

The Coalition Against Crime Working Group on Alcohol, Drugs and Crime maintained an interest in the project and provided a problem solving forum. It will provide a key means of maintaining a focus on violence and crime in hotels and clubs now that the initial project is completed.

The decision to focus the project on what licensees can do rather than on other crime prevention and community safety issues, such as how local residents can be and feel safer, how police can alter their practice, or how the industry can be regulated differently, reflects the role of exemplary projects within the Crime Prevention Strategy. Part of the strategic approach is about encouraging a broader responsibility for crime prevention than reliance on the criminal justice system. Hotels provide an ideal opportunity to move from a view in which an offence occurring on the premises requires a response by police, or a regulating body, to a consideration of the extent to which practice and the behaviour in a business can contribute to the incidence or lack of incidence of violence. It also provided an opportunity to explore how crime prevention and safety can make a positive contribution to the business itself. The project was outcome oriented: what could the participants do to prevent crime and improve safety, rather than the primary focus being what we can find out about crime in their premises.

The Crime Prevention Unit saw benefit in basing the Project Officer for the project outside of the unit, acknowledging concerns among licensees about interference from a government agency in their businesses. The Drug and Alcohol Services Council agreed to supervise the project officer. The officer had expertise suited to working with licensees as well as strategy development and implementation skills and training skills.

Without this particular combination the pilot projects would have been less successful.

McMahon's Dance Club

The pilot project at Salisbury involved only one licensee, who was keen to participate. The venue included a number of bar and entertainment areas including a dance club and an entertainment venue offering piano and singing. The piano bar was poorly used and a few months into the pilot the manager closed the venue, opening it several months later with a different use. This limited our ability to assess the impact of the pilot on the licensee's turnover.

The pilot started with an audit of the physical safety of the bar and entertainment areas, and the car park and surrounds of the hotel. There was also a survey of staff and customer perceptions of safety and quality of service developed with the manager and extended from one to three nights following the enthusiastic patron response.

From their experiences in the pilot project, management at McMahon's developed a "Patron Service Undertaking" covering:

- security and service standards;

- entertainment standards;

- legal and community standards.

By the end of the project, management had implemented a range of measures which included:

- informing staff that the provisions of the Liquor Licensing Act and the Commercial and Private Agents Act are to be observed;

- developing an induction manual for staff;

- providing written instructions for staff dealing with incidents of assault, harassment or conflict;

- putting in place a written register of such incidents;

- no longer allowing large groups (for example, bus tours) to use the venue unless previously booked and arrangements have been made to cater for the group;

- no longer booking any promotions or entertainment which promote violence, harassment or aggression, and informing promotion companies of this policy;

- providing "chill out" areas for patrons (away from loud music and alcohol);

- reviewing staff numbers during nighttrading and bringing in extra casual staff as required;

- ensuring that non-alcoholic drink; including coffee, and food is available to patrons;

- increasing the lighting at entrances;

- providing emergency phone numbers at well placed phone sites within the premises;

- reviewing the location of security staff, and providing them with emergency phone numbers and a means of readily identifying the site in which they are stationed;

- providing clear instructions to crowd control staff about their role in preventing incidents and how to defuse conflict;

- providing signs at all entrances covering age requirements, proof of identification, standards of behaviour and dress, and details of the service plan;

- providing instructions to door staff on consistency in applying entry requirements;

- providing dog security teams on peak nights;

- liaising with the State Transit Police (public transport security personnel), police, council and local agencies about young people using the car park area;

- enhancing communication between hotel staff and security staff on specific incidents; and

- providing regular training and problem solving sessions with staff.

The project officer determined that a total of 24 changes covering work practices and physical features had been made to the premises as a direct result of the pilot, resulting in changed attitudes in both staff and patrons, flowing from management. The licensee was also considering measures such as regular meetings with local business and residents to deal with any concerns they may have as they arise.

Hindley Street Pilot

The Hindley Street pilot took much longer to establish. The first challenge was the number of licensees in the area. There are around 40 licensed premises in an area which covers two sides of a street about a quarter of a mile long. It includes hotel trading licences, restaurants, "general facility" licences which allow 24-hour trading aimed at the tourist market and nightclub or entertainment venues ranging from quality to sordid. There was significant turnover of licensees with a proportion of premises closing and reopening or changing hands regularly. There is one licensee holding a significant number of the licences in the area, and also owning some of the properties for which other businesses have licences. These characteristics create particular competition between premises which may contribute to management practices encouraging high levels of intoxication or rapid intoxication (for example, extreme discounting, targeting of underage drinkers, gimmick drinks). The area is unique in Adelaide.

There was considerable discussion during the development of the project brief, and among the reference group members, about using Hindley Street as a pilot site. In its favour was the opportunity it offered to work with a diversity of venues and managers, and to work in a precinct. It was the focus of city centre entertainments particularly all-night trading. It attracts considerable media, community and political attention periodically because it has a reputation for sex, violence, harassment, disorder and socially frowned-upon pastimes.

Hindley Street also provides a concentration of offences reported to police in the central business district. A police station had been located in the area in response to the concentration of incidents.

Police and traders estimate that up to 10000 people use the street on a busy night. To improve safety and reduce violence and crime in Hindley Street venues would be to significantly contribute to crime prevention.

Licensees were contacted by visiting the venues and meeting with the staff and managers. Initial reception was sceptical. There was also considerable feeling that crime and violence were the responsibility of the police and the government—through law and penalties. Powers to remove and ban individuals from premises and to remove people from the street were the focus of initial interest from managers. There was also a feeling of powerlessness to do anything themselves about safety in the face of recessionary economic pressures and fierce competition.

An important means of establishing our credibility with these licensees was for the project officer to be on the street and in their premises when they were there, that is at night. Having a drink with them after the main rush (round midnight) proved a useful way of discussing their concerns and our interests.

Another means of establishing our credibility was for the local police and the Liquor Licensing Commissioner to speak on our behalf, supporting concepts of crime prevention and of licensee responsibility for safety. Because of the nature of the street, local police patrols are on foot and are familiar with both day and night time traders, and with regular users of the street.

All the licensees are in contact with the Liquor Licensing Commissioner and have a respect, if grudging, for the requirements of the Liquor Licensing Act.

The downside of using police and the Liquor Licensing Commission as allies was that it reinforced the initial response from licensees that crime prevention is about police and law, and all they had to do was whatever they were told by those two agencies, and we would go away and leave them alone.

Once dialogue was established it emerged that there was common interest in an audit of the physical safety of twelve premises in the street. Ten people worked in pairs from 11 p.m. to 3 a.m. on a Saturday night/Sunday morning to assess the

layout and standard of premises, and the impact of the physical surroundings on staff and patron behaviour. We also took the opportunity to look at the layout and work practices of local car parks, which included high rise car parks. Results were provided to the individual licensees and discussed with them.

Following the safety audit there was a pause in the pilot and then the managers and licensees took over. A group met without the project officer but after several weeks re-established contact and put forward a proposal. Ten of the managers wished to operate to a jointly agreed standard of management practice with the aim of reducing violence and crime.

This was the first time in which any of the night time traders or licensees in Hindley Street had agreed to meet or to work together. In the fiercely competitive atmosphere of the street, it represented a real breakthrough in attitude—in business practice and in crime prevention and safety.

The agreement to include some measure of control on discounting practices was particularly heartening. There had been and continues to be a lot of discounting in the street to attract custom from neighbouring premises. These ten premises are only a quarter of the licensed premises, and do not include the major licensee in the street, but they believe that they have more to gain by offering a high standard of service and safety than by offering cheap drinks.

The printing of the customer service pledge in a form which can be displayed to customers was sponsored by the Hotel and Hospitality Industry Association, providing a closer link between the industry body and the licensees in the street, as well as reinforcing the commitment of the industry to crime prevention.

The participating managers will meet to monitor adherence to the pledge. They have agreed that this group will include members from the police and other agencies in the area. The Crime Prevention Unit will invite the inner city area local crime prevention committee, the Intra-City Cooperative Action Group, to participate in the monitoring process. The licensees have also agreed that the group will have the right to ask that the pledge poster be returned to the group if practices in a premises are considered to be breaching the standards of the pledge.

A number of licensees have suggested that the standards of the pledge should be included in the conditions of their licences.

The concern of the group is, however, that other licensees in the street should also be subject to the conditions if they are to be formalised.

The customer service pledge was launched at one of the participating premises in April, with the support of the Crime Prevention Unit, the Hotel and Hospitality Industry Association and the Police.

In addition to the pledge, a handful of licensees in the street have undertaken renovations which have improved the safety of their premises, and a number have improved lighting.

Some licensees worked through the survey process undertaken in the McMahon's Dance Club pilot with the project officer as well as responding to the safety audit information.

What We Have Learnt

What particular lessons have we learnt from the project? The first point is that it takes a long time for participants in projects like these to develop an understanding and commitment. For example, in the Hindley Street pilot, licensees started from a position of "get more police, it's their problem" and "tell me what I have to do to meet the requirements of the law and that's all I'm doing" to "if we do something we will gain—and we are part of the process which contributes to crime prevention and safety".

Strong partnerships with key players (in this case, local police, liquor licensing authorities, the industry body and key players in the industry) and key licensees in Hindley Street provided both the initial contact and credibility, and the ongoing means of bringing the licensees and managers along with the project.

We also found that, once the participants were interested, they were more innovative than anticipated, and eager to take control themselves. We learnt that waiting and listening and working on their suggestions rather than on preconceived ideas is better than trying to steer a particular course. We have tools to offer, for example, safety audits, staff and patron surveys, incident recording procedures, information about reported offence levels and about measures tried elsewhere but we

cannot say that any particular measure will make a particular premises safer. Licensees find that out best for themselves.

An example of this is the business plan focus which grew out of licensees and managers in both pilots taking control. Their interest was an increase in turnover by attracting people who otherwise would not use the venue, or prevention of loss of custom through incidents witnessed or experienced. The joint approach to crime prevention and safety was brought about by reviewing and improving the quality of service provided to patrons.

Establishing structures to maintain the momentum, both during the project and once the intended period of contact ends, is useful. Structures which can continue commitment and involvement are possibly more useful than staffing, which can reinforce reliance on someone else to do the thinking and to take responsibility for preventing crime and improving safety.

There are also some observations about the impact of introducing concepts of crime prevention and safety to the participants. The project officer and the Crime Prevention Unit had a marked impact on behaviour just by making contact with licensees and managers and by being on the pilot sites, for example, the project officer noted that the behaviour of door and other security staff was less aggressive than he had observed on nights when contact was less formal. The police noted that it was an unusually quiet night for incidents including assaults. One premises has an infamous attraction known as "the cage"—a barred structure in which a scantily clad woman dances. On the night of the safety audit the cage had been moved away from the front window and the dancer was wearing extra clothes.

Has the project had an impact on the level of incidents? Statistics on the frequency of incidents prior to the project were not known. However, by acknowledging the problem of crime and safety in hotels and clubs, we are also encouraging the reporting of incidents: crime prevention strategies in hotels should lead to more patrons wanting to report offences and more managers recording and reporting incidents. By being there we may have increased the level of reported offences. If we have been successful, we should also have increased the perception of safe use of these premises.

There has been a huge level of interest from the community in the project. Local Crime Prevention Committees want a means of working with their local hotels and clubs. There is clearly much concern at the local level about the role of hotels and clubs in crime prevention and safety, and this concern is not only about property crimes such as vandalism or graffiti, but includes concern about the safety of young people using hotels and clubs, concern about the safety of women using licensed premises, health concerns about the volume of alcohol encouraged by promotions, concerns about road safety and about the risk of patrons being victims of assault. There is also concern at the community level about attitudes towards the use of alcohol and in particular, the acceptance of violence as appropriate or excusable behaviour when alcohol is used, particularly in hotels.

Attitudes to Violent Behaviour and the Use of Alcohol

This is a major concern which the project did not address. When licensees have attempted to make the premises safer, including demanding a high standard of behaviour, they are still faced with a demand from a section of the community which wants to fight and drink. Neither regulation nor action on the part of licensees can change attitudes in the general community, and that demand will mean that some businesses respond, and there is commercial pressure for others to lower their standards. The Coalition Against Crime Working Group on Alcohol, Drugs and Crime considers this community acceptance, and even expectation, that alcohol causes and excuses violent behaviour to be a priority area for its work (*see* Atkinson 1992). The Working Group is currently determining how best it can link to local and national crime prevention and public health measures to address this cultural contributor to violence.

Ongoing Work from the Project

The strategies which licensees and managers tried and found useful have been written into a training manual, *Safe Profit*.

The manual outlines a business planning process for establishing what will provide safe, quality service and a safe environment for staff, and enables managers to set priorities to achieve a safer premises while maintaining or increasing custom.

Safe Profit will now be trialled for 12 months in hotels and clubs across the State. The Crime Prevention Unit has been granted funding from the National Drug Strategy Crime Prevention Fund to test the usefulness of the manual to managers of licensed premises and the impact of the crime prevention strategies it contains on preventing and reducing crime and violence in their premises. This trial will include premises in country areas of South Australia, and premises attracting particular groups of patrons.

The Crime Prevention Unit is continuing to negotiate with the Hotel and Hospitality Industry Association for the industry body to provide a training package for crime prevention and safety in licensed premises for use with *Safe Profit*.

A number of the Local Crime Prevention Committees are using *Safe Profit* and similar processes to those used in the pilot studies to work with licensees in their local communities. The Coalition Against Crime Working Group on Alcohol, Drugs and Crime will be a key structure for maintaining momentum in this area and in transferring what was learnt from the project to a wider arena.

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Creating Safer Communities[1]

Judith Dixon

Over the past few years a worldwide understanding has developed that traditional policing methods and criminal justice systems alone are unable to substantially reduce crime rates and the amount of violence in a community. Although police and other law enforcement bodies must continue to have a strong and effective capacity to investigate crimes and to prosecute offenders, more must be done to prevent violence and crime. A "safer community" movement has emerged throughout Europe, North America and Australia, which is concerned with both the prevention of violence and crime and the promotion of "community participation".

As a widespread movement, it is characterised by inclusiveness; it cannot be the exclusive domain of any one group, organisation, or government agency. Within this movement the meaning of the term "community participation" is twofold:

- the involvement of community members and workers in projects, strategies, networks, and committees to prevent violence and crime; and

- the creation and expansion of opportunities for all people to live, work, socialise, and play without feeling threat-ened or harassed.

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[1].   Extract from *Creating Safer Communities*, ed. Judith Dixon, Victorian Community Council Against Violence, Melbourne, 1993.

Such participation is directed at:

- reducing the community's vulnerability to crime and violence;

- diverting potential offenders into more constructive activities; and

- supporting and empowering those who have become victims of violence and crime.

This paper briefly sets out some of the key concepts and principles of a comprehensive safer community strategy and documents the experiences of some of the more recent safer community projects and initiatives. Reference is made to some of the major elements which can be incorporated into a comprehensive strategy.

The very term "safer community" implies an ongoing process. All communities, whether they be municipalities, neighbourhoods, entertainment areas, or schools, can devise their own safer community strategies to promote this process. A comprehensive safer community strategy can serve as a source of motivation to widen the range of government and community participation in the process of preventing crime and violence and it can also act as a focus for the initiation and implementation of safer community strategies and projects by community groups and the private sector.

The significance of these factors cannot be overestimated. There is a need for movement away from over-reliance on government towards the involvement of a wide range of agencies, institutions, communities and individuals in the process of preventing crime and violence and creating safer communities.

This shift is under way, with many local communities—such as universities, colleges, schools, municipalities, private firms and developers, insurance companies, public transport bodies, and various government agencies—undertaking their own safer community projects and initiatives. More informal networks of people are also involved.

Safety should not be perceived as a separate issue to other social problems. Community safety is a comprehensive approach in which safety issues are incorporated into all major policy and

planning decisions, at all levels of government and the community, from the strategic plans of government departments to home and neighbourhood safety assessments.

Within this broad area of safety and security, a number of terms are used to define strategies and projects. These include "crime prevention", "violence prevention", and "public safety". In many ways the terminology selected and used can determine the focus and direction of the project. "Crime prevention", for example, tends to provide a sharp focus on specific crimes, mobilising community members in partnership with police.

However, a difficulty with this term is that many community members may feel that crime prevention is something which is beyond their control. Like the term "violence prevention", crime prevention conjures up an image of the more extreme, physical acts of crime and violence. Community members may feel that only professionals like the police can seriously address "crime" and "violence". Community participation may thus be less likely.

The most inclusive term is "safer community". It can include issues from a concern with accidents and hazards, to the widest range of violence, including racism and sexual harassment, as well as crime. The term "community safety" is used to define a comprehensive strategy to promote community participation and to reduce and prevent violence and crime.

Community safety broadens the concept of crime and violence prevention beyond a narrow focus on policing, "target hardening", and law enforcement. It includes social interaction and aims to promote security in any environment, public or private.

Significant contributions to this safer communities movement have been made in Victoria. They include the work of such groups as the Police Community Consultative Committees (PCCCs), the safer community pilot projects, and numerous government, private sector, and neighbourhood projects and initiatives.

Some major characteristics can be identified as important to the process of creating and promoting safer communities.

Participation and Safer Communities

A safer community is a participatory community. An increase in fear, of feeling unsafe, causes people to venture out less in public, to make less use of public transport, to stop children walking to school or to the local milk-bar. Fear restricts people's capacity to participate in leisure, recreational, and other social activities. Many people, and particularly women and children, have a very low level of confidence in their safety away from the immediate home environment.

Staying at home to avoid risky situations is not the most desirable approach to crime prevention. If fearful of venturing out into public space, a person's home becomes a prison. If there are fewer people in public to discourage violence and crime, our streets and public places become less safe. A vicious cycle is established, with the quality of life of community members being severely diminished. Fear of the "outside" can also serve to reinforce the dependency of people living in violent relationships.

A special concern in our society is the fear of assault, injury, or abuse of children. In a recent report released by the Australian Institute of Family Studies, for example, many parents said that "a safe place for children to play" was one of the most important reasons for choosing somewhere to live (Brownlee & McDonald 1992, p. 24).

Children should be able to play in their yards, move about in their local neighbourhood, use public transport, and go to and from school, shops or places of entertainment without fear of abduction, harassment, or assault. Neighbourhoods, parks, public transport, and shopping centres are more likely to be safe if they are well-patronised, and if people are known to each other.

A safer community is developed *with* people and not *for* them. A safer community cannot be created by criminal justice agencies. Violence and safety need to be responded to as community concerns, not just as problems for the victim or the police. The development of partnerships between community members, government agencies, and the police is fundamental to effectively preventing and controlling violence and crime.

The process and the outcomes are owned by community members. All groups can contribute ideas, information, analyses, new and different perspectives, feasibility judgments, evaluation criteria, and an intimate knowledge of the local situation and context.

Participants and planners need to be aware of the different forms of violence and crime in a community. The wide consultation undertaken by the Victorian Community Council Against Violence (VCCAV) during the Inquiry into Public Violence, suggested that, while the most obvious violent crimes of homicide, rape and assault engender the most fear in a community, the offences of theft and burglary, contribute strongly to feelings of unease and anxiety in a community. Similarly, graffiti and vandalism create a climate of fear in a community.

It is also important that community-based strategies and projects examine the more subtle, "tolerated" and pervasive forms of coercion, abuse, and intimidation in a community, because these common everyday forms of violence are the wider context and culture within which the more extreme acts of crime and violence occur.

There is considerable scope for developing local safer community strategies, but to a large extent, the success of community-based projects depends upon their links with all levels of government departments and agencies. Without this engagement, two separate operations are likely to develop:

- a local community which perhaps attempts to change its immediate physical environment to improve safety and security; and

- government and its agencies which formulate and implement strategies and policies on a state-wide basis.

The most successful safer community projects (such as the West End Forum—*see* the *Australian Violence Prevention Award 1992*) are those that straddle this division, that in particular, enable local communities to engage with government and its various agencies. This two-way communication between local communities and government departments and its agencies is extremely valuable.

While traditionally, police and community members have worked together in service clubs and organisations such as Neighbourhood Watch, the analysis and tackling of a wide range of complex community issues on a cooperative basis is a more recent development.

Some police officers are understandably concerned about the consequences of community policing for their workload, priorities, and their sense of control in the implementation of policy. As well, some community groups are suspicious of what may be perceived as police-led initiatives, and are reluctant to participate.

These views, perceptions, and problems need to be acknowledged, rather than avoided. Building a basis of trust and cooperation between police and communities depends on the ability of both police and community members to work through these issues.

A safer community promotes safe behaviour at home, on the road, in the playground, at entertainment venues, in sport, and at work. Community safety is more than the reduction of crime and violence. Hazards and accidents can create a feeling that one's community is not safe.

Many "accidents" are foreseeable and can be prevented. Removing the hazards altogether is better than relying on supervision or "being careful"—especially where children and elderly people are involved. There are many simple steps which can be undertaken to ensure that places where people work, play and socialise are safe.

Evaluation

A safe community promotes an ongoing and goal-directed evaluation process and careful scrutiny of the rationale for resources allocation. The inability, and sometimes, even unwillingness to adequately evaluate crime and violence prevention projects is one of the big challenges of the 1990s.

It is important to assess the extent to which violence and crime prevention projects go beyond influencing and involving a handful of community members. Vague claims that "the community" was influenced and involved should be treated with caution.

A central problem in the evaluation of safer community initiatives is how to obtain useful information when there is a connection between the possibility of recurrent funding and a favourable evaluation.

One way to overcome this problem is to ensure that there is ongoing and goal directed evaluative research which enables changes to be made to a project during its development.

It is important that all safer community projects and initiatives be subject to a comprehensive evaluation process. Both the process (which is an assessment of what actually happened rather than what was intended to happen) and the outcomes must be evaluated, not as a one-off or end-of-project event, but rather as an ongoing activity from the inception of the project.

Opportunity Reduction

A safer community incorporates situational and physical, and social and community development aspects. What is called a situational safer community process is also referred to as "opportunity reduction".

- Situational or physical safety initiatives include:
  - land use;
  - lighting;
  - landscaping; and
  - target hardening and target removal.

The management and design of individual dwellings and the immediate environment has been shown to be effective in reducing property crimes in communities, including residential burglary, shoplifting and vandalism.

Situational measures are also applicable to the prevention of violent offences against the person. Consultation with communities, including major research undertaken in Toronto, Canada (Toronto City Council 1988) has indicated that many people, and especially women, feel less safe in certain physical environments which often induce fear.

The attraction of situational measures lies largely in their capacity to provide more immediate solutions to specific kinds of

crime and violence. An initial concentration on situational aspects may well lead to a more integrated approach as people gain more confidence in the process.

As a strategy on its own, however, it will lead to a narrow, distorted and inaccurate understanding of the problem of violence in our community and the concept of a safer community.

■   Social and community development

A social and community development safer community process is concerned with how the nature of changes in socioeconomic conditions as well as '"institutions of socialisation" (such as the family, the neighbourhood, and schools) affect the level of violence in the community. Social and community development policies and initiatives which have a bearing on community safety include youth policy; employment policy; health policy; and policies on recreation, leisure, and culture.

The key institutions which can influence community safety include the more informal networks of friends, peers, and neighbours, as well as local institutions such as schools and places of employment. Where possible, all of these institutions should devise their own safer community strategies.

Some social and developmental safer community policies focus on groups regarded as being at a greater risk of becoming victims or offenders. These policies, traditionally, have been directed at young people, including children. The strategy is to link the future prevention or reduction of crime and violence to changes in the attitudes and behaviour of young people.

The assumption underpinning this crime-prevention through social policy strategy is that the groups most at risk of both offending and being victims are either socially and economically disadvantaged or "under-socialised". Such assumptions should be treated with caution and care should be taken to avoid labelling or stigmatising members of certain groups as violent.

Because there are so many social policies with a bearing on crime and violence, there is also a problem of priorities. Which social policies for example, have the greatest potential for preventing or reducing crime? Which should and are likely to be funded, given the difficult economic circumstances?

Further, because most of these policies are long term, it can be difficult to assess or evaluate their direct impact upon the level of violence. As well, many social measures, like the situational ones, are expensive and it may be difficult to justify their cost if the outcomes are uncertain, or only likely to be achieved in the long term. More immediate and less costly solutions may have to be entertained and linked to a longer term strategy.

Irrespective of these important issues, the emphasis on developing "healthy" communities has a significant safer community aspect. A healthy community is one in which people are properly fed and housed, and in which there are educational and employment opportunities, accessible health care, and a wide range of recreational, leisure, and cultural options. A community seriously deficient in these areas will experience many social problems, only one of which is violence.

A Combined Approach

Care must be taken to avoid competing claims made by those who favour a "situational" as compared to a "social" or "community development" approach to the issues. There can be a tendency to view options as alternatives, rather than as aspects of a more comprehensive strategy. The presentation of social and situational measures as "either/or" alternatives can be extremely damaging to the development of a safer community movement which should incorporate both strategies.

It must be stressed, too, that an over-emphasis on situational and social/community development crime prevention measures alone can divert attention from the issues of power and control in everyday interpersonal relations. Violent attitudes and behaviours—for example, sexism and racism—may elude a simple social or situational solution.

Recent Projects and Initiatives

Modern communities are complex and consist of increasingly mobile populations, both in terms of residential mobility and daily geographical mobility. People participate in numerous non-residential networks, and a lack of enduring social

relationships within these networks is common. Thus a community is not only a territorial setting where residents interact. People, irrespective of age, who work, study, or socialise together also constitute community networks.

Described very briefly below are a number of safe community projects that have been operating in Victoria over the past few years which illustrate a variety of ways in which specific community safety concerns can be addressed.

The West End Forum

An outstanding example of a successful safe community project, and winner of an Australian Violence Prevention Award in 1992, the West End Forum was established in 1990 to address issues of violence in and around licensed premises in the King Street area of Melbourne. (For more details on this project *see Australian Violence Prevention Award 1992*).

Post Primary School Projects in Victoria

School students have a high level of awareness of and experience with violence in their own and their friends' interpersonal relationships. This level of awareness can be heightened when students are introduced to the concept of a "continuum of violence", where everyday forms of violence (abuse, intimidation and coercion) are linked to its more extreme manifestations. As well, within schools acts of violence may be legitimated, for example, assaults in sport.

Schools have developed a wide range of strategies including canvassing young people's perceptions of crime and violence. One school, which had been subject to gang violence, established a community forum, recognising that long-term, community-based strategies were essential. With the help of a youth worker (employed with the assistance of the local council), the forum, which includes teachers, students, police, and people from the general community, is examining youth facilities in the area, young people's experiences of violence, and ways of working with them.

This school (and the other schools involved in the project), instead of regarding the problem of violence as being the "aberrant behaviour" of "delinquent" or "under socialised" young people, is concerned to address the wide range of violent

attitudes and behaviours within its community, including problems such as the "pecking order" and bullying within the school community.

Shire of Bulla Safe Living Program

"Safe Living" is a community program aimed at preventing, accidental injuries in the shire of Bulla. The program is of considerable interest, both because it addresses the often-overlooked "injury prevention" aspect of community safety and because of its emphasis on community ownership, participation and responsibility.

The main objectives of the safe living program are to increase community awareness of injury prevention, to create a "safer community" environment, to develop strategies which will reduce the number and severity of injuries, to increase the use of appropriate safety devices and equipment, and to reduce hazards.

A number of interventions, including road safety audits, and safe routes to school have been generated. A safer display home is open for inspection in the area. Guidelines for safe house design have been distributed to all builders and developers operating in the shire, and are distributed with application forms for building approvals.

A Family Safety Package has been developed and delivered to all urban homes in the shire. A regular newsletter is produced and mailed to 300 organisations. Importantly, community involvement in the program is widespread, creating a close working relationship between council members and community members. A significant feature of the program is the active involvement of most schools and pre-schools, which provides a model for other safer community projects.

Safer Community Pilot Projects

In Victoria, eight Safer Community Pilot Projects were initiated and funded by government in 1992. Seven of the projects are auspiced by municipal councils: the cities of Bendigo, Box Hill, Dandenong, Footscray, Frankston, Melbourne, and Preston. The Richmond Safer Community Project is auspiced by the North Richmond Community Health Centre.

Some of the projects are managed by Police Community Consultative Committees. All of the projects draw together police, local government, community groups and community members in general. The funding period for the projects ranges from 9 to 12 months.

These projects have highlighted the role of diverse communities in the prevention of crime and violence. Each of the projects has enabled community members to engage with government, especially local government, and the police. Two of these projects are outlined below.

Footscray: The Footscray Safer Community project has brought together community representatives, police, and the Footscray City Council to work upon local safety issues.

A broad and extensive consultation regarding perceptions of safety involved members of the Police Community Consultative Committee, service clubs, neighbourhood houses, senior citizens' clubs, women's groups, schools, language-specific groups, and many others.

This consultative process enabled the project officer to identify specific issues and work areas. Importantly, particular reasons why people fear for their personal safety could be identified. As a result, the project officer could alert the appropriate government department of specific concerns, and begin to develop relevant strategies.

The specific issues that emerged included the lack of adequate lighting, dangerous road intersections—for both cars and pedestrians, the level of fear among some groups of elderly people, violence against women and children, and dispute resolution.

The project is encouraging the development of public areas as safe spaces in order to improve public perceptions of safety in such areas. After one area is chosen as the focus, discussions are organised with relevant people such as planners, police and recreation officers.

Other initiatives include the preparation of a domestic violence resource kit, the incorporation of safer community considerations in the mission statements and strategic plans of various sectors (local government community groups, and police), and the development of a neighbourhood dispute resolution mechanism in the community.

Although consultation will continue throughout the project, the emphasis will be placed increasingly on the development of strategies to effect change. A key consideration here is how existing resources can be used more effectively, or differently, rather than calling for new resources.

Richmond: Following numerous requests from residents in Richmond, the Richmond Community Safety Forum was established. The committee includes representatives from the Richmond City Council, Neighbourhood Watch, the police, community health centres, schools, licensees, business people, the VCCAV, and youth groups. The Forum is based at the North Richmond Community Health Centre. Following the extensive consultation process, a number of practical strategies were developed.

A licensees forum, which provides an avenue for improving police-licensee relations as well as for fostering a rapport between the licensees themselves was established. Other related initiatives include the encouragement of licensees participating in the forum to undertake the Liquor Licensing Commission's "Responsible Serving of Alcohol" program and a training course for police who work with licensed premises; representatives of the Commission have attended and supported the forum, enabling licensees to become familiar with Commission members.

Another important initiative was the development of a community safety policy for the Richmond City Council. The project worker assisted the council in formulating community safety principles and policy for each council division and department. The first result was a "seats on streets" campaign, which aims to encourage more recreational use of the city's streets by having sidewalk cafes and outdoor eating facilities. The relevant by-laws and planning permit requirements were amended to facilitate this development.

As well, "standard forms" for council workers to report unsafe areas and situations will be prepared to simplify reporting. A community safety component has been incorporated into the Council's asset management data base. The purpose of the community safety asset ranking system is twofold. Firstly, if the Council is considering purchasing an asset (buildings, transport, and parks and gardens), it will be

subject to the safety checklist. Secondly, the ranking system will be applied to the assets already in the data base, adding a "safety value" to the commercial one.

A safety criteria was established for buildings, including welfare centres and community and recreational assets, which included lighting, roads and footpath conditions, landscaping, escape routes, clear signage, and urban design principles. Each is subject to a set of safety factors and a point system.

An education campaign to promote cultural awareness and anti-racism was organised and a domestic violence support group was established.

The Richmond Safer Community Forum built new links between the council, the police, several community groups, and the community health centres. This strategic relationship underpins the continuation and consolidation of a safer community movement.

La Trobe University Office of Personal Safety

Many student groups at universities and colleges are conducting safety audits on campus and presenting the findings to their university and college councils. These audits were the outcome of a growing awareness of the problem of violence on and around campuses. Most campuses have been the site of sexual assaults.

Consultation with students suggests that campus violence may be chronically under-reported. Various student campaigns helped bring public attention to the problem and made university and college administrations more aware of security deficiencies on their campuses.

Personal safety is integral to ensuring access and equity to all aspects of university and college life. A student's sense of the level of campus safety is likely to determine whether he or she will attend evening classes, utilise the sports centre at night, and participate in other academic and extracurricular activities.

At La Trobe University, in Melbourne, an effective process commenced with a full-day forum to discuss issues of personal safety on campus. The forum, organised in conjunction with the VCCAV, involved students, academics, Students Representative Council (SRC) officials, and staff members.

There were many recommendations, including a proposal to create the position of Personal Safety Coordinator. Funding for the position was provided by the university administration. Once employed, the coordinator undertook a broad and accessible consultation process in order to identify the different types of campus violence, to encourage the development of a network, and to enable students to propose strategies as to how to improve personal safety, both in the short and long term.

Importantly, on a more informal level, the coordinator encouraged students and staff members to visit her and discuss personal safety issues as well as the options available to people who have experienced violence.

As well, students were advised to become familiar with the range of services available on the campus, for example, the Student Representative Council, counselling service, health service, legal service, equal opportunity unit, anti-sexual harassment contact people and advisers, and security personnel. Other personal safety hints, which were widely publicised, included getting to know the campus physically:major facilities, car park locations, pathways, and telephone locations. Students were also advised to inform the Security Central Control if they were studying or working until late on campus.

A campus safety audit was conducted, and the results of the audit were collated, and recommendations about the required work were presented to the university council. As a result of the forum, the safety audit, and the ongoing consultation process, four broad issues were identified. Each of these issues became the basis of a working group.

These were:

- police campus liaison;

- education and training;

- community outreach and networking;

- the physical environment.

A wide range of practical and strategic approaches have been developed in each of these areas through the use of working parties and wide consultation.

As an outcome of the La Trobe University project, an inter-campus safer community process has emerged, which is promoting a more coordinated approach to the problem of campus safety. So far, the issues canvassed by various campuses include the identification of safe routes to and from campuses; the organisation of defensive living courses; challenging violent attitudes through education campaigns; and the creation and maintenance of an information flow between all Victorian campuses. Another practical outcome is an annual state-wide personal safety day.

Conclusion

Different agencies, areas of government, and community groups will develop different approaches to the planning, and implementing of community safety strategies. Nonetheless, from the examples of the projects and initiatives detailed above, it is possible to reach some conclusions.

Community safety is appearing on the agenda of many organisations and groups including local government, police, the business sector, universities and colleges, schools and a variety of agencies and community groups.

In each of these settings, consideration is increasingly being given to:

- setting up violence prevention or community safety committees or working groups;

- ensuring a direct and immediate response to particular problems of violence;

- assessing the community safety implications of planning, and development proposals;

- facilitating contact between agencies and groups;

- liaising with the police on community safety issues, and involving the police in the decision-making process;

- raising staff awareness and skill levels (relevant to violence-prevention and community safety strategies) among key personnel;

- raising public awareness by providing information on the issues;

- providing services for the victims of crime and violence;

- taking account of the particular needs of women, the elderly, and other groups; and

- developing specific policies on community safety and violence prevention.

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Measures to Reduce Violence at Major Public Events: New Year's Eve

Neil Mellor

Many popular conceptions of New Year's Eve crowd behaviour are closely linked to notions of civil disorder and violence. Many of these concepts are based on popular media coverage as found in television news, newspaper reports and police sources. However, upon a review of newspaper coverage from 1950 to 1990, and police and case study reports, it becomes apparent that it is difficult to accurately identify and predict the specific problems New Year's Eve events present, let alone make generalisations about their causes. Furthermore, even where steps have been taken to prevent and minimise harm associated with New Year's Eve, they are not necessarily reflected in more positive media reporting or a decline in arrest rates.

Media Reporting of New Year's Eve in Victoria

It has been argued that media portrayal can lead to stereotyping, misrepresentation and reinforcement of particular notions of crowd disorder. Lynch (1990) has argued that the media has assisted in promoting sport as entertainment which

has in turn influenced the behaviour of participants and observers alike. This, he argues, means:

> . . . the game has been transformed and wherever entertainment and spectacle are the basis of this transformation, then there should be no surprise to see new forms of crowd disorder (Lynch 1990, p. 20).

A similar assertion could be made for the role of the media in portraying New Year's Eve.

An "*Age*search" conducted of New Year's Eve events since 1950 to 1990 (Veno 1991) indicated not only an escalation of reports featuring frequency and incidence of crowd disorder but also changes in reporting approaches on crowd disorder. In the latter case there is an increased emphasis on "the youth problem" and their conflict with authorities. The conclusions drawn from by Veno (1991) are:

- public disorder at New Year's Eve is now central to the media coverage of the New Year's Eve festival;

- there is clear evidence that arrests for public disorder offences is increasing;

- increasing public disorder at New Year's Eve can be linked to the arrival of "youth culture" and television to Australia;

- public disorder at New Year's Eve became institutional-ised by 1975 when press interviews revealed that many young revellers were showing up at certain known "hot-spots" to observe and participate in the public disorder;

- police tactics have not proved to be consistent or effective across situations, suggesting that tough measures introduced in one location may lead to a displacement of crowd disorder to other locations;

- through the use of the press the police can inform and advise citizens about acceptable standards of behaviour and provide people with options about how and where they may choose to celebrate New Year's Eve;

■ providing major entertainment events seems to contain and focus public gatherings but may have to be modified to meet the requirements of the location. For example, the nature of the entertainment may serve to incite or attract crowds.

Police Report

In 1986, the Minister of Police and Emergency Services called for a report on underage drinking following considerable media coverage of the 1985-86 New Year's Eve "revelry". The perceived problems of New Year's Eve had become so great that they were automatically associated with young people and alcohol, at least by politicians, although the subsequent findings of the report did not necessarily support this assertion.

The report aimed to provide information, within the terms of reference, on the definition of the problem, incidence of underage drinking, the nature and characteristics of offenders, ramifications of the problem, methods of management, suggested solutions, and alternative methods by which the issue may be addressed and policy developed.

The report acknowledged that there is no reliable police information on the incidence of underage drinking. The statistical evidence available at the time, from the Victoria Police Research and Development Unit, noted that the accuracy of the figures of arrest rates of young people related to alcohol and drug use was:

> questionable because the inclusion of alcohol as a problem .. . depends on the interpretation of the police member regarding what amounts to "intoxication", and the evidence available to support this opinion, for example, the smell of alcohol on an offender's breath (Ministry for Police and Emergency Services 1986, p. 3).

Number of Arrests 1985-86

An analysis of the police reports for 1985-86 New Year's Eve would suggest that while there were widespread arrests statewide (505 in total), there is no indication that this is attributable to a youth alcohol problem. For example, the majority of arrests on New Year's Eve were for street offences

which comprised being drunk, drunk and disorderly, offensive behaviour and indecent language. It is still an offence to be drunk in a public place in Victoria, unlike most other States in Australia which have decriminalised this offence. Figures on New Year's Eve from the Operations Department, showed that 397 of those arrested for drink related offences, were adults. Of those under 18 years of age, 56 were arrested for street offences.

Furthermore, there is even less evidence on the basis of police statistics, to indicate that young people were necessarily causing unacceptable or concerning levels of assault and violence. With the exception of one arrest in Bendigo, and one in Melbourne, there appear to be virtually no other arrests of young people for assault in Victoria for 1985-86 New Year's Eve.

Newspaper Coverage of New Year's Eve 1985-86

An indication of the extent of the media coverage of New Year's Eve in 1985-86 is the number of press items generated on this subject. The composite number of articles, letters and editorials is as follows:

	The Age	*The Herald*	*The Sun*	*Local & Country*	*Total*
Articles	7	9	11	2	29
Letters	16	4	0	0	20
Editorial	1	0	0	0	1
Total	**24**	**13**	**11**	**2**	**50**

Content Analysis 1985 Newspaper Reports

A content analysis of the main press items illustrates a sample of the perceived central issues:

- the large number of arrests in Victoria [500] in the 14 to 22 year age group were for mostly street offences;

- the lack of parental supervision;

- the assaults on police;

- the spread of arrests across Victoria;

- the large number of arrests in other States;

- the extent of youth alcohol abuse and problems of teen alcoholism;

- the anti-social behaviour of drunken youth;

- police anger over the high incidence of underage drinking;

- crackdowns on youth gangs in general;

- the request for a report on the incidents by the Police Minister to be discussed with Health and Community Services Ministers.

It is evident from the themes displayed in the print media, that young people with their abuse of alcohol and their aggression towards police and society in general, were portrayed as the major problems associated with New Year's Eve. This is despite factual evidence to the contrary.

Strategy Development

It was in this context that an inter-departmental meeting was held in September 1986, to identify problems and solutions for disorder on New Year's Eve and at other public events, such as the Moomba festival. It comprised of representatives of Health, Police and Emergency Services, Community Services, Labour, Industry Technology and Resources, Melbourne City Council, Youth Development Worker Coalition, Moomba Festival Committee and Alcohol and Drug Community Resource Workers (Health Department, Victoria, communication sent to Chairman of the Standing Committee of Ministers on Underage Drinking, September 1986).

One of the outcomes of this gathering was the use of an action planning methodology, using situationally specific questions to identify problems, drawn from the experience of the officers who had attended these events. Surprisingly, the

problems identified were not predominantly related to the generalised issues of violence or gangs of young people, but rather focused on the conditions in which crowds gather, assemble and disperse. McPhail & Tucker (1990) have noted that these are fundamental aspects of prosaic gatherings which are frequently ignored by crowd theorists. It was also in this setting that provision of basic amenities for the public became of great significance.

Situational Problems

It was noted that many of the problems experienced on New Year's Eve were related to quite specific instances, such as lacerations and cuts to people treading or falling on broken glass, people appearing to be antisocial through urinating in public places (which was directly related to the lack of available and accessible public conveniences), widespread alcohol intoxication (which was thought to be part and parcel of the celebration and was not confined to young people, but was considered exacerbated by lack of available food (and vendors) to assist in delaying the rate of ingestion and absorption of alcohol), the damage associated with vandalism at certain locations and attributable to the anger of public transport patrons who were left stranded in the city and on train platforms, close to midnight.

The ad hoc committee developed a set of recommendations which were subsequently adopted by the Victorian Standing Committee of Ministers on Underage Drinking.

Local Government Check List

The recommendations comprised a check list of activities for local government as well as more substantive measures for State government action often in conjunction with industry or community organisations.

The recommendations were as follows:

- the sale of beer in cans rather than bottles;

- consignment of large crowds at public venues;

- amendments to the Liquor Control Act;

- provision of entertainment;

- provision of food stalls;

- provision of adequate transport services;

- supervision of passengers on trains;

- information for parents;

- information for young people;

- alternative detention centres (Temporary Care Centres);

- toilet facilities;

- rubbish receptacles;

- First Aid services;

- media briefing.

The strategies, although simple, were designed to reduce crowd frustration through addressing social and environmental factors at large public gatherings. These strategies formed a check list which were reviewed and sent to local government councils on an annual basis.

Implementation Issues

Although the strategies were recommended to local government councils throughout Victoria, implementation, partial or full, was left to the respective local authorities. This proved to be problematic, as some local government authorities chose to ignore the check list whilst others insisted on funding to implement the check list. The end result was a differential application of the strategy across local government areas in Victoria.

It is arguable that there was an association between the check list being applied in full, and correspondingly less serious problems of crowd disorder. However, there appeared to be greater problems where the check list was ignored.

For example, in 1987, temporary care centres were established for underage drinkers. Over 1000 arrests were made across Victoria. Chief Commissioner of Police at the time, Mr Kel Glare, attributed the lack of entertainment as the problem at the Mornington Peninsula town of Portsea (where the strategy was not applied). He described the crowd as "a riot

waiting to happen" and noted that the celebrations at Cowes where entertainment had been provided was trouble free.

Unintended Effects

The strategy was open to modification with greater or lesser emphasis on particular parts of the check list. One unanticipated consequence was the move by local governments and police authorities to control New Year's Eve celebrations by banning alcohol consumption entirely in public places, and introducing other control measures aimed at young people. These measures were justified by using the examples of locations, where the check list of strategies had not been deployed, to generalise about the nature of the crowd problems and the need for greater control powers.

Case Study 1990-91
New Year's Eve

In 1990, Art Veno with a team of researchers including this author, studied various crowd disorder prevention approaches at seven locations of Victorian New Year's Eve celebrations.

Two coastal resorts, Cowes and Torquay, adopted a similar community policing strategy, whilst two other locations, Barwon Heads and Rye, adopted a traditional reactive policing approach.

The Cowes and Torquay approach included common elements, both:

- attempted to minimise glass;

- provided a local bush band for family entertainment;

- provided adequate facilities for the crowd to entertain itself; and

- provided and encouraged food caravans, non-alcohol drinks and established temporary care facilities.

Both sets of "community policing" strategies worked to a large degree according to observer reports. However, the Cowes approach included some new control measures which had not previously been introduced.

Firstly, local government by-laws to prevent alcohol consumption in any public place or reserve and forbidding of street camping were proclaimed. Numerous large signs made people aware of this.

Secondly, police conducted extensive checks of motor vehicles coming onto Phillip Island for five days leading up to New Year's; cars were examined for roadworthiness whilst the driver's blood alcohol level was tested.

Thirdly, a highly visible police presence was established with mounted police, dog squad, and crowd control vehicles.

Fourthly, local licensees agreed to curtail the sale of packaged alcohol on Phillip Island to no later than 6 p.m. on 31 December 1990.

At both Cowes and Torquay, the events were described as successful and trouble free although Torquay did not attempt to control alcohol intake. However, both Barwon Heads and Rye where no strategy was effected, were described by senior police as being near riot situations (Veno 1991).

At Cowes, the unintended side-effects (Veno 1991; Mellor 1991) included:

- a high police resource demand;

- production of negative views about police in segments of the local business community. Whilst some members of the residential or holidaying community clearly enjoyed the quieter evening, many shopkeepers and hoteliers interviewed did not, saying that business was well down;

- generation of a highly controlled event which appears to lack the fundamental enjoyment aspect of a festival;

- clearly reduced numbers from previous New Year's Eve attendances.

Difficulties of Evaluation

There are a number of difficulties in trying to evaluate the effectiveness of measures deployed at the respective 1990 sites, to prevent and minimise crowd disorder.

- Due to different police "standing orders" and the different size and nature of the respective crowd, policing strategies vary from location to location. For example, it became apparent that people were arrested for urinating in a public place in Cowes but not at Rye.

- Groups with varying socioeconomic, age and gender characteristics may attend certain resort or city locations. For instance, youth from the western suburbs are more likely to go the Bellarine Peninsular whilst young people from the south eastern area (Dandenong, Cranbourne) tend to go to Phillip Island. This may influence crowd behaviours at respective locations.

- When restrictions are seen as particularly unpleasant or repressive to a certain group in one location, it appears that they may then travel to other locations.

Other Issues Affecting Crowd Behaviours

The body of empirical research into crowds is limited and is often not referred to by those making assertions about the nature of crowd behaviour. This becomes an issue when popular assertions are made about crowd characteristics.

Moore (1990, p. 169) has identified a number of issues that apply to gangs that could equally be applied to crowd behaviour including violence. Most typologies of gangs do not correspond to empirical studies of gangs, and gangs differ from time to time and place to place. The relationship between a group and individuals who commit violence is problematic and ambiguous. For example, if someone in a gang commits an act which is violent, this should be accurately attributed to the individual rather than the group.

Likewise, there is an assertion made by the police and the media sources that gangs are associated with increasing levels of violence; however, this assertion is not clearly supported by empirical data.

This latter point is an interesting one as it is difficult to establish whether there is an increasing level of violence associated with New Year's Eve.

Research Issues in Crowds and Violence

Field studies increasingly indicate that public gatherings such as New Year's Eve are not made up of isolated individuals, but rather of small groups, families and friends or acquaintances. The form of social behaviour most frequently engaged in includes some form of interaction, including conversations with family, friends and acquaintances. These conversations are just as rational as those in the classroom or elsewhere and are by far more likely to be orderly than disorderly.

However, empirical studies of crowds over the last 20 years have provided an array of insights into the nature of gatherings, both peaceful or otherwise. For example, McPhail and Wohlstein (1983) assert that most crowd related violence has occurred in response to social control agents, such as police. In a study of dozens of US riots (Kerner 1968 cited in McPhail & Wohlstein 1983), at least 50 per cent were preceded by routine police-civilian encounters that began non-violently but escalated into violence.

Police typically control civilians by giving what may be termed "instructions for response", that is, defining the situation, assigning designations to individuals, and/or proscribing or prescribing civilian behaviour. Where instructions did not suffice, verbal repetition controlled 75 per cent of behaviour. Vandal (1973) found that after studying police training manuals none informed police what to do when confronting routine street gatherings.

Perhaps greater research devoted to crowds and their social control agents would give a better insight into ways of preserving public order.

Conclusion

The factors described in this paper may assist in the development of future strategies in crowd control. For example, the experience gained from previous New Year's Eve and other public events, for example, the 1989 Australian Motorcycle Grand Prix (Veno et al. 1989), shows that not only can problems of drunkenness, violence, vandalism and accidents be prevented and minimised, but also these events can be used as

opportunities to promote healthy and safe practices (Mellor & Veno 1989).

New Year's Eve is shaping up as a balancing act between crowd control and restricting civil liberties. There needs to be caution exercised in enforcing control measures based on mass media responses to crowd problems rather than on empirical research. However, whatever measures that are adopted, we should also be alert for unintended effects.

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Police Use of Firearms: Issues in Safety

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In the last 15 years in Australia there has been a major shift in the wearing and use of personal firearms by the 35,000 serving police officers in Australia. Yet very little, if any, research has been carried out in the jurisdictions in Australia where these major transitions in police practice have occurred. This paper explores how it occurred (and continues to occur) and the consequences of the changes. It calls for a wider public debate on the issues surrounding the wearing and use of firearms by police, particularly in the context of research into patterns and trends of Australian violence.

Over two decades ago, two Australian academics put forward the proposition that there is a direct correlation between the extent to which police carry pistols, revolvers and shotguns and the frequency of their becoming a victim of a shooting. Having noted that the risk of a police officer being killed is higher than the risk for non-police, they then compared the police killings in those States in Australia that followed the more "American" model (ready access to firearms) with those that followed the more British model (unarmed). They concluded that the risk of being killed:

is relatively much higher in States which have adopted the American firearms policy. It is not unreasonable to infer from this that the police firearms policy may be a significant factor in this context (Hawkins & Ward 1970, p. 197).

Twenty-four years later, the inference still remains largely unexamined and untested, notwithstanding that the issue has become more pressing. Firearms are more often carried by patrol officers and detectives than in 1970, they are more often used, and they more often than not still carry the semi-jacketed, hollow-pointed round which is designed to kill their targets, not to incapacitate them. At the same time there are sporadic calls from the police and the public for even greater firepower and less restrictive guidelines for the use of firearms by police.

In 1990, the National Committee on Violence made a number of recommendations aimed at curbing the use and availability of firearms generally in Australia; for example, a uniform policy concerning the acquisition and possession of firearms, and a national gun control strategy. Governments have been keen to implement many of the proposals, notwithstanding intense opposition from members of gun lobbies. The decision to go ahead with a National Police Reference (firearms register) was finalised in May 1993. But the National Committee made no specific recommendations concerning limiting the police use of lethal weapons. The emphasis in their report was, rather, upon police codes of conduct, operational procedures and police firearms training (National Committee on Violence 1990, pp. 196-8). Very few commentators ever broach the subject of limiting the police use of lethal force, nor do they actively pursue the idea of the use of non-lethal weapons in the discussion on violence in the Australian community (cf. Hogan 1988a, p. 89; British Columbia 1990; Geis & Binder 1990; National Committee on Violence 1990, p. 197, Recommendation 85.4). Moreover, while police policy-makers have made a significant contribution to the drafting of national and international guidelines on the responsible use of force by law enforcement officials (guidelines which do not include, and in fact, specifically discourage, resort to lethal force unless all other avenues and resorts have been exhausted), they have made, as one would expect, no recommendations concerning restricting the availability of

firearms to police officers. It would be a brave government, therefore, that would "stir the pot". Indeed, it would be a foolish commentator who would tackle this subject without thought. But there is no harm in calling for a new debate, indeed, many lives may be at risk if the debate is not held.

> The police use of firearms is a complex and difficult area. A host of factors come into play. These include ethical issues, the interplay of law, policy and training, the significance of police ethos and culture, the power of unions such as the Police Association, the diverse range of situations in which firearms are used, and the complexity and difficulty of decision-making in such situations. It is time, though, that this area was subject to greater and more critical attention. The topicality of gun control provides an opportune time. There is no good reason why police should escape scrutiny in this context (Hogan 1988a, p. 81).

Certainly there has been a great deal of conjecture about the merits of the police use of deadly force, although it has typically focussed on the use of the force rather than the presence of the weapons required to carry out that force. While Professor Richard Harding, over two decades ago, was concerned about whether, when police kill citizens, they do so in circumstances permitted by the law, he was specifically unconcerned about whether police should or should not wear hand guns or pistols, arguing that "for better or worse, they do so already in various circumstances" (Harding 1970a, p. 15). There is no shortage of scholarship which examines the lethal use of force, its legality and morality (for example, Elliot 1979; Sherman 1982; Benn & Worpole 1986; Ward 1986; Hogan 1988b; Harding 1989; Cunneen 1991; McCulloch 1992). But this paper concentrates its attention on the consequences of the move in the last decade or two in this country, and to a lesser extent in the UK, towards the use of more sophisticated weaponry in the armoury of police officers, and in particular the ubiquity of the pistol or revolver on the hip of most Australian police officers. And while this paper is chiefly concerned with Australia's public police officers, it is apposite to consider that there are many thousands of private security personnel in Australia who carry firearms as a matter of course. There has been little study done on their powers, rights and privileges, an examination which is also well overdue, but outside of the scope of this paper.

The shift towards carrying firearms as a matter of course rather than as a special privilege has occurred in Australia in the absence of parliamentary discussion and widespread public debate. There is no independent monitoring of the use or misuse of police firearms, a matter upon which the National Committee on Violence made recommendations calling for investigation and action in such circumstances (Recommendations 86.7 and 86.8). In some jurisdictions the forces and services are extremely reluctant to divulge information about the firearms worn and the circumstances in which they are to be drawn. Of great interest would be information about where they are purchased, the names and nationalities of the suppliers, and, indeed, the price (Manwaring-White 1983, p. 220). In South Australia, the guidelines on the subject, *Firearms: Police Issue 3375* (Issue 22, April 1992), is not generally available to the public. It may be the same in other States. The information provided below concerning the guidelines for the police on the wearing of firearms is gleaned from dated material held in the National Police Research Unit Library in Adelaide. Primary source material is simply not available there, nor, apparently, is it readily available from the forces themselves, a problem which does not appear to be unique to the present day (Hawkins & Ward 1970, p. 195).

Police are understandably defensive about any change to an existing policy on firearms. In a letter to the editor of the *Advertiser* in April 1993, one constable from the Riverland of South Australia defended against intense criticism the use of high-powered firearms by police to disarm a 14-year-old disgruntled student who fired a rifle which shattered a window at his high school. The officer put his position thus:

> [The police] should, perhaps, have attended the school holding olive branches and lollies. The olive branches could be held out as a symbol of peace and goodwill and the lollies would be for just in case the kid is not able to appreciate the significance of the olive branches. . . The "bag of lollies" mentality . . . has been demonstrably exposed for what it is—pseudo-intellectual rubbish—the sort of rubbish which is helping promote a more violent society (*Advertiser* April 1993, Letter to the Editor).

But, having examined the available evidence, and placed it in the context of recommendations made to Australian

governments to make Australian communities safer places in which to live (and patrol), one can reach the opinion that, at the very least, the debate about the issue should be re-kindled. In particular, we should be asking whether the use of lethal force by police officers is making Australia a safer place, or whether calls for restraint are "helping promote a more violent society". Does meeting violence with violence begin a spiral which compounds the problems and which becomes counter-productive?

Police and Firearms: The Current Situation in Australia

Certainly the wearing of firearms by police is far greater than is generally realised by the public. The move from the baton to the covered pistol and then to the widespread deployment of the exposed firearm has been a result arrived at more by a process of incremental change than as a result of a decision made after any public debate. It is not unlike similar shifts which have occurred in the UK, challenging the image of the unarmed avuncular "beat" officer (Manwaring-White 1983, p. 214).

The information (from Swanton & Hannigan 1985, pp. 182-3) presented below (with the exception of South Australia) on the capacity and willingness of Australian patrol officers to wear firearms may be more than a little dated, but it is all that is readily available. Note also that the make and calibre of pistols and revolvers will vary from agency to agency, as do the policies regarding their deployment and use.

New South Wales: All police are armed with hand guns while on duty. This has been the case since just after World War I when, apparently, returned soldiers carried out attacks on a number of police officers (Nixon 1991, p 15). Harding's note in 1970 that this was the only force that was habitually armed indicates how much things have changed in other jurisdictions (Harding 1970a, p. 14).

Victoria: All detectives now carry hand guns while on duty; all uniformed personnel now carry hand guns while on patrol. A decade ago firearms were only worn when it was thought that a situation was particularly dangerous.

Queensland: In 1973, following police industrial action (relating to occupational health and safety), police officers were permitted to decide for themselves whether to wear hand guns while on duty. Not surprisingly, perhaps, most police do.

Western Australia: Detectives carry hand guns when on duty. Uniformed officers carry hand guns while on night patrol.

South Australia: Detectives are issued with a personal hand gun and carry it when on duty except in courts, psychiatric institutions, correctional centres, Parliament House, while on study leave or if there is an order of the Forward Commander. Patrols receive an issue at the commencement of each shift, although it is possible, with the permission of the Commissioner, for an officer to be given a personal issue. As a general rule, foot patrol officers carry firearms when on patrol. It used to be the case that this was not to be done in "sensitive" areas (such as shopping malls and sports fields), but the distinction between "sensitive" and "non-sensitive" areas has largely been lost. The "widespread public debate" that was promised by police did not eventuate; the "trial period" foreshadowed at the end of the 1970s was overtaken by other political events.

Tasmania: Most detectives routinely carry a hand gun, but uniformed personnel carry firearms only if the situation warrants their temporary issue.

Northern Territory: Both personal and police issue firearms are frequently carried.

ACT: Similar to the situation in Victoria.

Whether the above presents an accurate picture in 1993 is difficult to determine, for the documents which regulate these matters are not public documents. There are no detailed manuals, certainly not in the public domain, covering the police issue and use of firearms. The guidelines have, apparently, no legal status except in so far as they may be referred to in disciplinary proceedings (Hogan 1988a, p. 86). There is, furthermore, no way of knowing how many officers in Australian police forces wear or take home private firearms.

There is very little likelihood of testing the legitimacy of the case of those officers who request a firearm in special circumstances. There would be a great temptation to conclude that the predominant factor in such requests was the pressure on those officers by their peers to conform to the existing operational "code" (Uildriks & van Mastrigt 1991, p. 169) rather than any bona fide objective assessment.

The Reasons Why Some Favour the Wearing of Firearms

There are three reasons that can be isolated, chiefly:

- the police themselves are safer from injury or death, that is (in the words of the South Australian *Firearms–Police Issue,* vol. 1, no. 1), "[they are placed] on an equal footing with criminals who are likely to resort to the use of weapons";

- people caught up in violent and other criminal activity are safer if the police who answer the call to assist are armed;

- arming police is an essential response to the growing level of violence in our society, particularly given that law enforcement personnel are required to match, at the very least, the fire-power in the hands of the criminal "element". Thus, the society is a safer place if violent force is met with equal (deterrent) force in return.

It is important to look at each of these issues and to distinguish, as far as possible on the available evidence, the myths from the realities.

The Police Themselves Are Safer

Hawkins and Ward (1970) doubt the truth of this proposition but others disagree. Even the police themselves are admitting to discrepancies between the perceptions and the reality of risks to police officers in carrying out their duties. In the *NSW Police*

Service Weekly of 24 May 1993, Chief Superintendent Paul McKinnon made the following remark:

> The State Commander commissioned the Australian Institute of Criminology to research operational policing in New South Wales. The aim of the work was to develop appropriate risk management strategies. The final product of the research was titled "Development of Risk Management Strategies for the New South Wales Police Service"... A key feature of the Report was the discovery that many popular perceptions about policing hazards are out of kilter with reality. The perceived risks were higher than the real risks (*NSW Police Service Weekly* 1993, p. 7).

On the available evidence, it is unsafe to assume that the safety of police in Australia is better assured by a less restrictive policy on police firearms issue and use. The Australian Institute of Criminology published the following finding in 1987 as part of a study by researcher Bruce Swanton into police occupational health and safety over ten years.

> Preliminary evidence, albeit limited, suggests that police aggregate health has not deteriorated. Gross measures of workplace violence show no significant increases. Accordingly it cannot be assumed the despondent view held by officers is substantially reflective of their actual position. However, the emotional and physical hazards of police work are considerable, as evidenced by some 66 shootings and in the region of 40,000 assaults over a ten year period [1977-87] (Swanton 1987, p. 4).

Swanton concluded that although police appeared to be at greater risk than the general population of being shot at, assaulted or murdered, there is no substantial evidence that that risk was increasing. Whether that situation is changing or will change in the future is a matter requiring further monitoring and ongoing study.

Another study (South Australian) was conducted for the period 1983 to 1988. There were 3 704 assaults on police (with and without firearms) during that period, yet only one officer was shot and killed, and only one officer was wounded. Police were most at risk in residential conflicts (where the most common weapon was a knife) and on the street (where the most common weapon was a bottle) (Wright 1989, p. 27).

In the period from 1964 to 1983, three Victorian police officers were killed and 28 injured as a result of being shot at.

But while this represented an increase in the number of shootings, it was an increase less than the increase in the numerical strength of the agency (Swanton 1985a, p. 10). There were similar figures found in New South Wales and to a lesser extent in Western and South Australia. Again the attacks were increasing at a lesser rate than the increase in agency size, although the researchers note that this figure does not necessarily count those shots that were fired but which missed their mark entirely (Swanton & Hannigan 1985, p. 324). The National Committee on Violence reported that from 1979 to 1988, 13 police officers were murdered in Australia, although the risk of death from homicide was reported to be less than that from a non-duty related accident (National Committee on Violence 1990, p. 40).

There is some limited benefit to be gained from making comparisons with our police forces' American counterparts. Of the USA's law enforcement officers killed during the period 1980-89 (a total of 801), one study found that 92 per cent were by guns (16 per cent of them the officer's own gun) and only 2 per cent were while on foot patrol (Major 1991, p. 3). Studies of the period 1960-80 found 1794 officers were killed, 11 per cent while off-duty, 3 per cent while on foot patrol and 23 per cent by the use of their own firearms turned against them. The rate of USA law enforcement officer deaths was over seven times that of the Australian figure (and still their researchers conclude that their occupational hazards are often overstated, for example, Hill & Clawson 1988, p. 247). The percentage of Australian officers shot with their own guns is a lot lower, approximately 5 per cent (Swanton 1985b, p. 239).

In comparison with Australia, for the decade 1976-1985, the rate of Canadian officers murdered in the line of duty was almost twice that of Australia. The Australian rate was three times greater, however, than the rate for England and Wales (not including the London Metropolitan Police Force) while the rate for the London force was still lower than that reported by New South Wales, Victoria, Western Australia and South Australia (Swanton & Walker 1989, p. 21). The authors of that report noted that these murder rates correlated closely with the murder rates found in the general population. This point was discussed yet dismissed as having little relevance by Hawkins and Ward who determined that the police firearms policy was a

far more crucial determinant of police risk rates than general homicide rates (1970, pp. 196-7).

International comparisons are, however, sometimes rather misleading. It is difficult to assume that all American police firearms policies are less restrictive than those in Australia (the difficulty arises out of the fact that there are over 40 000 publicly-funded law enforcement agencies in the USA) and even more difficult to suggest that there is some causal link between this apparent lack of restriction on weapon use and the deaths of their users. Many more US law enforcement officers, for example, patrol alone than their counterparts here, and that factor appears to be significant in determining the risk of death or injury. It would require a great deal more work of the sort suggested by Hawkins and Ward (1970) before these conclusions could be verified with statistical significance.

Yet it is instructive for Australian observers to note the high numbers of American officers killed notwithstanding the availability of their firearms and their firepower. Indeed, there is some evidence in the USA which points to the conclusion that the absence or apparent absence of firearms on police officers may enhance their safety and increase the cooperation of offenders, particularly where the offender has a gun.

> At the applied level, these results argue that, contrary to the tactics increasingly adopted by many police forces of prominently displaying weapons, the absence of, or ostensible lack of weapons on the person of the police officer may actually enhance his [sic] safety and increase the cooperativeness of his client population. The effect may be especially significant in situations where the client is carrying a weapon (Boyanowsky & Griffiths 1982, p. 406).

A weapon visible in these cases may be perceived as a sign of aggression and may add to the resistance, resentment and thus retaliation of civilians in an encounter situation (Berkowitz & Le Page 1967; Clark 1979). In the case of the tragic ambush and killing of Victorian constables Tynan and Eyre in Walsh Street in 1988, the officers were wearing guns when they were ambushed, but the guns did not prevent them from being killed. Apparently, in Victoria if not elsewhere, and given the small numbers of officers who are shot, there is just as much likelihood of being killed by a fellow officer as by an offender (McCulloch 1992, p. 135). While it is not possible to say

conclusively, therefore, that an officer is less safe with a firearm than without one, the fact of the matter is that there is insufficient evidence to justify the conclusion that an officer is safer with a firearm than without one, and no evidence to suggest that increasing the firepower or relaxing the restrictions would increase levels of occupational safety.

Finally, it does not necessarily follow that individuals should have access to a gun simply on the assumption that they are at great risk or greater risk than others. It would be untenable to suggest that a firearm would be made available to every person who professed a fear of violence towards them.

> It is true that, on occasion, police are targeted and killed simply because they are police but they are not the only people who live with the fear of being killed. Many thousands of women live with the well-founded fear that they will be hurt or killed by male partners. It is not generally argued that women in these situations should have access to hand guns, although they are clearly a more vulnerable group at greater risk of unlawful homicide (McCulloch 1992, p. 137).

If we are genuinely concerned about health and safety for officers, we can explore many other ways in which police patrol policy could be altered which do not involve the arming of the police, nor creating a less restrictive regime on the police use of their firearms. Police may not have to accept the dangers of their profession if there is better analysis of these dangers and appropriate steps are taken to avoid them (Margarita 1980). These could include changes in the shift system, an emphasis upon human awareness training, enhancing effective communication skills, "community" policing and even the design of the police uniform. These strategies are not dependent upon firearm deployment. Part of the problem in Australia is the lack of detail in police record-keeping of officers assaults. While it may appear almost a fixation of American researchers to conduct descriptive analyses of "cop-killing" (for example, Little 1984), it would be of immense assistance to Australian researchers to have material concerning the circumstances of assaults on officers and officer deaths more readily available.

Members of the General Public are Safer

At the outset it must be noted that such a proposition at least partially relies upon the assumption that much of the police officer's duties are of a "crime fighting" nature. Although the figures will vary from jurisdiction to jurisdiction and from time to time, there is good reason to support the suggestion that "crime fighting" activities occupy only a small percentage of the officer's workload. The 1988 British survey noted that somewhere between 82 and 86 per cent of all contacts initiated by the public are "service" oriented requests rather than of a "crime fighting" nature (Skogan 1990, p. 199). There does not appear to be any similar work carried out in Australia although it is unlikely that the figures mentioned would vary considerably.

There will be some occasions when the public need demands the use of lethal weapons by police. It does not follow, however, that the use of firearms will be appropriate in every case. According to Harding (at a time when guns were not customarily used by officers in many States):

> the majority of these killings occurred in circumstances *prima facie* not permitted by the law. Yet, never has a policeman [sic] been criminally charged. This pattern of failure to test the legality of a certain type of conduct, is distinct and continuous enough for one to be able to say that, in a real sense, the law has come to be changed with regard to that kind of situation. Formally, it may remain in the statute book; but the privileged group will soon come to know that it is a paper law only, that no sanction will ever be brought to bear upon them for its "breach" (Harding 1970b, p.177).

Harding maintained that, under the situation that existed in 1970, justification of the killing usually followed as a matter of course in such circumstances, and that the coronial processes did little to challenge that pattern (Harding 1970b, p. 183). There is little evidence that much has changed (Harding 1991).

A review of the law is required. There are three recognised situations where the police are justified in law in killing a member of the public, namely in self-defence, under the "fleeing felon" rule, and in defence of the lives (but not property) of the public (if there is no other means available). The guiding common law principle to be used by police officers when apprehending danger was, and is still, that of "minimal" force. It

states as much in South Australia's *Police Issue 3375*, if not in deployment guidelines of other jurisdictions. Resort to the use of a firearm will only occur "when the member believes on reasonable grounds such use is necessary to protect life or prevent serious injury and only then when satisfied no other means are available. . . " (2.1).

Thus, if a person is killed in the course of a struggle with police, and the force used was reasonable, then the killing is justified. In relation to fugitives, in the common law States, "fleeing felons" may be killed justifiably so long as they are being arrested for a felony. This dates back to the centuries when almost all felonies were punishable by death. The Code States have moved away from this position to require that the felony be one punishable by life imprisonment and only if there are no other means of apprehension available. The "fleeing felon" rule has been specifically rejected by the United Nations Committee on Law Enforcement in 1987, by the US Supreme Court in 1985 and in an Australian Law Reform Commission report in 1975 (Hogan 1988a, p. 84). The death penalty has been irrelevant in Australia for the last 20 years. Any attempt to justify the use of firearms on the grounds of the "fleeing felon" rule ought to be rejected. Where the fleeing felon principle is still in use, described in NSW with implicit support by Nixon (1991, p. 15), it should be legislated against immediately.

Anecdotal evidence of the misuse of the police use of deadly force is becoming more widespread. Unacceptable incidents are, it seems, not uncommon occurrences (McCulloch 1992). Anecdotally, one would think that the number of fatal shootings in Australia has risen markedly, although it is very hard to find figures. The disquiet surrounding the high-profile shootings of, for example, in New South Wales, David Gundy (Cunneen 1991) and Darren Brennan (Harding 1991, p. 11), and Gary Abdullah in Victoria (McCulloch 1991), has done little to restore confidence in the ability of the police to use firearms always in a manner which is responsible. The startling spiral of police killings in Victoria (between 1988 and July 1994) has led to the creation of a special task force to investigate the circumstances and make policy recommendations. The inadequacies of the coronial inquest process continue to dismay some critics (Hogan 1988c, p. 120) with some notable exceptions (National

Committee on Violence 1990, p. 196), and the lack of police data is equally disturbing.

> The use of firearms by police receives little attention outside the occasions when resort to guns leads to someone's death or injury. . . Unfortunately, few details about police use of firearms are to be found other than in media reports. Neither annual homicide statistics nor police department annual reports provide such figures. Furthermore, in Australia, unlike the U.S., there has been no comprehensive empirical research or case-studies of police shootings [cf shootings of police] (Hogan 1988a, pp. 80-1).

There appears to be more concern in the USA, perhaps because of its preoccupation with the constitutional rights of offenders and suspects (Sherman 1982, p. 88)—a shift that has been apparent in the last two decades (cf Robin 1967). There, statistics are routinely kept on offenders who are killed at the hands of law enforcement agents. (These are not small numbers. Each year in the USA, law enforcement officers shoot at about 2 500 people, on average 350 of whom die as a result, *see* Dwyer et al. 1990, p. 295). Studies into the police use of deadly force have also captured the attention of Canadian researchers (Chappell & Graham 1985).

In Australia, the research is virtually non-existent. Harding's call in 1970 for the appointment of a specialised ombudsman to investigate police shootings (1970b, pp. 185-6) has been ignored. His call for police forces to bring their specialist squad and tactical response forces procedures into line with public expectations (Harding 1991, p. 13) has also been largely ignored. Recommendations 85.3 and 86.7 of the National Committee on Violence, which touch on these issues, should be implemented as soon as possible:

> 85.3 All governments should recognise and support a requirement that wherever practical, a Coroner personally attends the scene of any fatality involving the use of lethal force by police.

> 86.7 All police administrators should ensure, following incidents where a person has died or been seriously injured through the use of force by police that there is a thorough investigation of the incident by police independent of those involved in the incident.

Thus, the jury is still "out" on whether a greater resort to lethal weapons by police officers in Australia has led to a safer community generally. One can never be sure, of course, whether the presence of police firearms has deterred much criminal and violent conduct which otherwise might have been meted out to the public. Those sorts of arguments, of course, never lead anywhere because they can never be proved or disproved. Discussion of the next topic, however, should point to the weakness of the "unknown deterrence" argument; for the evidence points to great and unacceptable levels of violence in our communities in domains where police and their guns would have minimal impact: domestic family life and Aboriginal Australian communities.

It is the Only Appropriate Response to the Growing Level of Violence in Our Society

The assumptions upon which this argument is based are that Australia has a growing problem with violence and a poor record when compared to other countries in the world. Putting to one side for the moment the difficulty of making international comparisons (Weatherburn & Devery 1991), commentators, called upon to review the evidence for the National Committee on Violence in 1989, reached the conclusion that contemporary Australia is not a particularly violent place (Chappell et al. 1991, p. 1). Australia does not have the problems many other countries face with national or international terrorism, for example. Recent Victorian and NSW studies indicate that the murder rates in those States over the last two decades (assuming homicide is a fair guide to levels of violence) have been relatively stable, and are lower than they were at the turn of the century (Neal 1992, p. 20). These trends have been apparent long before the changes to firearm practices in police ranks, and any attempt to suggest a causal link would be unproductive.

Nevertheless, there is great public concern about the problem of violence in contemporary Australia. In many respects, however, the information upon which these concerns are based is often incorrect or inadequate. If decisions concerning police and firearms are made upon an inaccurate picture of violence in contemporary Australia, then these

decisions may well be ill-advised also. The two areas of great concern to policy-makers looking at violence in Australia generally are the victims of domestic violence and the high proportion of Aboriginal Australians in the violence statistics. Each of these issues will be addressed separately.

Domestic violence: The picture of an Australian's vulnerability to violent behaviour is often inaccurately painted. The chance of becoming a victim of violence is not the same for all Australians (National Committee on Violence 1990, p. 33, ff.). Not only are some groups of Australians more likely to become victims, some groups will tend to suffer more greatly than others, and for longer. Those victims who have little or no political, social or economic power are more likely to have their vulnerability to, and pain of, violence compounded by their chronic inability to move away from the level of risk at which they find themselves. Thus, the capacity to leave a relationship, or to negotiate its better terms, is far more crucial to the final outcome (the reduction of the level of violence) than any reliance upon the intervention of the state or the response of the criminal law (Hogg & Brown 1990, p. 864).

The National Committee on Violence found that a distressing proportion of violence in our communities occurred within the family home rather than external to it. Sadly, physical and emotional violence, neglect and sexual abuse pervade Australian households. Currently some 5000 women take refuge in women's shelters each year and perhaps as many as double that number are turned away. For these women the problem of violence is ameliorated by thinking more laterally as exhibited, for example, in the 1993 amendments to police powers in South Australia to remove firearms from violent households following a phone-call order from a magistrate. They would not be better served, necessarily, by an increase in the availability and firepower of firearms carried by the officers involved. Indeed, the introduction of firearms would often exacerbate, rather than calm, a potentially violent domestic confrontation.

Violence amongst Aboriginal Australians: There is no shortage of evidence that Aboriginal Australians are at vastly greater risk of homicide and other violence than non-Aboriginal

Australians. Aboriginal Australians face the risk of becoming a victim of homicide at a rate as much as ten times that which is borne by the general Australian population (National Committee on Violence 1990, p. 36). Moreover, 87 per cent of these victims were killed by other Aboriginal Australians (Bonney 1987). It might be easy to conclude from this evidence that there is something within the Aboriginal Australian community, almost intrinsically, which aligns them inevitably with a life of violence. Informed commentators, however, are quick to note that the true blame lies more with the economic and cultural status quo which currently exists in many Aboriginal communities than with the Aboriginal culture itself. Sadly, there is a mutually reinforcing spiral of welfarism, poverty, alcoholism, imprisonment and violence which is sustained, and will continue to be so, by the feelings of hopelessness endemic in the lives of many Aboriginal Australians (Hogg & Brown 1990, p. 865).

Equally disturbing is the observation that the number of deaths and the rate of deaths identified by the Aboriginal Deaths in Custody Report (Royal Commission into Aboriginal Deaths in Custody 1991) are not dropping despite the commitment of governments to implement the recommendations of the various Royal Commissioners (McDonald & Howlett 1992, pp. 12-13). Any responses to violence in Australian communities which fail to address these issues, as well as the quality of life of many Aboriginal Australian communities, are invariably inadequate. Any suggestion that violence could be better dealt with by giving to the police the firepower they seek and loosening the restrictions on firearm use, particularly given the strained relationships in a number of Australian jurisdictions between police and Aboriginal Australians (Cunneen 1991) would be difficult to sustain.

Discussion

There is tentative evidence, then, that restricting police use of lethal force may reduce the number of police killings and may even save the lives of the police who use them for protection. Yet police still maintain that the wearing of firearms is

necessary for them to do their job properly, and the public, to a large extent, is prepared to agree. For whatever reason, in the eyes of many people, the solution to violence is to enhance and intensify legal authority and control, typically through strengthening the powers of the police to ensure that firearms are always visible and available. It is important to convey to the public that these solutions, however, may be more costly and more fatal in both the short and long term.

> The logic of "law and order" demands is insatiable and self-reinforcing. Its consequences are vastly more expensive in human, social and economic terms than placing less faith in the operations of the criminal justice system and looking elsewhere to the crime control effects of broad social policies in areas such as employment, child care, housing, welfare, education, transport, town planning and recreation (Hogan 1988b, p. 105).

These issues were addressed in the report of Lord Scarman to the British Government as a result of the riots in Brixton, London in April 1981.

> "Hard" policing is often necessary. The police have an abiding duty to act firmly against crime. . . But when a community becomes resentful and restless and there is widespread loss of confidence in the police, the particular circumstances may require a review of police methods. It is a situation calling for the exercise of a professional judgment which takes into account all the circumstances (Scarman 1986, p. 110).

The more responsible call is for the police to employ greater professional judgment than merely to become better armed.

> Allow us to crack down hard they say and we will clean up the streets. But policing does not occur in a vacuum; it is all part of an extraordinarily complex problem and [Lord] Scarman has pointed to some of the underlying reasons for the rise in crime such as poor housing, lack of employment and poor amenities (Manwaring-White 1983, p. 217).

In other words, the aggression and violence which is targeted for police response, guns drawn, may be merely symptomatic of far more complicated problems and frustrations, which problems and frustrations may be exacerbated by an overly provocative response. Indeed, the riots and anger which have followed police shootings in Australia and overseas

supports the predictions of those commentators who argue that paramilitary-style policing and liberal firearms policies lead to a spiral of increasing violence (McCulloch 1992, p. 136).

While an increase in firepower and accessibility of guns by police is the "easy" (and more politically saleable) option in response to the violence that exists in Australia today, it fails to address the root causes of violence and serves only to isolate further the police from the community they serve. It is important to convey to the police and to the public that no amount of technology and no number of guns can replace the need to face up to the fundamental truth that the best policing is found in direct contact with the community. The presence of firearms coerces, rather than encourages. Their very existence tends to create an operational ethos which characterises more situations as ones which require a weapon-based response, in effect a self-fulfilling prophecy (Wardlaw 1985; Harding 1991, p. 10). Instead, police should be exploring other responses and strategies: community policing, problem-oriented policing, the development of interpersonal skills, and education programs designed to combat racism, sexism and to enhance effective crisis intervention (National Committee on Violence 1990, p. 195).

If there is solid evidence that the presence of guns protects officers from serious injury or death, then there would be good reason to utilise them. If there were strong evidence that guns had the effect of calming violence in a way that did not lead to the extra-judicial killing of offenders, then there would be good reason to expand their use. But the evidence is scant. Crime-fighting begins with community confidence. The most modern technology in the world cannot take the place of perceptive policing (Noaks & Christopher 1990, p. 635; Manwaring-White 1983, p. 220; Hawkins & Ward 1970, p. 193). The National Committee on Violence acknowledged these important priorities in the following recommendations:

> 85.1 All governments should recognise and support uniform laws throughout Australia regarding the use of firearms and other lethal force by police. . .

> 86.1 All police administrators should adopt and implement rules and regulations strictly limiting the use of force and firearms. . .

> 86.4 All police administrators should adopt a nationally agreed set of guidelines outlining standard operational procedures for police to be deployed in situations assessed as high risk (1990, p. xLi).

The evidence that these recommendations have been adopted in any jurisdiction in Australia is scant and requires immediate examination and evaluation.

Prospects for the Future

In prefacing its suggested policy initiatives, the National Committee on Violence noted that there is a distinct advantage for Australians concerned with the problem of violence: we are not yet in the crisis situation that confronts many other regions of the world. Fortunately our homes, streets and neighbourhoods have fewer guns than our American cousins.

> [Yet] to allow history to unfold without any attempt at constructive intervention suggests a grim scenario: Australian youth are still relatively free of the anger, indeed the rage, harboured by many young people in Britain today. People who live in Australia's large cities are not besieged by beggars and defended by 24-hour security guards as are their counterparts in the United States. Unlike middle class and more affluent citizens of the third world, Australians are not yet prisoners in their own homes (National Committee on Violence 1990, p. 241).

The Committee went on to identify a number of specific initiatives and programs (for public and private, government and professional sectors) which ought to be given priority if Australian policy-makers are to be seen to take this issue seriously (Chappell et. al 1991, p. 292, ff.). The interesting thing to note is that not one initiative involved the bolstering of the "law and order" climate. It is somewhat significant that not one recommendation suggested adding to the ability of police to increase their firepower or to relax the restrictions on police use of deadly force. Policy-makers should be concerned, said the Committee, with broadening the vision of the police, which could include a thorough review of the position of firearms in the police forces under their control and opening these policies to public scrutiny.

Summary

The thrust of the work of the National Committee on Violence was to express the view that, more than anything else, there needed to be a change in values in Australia, a change in community attitudes and a change in the distribution of resources if Australia was to become a less violent place in which to live in the future. It reviewed the evidence of violence in Australia and reached the conclusion that commonly held perceptions of violence are often incorrect. It found that it is simply not true that violence affects all groups of people in Australia equally. Some groups of people are able to avoid violence or (if affected) avoid its worst consequences better than others. The National Committee expressly eschewed a model, often touted by the political "right", that greater force was needed by our police forces and services as a response to a violent "criminal element". That is, the usual "law and order" responses to violent behaviour are inadequate and often counter-productive. Typical of such responses is the view that if only police were to be given powers to use and deploy firearms more often, and were given greater "firepower" in their "war" on crime, then violence would be contained or even subside. The National Committee concluded that it was safe to ignore these simplistic explanations and responses to violence.

The evidence to justify the wearing of firearms and the use of deadly force on a routine basis by the police in order to ensure their own safety, to ensure public safety and to reduce levels of violence in the community generally is tentative at best. Given that conclusion, it may be an appropriate time to risk restricting police firearms availability and use in order to display to the community a willingness on the part of the law enforcement agencies that they too are party to the theme that to reduce levels of violence in our communities requires broad, creative and lateral responses, not just the power of the gun. This may require simply returning to the days when police did not typically wear firearms, but were issued with a pistol or a revolver at the commencement of a shift in accordance only with an objectively perceived risk and need. This is perhaps more so where the officer is young or inexperienced (Swanton 1982). At the very least it would maintain that there is no justification for lessening the restrictions on the police display and use of

firearms, a policy change actively sought by many members of the public if not the various Police Associations and unions of Australia.

Other reform proposals ripe for implementation, in addition to the broadly-based recommendations of the National Committee on Violence (above), could include the abolition of the "fleeing felon" rule where it may still exist, the creation of a register of police as victims of shootings and cases where police fire on and injure or kill offenders, and making more publicly accessible policy information on the wearing and use of lethal weapons by police officers engaged in patrol duties. It would be highly unlikely that such information "could be of assistance to criminals"—an excuse offered in 1969 by a former South Australian Police Commissioner (Hawkins & Ward 1970, p. 192)—but rather would enable the needs of police and the community to be better researched. Both groups would benefit from the policies that would flow therefrom. Such steps would go some way towards bringing "the use of firearms by police under reasonable and proper limits, consonant with the primacy of the value of human life" (Hogan 1988a, p. 90).

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Violence in Australia:
A Bibliography¾
1990s Update

Judith Iltis

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- Family violence, child abuse and sexual assault

- Hate crimes: racial, religious, homosexual

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- School and workplace violence

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