'We Have Left it in Their Hands':

A Critical Assessment of Principles Underlying Legal and Policy Responses to Aboriginal Domestic Violence: a Location Study

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This thesis is submitted to the Department of Geography and the
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<u>Stephanie Therese Jarrett</u>

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List of Abbreviations

ABS	Australian Bureau of Statistics
AGPS	Australian Government Publishing Service
AHDG	Aboriginal Health Development Group
AHU	Aboriginal Housing Unit
AIAS	Australian Institute of Aboriginal Studies
AISP	Aboriginal and Islander Sub-Program
AIATSIS	Australian Institute of Aboriginal and Torres Strait Islander Studies
AIC	Australian Institute of Criminology
ALRC	Aboriginal Legal Rights Commission
ALRM	Aboriginal Legal Rights Movement
ANU	Australian National University
ASP	Aboriginal Studies Press
ATSIC	Aboriginal and Torres Strait Island Commission
CA	Commonwealth of Australia
CAFHS	Child, Adolescent, and Family Health Services
CAHRT	Council for Aboriginal Health Review Team
CDEP	Community Development Employment Program
CDVAG	Children and Domestic Violence Action Group
CEDAW	United Nations Convention on the Elimination of All Forms of Discrimination Against Women
CETFFC	Community Education Task Force on Family Violence
CIPL	Centre for International and Public Law
CPC	Crime Prevention Committee
CPP	Crime Prevention Program (Attorney General, South Australia)
DASC	Drug and Alcohol Services Council
DCW	Department of Community Welfare
DOSAA	Department of State Aboriginal Affairs
DPC	Department of the Premier and Cabinet
DPMC	Department of the Prime Minister and Cabinet
DVAG	Domestic Violence Action Group
DVPC	Domestic Violence Prevention Committee
DVPU	Domestic Violence Prevention Unit (South Australia)
DVRU	Domestic Violence Resource Unit (South Australia)
DVU	Domestic Violence Unit
FACS	Department of Family and Community Services
FTEARC	Family Training, Education, Awareness and Resource Centre
FVIP	Family Violence Intervention Program
FVPET	Family Violence Professional Education Taskforce

HALO	Hospital Aboriginal Liaison Officer
HPU	Health Promotion Unit
HRC	Human Rights Commission
HREOC	Human Rights and Equal Opportunity Commission
IPA	Institute of Public Affairs
LRCPNG	Law Reform Commission of Papua New Guinea
NCVAW	National Committee on Violence Against Women
NDVEP	National Domestic Violence Education Program
NPYWC	Ngaanyatjara, Pitjantjatjara, Yankunjatjara Women's Council
NRRCADC	National Report of the Royal Commission into Aboriginal Deaths in Custody
NSWBCSR	New South Wales Bureau of Crime Statistics and Research
NSWDVC	New South Wales Domestic Violence Committee
NSWWCU	New South Wales Women's Coordinating Unit
OCS	Office of Crime Statistics
OFC	Office for Families and Children
OFF	Office for Families
OPDV	Office for the Prevention of Domestic Violence
OSW	Office of the Status of Women
QDVTF	Queensland Domestic Violence Task Force
RCADC	Royal Commission into Aboriginal Deaths in Custody
SAAP	Supported Accommodation Assistance Program
SADVC	South Australian Domestic Violence Council
SAHC	South Australian Health Commission
SAHT	South Australian Housing Trust
SDVAG	Southern Domestic Violence Action Group
SNAICC	Secretariat of National Aboriginal and Islander Child Care
SPO	Summary Protection Order (South Australia)
TAFE	Technical and Further Education
TDCW	Tasmanian Department for Community Welfare
UN	United Nations
UNO	United Nations Organisation
VAHC	'Viewtown Aboriginal Health Centre'
VAA	'Viewtown Aboriginal Association'
VASMP	'Viewtown Aboriginal Substance Misuse Program'
VIAAP incidents	'incidents of violence involving Aborigines attended by police'
VINAAP incidents	'incidents of violence involving non-Aborigines which attended by police'
WAO	Women's Advisor's Office
WATFDV	Western Australian Task Force on Domestic Violence
WPU	Women's Policy Unit

Australian states and territories are denoted by their abbreviations in footnotes and the bibliography: ACT, NSW, NT, Qld, SA, Tas, Vic, WA.

Abstract

In Australia, responses to Aboriginal domestic violence are commonly assumed to be most effective when they arise from, or are controlled and implemented by, members of the Aboriginal population. This assumption is treated as self-evident, because it is expected that Aboriginal representatives, policy-makers and implementers have a better understanding of the nature of Aboriginal domestic violence and Aboriginal cultures, and that Aboriginal interventions would be more acceptable to Aboriginal people. However, strategies based on these assumptions are failing to deliver adequate prevention and protection to Aboriginal victims, and Aboriginal domestic violence remains at high levels in urban and remote, and more traditional and less traditional, settings.

The continuation of high levels of domestic violence within Australia's indigenous populations, and the inadequacy of institutional responses to that violence, should be anathemas to Australia's liberal-democratic states, based, even defined, as these states are on the principle of universal rights extension. This thesis analyses how the concept of a 'cultural right' is cutting across Australian states' commitment to extending the principle of a universal right of physical safety to Aboriginal victims of domestic violence.

At the level of bureaucratic policy-making, the doctrine of 'cultural rights' marginalises challenges to the present policy emphasis on

Aboriginalisation and control of domestic violence responses, even in the face of Aboriginal response failure. This thesis focuses on the interface of policy with a specific Aboriginal population. It seeks to explore the extent of domestic violence policy success and failure arising from this commitment to a 'cultural rights' approach to Aboriginal well-being and domestic violence. This exploration extends beyond programs specific to domestic violence, to an analysis of the underlying, broader 'cultural rights' policy contexts within which responses to Aboriginal domestic violence must occur, namely self-determination, self-management, a politicised and localised Aboriginal identity formation, and Aboriginal separatism.

The thesis examines the capacity of states, even those committed to upholding and extending the right to physical safety into different cultural contexts, to do so in the case of Aboriginal populations. For on the group level, these populations commonly aspire to become politically, structurally and locationally more removed from the sphere of state control.

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Introduction

Policymakers within South Australia commonly accept that optimal state responses to Aboriginal domestic violence are those that support Aboriginal initiatives and encourage Aboriginalisation and Aboriginal management of responses.[1] This is in contrast to their more critical assessment of most other areas of domestic violence practice. The state government's own statistics indicate that domestic violence within Australia's Aboriginal population is 'likely to be between 7 and 16 times higher than rates among non-Aboriginal Australians'.[2] Hence this hands-off approach to Aboriginal domestic violence requires explanation and analysis. The conundrum of this cautious state response in the face of such a high rate of domestic violence is the focus of this thesis.

State responses to Aboriginal domestic violence occur in the context of a complex politics of Aboriginal difference. It is a context that conditions both contemporary state principles concerning Aboriginal rights, as well as approaches to Aboriginal domestic violence policy implementation. This thesis focuses on state responses to Aboriginal domestic violence in South Australia. Its purpose is to analyse the impact on these responses, of the contemporary processes within Aboriginal politics, particularly demands for cultural rights, and the associated precepts of Aboriginalisation, self-management, and separate

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[1] Separate discussions with senior officials in the SA Government Public Service: PS 2 1993, PS 3 1993 and 1996, and PS 4 1995.

[2] Office for Families (OFF), *A Preface to Planning: results of the Domestic Violence Resource Unit's Statistics Project (draft, unpublished)*, prepared by R. Nechvolglod for OFF, Adelaide, 1995, 14.

identity formation. In particular, it explores the philosophical and practical issues facing liberal-democracy regarding the application of human rights, in the context of claims for cultural rights.

The National Report of the Royal Commission into Aboriginal Deaths in Custody (NRRCADC), and government responses to it, is evidence of the Australian states' acceptance of responsibility for the social conditions associated with the high crime and imprisonment rate of Australia's Aboriginal population.[3] Problems identified by the Royal Commission including poor prison conditions, racism within the legal system, and inadequate provision of primary-level services, demanded a response from the liberal-democratic state. This has been duly formulated and implemented, albeit with significant problems and set-backs.

One Aboriginal voice pointed to a little publicised finding of the RCADC. Judy Atkinson brought attention to the finding that half of the men who died in custody were imprisoned for violent crime— homicide, serious assault and sexual offences:[4]

> In fact, more women have died from violent assault in a number of communities than all the deaths in custody in the states concerned...and too often no charges are laid.[5]

The official emphasis remains, however, on the over-representation of Aboriginal males in prison and deaths in custody. In South Australia in the mid 1990s, key government bodies were still reluctant to explore and meet the needs of Aboriginal women victims; they claimed that it is

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[3]Royal Commission into Aboriginal Deaths in Custody (RCADC), *National Report of the Royal Commission in Aboriginal Deaths in Custody (NRRCADC)*, conducted by Elliott Johnson, QC, Commissioner, Australian Government Publishing Service (AGPS), Canberra, 1991. Throughout the thesis, this reference will be cited as 'RCADC' or 'NRRCADC', as appropriate.

[4]Judy Atkinson, 'Violence in Aboriginal Australia Part 2', *The Aboriginal and Islander Health Worker* 14(3) September 1990, 9.

[5]Ibid., 7.

better if Aboriginal people themselves meet those needs. The response seems anomalous in that a fundamental principle of the liberal democratic state is that it should safeguard the natural rights of its citizens including their right to protection against bodily assault. It is now recognised that privacy rights or more to the point, 'family sovereignty rights', do not give licence to override individual rights to bodily safety.[6] Thus the state has a right to intervene into the private or family sphere when domestic violence and child abuse occur. A liberal-democratic state holds this principle of safeguarding natural rights to be fundamental in that it is part of the contract legitimating government. Liberal-democratic states are thus obliged to uphold these values even in the face of majority opposition.[7]

Nevertheless in Australia, at least in cases of newly identified and culturally-embedded transgressions of natural rights such as domestic violence, civil society support for state recognition of these principles has been necessary before they were effectively implemented. Over the past two decades in Australia such joint responses enabled state intervention into domestic violence to become law and policy. There has been and continues to be vigilant nationwide and ongoing community, state, and academic monitoring of laws, policies and projects implemented for the protection of victims and the rehabilitation of perpetrators.[8] Almost no sector escapes this vigilance. The judiciary,

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[6]South Australian Domestic Violence Council (SADVC), *Domestic Violence: Report of the SADVC*, Women's Adviser's Office, Department of the Premier and Cabinet, Adelaide, 1987, 3.

[7]For debates on 'liberal' and 'democratic' principles and human rights in the Australian political culture, see Philip Alston ed., *Towards an Australian Bill of Rights*, Human Rights and Equal Opportunity Commission (HREOC), Centre for International and Public Law (CIPL), Canberra, 1994 (especially the contributions of Hilary Charlesworth, 'The Australian Reluctance about Rights', 21-54; and Brian Galligan, 'Australia's Political Culture and Institutional Design', 55-72).

[8]For example the South Australian Government: SADVC *op cit.*; Domestic Violence Prevention Committee (DVPC) and Domestic Violence Prevention Unit (DVPU), *Audit of Progress in Implementation of Domestic Violence Council Report 1987*, Adelaide, the DVPC and the DVPU, September 1992; Office of Crime Statistics, 'Violence Against Women', prepared by J. Gardener, in

police, medical professions, government welfare services, counselling methods of victims and perpetrators, and laws are under constant review. Ideas to overcome problems in law and other procedures seem to be translated into policy and law relatively quickly as well, indicating that there is an effective level of consensus and collaboration between various levels of government and community bodies concerned with domestic violence. These processes are also undergirded at the international level by the United Nations Convention on the Elimination of All Forms of Disrimination Against Women (CEDAW)[9]

There have been some national-level government initiatives for Aboriginal domestic violence as well. However, the key Aboriginal program here, the nation-wide Family Violence Intervention Program (FVIP), has been under-supported and under-funded by both Aboriginal and non-Aboriginal institutions, apparently restricting its potential for significant impact and extension to localised Aboriginal populations.[10]

In Australia, effective government responses to address culturally-embedded rights transgressions, such as domestic violence, arise when there is a sufficient state and target community recognition of the problem, and a state and target community commitment to uphold citizen rights. Beyond that, effective state responses also require the resources and political power to respond. Where any of these elements

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Bulletin on Criminal Justice Issues, Issue no. 3 (January 1994), Adelaide; Office for Families, *op. cit.*; South Australian Police, *Letter to 'Viewtown' Domestic Violence Action Group (DVAG)* regarding local Prosecution Units to recommend counselling to all victims wishing to withdraw 'criminal charges or restraint orders', November 17 1994; also *Home Front*, the bi-monthly newsletter of the Office for Families and Children; *Domestic Violence Act 1994*; *Summary Procedure Act 1921* (with 'all amendments in force as at 1 January 1995') 'Division 7—Restraining Orders', 26-32; *Criminal Law Consolidation (Stalking) Amendment Act 1994.*

[9]*United Nations Convention on the Elimination of All Forms of Discrimination Against Women of 1979(CEDAW)*— 'in force 1981; Australia became a party in 1983'— quote from Elizabeth Evatt, 'Cultural Diversity and Human Rights', in Alston, 81.

[10]Interview with FVIP personnel, Adelaide, August 1993.

is missing or comes into conflict with a government service or community belief about another right or responsibility, responses can be compromised.

The muted state response to the high levels of domestic violence within Australia's indigenous minority signals that there may be factors challenging state recognition of these rights and state responsibilities to citizens within this minority group. This thesis aims to identify and analyse challenging factors that operate in the case of one Aboriginal population group.

Methodology

Given the under-researched nature of this issue, this thesis is an analysis based mainly on primary research. A year's field work was undertaken to collect data on state and community responses to Aboriginal domestic violence in one South Australian rural provincial centre. From this data an assessment is made of difficulties facing state bodies in the task of developing effective responses to domestic violence among Aboriginal people.

Thesis Structure

The thesis is designed to facilitate the identification and exploration of barriers to state intervention into Aboriginal domestic violence. An initial task is to account for the retarded extension of the human right to physical safety to all groups within liberal-democratic jurisdictions. Chapter One outlines liberalism's reluctance, in both thought and practice, to extend to right to physical safety to all citizens regardless of gender, class, relational and geographical contexts.

Chapter Two traces Australian liberal-democracy's development of laws and policies against domestic violence and demonstrates that these became effective only when there was majority pressure to do so. Without this pressure, the fact of the liberal principle, the universal human right to physical safety, was an insufficient cause for government action.

In some measure, the problems of Australia's reluctance to extend adequate responses to Aboriginal domestic violence arise from liberalism's historic tendency, for power-political reasons, to limit or 'reshape' citizenship for certain groups. These issues are explored in Chapter Three. Here, it is demonstrated that the extension of the right to physical safety to indigenous people is seen by some analysts as dependent or contingent upon the granting of cultural rights. Other analysts argue that physical safety should always be granted the *a priori* status philosophically demanded by liberal principles. This debate arises from the particular citizenship status that governments should extend to Aboriginal groups, and associated interpretations of likely conditions that foster Aboriginal well-being.

Chapter Four traces the development of international, national, and state government awareness of domestic violence as a cross-cultural phenomenon. A range of evidence including government policy documents and discussions with policymakers, indicates that the prevailing ideology regarding responses to Aboriginal domestic violence is that of 'cultural rights' expressed through strategies for Aboriginal autonomy: Aboriginalisation, self-management and self-determination. South Australia's state and public awareness of domestic violence as a legal and political problem developed at the same time as recognition that indigenous people have particular cultural rights. Hence for Aboriginal citizens, self-determined responses are assumed to be the most effective, or are considered to be *a priori* rights. Within these settings, the cautious responses that the South Australian government makes concerning Aboriginal domestic violence may still have several dimensions or intentions.

A key question requires exploration here: this is whether adequate responses to Aboriginal domestic violence are feasible, or indeed will only succeed, if they are located within the present political settings of demands for cultural rights and self-determination, or whether these settings are ultimately incompatible with adequate responses. To address this, empirical evidence of the actual effects of these policy approaches is needed. To obtain this information, a case-study of Viewtown was undertaken.

Chapter Five describes briefly the state institutions within Viewtown that implement policies directly relevant to Aboriginal domestic violence. Here, the institutional tenets of both mainstream and Aboriginal-targetted services are delineated, as well as the location-specific impacts on the implementation of domestic violence policy and programs. The task here is to provide some initial indicator of institutional commitment to Aboriginal victim protection, and of factors enhancing and inhibiting commitment.

Chapters Six and Seven present the results of quantitative surveys that delineate Viewtown service contact with Aboriginal compared with non-Aboriginal perpetrators and victims of domestic and non-domestic violence. The primary objective of these chapters is to provide numerical data on voluntary and involuntary Aboriginal contact with services, arising from some association with domestic violence, as well as primary data of service responses to Aboriginal compared to non-Aboriginal domestic violence clients. This data provides some indication of the effect of Aboriginality on Aboriginal domestic violence rates, service use and response. This data, plus the additional factor of changes over time, also provides some indicator of the impact of Aboriginal policy principles on policy responses to Aboriginal domestic violence in Viewtown.

Chapters Eight and Nine arise partially out of these quantitative data. The survey's indicate that Aboriginal domestic violence in Viewtown occurs at a higher rate than non-Aboriginal domestic violence, and that service response to Aboriginal domestic violence, while attempting to be exemplary, is nevertheless prone to be compromised when the client is Aboriginal. Chapter Eight documents qualitative field work evidence which verifies a higher tolerance of violence, including domestic violence, among Viewtown's Aboriginal population. Moreover, Viewtown's Aboriginal domestic violence has entrenched endemic causes that render it less responsive to preventative interventions, compared to Viewtown's non-Aboriginal domestic violence. Chapter Nine documents the effect of the state's contemporary Aboriginal policy tenets in Viewtown, particularly how they affect responses to these entrenched endemic causes of Aboriginal domestic violence. As such, the efficacy of the guiding principles of contemporary Aboriginal policy, including community, self-management, Aboriginalisation, and the encouragement and recognition of 'cultural rights' and cultural difference, as strategies to enhance Aboriginal well-being, are examined. Distilled, intact, out of this is the truth of liberal-democracy, that the human right to physical safety is a universal right, and where that right is compromised, so too is the well-being of the individual, regardless of cultural context.

Identification of Places, Organisations, and Individuals

Due to the sensitive nature of domestic violence, the identity of the location, of services, and of individuals have been kept confidential. Thus, all places, programs, and individual service providers, clients and residents have been given pseudonyms to preserve their anonymity 'Viewtown' itself is a pseudonym. The only exception to this is the use of

more or less generic identifiers such as 'the police' or 'FACS' (Department of Family and Community Services), but even here, the branch identity is kept confidential under a fictitious name such as 'Viewtown FACS' and so forth. Preserving the anonymity of metropolitan-based policy-making centres is more impractical, but even here, individual worker anonymity is upheld, and overt stating of the service name is avoided.

Interviewees and participant observations throughout the thesis are, where appropriate, referenced with a code indicating date of interview, for example, June b.10 1994, or indicated with a code and date, such as Service 68, November 1994. For the purpose of place anonymity, Viewtown documents are also coded, according to title and/or organisation and date.

Definitions

Early fieldwork suggested that for methodological reasons, the term *domestic violence* should be defined specifically for the purpose of this thesis. Domestic violence is defined as physical violence between a male and female couple or ex-couple, married or unmarried, living together or not living together. It excludes 'family' violence between siblings, parents and offspring, and so on. This narrower definition focusses analysis onto the politics and sociology of gender in Aboriginal Viewtown.

Domestic violence refers only to physical violence. The wider sociological version used by most service providers according to which *domestic violence* refers to any controlling behaviour that violates the personal sovereignty of one's partner including non-physical violences

such as verbal, financial, and spatial violence[1] was found to be cumbersome and too contestable in the field.

Domestic violence that consists of property damage is also excluded from this definition due to field difficulties. Victims and service providers do not always know if damaged property was due to a partner, other family member, a burglary or other unknown intruder, or accident. Property damage is also excluded because it involves the different legal issue of crime against property. So *violence,* in the term *domestic violence,* is equated with the legal definition of violence, which is *physical assault upon the person.*[2]

The term 'culture' is used cautiously in this thesis. When referring to the reality of Aboriginal Viewtowners' attitudes and tolerances, 'Viewtown Aboriginal culture' risks implying a closed and homogeneous community of people, with lifestyles and orientations that set them radically apart from the rest of Viewtown. So 'culture' in this thesis implies that among one racial group in Viewtown, a different level of certain mores and aspirations are to be found than among other racial groups, although intra-group differences, and similarities and cross-cutting overlaps between the groups, are also to be found. Calling this an Aboriginal culture means little more than saying that 'Aboriginality' has social and political implications for those that do, and do not belong, to the Aboriginal group. Where possible, a more targetted use of terms that imply an Aboriginal tendency to difference from the white population for

[1]For example, see South Australian Domestic Violence Council (SADVC), *Domestic Violence: Report of the SADVC,* WAO, DPC, 6-7; Southern Domestic Violence Action Group (DVAG) Inc., *No-one need live in fear: Domestic Violence: Information and Resources,* 1993, 2-3.

[2]See Nicholas Seddon, *Domestic Violence in Australia: the Legal Response,* 2d. ed., The Federation Press, Leichhardt, 1993, 3; Adelaide Medical Centre for Women and Children, *Draft Domestic Violence Policy,* 8, 'Legal Aspects'; talk given by the Police Prosecutor of Viewtown, September 7, 1994.

a prescribed set of behaviours or attitudes, for example 'a higher tolerance for violence', has been adopted. Also the concept of a 'cultural right' is given cautious rather than definitive status in this thesis, and hence it is usually written in quotation marks to imply a contested status.

'Aboriginal community' is a concept avoided in this thesis, because 'community' and the supportive relations, obligations, and belonging that this implies, is not assumed to exist between the majority of Aboriginal people in Viewtown. Hence, less value-laden labels, such as 'Aboriginal Viewtowners', or 'the Aboriginal population of Viewtown', have been adopted.

Selection of 'Viewtown'[3]

Viewtown was selected for several reasons. It has a comparatively large Aboriginal population of several hundred people, which is over 5 percent of Viewtown's total population.[4] It has a range of established, substantial, and self-managed Aboriginal health, housing, welfare, and employment services which, according to one federal government document, are exemplary.[5] It is neither a remote nor traditional population, and so it also has the same geographical access to a whole range of mainstream opportunities, services and cultural influences as Viewtown's white population. This enables analysis of the extent that identity politics and 'cultural rights' are affecting Aboriginal people in non-traditional locations. Viewtown's Aboriginal population also has the same negative indices that typify Australia's indigenous population, including high morbidity, low life expectancy, high unemployment, violence and other

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[3]Note that the figures here are kept imprecise to preserve place anonymity.

[4]Viewtown Document VAOD1.3, 1993.

[5]Document kept confidential to preserve place anonymity.

crime, teenage motherhood, early school departure, alcoholism, gambling, indebtedness, housing shortages, and so on.[6] The apparent anomaly of being a well-serviced, even exemplary-serviced, Aboriginal population, but with continuing poor life indices, suggests that research into policy here would be productive.

The structure of Viewtown's white population facilitates productive comparative studies. Viewtown has an economically polarised white population and is a more impoverished community than the state population as a whole. Over 30 percent of all Viewtown families have incomes of $20,000 p.a. or less, and little more than 20 percent of families have incomes of $40,000 p.a. or more.[7] These two economic groups are spatially separated, with many of the low income, commonly welfare-dependent population living in a suburb of predominantly government housing. Well over 500 white households reside in government housing, and about 80 percent of these are on reduced rents due to their low income status.[8] This poor white class shares the same streets and in some measure the same struggles as Viewtown's Aboriginal population. Thus exploration of factors like race, culture and class are facilitated here.

That Aboriginal and non-Aboriginal people of Viewtown live amidst each other, giving rise to sometimes violent racial tension[9] but also

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[6]Discussions with the following Viewtown Aboriginal and non-Aboriginal service-providers: Service 43, October 1994; Service 43, December 1994; Service 68, February 1995.

[7]Australian Bureau of Statistics(ABS), *1991 Census of Population and Housing: Community Profile for (Viewtown)*, Commonwealth of Australia, 1993, 10-11; and Viewtown document CDO8.4, 1994. Overall figures for South Australian families are 24% earning $20,000 p.a. or less, and 31% earning $40,000 p.a. or more: Viewtown document CDO8.4, 1994.

[8]Service 48, October 1994, and Viewtown Document CDO8.4, 1994.

[9]Viewtown Document VT6.4; interviews June a.6 1994; June c.16 1994; November k.17 1994; October a.15 1994; December d.14 1994 x 2; December b.12 1994; November e.21 1994; Feb b.2 1995; February b.3 1995; February d.10 1995; and others.

coming into contact and supporting each other as colleagues, service providers, neighbours, friends, and forming families together, also affords significant research opportunities for this thesis. A large non-Aboriginal population in such everyday contact with Aboriginal people provides a range of majority culture experiences of, and perspectives on, Aboriginal everyday 'culture', domestic violence, and service responses to Aboriginal domestic violence.

Survey Methodology Issues

Between September 12th and October 9th 1994, a service survey was conducted to assist in the evaluation of service interface with Aboriginal and non-Aboriginal domestic violence clients in Viewtown. This survey quantifies contact of Viewtown's services with Aboriginal and non-Aboriginal physical violence victims and offenders, including non-domestic, family and domestic violences.

A near complete inclusion of all relevant services was attempted. The Aboriginal and mainstream services approached were the legal services including police, prosecutor, parole, lawyers, prison,[10] and the Aboriginal Legal Service; the primary and non-specialist health services including the Aboriginal health centre, the Aboriginal substance misuse centre, the mainstream community centre, general practitioners, ambulance service and hospital casualty; children and youth services including pre-school services, school counselling, youth crisis and shelter; counselling, social work and self-help services; mainstream employment services; mainstream government and non-government welfare services; church

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[10]It was decided to eliminate prisoners whose only connection to Viewtown was that they had been sent to Viewtown prison for a violent crime. Both their place of residence and place of committing the crime were outside the Viewtown region. Their inclusion would misleadingly inflate 'very severe' figures by counting in serious crimes of assault that occurred in Adelaide or elsewhere.

pastoral workers; government housing and emergency shelters; and football clubs and hotels. 90 percent of organisations approached cooperated with the survey. This amounted to 66 participating organisations, of which 36 had contact with teenage and adult domestic or non-domestic violence clients and 28 had contact with teenage or adult domestic violence clients, during the four weeks of the survey. Altogether, a total of 266 teenage plus adult clients associated in some way with violence are documented.

The primary goal of this survey was to obtain data about institutional responses to Aboriginal compared to non-Aboriginal domestic violence. This data is used in the assessment of principles underlying present responses to Aboriginal domestic violence in Viewtown. Data on family and non-domestic violences are included for comparative purposes.

Initial tasks in survey design were to assure and preserve confidentiality, maximise cooperation, collect information on a comprehensive range of factors, and maximise accuracy. Planning for these factors included the consideration that the service providers who were to record the data had widely varied skills and orientations. Cooperating service providers ranged from 'lawyers to football-club managers', and all needed to respond positively to the requirements of the survey. Early indications were that while a high level of cooperation was likely, lack of time and/or lack of confidence meant that a simple 'survey sheet' design relying mainly on ticks and single-word answers would maximise cooperation.[11] Some participants supplemented the survey data with qualitative descriptions of the more complex client presentations or events of the survey period. Accompanying the survey charts were 3 pages of

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[11]While the participants were encouraged to fill in all the sheet columns per case or client, they were asked to use a 'question mark' to denote 'detail unknown', and a 'dash' to denote 'information witheld'.

explanatory notes that pre-trials suggested were unambiguous and easy to follow. A single 'Concluding Questions' sheet was also included.[12]

Each service was visited before the survey period so that the researcher became known to service providers, to give service providers time to seek permission where needed, and so that the researcher could go through the survey process with them. A qualitative interview was undertaken at this point if initiated by the service provider, or where it was clear that this was the only opportunity to interview a service provider. The researcher was contactable during the survey period for participants' queries.

Each participating service was visited again on conclusion of the survey. This meeting had two main tasks. First, the researcher checked through the survey with the participant to deal with queries, omissions or innacuracies. Second, a qualitative interview was usually conducted at this point. This interview included questions about the survey period itself, enlarging on the 'Concluding Questions' sheet to explore specific trends relating to gender, identity and socio-economic group. 'Was it a usual month regarding numbers of Aboriginal and non-Aboriginal clients, and numbers of violence cases?' was one key question here. The interview also had a more general focus: to explore the service providers' own perspectives and experiences on a range of issues pertinent to the project, including Viewtown's domestic and non-domestic violence, Aboriginal violence, Aboriginal and non-Aboriginal services, Aboriginal and non-Aboriginal race relations, and trends in all these areas. These interviews were invariably lengthy and productive. Assuring participants of both anonymity and researcher non-judgement regarding the 'political correctness' of their responses, were keys to a productive interview.

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[12]See Appendix to Methodology for samples of these survey documents.

The most positive aspect about the survey is that it resulted in a comprehensive documentation of Viewtown service contact with Aboriginal and non-Aboriginal male and female clients associated in some way with domestic and non-domestic violence, and included a range of associated data. This enabled comparative data analysis on clients of different gender and identity. Also, while the thoroughness with which the survey was carried out varied, this was not skewed to any particular service group. So while professional service providers such as some doctors were among those who were tardy, non-professionals such as some hotel publicans were among those who were thorough.

On the negative side, the researcher had minimal control only over the survey process once in the hands of the participants, apart from the two interviews and the survey instructions. A higher failure rate to fill in survey sheets at all occurred among Aboriginal service providers in participating organisations. While four Aboriginal service providers did participate, and of these, three thoroughly, the researcher failed with five others, despite repeated, time-consuming attempts. Little or no hostility was detected, and qualititative interviews were obtained from all five workers. Rather, resistance to form-filling is a likely factor.[13] Hence, within the services included in the survey, a less than 50 percent Aboriginal service-provider participation rate compares to a 90 percent non-Aboriginal service-provider participation rate.

Another problem was 'gatekeeping'. The researcher intended to research directly with each service provider within an organisation, and not just a representative who would then engage his or her colleagues. With some professional organisations this did not work. Two doctors' secretaries

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[13] A non-Aboriginal colleague expressed her amusement over the goal of extracting filled forms from her Aboriginal colleagues: Service 43, October 1994.

'gatekept' for their employers. Polite persistance broke through this in one case, resulting in a productive level of cooperation and interest in the survey. Some service providers would 'gatekeep' for their colleagues, either with 'don't ask him he is just too busy', or 'don't ask the others because they will be pretty resistant. Leave it to me to "sell" it to them.' Others would simply inform me that theywouldhand the survey on to their colleagues. In most cases, this delegating process produced delays, failure, or poorly-filled out survey sheets. In most cases, this was salvaged by going directly to, usually to encounter sufficient cooperation from, 'too busy' colleagues. Nevertheless, some participants and survey quality were lost due to 'gatekeeping'.

Some key services have not been included in the survey. The Aboriginal Legal Service agreed to participate, and apparently, 12 weeks of survey data were collected. But information was received that all the filled survey forms went missing either from their Adelaide or Viewtown office or from the Viewtown Aboriginal Association (VAA). The Community Development Employment Program (CDEP) was not approached because it was assessed that including them could be counterproductive to researcher relations with the Aboriginal community. The Viewtown Aboriginal University Unit teacher was approached. This could have been productive, as it is a white-personelled service that provides educational and personal support to Aboriginal people, mainly women, studying for university degrees. However, the interview was conducted in an open common room at her instigation. Thus the interview was constantly interrupted and listened in to by Aboriginal students, some of them prominent women in the community. These circumstances rendered inclusion of this institution in the survey inappropriate.[14]

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[14]Service survey, September 1994.

Three key mainstream services are not included, despite researcher attempts. The Commonwealth Employment Service officer repeatedly failed to keep survey appointments. And the Child, Adolescent and Family Health Services (CAFHS) headquarters refused permission to Viewtown workers to participate.[15] This is despite the fact that CAFHS nurses are often the main contact for new mothers experiencing domestic violence, and that studies suggest male violence against a partner peaks during pregnancy and the arrival of a baby.[16] The ambulance service forgot to do the survey during the four weeks, and informed the researcher that past records were dispatched to headquarters and no longer accessible.[17] Fortunately, hospital casualty did fully participate, so there is some, albeit incomplete, data on crisis medical intervention.

Another problem was variability in filling out the survey forms. Some services included all clients as requested, providing a good number of 'control' clients having 'unlikely' association with violence. An equivalent number of services included clients with violence association only. This means that data on the control group was incomplete and thus distorted, thereby eliminating the utility of including the data on these clients. Frequently, some columns were left blank, so that there are only partial variables to work with for many clients. This resulted in many

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[15]Months later, another letter arrived from a different CAFHS Adelaide officer in a more conciliatory tone, but it was considered too late to respond. Moreover, given that there seemed to be some level of dispute among CAFHS management over whether CAFHS should be included, it was deemed preferable to exclude this organisation.

[16] See I. Rosen, 'Self esteem as a factor in social and domestic violence', *British Journal of Psychiatry*, 158, 1991, 18-23.

[17]The Viewtown ambulance service estimates up to 3 cases of possible domestic violence per month, of which up to one per month would be Aboriginal. The ambulance service did provide data on clients for the 4 weeks following the survey period (hence not included in this survey). These included no female victims, and no cases that could be described as domestic violence. Hence, it is assumed that approximately 0-3 cases of domestic violence receiving ambulance attention have not been 'picked up' by the survey.

'unstateds'. This rarely happened for 'identity' or 'gender', or 'violence presence' but frequently for 'socio-economic group' and 'associated triggers'. Again, this impinges on the statistical significance of correlates.

Variability in grading the seriousness of an incident is also a problem. One social worker claimed to find all domestic violence, in which she included verbal abuse, to be serious, and to grade domestic violence from 'mild' to 'severe' as offensive, although she did carry out this task for the survey. It is possible that services involved at the moment of a severe physical assault would grade violences differently from this social worker. The researcher also had to rely on service providers' assessments of whether violence was unlikely, possible, probable, and definite. This introduces a range of subjectivities into the data. There is also variation in objective measures available to service providers. Some service providers, particularly police, hotel managers, football club managers and hospital staff are witnesses to violent events or their immediate physical results; others are told explicitly by their clients, and others are making professional judgements of their clients.

Another problem is that despite the large number of clients documented, the numbers become small when broken down into gender, identity, and 'violent relationship type' categories. This impinges on statistical significance of data. At the same time, the very smallness of some figures is significant. For instance, the fact that only 8 Aboriginal male clients are documented as having an association with domestic violence, compared with 30 Aboriginal women, is in itself significant. At the same time, placing significance on percentage spreads of violence severity, associated factors, and so on, for the group with only 8 clients, is hazardous. So while charts include this 'group of 8', they are to be

interpreted with caution, and show above all, that client numbers for this group are low.

While the survey is comprehensive regarding the number of services included, the survey occurred over four weeks only. Hence, it is not a random survey which can be said to accurately reflect trends within the whole Viewtown population, because there is a risk that the four weeks chosen may not have represented usual patterns over the year. As partial compensation for this, service providers were asked whether the four weeks were 'usual' regarding client trends, and this was almost always answered in the affirmative.

The final problem concerns possible 'cover-up' when filling out the survey sheets. One service provider reported that his service experienced no violent incidents during the four weeks. Other official and reliable sources indicate that this is not so. Indeed, this service experienced group fights of mild to severe violence during the survey period, which were reported to police by this same service provider.[18]

In sum, the process of establishing and collecting a large-scale service survey on client association with violence is fraught with imprecisions that the researcher was in no position to address. But it was decided that the most comprehensive service inclusion possible reflects the reality about Viewtown's service interface with clients better than if the survey was confined only to those services willing and able to fill in 'perfect' forms. Comprehensiveness necessarily entailed the inclusion of service providers with barely enough time or skill or interest to do the survey at all.

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[18]Service survey, October 1994.

The survey of police-attended incidents presents a different set of methodological opportunities and problems. From Viewtown records of police-attended incidents within selected time periods, relevant data was transcribed on all cases of possible, probable, and definite domestic and non-domestic violences, for the purpose of quantitative analysis. The earliest available 8 months were selected for statistical comparison with the 8 equivalent months of the latest year, to optimise measures of change or continuity over time and to minimise the effects of monthly or seasonal trends as well.[19] This totalled 1064 incidents of possible through to definite violences.

Given that all of Viewtown's possible-definite violence incidents attended by police were documented for two substantial time periods, data analysis of these figures, enabling a random and comprehensive picture of trends within the Viewtown population, is facilitated.

The incident data used are a brief but fairly standardised recording of all Viewtown police-attended incidents. They usually record a comprehensive range of factors relevant to the thesis. These comprise of the date, day, time and type of incident, the gender of the complainant, relationship of the complainant to the incident, where the complainant is calling from, gender of perpetrator and victim, the relationship of perpetrator to victim, the location type and district location of the incident, the district abode(s) of perpetrator and victim,[20] the nature and cause of the incident, police response to perpetrator and victim, perpetrator and victim response to police, and direct and/or indirect

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[19]So July-December 1990 and January-February 1991 were compared to January-February 1994 and July-December 1994.

[20]Location factors recorded were general place such north Viewtown or rural hinterland, and general type of place such as waterfront, house, house yard, hotel, football club, car, commercial street, and so on.

information on the racial identity of the parties. This facilitated ready preparation of incident factors for statistical analysis.

Nevertheless, the incidents were not recorded primarily for research purposes, and as statistical data they are less than ideal. The incidents were not initially recorded by the service with perfect consistency, with variation in the number and detail of factors documented. This means that a significant percentage of incident records have items that must be coded as 'unstated'. Another problem is that there may be some inaccuracies of incident records. The researcher is aware of at least one report which contains inaccurate information. Indeed, as a result of the only chance that the researcher had to cross-check a recorded incident with the witnessing of an actual incident, a significant inaccuracy was revealed regarding police response. There may also have been changes in recording styles over time, and this may show up as a trend in incident factors. While no major recording changes were readily discernible, the possibility adds a note of caution when evaluating the validity of data as reflectors of actual trends.

There were hazards of researcher subjectivity in discerning 'unlikely', 'possible' and 'probable' violence presence.[21] The researcher attempted to be consistent with criteria for label allocation here, but the individual nuances of each recording made consistency elusive. Discerning whether a case was domestic, family or non-domestic was also difficult at times, necessitating the creation of 'probably...' and 'unstated relationship'

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[21]'Possibles' are included as well as more definite instances of violence. Complainant contact of police is taken to indicate that some disturbance of a serious, potentially dangerous nature seems to be, or actually is, occurring. In the opinion of one professional worker, any incident that requires police attendance is 'serious'. There are indications that Viewtown police attend a reported disturbance only if there is a possibility of some danger to person or property, and not just because some complainant can hear 'yelling'. Indeed, the researcher as 'neighbour complainant' experienced police over-tardiness in attending an home-based domestic incident. In this light, while the definition of violence remains the same in this chapter and throughout the thesis, viz. physical violence, attended incidents not clearly of a physical violence nature, such as 'verbal abuse' or 'verbal threat' are included as 'possible' physical violences.

categories. Nevertheless, it is posited that the attempt brought forth more about reality than if the task was left unattempted, and hopefully, probable trends will shine through a constant rather than changing kind of researcher subjectivity here.

Assessing racial identity of offenders and other parties was also an imperfect procedure. About 15 percent of the total 1064 violent incidents were explicitly indicated to be Aboriginal, and the probable racial identity could be discerned for the remainder in most instances, bringing the rate of probable plus definite cases of violent incidents that are Aboriginal to about 36 percent. There are grounds for confidence of a greater than 95 percent accuracy in racial discernment at least for incidents of late 1994. An opportunity to cross-check indicated a 97 percent accuracy with identity categorisation within a selected 4 week period of late 1994, with the error being a slight underidentifying of Aboriginal cases.[22] But a problem of consistent accuracy may exist because this relies primarily on researcher knowledge of the Aboriginal population of Viewtown, which unavoidably increased over time.[23]

If so, this would tend to depress the number of early Aboriginal cases, give a more accurate number of later and thus tend to inflate increases of Aboriginal incidents.[24] This may be more so for Aboriginal family or domestic violences, because records identify only about 10 percent of these overtly by race, leaving the other 90 percent in the realm of

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[22]Thus 'non-Aboriginal' is assumed to include a small number of attended Aboriginal events not identified as Aboriginal by the researcher.

[23]The researcher attempted to compensate for this by avoiding noting all the 1990-1 incidents first followed by the 1994 incidents later, but rather, by mixing. Grouping incidents according to when noted by the researcher does not suggest a correlation between identified Aboriginal 'domestic incidents' and date noted by researcher, with 'earliest noted'=14.5, 'middle noted'=13.4, and 'latest noted'=14.7 Aboriginal 'domestic incidents' per month average.

[24]There was no other method available to the researcher of overcoming this problem.

researcher discernment. This compares with about 75 percent Aboriginal non-domestic violences being overtly identified, leaving only 25 percent within the realm of researcher discernment.[25]

A factor which tends to increase consistency in identity discernment is that Viewtown's Aboriginal population consists mainly of a few large families of long-term residential status. Also, immigration and emigration create a persistent 'noise' in all the data, not just researcher interface with earlier data.

A mathematical issue in assessing comparative changes in crime rates concerned the different rate of Aboriginal compared with non-Aboriginal population growth rates. For the purposes of per capita change over time, a population increase of about 50 Aboriginal people per year is assumed, based on locally-conducted VAA figures and surveys.[26] This means that between 1990 and 1994 the Aboriginal population increased by about 8.3 percent per annum, equalling about 33.3 percent increase over the 4 years. The white population is estimated to increase at around 3 percent per annum, 12 percent over the same 4 years. For more accurate trend comparisons, this difference in population growth rates necessitated the use of different factor adjustments.[27]

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[25]The greater percent of 'non-domestics' identified as 'Aboriginal' is mainly due to their tendency to being reported by a third non-involved party who reports an eye-witness account, saying 'I saw *Aboriginals* fighting on the beach' or similar. Domestic violence is either reported by someone in the house so a complainant of whatever race is more likely to say 'My partner's threatening me' or similar; or a neighbour may only hear a disturbance, reporting 'I can hear a woman screaming' or similar and not know the identity of the parties.

[26]VAA documents A.2 1992 and F.3 1993; interview with ex-VAA service provider, January 1997.

[27]Exact numbers here are not given, to preserve place anonymity. The white population is of several thousand. The ratio of the non-Aboriginal to Aboriginal population in 1990-1 is about 18/1 or 94.5%/5.5%; and in 1994 it has risen to about 15/1, or 93.5%/6.5%. Hence the Aboriginal population is increasing faster. Adjustments to calculate per capita increases are made accordingly by multiplying the 1994 figures by 0.750 for Aboriginal, and 0.8934 for non-Aboriginal, police-attended incidents. All percent changes between 1990-1 and 1994 in this chapter have been population-growth adjusted, so that percent changes per head of population are recorded. Thus due to population increase, actual changes are greater than these adjusted percentages.

Qualitative data collection issues.

300 interviews of both professional and non-professional Viewtown residents were conducted, including 80 interviews with Aboriginal people. Many participant-observations of Aboriginal daily life were undertaken as well.[28]

The goal of this field work design was to document relevant aspects of the everyday culture, gender relations, and local politics of Viewtown's Aboriginal people. One task here was to explore whether there may be policy problems due to a different tolerance of or different mores about violence with which the state must engage. A related task was to explore whether there are difficult aetiological dimensions of Aboriginal domestic violence. In particular, high rates of domestic violence in Aboriginal families may arise when extant contemporary political and economic processes challenge existing power relations. Another task was to explore the impacts of prevailing tenets on the provision of services to Aboriginal clients associated with domestic violence.

The field work secured significant insights, but access to these insights was in most cases gained at the cost of some difficult methodological adaptations. The reality of violence in everyday life had implications for field work methodology. First, research into Aboriginal domestic violence is a sensitive area.[29] Given this, part of the methodology

[28]The greater non-Aboriginal to Aboriginal interviewee numbers was methodologically hard to avoid. Given the role of mainstream organisations, a larger number of non-Aboriginal professional people than Aboriginal people provide professional services to Aboriginal people. Aboriginal people were more likely to refuse an interview when in their own homes, were frequently not home, and tended to gather both in each other's homes and in public in larger groups, rendering participant-observation in group settings more appropriate. A greater percentage of Aboriginal homes were deemed not safe to visit. Also, to maintain the benefits of outsider status, over-involvement with the much smaller Aboriginal population had to be avoided. In particular, this meant that homes of professional Aboriginal people were avoided, and some venues could be visited infrequently only.

[29]See Dianne Bell and Topsy Napurrula Nelson 'Speaking about rape is everyone's business', *Women's Studies International Forum*, 12(4) 1989, 403-10; J. Huggins, J. Willmot, I. Tarrago, K. Willetts, L. Bond, L. Holt, E. Bourke, M. Bin-Salik, P. Fowell, J. Schmider, V. Craigie, L. McBride-Levi, in

involved critical analysis of white policy and legal responses, and to gain Viewtown support for the research.

Aboriginal organisational support for the research along with other early indicators suggested that Viewtown's Aboriginal population had a similarly developed perception of domestic violence to the mainstream state and community.[30] That is, Viewtown's Aboriginal people seemed to identify domestic violence as a problem in urgent need of addressing. This implied that an efficient, pre-prepared, directive questionnaire or interview format would be workable. This perception proved unfounded.

Instead, a gulf between the inter-cultural dialogue about domestic violence on the one hand and the dialogues and experiences of violence among Viewtown's Aboriginal people themselves on the other was discovered. Directive interview techniques which demand a clear focus on domestic violence usually solicited silences from non-professional Aboriginal people. From Aboriginal professional people, this technique solicited expressions of concern about the prevalence of domestic violence or statements like the following:

-its better now than in earlier years due to rising income levels and CDEP.[31]
-its been pretty quiet (regarding domestic violence) around here for the past few weeks: people are starting to realise they have responsibilities. They are being educated to stop the drinking.[32]
-its lower among the Aboriginal than the white community of Viewtown because of our caring and sharing family structure.[33]

'Letters to the Editors' of Ibid., 14(5) 1991, 506-7; T. N. Nelson, in Ibid, and D. Bell, in Ibid. See also R. Neill, 'The oppression we ignore', *The Weekend Australian (Review)*, January 15 1994, 1.

[30]In a Viewtown Aboriginal Service random survey conducted in 1993, it was found that 15-19 year olds place domestic violence at rank 6 in priority, 30-49 year olds at rank 2, out of 10 health problems. Both age groups ranked alcohol and drugs at 1: Service 43, Document A.93.

[31]Service 20, October 1994.

[32]Service 43, December 1994.

[33]Service 42, December 1994.

When participant-observation techniques were adopted, it became evident that violence is spoken about and experienced by Viewtown Aboriginal people differently, and in a way that directive interviewing was unable to detect. Several processes seemed to be occurring here, all of which had to be accommodated if research was to be productive.

One process is that violence, including domestic violence, does not seem to be a discrete or nameable problem to many of Viewtown's non-professional Aboriginal people, women and men. In their own conversations, they condone or are amused by violence.[34] This also reduces their ability to critically assess services for domestic violence.

A second process is that some Aboriginal professional people seem to embody two 'cultures'. In dialogue as professional people, domestic violence is objectified by them as a serious problem facing the Aboriginal people of Viewtown. And yet among these and other Aboriginal people who actively pursue strategies to improve the social and physical health of Aboriginal Viewtown are some who perpetrate or condone violence, or defend male perpetrators.[35] This dual embodiment seems to be held with integrity because they are indeed living within two 'cultures' that hold different and contradictory consciousnesses about violence. The different places and social relations within each 'culture' reinforce the embodied dualism of the individual here.[36]

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[34]Participant-observations April a.5 1994; April a.12 1994; May a.3 1994; May a.7 1994; May c.31 1994; June b.8 1994; June b.14 1994; August a.2 1994; Interview February f.16 1995.

[35] Participant-observations May a.7 1994; May a.31 1994; June b.8 1994; June b.14 1994; interviews November d.17 1994; December e.19 1994.

[36]This phenomenon was first brought to the researcher's attention by the African-American sociologist Elijah Anderson in his article, 'The Code of the Streets', *The Atlantic Monthly*, 273(5), May 1994, 80-94. In reference to the social values of African American city dwellers he contrasts 'street' and 'decent' families. Anderson writes: 'the decent and the street family in a real sense represent two poles of value orientation, two poles of contrasting conceptual categories....Individuals of the two orientations often exist within the same extended family....In addition, there is quite a bit of circumstantial behaviour— that is, one person may exhibit both decent and street orientations, depending on the circumstances', 82.

Another phenomenon is 'gatekeeping'. Here, professional or prominent members of the Aboriginal population seek to present their services and the Aboriginal people in the best light possible to an outsider and so select information or distort facts accordingly.[37] This is not to suggest that positive comments made by Aboriginal professional people about domestic violence trends in Viewtown such as those quoted above are untrue. Nevertheless these comments seem to be attempts to downplay the problem, and they seem to be at odds with other key professionals' assertions about Aboriginal domestic violence trends in Viewtown.[38] Hence the possibility that gatekeeping is occurring here cannot be dismissed.

These processes share a common characteristic. Access to understanding is compromised when the outsider, the researcher, engages in directive interviews or conversations about domestic violence with Aboriginal people. Directive research methodology was often dysfunctional and, except to test the existence of the above-discussed individually-embodied dualisms, usually had to be abandoned.

Another process possibly at work here was that of fear. Some women and men may have avoided discussing domestic violence with the researcher primarily out of fear of consequences. As interviews of perpetrators, victims and their families were inevitable, directive interviewing which focusses on domestic violence could have placed interviewees or the researcher at risk.

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[37]Robert Chambers discusses similar phenomena and researchers' tendency to exacerbate such phenomena, in *Rural Development: Putting the Last First*, Longman House, Essex, England, 1983. See Chapter One, 'Rural poverty unperceived', 1-27, especially 16-19.

[38]Service 3 February 1995; Service 20 February 1995; February g.21 1995.

Differences in Aboriginal and non-Aboriginal disclosure of their own experience of domestic violence shed further light on difficulties in data collection. Out of the 220 interviews conducted with non-Aboriginal people, field research indicated that 37 of these once had or are having direct experience of domestic or family violence, including 34 female victims and three male perpetrators, totalling about 16.8 percent of those interviewed. Of these, 31 spoke with the researcher of their past experience of domestic or family violence and have now either escaped it or continue to experience post-separation violence from their ex-partner. The other 6 are still experiencing it, have not left their partners, and did not raise the issue with the researcher.[39]

Research indicated that 30 out of the 80 Aboriginal interviewees had or were presently experiencing domestic or family violence. This is 37.5 percent of the total interviewed. Of these, 10 spoke with the researcher of their past experience of it. Of the other 20, some were at present experiencing it, and the researcher is aware of past incidents with the others. Hence, the researcher is aware that 66.7 percent of Aboriginal interviewees did not mention their 'violence'.[40]

A common factor here is that neither Aboriginal nor white victims or perpetrators discussed their existing experiences of domestic violence with a present partner. However, white interviewees were more likely to discuss critically their own past experience with domestic or family

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[39]An interesting observation is that most white people still experiencing it and not talking about it are in the wealthy or professional classes. The 'escapees' are mainly in a lower socio-economic class.

[40]Aboriginal interviewees likely to have escaped domestic violence and talk about it were more likely to be elderly, or not belong to the two major sub-groups of Aboriginal Viewtowners, or were outside the local 'cultures', more 'mainstream' than 'Aboriginal' in their lifestyle and social relations, and not accepted by the local 'community'. They also tended to be in Viewtown because they fled domestic violence from elsewhere, so they tended to have 'self-selected' to be critical of domestic violence. Their more mainstream lifestyle rendered them more likely to talk about domestic violence, which is a different trend to the white victim aetiology where upward mobility seemed to create a silence.

violence, including comments about service responses to that violence. Aboriginal people were less likely to disclose about their violence experiences *per se*. This presented a difficulty in gathering qualitative evidence about Aboriginal people's experiences of domestic violence. Ironically perhaps, this difficulty in evidence collection through interviews is in part an outcome of higher Aboriginal violence levels.

Given these settings, other more productive methodologies for collecting data from Aboriginal people in Viewtown had to be utilised. These techniques were designed to minimise problems associated with the problems of cultural dualism discussed above, cultural difference between the researcher and the researched, gatekeeping, and fears about consequences.

The first technique was a non-focussed interview where a series of non-threatening questions designed to open up the interviewee are asked. Frequently, these questions elicited a rich and unexpected wealth of information. They also facilitated the opportunity for the interviewee to control the direction of the conversation, and hence raise and speak about significant issues that the researcher may   have pre-empted. These topics may not have been detected by a more directive and focussed interview. For instance, a pre-planned and directice interview technique focussing on domestic violence may have failed to pick up the significance of some issues of service provision for Aboriginal victims of domestic violence, such as Aboriginal localism, or the homelands movement. This non-directive style also facilitated dialogue that revealed the interviewee's own order of priorities, their own map of how issues are related. In this way, the researcher's presence as a distorting factor in the process of information gathering was significantly reduced.[41]

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[41]For a salient critique of questionnaire surveys, see Chambers, chap. 3, 'How Outsiders Learn', especially 47-64.

To avoid 'leading questions', a non-focussed interview technique was also adopted with Viewtown's Caucasian people. The researcher solicited responses through general questions such as 'How does Viewtown compare to the city as a safe place to live in?' or 'What are your main areas of concern living in Viewtown?' or 'What are the services for Aboriginal people like in Viewtown?' or 'Do you know your Aboriginal neighbours?'

The second technique, participant-observation, reduced the impact of the researcher's presence even further. This involved spending significant blocks of time in a range of places frequented by Aboriginal people, and simply allowing their own conversations and other events to occur around the researcher. The researcher may or may not be invited to contribute to these conversations and events. As wide a range of places, times and people as was feasible were included, so that the factors of place, time and group difference could be explored. Places in Viewtown included the Aboriginal Women's Place, VAHC, hotels, football matches, football clubs, residential streets, homes, beaches, and the tertiary college. Notebooks and tape recorders were deemed intrusive so attentive mental engagement was necessary, enabling accurate note-taking soon after the event. This participant-observation technique proved to be a most potent strategy. It enabled the witnessing of a higher tolerance of violence and also of the economic and social relations that undergird that violence and its tolerance. These would probably remain largely inaccessible by any other technique.

Nevertheless these techniques required the surrender of other arenas of research, since methodologically, some strategies were incompatible with others. For instance it would have been valuable to attend Court sessions.

But this could have jeopardised relationships of trust developing between the researcher and the community. Court visits entail witnessing mainstream institutionalised condemnation of Aboriginal behaviour. This could have overstepped acceptable levels of intrusion into the lives of the Aboriginal people. It could also have led to the development among Aboriginal people of unhelpful and false assumptions about the researcher's connections with such institutions. Consideration for all this needed to be taken when entering other legal institutions as well, such as the police station, the prison, and Correctional Services. In this light and in the interest of maintaining trust, it was sometimes essential to acquaint Aboriginal people with the researcher's objective in attending such institutions.

For the purpose of maximising the workability of the thesis field work methodology, another process avoided was to be deemed an honorary member of one prominent Aboriginal family. This may have given greater access to the internal dynamics of one large and prominent family. However, it ran the risk of compromising research independence and the trust of the rest of the Aboriginal community, for inter-family conflict between Aboriginal families in one location is frequently significant.

The researcher as 'detached outsider' performed a mutually beneficial role with some Aboriginal and non-Aboriginal, professional and non-professional Viewtown people, who expressed their private concerns about policy directions and other 'community' problems.[42] This detached researcher articulation, however, had a limited lifespan. Towards the end of a year's fieldwork, signs were evident that the researcher was

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[42]Interviews October a.28 1993; May c.31 1994; October a.2 1994; October a.5 1994; December e.19 1995; February c.7 1995; February e.12 1995; February g.21 1995; and others.

perceived as possibly no longer a detached outsider, and respondents indicated some fear in sharing information. Further field beyond this time was thus considered to be unproductive.

In sum, the development of effective methodologies for field research into Aboriginal domestic violence was a process that was placed under constant challenge in the field, with adaptations having to be constantly made. The sensitivity of the issue, the more profound immersion in violence of Aboriginal Viewtowners, and the effect that this has on inter- and intra-cultural communication about domestic violence, required a flexible, 'expiry-date' conscious, qualitative data-collection methodology.

1

Liberal democracy's reluctant response to domestic violence

> ...I had to attend the home of a notoriously violent Aboriginal man who beats his wife
> repeatedly. I was mandated to attend because of reported child abuse by him....I felt reluctant
> because he is a big scary fellow, but also because I have real problems about white
> intervention into Aboriginal culture, including interventions involving children, and
> Aboriginal violence in the family. I believe that because it is a different culture, initiatives and
> interventions should be up to them, and that whites should not have the right to intervene. I
> really believe this. (Senior welfare worker, South Australian government, 1993)

Introduction

The opening quotation demonstrates a philosophical dilemma commonly
experienced by professionals within liberal-democratic institutions,
concerning whether to uphold the human rights of individual citizens
when those citizens are located within different cultural contexts. This
professional is experiencing the oppositional tugs that arise out of a
perceived tension within liberalism, between the principle of human
rights universality, and an uncertainty about whether rights extension
will secure what is best for a client. This dilemma appears anomalous in
the context of the liberal principle of the universality of human rights
regardless of cultural context. It is, however, consistent with liberal-
democracy's historical tendency to restrict, rather than universalise,
access to human rights. An introductory focus on this history sheds
some light on the paradoxical history of liberalism. On the one hand,
liberalism has been the philosophical genesis for the concept of
universal human rights. On the other, the historical experience of

governments informed by liberalism has been one of resistance to the extension of these rights to all.

A defining tenet of Western liberal thought is its doctrine of universal individual human rights. For liberalism, a political system should maintain social order and cooperation whilst also safeguarding the individual rights and freedoms of citizens. This includes safeguarding the most elementary of human rights, the physical protection of the person. Nevertheless from the outset of its development, liberalism in both thought and practice has had problems in extending this right to all within its jurisdiction. Women were one group that endured a prolonged exclusion. While in most formal senses women now have full citizenship rights, their previous exclusion has left a legacy of retarded development of effective state responses to domestic violence against women. An elucidation of the historical reasons for, and the fact of, this legacy sheds some light on the tardiness of state extension of physical safety rights to Aboriginal domestic violence victims. For it describes a state that is institutionally prone to deliver rights according to prevailing political and fiscal pressures, rather than to pitch their implementation to the level demanded by the concept of a human right. Moreover, liberal-democratic states have a history of developing theoretical defences for limiting the extension of universal human rights to all their citizens.

Liberalism's Problems with Universalising Rights

Liberalism's foundational theorists such as John Locke and Jean-Jacques Rousseau proposed that there were limits to the ability of 'natural law' to safeguard men's natural rights within large and complex societies:[1]

> 'the problem is to find a form of association which will defend and protect with the whole common force the person and goods of each associate, and in which each, while uniting himself with all, may still obey himself alone, and remain as free as before.'[2]

The social contract was theorised as a solution to this relational problem between individual rights and freedom, and individuals' need for safety and societal cooperation. Briefly, 'men in nature' or 'natural law' are not adequate safeguards for men's natural rights in large societies. So men freely surrender these natural rights to a legitimate state. The social contract between this legitimate state and its citizens enables free and equal individuals to engage in mutually beneficial exchanges of goods and services, and to solve differences and negotiate in the public sphere with each other.

Through the social contract, liberalism has indeed secured for its citizens the ability to remain free agents with individual human rights intact in most everyday formal and informal interactions, agreements, contracts. And when disputes arise or fundamental rights are transgressed, liberalism's legal systems are intended to secure a remedy. Nevertheless, social contract theory has a vulnerable logic in that its workability assumes an initial equality between parties, either in nature,

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[1]John Locke, *Two Treatises of Government (1690),* Everyman's Library, London, 1924 (1986), 179-82; Jean-Jacques Rousseau, *The Social Contract* (1762) and *Discourses* (1750 and 1755), J. M. Dent & Sons, London, 1973, especially chap. 1-6 of the *Social Contract.*

[2]J. J. Rousseau, extract from *Contrat social,* quoted in J. F. Lively, *The Enlightenment,* in series *Problems and Perspectives in History,* ed. H. F Kearney, Longmans, London, 1967, 68.

or due to the generalised social contract available to all through the liberal state. For the social contract to be a free agreement,

> (t)he contractarian individual necessarily is the proprietor of his person and his attributes, or, in C. B. Macpherson's famous description, he is a possessive individual*(sic)*.[3]

For Locke, 'every man...has a Property in his own person. This no body has any Right to but himself'.[4] Thus, men enter into contracts as persons and property owners.

The first limit of contract as a solution was noted for the case of the worker by C. B. Macpherson. For the individual as worker within a capitalist economy, human rights necessarily undergo loss.[5] Under capitalism, the Lockean liberalist ideal becomes increasingly elusive. Many no longer own enough property especially in land to survive solely on the product of their own labour mixed with their own property. This lack of exchangeable property necessitates exchange of the person in the form of physical labour in order to receive money for essential goods and services. This is the essence of the employer-worker exchange. Defining this exchange as a contract between equal citizens is tenuous. Macpherson argues that a fundamental new definition of property right is needed before liberalism fully solves this.[6]

The exclusion of a second sector of the population from citizenship and associated liberal rights was already protested by a contemporary of Hobbes and Locke:

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[3]Carole Pateman, *The Sexual Contract*, Polity Press, Cambridge, 1988, 55.

[4]John Locke, from *Two Treatises,* quoted in Ibid., 55.

[5]C. B. Macpherson, 'Liberal-Democracy and Property', in *Property: Mainstream and Critical Positions,* ed. C. B. Macpherson, University of Toronto Press, Toronto, 1978, 204.

[6]Ibid., 205-7.

Very soon, for example, Mary Astell was asking 'if *all Men are born Free*, how is it that all Women are born Slaves?'[7]

Mary Astell made this critical observation early in the development of liberal theory. Property in person was located not only in the control of one's own labour, but also in the male gender. Being female precluded one from possessing property in person, and associated rights. The stronger emergence of the liberal principles of equality and democracy during the nineteenth century brought forth John Stuart Mill's definitive critique of women's exclusion and subjection.[8] Despite these early critiques, the development of liberal democracy remains distorted by gender inequalities.

Women's Exclusion from Liberal-Democratic Rights

Liberal-democratic principles of universal human rights and equality imply no gender difference regarding public life, political participation, and human rights. Nevertheless, from its inception, liberal thought has been consciously gendered. A cursory look at the historical development of liberal thought and practice reveals that it has been associated with a lack of progress in achieving women's rights until recent decades.[9] The right or duty of the liberal-democratic state to safeguard human rights within the home is still a challenged one within liberalism.

The 'problem' of how to locate women *vis a vis* men, the polity, and the state is a persistent theme in the development of western liberal thought. Examination of western treatises which form the basis of

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[7]Pateman *op. cit:* 90. Pateman is here quoting from Mary Astell's *Some Reflections Upon Marriage*, New York, Source Book Press, 1970, (from the 4th Edition of 1730), 107.

[8]John Stuart Mill, *The Subjection of Women* (1869), The M. I. T. Press, Massachusetts, 1970.

[9]For example, see Chiara Saraceno, 'Women, family and the law (Italy) 1750-1942', *Journal of Family History*,15 (4) 1990, especially 4.

liberal thought demonstrate a history of women being 'one step removed' from the state and its protective powers. Men as fathers, husbands and household heads had the responsibility of ensuring the well-being of those in their private sphere, namely their wives and children. As such, only men could be granted the rights that are associated with 'personhood'. Other family members' rights were subject to this head male right.

Carol Pateman's detailed analysis of the 'logic' within liberal thought for women's exclusion locates a core fallacy in the notion of marriage as a contract between men and women. 'Contract' requires equality between the two contracting parties. However, the items of exchange required by marriage involve female subjection.[10] Until twentieth century reforms, the marriage contract did not approach the requirements of other social contracts because it was intended to produce inequalities between partners. According to Carol Pateman, this was because it was primarily a sexual contract, ensuring male control of the public domain, and female subjection of both her labour and her sexuality to the husband within the private domain.[11]

Thomas Hobbes (1588-1679), offers some affirmation of women's individual rights within marriage and access to state intervention. His *realpolitik* characterisation of life as 'nasty, brutish and short' in *The Leviathan* is located within the same school as Machiavelli where no divine or natural law was accessible to control human social behaviour.

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[10]Pateman, *passim*, especially chap. 6.

[11]Ibid., especially chap. 5.

Hence, a 'mutual social compact' between equals 'becomes a matter of *rational* necessity'.[12] Pateman argues that for Hobbes,

> there is no natural mastery in the state of nature, not even of men over women; natural individual attributes and capacities are distributed irrespective of sex.[13]

However, Hobbes seems factually wrong about women's equal physical strength with men's, and so the implications of his treatise are that women lose out here.[14] Only intervention on their behalf by the sovereign could prevent this. As individuals have no natural rights in Hobbes' scenario, there seems to be no logical reason why a sovereign should intervene on behalf of a weaker female party. Nevertheless, Hobbes offers only limited support for restricting direct access to the state to men because his treatise does not morally or politically preclude women from employing some strength-enhancing strategy, and thus engaging with men as equals.

John Locke's (1632-1704) contract theory, founded on 'natural law' and 'natural rights', had counter rights implications for men and women by supporting the male-headed private sphere *status quo*. For Locke, men were individuals with equal natural rights and equal obligations to each other, although conditioned by ownership in property. Locke's civil society is made up of free men with equal rights and obligations to each other. Women are necessarily excluded because they are in nature subordinate to men. Pateman argues that this 'natural subjection' of women is 'separated out as the non-political sphere' hiding the fact of a

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[12]Introductory commentary to excerpts from Thomas Hobbes, *The Leviathan*, 1651, in*What is Justice? Classic and Contemporary Readings*, ed. R. C. Solomon and M. C. Murphy, Oxford University Press, New York, 80.

[13]Pateman, 44.

[14]see Ibid., 43-52.

'contractual relationship between two adults'.[15] Locke's treatise thus left women in a dangerous position because their subjection to their husbands was seen as a natural and necessary one, outside the scope of state mediation. This domain afforded her neither political rights nor the right to refuse sexual intercourse.

Jean-Jacques Rousseau's (1712-1778) philosophy of the social contract is generally considered to be progressive and influential in formulating just law-making procedures compatible with egalitarian democratic systems.[16] Yet his political philosophy is particularly oppressive for women. His work, *Emile*, prescribes male-female marital roles that read like the dynamics of present-day male and female violent behaviour, and the limited state response, in liberal democracies.[17]

Moira Gatens argues that for Rousseau, the '"truth" of woman' had to be sacrificed for the greater cause of 'reconcil(ing) nature and culture, reason and passion'.[18] For Rousseau, women should bear the responsibility for men's exercise of passion and reason in good measure. Rousseau maintained that for men to obtain the qualities of citizenship required in his social contract, women had to suppress their own sexual and other pleasures and ambitions in both the private and public sphere.

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[15]Ibid, 93-4.

[16]The portrayals of Rousseau's work in Collins 1991 *Dictionary of Sociology*, and *World Book Encyclopedia* 1993, s.v. 'Rousseau, J. J.', are indicative of this.

[17]Moira Gatens, *Feminism and Philosophy: perspectives on difference and equality*, Basil Blackwell Ltd., Oxford, 1991, chap. 1.

[18]Ibid., 20.

Legacies for Domestic Violence Policy

There are tenacious legacies for liberal-democratic states arising out of this gender-distorted development of liberal-democracy. The private sphere is prone to being isolated as a non-liberal space, where present expectations surrounding the couple relationship still mean that violence is used in a large minority of couples[19] to enforce male authority.

Australian therapists' analyses of domestic violence evoke founding liberalist prescriptions for the marital relationship as causative here. Rather than equipping men with reason and gentle virtues, Rousseau's three structures of absolution of male responsibility, women's responsibility for meeting men's needs, and women's identity subsumption into the man's, are identical to recently discerned contemporary couple pathologies and causes of male perpetration of violence in the home. Horsfall argues that the 'capitalist-patriarchal role' of women in our society includes the wifely responsibility of the emotional well-being of her husband. As this is never feasible, she will 'fail' him:

> she will not be a good enough wife. Many battering men list in detail to their wives their multiple deficiencies as wife, mother, and housekeeper.[20]

Alan Jenkins, an Australian domestic violence therapist, argues that the lack of male responsibility for their own emotional well-being and a concomitant 'exaggerated entitlement' are key causes of present-day male violence against a female partner. It renders male perpetrators prone to blaming the victim as they perceive that their wife causes the

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[19]For a range of estimates, see chap. 2 of this thesis. 'Couple' here includes married, *de facto*, 'boyfriend-girlfriend', and 'ex' of all these.

[20]Jan Horsfall, *The Presence of the Past: Male Violence in the Family*, Allen and Unwin, Sydney, 90-1.

violence.[21] Another Australian therapist has found that male perpetrators expect their partners to know what they want even when they have no idea themselves. He describes their violent behaviour as like that of a toddler who expects his mother to predict his every need and who throws tantrums when she fails.[22] Violent jealousy, a common form of domestic violence, is an extreme expression of this male dependency on a partner for emotional well-being. Here, the male 'needs' the woman's identity to be subsumed into his for an essential sense of his own manhood.[23]

A detailed linking of these behaviours to gender-distorted liberal development risks unwarranted reductionism. Nevertheless, some men's over-developed sense of entitlement within the private sphere, and the sense of right to use violence when those entitlements have not been met, have until recent times received structural reinforcement, along with tacit and overt approval, from liberal-democratic states.

The marriage contract, both formally and culturally embodying these inherited distorted ideas about women's place, has been identified by Pateman as posing particular problems for today's liberal-democratic states intent on extending universal human rights to within the home. As such, the home is still not a liberal space. Despite legal and cultural reform, the marriage contract continues to be frequently forged in economic inequality. As providers and protectors, men are more part of today's civic world, while many women are still 'obtaining their

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[21] Alan Jenkins, *Invitations to Responsibility: the Therapeutic Engagement of Men Who are Violent and Abusive*, Dulwich Centre Publications, Adelaide, 1990, 44-5.

[22] Rob Hall, Domestic Violence Therapist, at a *Domestic Violence Action Group (DVAG) Workshop*, DVAG, Adelaide, April-May 1993.

[23] Horsfall, 94.

subsistence in return for domestic service'.[24] On this criteria, the 'family wage was enshrined in law in Australia in 1907'.[25] This situation has been under challenge for some decades now. Nevertheless, lower female wages intensified by time-consuming domestic and child rearing labour unrecognised as civic wage work, mean that widespread female dependence on a male wage earner continues. In 1993, over 58 percent of Australian women were married.[26] In most of these marriages, the male remains the sole or primary bread-winner. As a measure of this, Australian women who are married with children have independent incomes that average less than the incomes of Australia's single mothers. In 1989-90, 23 percent of married women with children received independently less than $2000 per year.[27]

One study of domestic violence in Australia identifies a pattern between woman's dependence and domestic violence. O'Donnell and Saville demonstrate that domestic violence is positively more correlated to the woman's class than to the man's class. That is, women who are financially dependent on their husbands are more likely to be domestic violence victims.[28] Financial dependence also means that leaving a violent relationship even with victim access to state help is financially too costly for many domestic violence victims.

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[24]Pateman, 138.

[25]Ibid., 138.

[26]Ian Castles, *Year Book Australia 1995*, Number 77, Australian Bureau of Statistics (ABS), Commonwealth of Australia, 1994, 93, 99, and 109.

[27]ABS, *Women in Australia*, prepared by I. Castles for the ABS, Canberra, 1993, 174.

[28]See Carol O'Donnell and Heather Saville, 'Domestic Violence and sex and class inequality' in *Australian Studies: Family Violence in Australia*, eds. Jan Craney, Longman Cheshire, Melbourne, 1982, 52-66. See also American studies by Murray A. Straus and Richard J. Gelles, 'Societal change and change in family violence from 1975 to 1985 as revealed by two national surveys', *Journal of Marriage and the Family*, 48, August 1986, 473-5.

Liberalism's reform task

While women's public status within liberal countries such as Australia has made considerable advances over recent decades, the ethical flaw of domestic violence remains. Notwithstanding this reality, domestic violence has always been and continues to be a fundamentally political phenomenon. Domestic violence is not an inevitable, universal feature of the human male-female relationship. In some societies, the rates are very high, and in others, it is virtually non-existent, and this largely depends upon the social and political relations between men and women within a society.[29] Morover, domestic violence rates are very responsive to changes in these relations. As such, domestic violence is amenable to political and legislative solution.

An aetiological problem for intervention is that this unnatural male 'right' over women is only partially, not absolutely, achievable, and so ensues repeated violent attempts at its establishment in the form of the domestic violence cycle. This means that when a state agency deals with domestic violence, it is interfacing with a chronically, not temporarily or incidentally, violent relationship. It is dealing with a separate private jurisdiction carried by the violent partner, and a victim who is chronically 'locked in' to this violent jurisdiction. This offender-embodied non-liberal jurisdiction is not very amenable to ordinary liberal state legal interventions. Ordinary interventions are primarily meant for single brief incidents, temporary lapses from liberal codes, not intended to overthrow long-term non-liberal polities.

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[29]D. Levinson, *Family Violence in Cross-Cultural Perspective*, California, Sage Publ., 1989, *passim,* especially chap. 6.

There is thus a need to alter the state's articulation with the private sphere so that it is no longer a cordoned-off, non-liberal space. As such, some essential tasks for securing prevention and safety for domestic violence victims may be akin to re-education programs undertaken by new communist states, such as those of Vietnam during the 1970s and 1980s. The task of reforming adult value systems and associated behaviours is likely to be difficult to implement with success. A challenging contradiction for liberalism between equality and freedom resides here:

> (i)f men's mastery is to be replaced by the mutual autonomy of women and men, individual freedom must be limited by the structure of social relations in which freedom inheres.[30]

Today's Australian governments are indeed embarking on a complex process of creating a different interface between women and the state in order to extend the universal right of safety to those within the home. The task entails complete reform of the public service, a service which has hitherto 'privileged' the myriad little private spaces, allowing them to live by their own liberal or non-liberal codes, beyond state reach. Now liberal states are deeming it essential that all human services, especially health, education, welfare, housing, and legal services, devise policies and procedures which, albeit with care and sensitivity, extend the liberal arms of the state into the heartland of non-liberal violent families.

This extension involves more cultural and legal marriage reform, for the marriage contract continues to present both cultural and legal barriers to state intervention into domestic violence. The promise to obey one's husband is still made by some women within liberal polities. An 1980s Australian survey 'indicated that one in 5 people believe that

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[30]Pateman, 232.

there are circumstances under which it is acceptable for a man to beat his wife'.[31] It was not until the mid 1970s that any Australian state recognised that rape in marriage was even a legal possibility.[32] In Australia in the 1990s, there are still state policies which formally reduce some citizenship rights of married non-breadwinning women.[33]

Legacies inhibiting legal responses to domestic violence itself seem singularly tenacious. Today, these are not primarily to do with a lack of political or judicial will. In South Australia for instance, physical assault within the home has long been formally subject to identical legal sanction to that applying to similar physical assaults of a public nature. The laws commit police and courts to similar responses. The problem is that the private, out-of-sight geographical location of most domestic violences, the resultant commonplace 'his-word-against-hers-no-other-witnesses' and 'offender-places-invisible-blows' scenarios, and victim refusal to press charges through fear of, love of, dependence on, or an ethic of subservience to, the offender, together provide an effective barrier to liberal legal penetration. For in order to protect the individual rights of the accused, liberalism imposes the high standard of 'beyond reasonable doubt' on criminal matters. Many domestic violence cases, made invisible largely by their extant non-liberal contexts, are not able to reach that level of proof. For some cases, police claim, this legal failure will probably lead to the death of the victim. But 'probability'

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[31]Community Education Task Force on Family Violence, *Family Violence: a Community Problem*, 1 'Perspectives on Family Violence', Victoria, (1990?), 13, referring to Public Policy Research Centre, *Community Attitudes Toward Domestic Violence in Australia*, Canberra, Office of the Status of Women (OSW), Department of the the Prime Minister and Cabinet (DPMC), 1988: see Executive Summary, 2.

[32]Family Violence Professional Education Taskforce, *Family Violence: Everybody's Business, Somebody's Life*, The Federation Press, Sydney, 1991, 26.

[33]Jocelynne Scutt, *Even in the Best of Homes: violence in the family*, McCulloch Publ., Victoria, 1983 (1990), 295; and Rian Voet, 'Women as Citizens', *Australian Feminist Studies*, 19, Autumn 1994, 65.

cannot affect a properly liberal court's decisions regarding a criminal matter here.[34]

As partial remedy to this, the insertion of a civil process in the form of a restraint order against domestic violence offenders is now commonplace throughout liberal polities. The benefit of this for liberal codes is that generally speaking police can implement restraint orders against domestic violence offenders on the lower level of probability. The breaking of a restraint order becomes the point of police arrest, now not for a criminal matter, but for the lesser civil matter of breaching a court order.[35]

Restraint orders are a pragmatic but compromised step for liberalism. They are a sign of liberal-democratic states' frequent inability to effectively penetrate into private spheres to secure criminal-level measures against domestic assault. Restraint orders are about liberalism mitigating rather than overthrowing private non-liberal violent regimens. Jocelynne Scutt identifies a further rights-compromising flow-on that this has for liberal-democratic polities. The availability of a lighter civil remedy for domestic assault is retarding cultural reform within a judicial sector yet to discard non-liberal legacies about domestic violence:

> (a)lthough criminal laws (theoretically) continue to apply to men who beat their wives, that police should initiate criminal prosecution appears to have fallen, somewhat, by the wayside. The new [restraint order] laws have now turned criminal assault into a civil matter at law.[36]

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[34]Interview with Viewtown police officer, April 1994.

[35]Scutt, 288-298, especially 293.

[36]Ibid., 293-4. [my parentheses] (her parenthesis).

And in turn, offenders receive a message back from the judicial arm of the state that domestic violence is not serious, merely a civil matter or '*personal* suit by one person against another'.[37]

Thus even within the state judicial arm, non-liberal treatises on male right still inflict self-enforcing havoc onto liberal-democratic states' attempts to uphold the rights of domestic violence victims. The idea and culture of a private realm beyond the reach of the liberal state is a tenacious one.

Conclusion.

This chapter has described the slow progress within liberal-democratic practice of extending property right in the person to all adults. In the case of women's rights within the private sphere of marriage and the family, this progress has been particularly slow, with entrenched cultural, policy, and judicial legacies still presenting problems today. Despite recent state commitment to reform, liberal-democracy in Australia is still experiencing the constructed non-liberal spaces of home and marriage as barriers to more effective domestic violence policy responses. These generic barriers pertain to domestic violence in all cultural groups, both Aboriginal and non-Aboriginal. Moreover, the inherent tendency of the state to render its responses to domestic violence conditional to prevailing political settings ill-equips it to extend the right to physical safety to the more specialised and difficult cultural terrain of Aboriginal domestic violence. The responses of Australian states' to mainstream, compared with Aboriginal, domestic violence are testimony to this; they are the subject of the following three chapters.

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[37]Ibid., 295. [my italics].

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Recognising Domestic Violence: a Survey of Policy Responses

Introduction

In Australia and throughout the western world, domestic violence was emerging as a major public policy issue by the mid 1980s. This chapter describes the process by which domestic violence became an issue of mainstream public concern in the liberal-democracy of Australia. It argues that while Australia is a liberal-democratic country, and thus supports, in principle at least, universal human rights, this did not ensure that Australia would extend this right into the private or domestic sphere, unless under political pressure to do so. Not until confronted with grass roots pressure and the costly fiscal impact of women's declining tolerance of domestic violence, did Australian states implement widespread domestic violence policy and legal reform. While barriers to ideal responses were still significant, there was by this time a generalised state commitment to domestic violence legal and policy reform and prevention. The idea of a private space beyond state jurisdiction no longer has any formal legal or political standing.

United Nations Recognition of Domestic Violence

Official recognition of domestic violence as a widespread social problem and a violation of human rights is a recent development. In most nations today, domestic violence is regarded as criminal assault,

and is thus subjected to criminal law.[1] Despite this, domestic violence has conventionally been treated by states as not a matter for public concern or intervention until serious physical injury or homicide occurs. This is despite the fact that almost universally, unchecked domestic violence can escalate into serious injury and homicide.[2]

Statistical evidence available by the mid 1980s demonstrated the global seriousness of domestic violence. In countries of widely differing socio-economic and cultural settings such as Bangladesh, Thailand, Chile, Kenya, Kuwait, Austria, Poland, USA, and Australia, studies revealed that domestic violence is a 'significant pattern within the family in probably all countries in the world'.[3] For instance in Canada, data collected between 1961-1974 indicated that 60 percent of homicide victims 'were killed within the family context'.[4] According to a 1985 study, 67 percent of wives in rural areas of Papua New Guinea suffered marital violence.[5] Measured globally, wife beating is the most common form of family violence, ahead of corporal punishment of children.[6]

The ratification within the United Nations (UN) of the rights of individuals is testimony to the universality of liberal-democratic human rights principles. UN responses to domestic violence are now no exception here. While there has been a UN Commission on the Status of

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[1] Ibid., 67.

[2] United Nations(UN) Office at Vienna, Centre for Development and Human Affairs, *Violence Against Women in the Family*, New York, 1989, 52.

[3] Ibid., 18.

[4] Ibid., 22.

[5] Law Reform Commission of Papua New Guinea (LRCPNG) *Domestic Violence in Papua New Guinea*, ed. Susan Toft for the LRCPNG, Monograph 3, Port Moresby, 1985, 14.

[6] David Levinson, *Family Violence in Cross-Cultural Perspective*, Sage Publ., California, 1989, 33.

Women since 1946,[7] only since the early 1980s has domestic violence been regarded by the UN as an international human rights issue. This was principally in response to the first sustained international focus on women's issues made possible by the UN Decade for Women, 1975-1985.[8]

This UN Decade for Women provided the first international forum, but it was women's activities on the local level which thrust the problem of domestic violence onto national and international agendas in the first instance. The steps in the development of women's refuges in Australia illustrate this point. Apart from a few church-run shelters for the homeless, the first Australian women's shelter primarily for domestic violence victims was established in Sydney, 1974. By 1980 the number of such shelters across the country reached approximately 100, but this growth in shelter numbers was achieved through persistent struggle against government reluctance to recognise the need and fund shelters accordingly.[9]

It was not until 1980, 5 years into the UN Decade for Women, that 'the increasing public awareness of the need to eliminate all forms of violence against women and children, including domestic violence, was fully reflected' by the Decade.[10] In that year, the UN Mid-Decade on Women Conference stated that domestic violence '"constituted an intolerable offence to the dignity of human beings"'.[11] The Program of

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[7]Dianne Alley, 'UN "marginalises" women', *Unity*, March 1993, 6.

[8]Jane Chapman, 'Violence against women as a violation of human rights', *Social Justice: a Journal of Crime, Conflict, and World Order*, 17(2), Summer 1990, 57-9.

[9]Heather Saville, 'Refuges: a new beginning to the struggle', chap. 5 in *Family Violence in Australia*, eds. Carol O'Donnell and Jan Craney, Longman Cheshire Pty. Ltd., Melbourne, 1982, 95-109.

[10]UN, 1989, 3.

[11]Jane Chapman, 57.

Action for the Second Half of the Decade included domestic violence on its agenda by recommending that research be undertaken into domestic violence and effective services for victims.[12] Near the end of the Decade in November 1985, the UN General Assembly

> adopted 40/36, a domestic violence provision which called for strong multidisciplinary measures to deal with the problem as well as the reform of justice systems to eliminate bias.[13]

UN responses to domestic violence continued to strengthen since that date, and in 1989, the UN's Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 'resolved at its Annual Session in Vienna...that violence was clearly an item for its agenda'.[14] Signatories to the CEDAW Convention ratified an international obligation to implement its provisions, and to report to CEDAW on their progress. As such, CEDAW has become international guideline establisher and watchdog for national-level domestic violence reform. Australia for instance as signatory to the CEDAW Convention is under an international obligation to evaluate policy and law reform. It is also expected to submit regular progress reports to the UN on government research and responses to domestic violence, including legal, preventative, and protective measures.[15]

Despite this international-level progress, the UN has resisted the description of violence against women as a violation of their human rights. Hilary Charlesworth argued that notions of cultural and religious

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[12]UN 1989, 3-4.

[13]Chapman, 58.

[14]Ibid., 58.

[15]National Committee on Violence against Women (NCVAW), *National Strategy on Violence against Women,* OSW, DPMC, Canberra, 1992, 40-41; Australia, *Women in Australia,* Australia's Second Progress Report on Implementing the United Nations Convention on the Elimination of All Forms of Discrimination Against Women, (Canberra? OSW?), June 1992.

rights operating within the male-dominated UN human rights committees act to exclude the private as a sphere subject to human rights conventions.[16] However, considerable progress has been made so that in the preamble of the UN Declaration on the Elimination of Violence against Women, 1993, violence against women is described as a 'violation of the rights and fundamental freedoms of women'.[17] Furthermore, its Article 1 pronounces that violences against women covered in the declaration apply equally to violences occurring in the public and private sphere. And the Declaration's Article 3 pronounces that

> (w)omen are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms in the political, economic, social, cultural, civil, or any other field.[18]

Thus there has also been resistance at the international level to the recognition of private sphere violence against women as a human rights violation. Nevertheless, once women acted upon and within UN committees to declare that domestic violence is a human rights violation, achievement was secured within a relatively short time.

The Australian Response

Concerted Australian state responses to domestic violence also emerged in the early 1980s. Grass-roots activism was the main initiating, driving force, and this worked simultaneously upon both regional and international forums. Australian governments formally acknowledged the problem of domestic violence, and participated in the international trend to policy and legislative reform initially through enquiries into

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[16]Alley, 6.

[17]UN, *Declaration on the Elimination of Violence against Women*, 85th Plenary Session December 1993, preamble.

[18]Ibid., Article 3.

domestic violence, and domestic violence policy and law. These enquiries, in most cases undertaken by newly established state domestic violence task-forces or committees, were undertaken on the federal level and in all states and territories during the 1980s and 1990s.[19]

Before systematic research was undertaken to assess its extent, available statistics of these years suggested that domestic violence was a common cause of serious female injury and death throughout the nation.[20] In New South Wales between 1968-1981, 42.5 percent of homicides occurred within family relationships, the most common victim being the female spouse.[21] In 1989, 23 percent of 'serious assaults on civilians' occurred in the domestic context in Victoria.[22]

Statistics also demonstrated the high level of public resources taken up by domestic violence incidents.[23] In New South Wales, with a population of 5.3 million in 1982, domestic violence police receive an estimated 140,000 domestic violence calls annually.[24] From the Melbourne metropolitan area, population 3 million in 1987, police received approximately 34,000 domestic violence calls annually, and 8500 annually from the Adelaide metropolitan area, population 1 million.[25] A 1990 study of all Australia except Victoria showed that over 5000

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[19] Some of these domestic violence enquiries are listed in Appendix to Chap. 2, A.

[20] Family Violence Professional Education Taskforce (FVPET), *Family Violence: Everybody's Business, Somebody's Life*, The Federation Press, Leichhardt, 1991, 69-72.

[21] Ibid., 71.

[22] Ibid., 71.

[23] The population figures in this paragraph are obtained from ABS, *Year Book Australia 1995*, prepared by I. Castles for the ABS, Canberra, 1994, 93 and 95.

[24] SADVC, *Domestic Violence: Report of the SADVC*, Women's Advisor's Office(WAO), Department of the Premier and Cabinet(DPC), Adelaide, 1987, 2.

[25] Ibid. Both these figures are for the mid 1980s.

women and children, the great majority escaping domestic violence, are accommodated each night in Australia.[26] One report 'estimated that the annual cost of domestic violence in New South Wales alone was over $1.5 billion. This included medical, legal, and accommodation costs, loss of income, lost productivity, and other 'costs related to the building of an alternative life'.[27]

Above all, these statistics both in terms of seriousness and the social and financial demands on the public sector indicated to state governments that domestic violence had already become a public matter. It was no longer possible for any liberal-democratic state to confine domestic violence to the private sphere.

With the seriousness of domestic violence confirmed by these state-level reports, along with a commitment to CEDAW to address the issue, a federally-generated and coordinated national response to domestic violence emerged in the late 1980s.[28] The first strategy focusing on domestic violence was launched in 1987 with the establishment of three year National Domestic Violence Education Program as part of the National Agenda for Women, to 'raise domestic violence as a community concern'.[29]

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[26]NCVAW, *National Strategy*, 2.

[27]Ibid., 3. For other estimates see Gwenneth Roberts, 'Domestic violence: cost of service provision for female victims-20 case histories', in Queensland Domestic Violence Task Force(QDVTF), *Beyond These Walls,* Report of the QDVTF, Brisbane, 1988, 464; and Women's Policy Unit (WPU), *Who Pays? The Economic Costs of Violence Against Women,* prepared by D. K. Blumel, G. L. Gibb, B. N. Innis, D. L. Justoo, and D. V. Watson of the Sunshine Interagency Research Group, for the WPU, Office of the Cabinet, Brisbane, 1993.

[28]Regular federal enquiries into domestic violence also commence at this time. For examples of federal enquiries and other initiatives, see Appendix to Chap 2, A.

[29]National Agenda for Women, *Implementation Report,* Office of the Status of Women (OSW), Department of the Prime Minister and Cabinet (DPMC), AGPS, Canberra, 1992, 114-5.

In 1990, a national coordinating body for domestic violence, the National Committee on Violence Against Women (NCVAW), also with a life-span of three years, was established with more extensive terms of reference. These comprise the facilitation of inter-government information exchange about indicators of and policy responses to domestic violence, coordination of policy and judicial reform 'on a national basis', the commission and coordination of research and community education, the empowerment of women by improving their 'access to information, resources, and services', monitoring the implementation of the National Committee on Violence recommendations 'as they affect women', and to 'ensure consultation with community members and groups with special needs'.[30]

While the NCVAW ceased operation in 1993, federally-commissioned projects continue. In 1994, the federal government's Department of Human Services and Health hosted a major research and policy evaluation project into alcohol abuse and violence. Report 4 of the project focuses on alcohol-related violence against women and children in the home. This study lays particular stress on the limited knowledge base underlying present policy responses to this problem, hence the need for more research and evaluation.[31] The federal Attorney General's Justice Statement of 1995 allocated funding for nation-wide reform of legal responses to domestic violence, particularly in the area of women's access to legal services.[32] In 1996, the Australian Bureau of Statistics

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[30]NCVAW, *National Strategy*, vi.

[31]Keys Young, *Alcohol and Violence Against Women and Children in the Home*, Report 4 of the National Symposium on Alcohol Misuse and Violence, *Alcohol Misuse and Violence*, hosted by The Department of Human Services and Health, AGPS, Canberra, 1994.

[32]Attorney-General's Department, *The Justice Statement*, Office of Legal Information and Publishing, Canberra, 1995, especially chap. 2 and 5.

(ABS) undertook a national Women's Safety Survey, gathering statistical data from 6300 women in the experience of, 'actions taken in response to', and consequences of, domestic and non-domestic violence.[33] The present Coalition government through the Office of the Status of Women continues to monitor the effectiveness of service responses to domestic violence.[34]

In terms of national attitudes to domestic violence, federal and state initiatives against domestic violence seem to be taking effect. There has been a decline in the numbers of Australians who believe that provocation excuses domestic violence, from 14% in 1987 to 8% in 1995, and an increase in the understanding that domestic violence is a crime, from 79% in 1987, to 93% in 1995.[35]

South Australia

Some early reforms

Before the publication of the South Australian Domestic Violence Council Report in 1987, reform was patchy and developed on an *ad hoc* basis. Nevertheless, South Australia was by national even global standards progressive, and reforms of this time were of substantial benefit to victims.

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[33]ABS, *Women's Safety Australia*, prepared by W. McLennan, ABS, Commonwealth of Australia, 1996, iv, and generally.

[34]For example, two OSW research projects commencing in 1997 are 'The Needs of Women Experiencing Domestic Violence Who Do Not Use Domestic Violence And Related Crisis Services' and 'The Operation of Division 11 Of The Family Law Act To Resolve Inconsistency Between State Family Violence Orders And Family Law Contact Orders', consultancy briefs, OSW, DPMC, July 1997. See also Liberal/National Coalition, 'Opportunities and Choices for Women' , 1996 Australian Election Campaign, 1996, 23-4; and Liberal/National Coalition, 'Law and Justice: The Coalition's Attorney General Policy', 1996 Australian Election Campaign, 14-16, 20-3.

[35]ANOP Research Services, *Community Attitudes to Violence Against Women: Executive Summary*, OSW, DPMC, 1995, 7-8, 32, and 35.

In 1976, South Australia was the first state to pass legislative reform by amending The Criminal Law Consolidation Act (SA) to make rape in marriage 'illegal in certain circumstances',[36] making more conditional previous conjugal rights bestowed by marriage. This Act thereby challenges the notion that issues of authority and personal autonomy within the private sphere of marriage are beyond the reach of the state.

South Australia was also first to offer specialised legal protection to victims of domestic violence through the introduction of restraining orders under Section 99 of the Justices Act (SA) in 1983. This amendment enabled police for the first time in Australia, to apply for restraining orders and enforce them on behalf of victims. This substantially increased the rate of restraint order applications and their effective enforcement, with police applying for 97 percent of restraining orders since 1983.[37]

South Australian police demonstrated their comparatively early recognition of the need for specialised responses to sexual assault and domestic violence. A police Rape Enquiry Unit, now known as the Sexual Assault Unit, was established in the mid 1970s, the first such Unit in Australia.[38] The Victims of Crime Branch was established within the South Australian Police Department in 1987, in response to the 1985 United Nations resolution on 17 rights of victims of crime.[39] This unit, a world-first, focuses on supporting domestic violence and child abuse

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[36]FVPET, 26.

[37]Nicholas Seddon, *Domestic Violence in Australia: the Legal Response*, The Federation Press, Annandale, 1989, 81.

[38]Sexual Assault Unit, Police Headquarters Adelaide, phone comm., September 1993.

[39]Sgt. Foe, Officer-in-Charge of the Victims of Crime Branch, phone comm., September 1993.

victims, and on educating services and the community regarding the rights and needs of these victims.[40]

In response to pressure from women's lobby groups, the first women's shelter in South Australia was established in 1975.[41] In 1987, there were 12 shelters in South Australia, including 5 in rural areas, and over 250 government-supported half-way houses for South Australian domestic violence victims.[42]

The development of these reforms ahead of major reports and often ahead of other states indicates that the South Australian state and polity had a comparatively developed awareness of domestic violence as a public issue in need of improved state responses. But more pressure was needed before systematic reform took place.

The South Australian Domestic Violence Council Report of 1987

The South Australian government's 1987 enquiry into laws, policies and services pertaining to domestic violence is the first attempt at comprehensive reform. It signalled a new government willingness to embark on a fundamental challenge to the traditional division of the private and public sector regarding individual freedom to use violence, and individual rights to state protection. Emergent trends and attitudes in the polity were the triggers for this shift in government concern.

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[40]SADVC, 4.

[41]Ele Wilde, 'Talking with a women's shelter worker', interview by Murray Muirhead, in *Evangel*, March 1991, 11.

[42]SADVC, 173.

One key contributor here was the increasing financial impact of domestic violence. More South Australian women became unwilling to tolerate violent partners, as evidenced by the increasing numbers of women seeking government-funded crisis shelter accommodation. The government enquiry itself noted that in 1984-5,

> South Australian women's shelters accommodated 4298 women and children. In the same year 1521 women and children were turned away because the shelters were full, stretched to the limit.[43]

The government had a firm commitment (still in place) not to increase the number of women's shelters despite the yearly increase in demand. Other statistics noted by the state government include police figures showing that in 1985, 600 restraining orders were issued every three months, and police in the Adelaide metropolitan area received 8500 calls for domestic violence. The Legal Services Commission estimated that '50 percent of its family law clients are victims of domestic violence'. There was also an increase in the use of the Women's Information Switchboard by victims in crisis from 251 calls in 1984, to 344 calls in 1985. For financial reasons, prevention had to be on the government agenda.[44]

Another reason for the emergence of a concerted state government response was the public outrage over the South Australian domestic violence homicide, the Mrs. R. case, and the inadequacy of the legal response. In 1981, Mrs. R. killed her husband with an axe while he slept. The man had 'abused, sexually, physically, and psychologically, his family for 27 years'.[45] She was found guilty of murder because the

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[43]Ibid., 2.

[44]Ibid., 2-3.

[45]Jocelynne Scutt, *Women and the Law: Commentary and Materials*, The Law Book Company Ltd., North Ryde, 1990, 418.

law only recognises self-defence when 'the person who kills is in a state of immediate danger. It could not recognise her helplessness and his violent control over her'.[46]

That the law did not recognise self-defence caused protest not only from women's groups. A decade of influence from the women's movement had caused a shift in the community against tolerating domestic violence. Mrs R's. life sentence unleashed widespread condemnation of the verdict. The community also condemned the numerous systemic failures which led Mrs. R to opt to kill her husband. The media reflected this new public awareness, and called for 'reform to police, community welfare, and judicial procedure in domestic violence/marital homicide cases'.[47] Two women Members of Parliament, the Hon. Anne Levy and Senator Janine Haines, condemned in Parliament and directly to the media, the Attorney General's failure to intervene in the case.[48]

The case's appeal to the Supreme Court, where the defence of provocation was made available to the jury, was a destabilising challenge to the usual limits of this defence. This led to further pressure to standardise this response into a 'new complete defence' of provocation caused by a history of subjection to domestic violence.[49]

In the context of what defines 'domestic', and what defines 'the public', this emergence of effective public concern over domestic violence can be cautiously described as a gendered political revolution. Old Lockean

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[46]Ibid.

[47]Anne Genovese, *The Law ,the State, and the Protection of the Person: Domestic Violence in South Australia 1981-1992*, Honours Thesis, University of Adelaide, 1992, 33.

[48]Ibid., 36-7.

[49]SADVC, 91.

or Roussean notions about the rightful gendered split between what is and what is not of public concern are being swept aside here.[50]

In this politicised context, the South Australian Domestic Violence Council (SADVC) was established in late 1985 by the Women's Advisor's Office in the Department of Premier and Cabinet, with a brief to

> examine issues pertaining to domestic violence in four main areas: community education and prevention, legal issues, human services, and professional education and awareness.[51]

The terms of reference for the SADVC's 1987 Report acknowledge that domestic violence occurs across cultures and that effective responses are defined above all, as those which reduce domestic violence and increase victim safety. They also point to the need for major societal and institutional reform.[52] The Report tables 274 recommendations that reflect these terms of reference.[53] There are 142 legal reform recommendations alone, covering state and federal law, police practices, Court practices, and penalties for perpetrators. During the 1990s, the Report of the SADVC is still a major reference point for government progress in its responses to domestic violence.

Perhaps the most salient development to arise from the recommendations is the establishment of the Domestic Violence Prevention Unit (DVPU). This Unit is a research, policy, project, training, and evaluation task-force for the South Australian state

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[50] Carole Pateman, *The Sexual Contract*, Polity Press, Cambridge, 1988, 91; Moira Gatens, *Feminism and Philosophy: Perspectives on Difference and Equality*, Polity Press, Cambridge 1991, 17-19.

[51] SADVC, 5.

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[52] See Appendix of this chapter for the SADVC Report's terms of reference.

[53] SADVC, Appendix B.

government.[54] In particular, it acts as an auditing unit for implementation of the 274 recommendations contained in the SADVC Report.[55] The establishment of the DVPU and its bipartisan support tends to ensure that domestic violence in South Australia is a long-term priority issue of public policy covering a broad range of areas including law, service response, and community education.

These developments mean that by the early 1990s, the liberal-democratic state of South Australia became conditioned to demand exemplary responses to domestic violence from all relevant government and non-government services, with regular monitoring of policy and service responses to domestic violence.[56]

Conclusion

During the 1980s, the idea of a private non-liberal sphere, where women could be subjected to domestic violence beyond the reach of state intervention, became self-evidently incompatible with liberal-democratic human rights principles. This became manifest in concerted

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[54]At the end of 1993, this becomes the Domestic Violence Resource Unit (DVRU), and in 1996, the Domestic Violence Unit (DVU). An Office for the Prevention of Domestic Violence was also established within the SA Attorney General's Crime Prevention Unit in 1994. See also Liberal Party of SA, *Domestic Violence Policy*, released by Liberal Leader, Dean Brown, on behalf of the Liberal Party of SA, Australia (South Australian Division) November 1993; and OFF, *Domestic Violence Unit: Five Year Strategic Plan*, a Joint Initiative of FACS and the SAHC, OFF, Adelaide, 1996, especially 4 and 7-8.

[55]See DVPC and DVPU, *Audit of the Progress in Implementation of the Domestic Violence Council Report 1987*, DVPC and DVPU, Adelaide, 1992.

[56]For example: Ibid.; and
-DVPC, *The Organisation of Domestic Violence Services in South Australia: a Discussion Paper for Consultation*, prepared by a working Party of the DVPC, FACS, South Australia, 1992;
-K. Mugford, *Zero Tolerance: Violence Against Women and Children: Creating Awareness in the Community of Violence Against Women and Children: Evaluation Report*, South Australian Health Commission (SAHC), Adelaide, 1996;
-OFF, 1996;
-Office for the Prevention of Domestic Violence (OPDV), *Other Ways? A Discussion Paper on Best Practice Principles for the Prevention of Domestic Violence*, Attorney General's Department, OPDV, Adelaide, 1996.

state responses to domestic violence across Australia. At least, this is so in reference to Australia's majority European-derived culture, arguably the principle bearer of liberal-democratic principles. However, the idea of 'cultural rights' for minority groups, with its inherent demand of a shift of rights from the individual to the group, is placing liberal-democratic states in a quandary regarding the nature of optimal responses to Aboriginal domestic violence.

3

Universal Rights and Minority Cultures: Problems with Extension

> Rights and rules that are universally formulated and thus blind to differences of race, culture, gender, age, or disability, perpetuate rather than undermine oppression. (Iris Marion Young, 'Polity and group difference: a critique of the ideal of universal citizenship', *Ethics*, 99, January 1989, 268.)

> Multiculturalism and the well-meaning desire to ensure harmony and respect should not blind us to the benefits of uniformity when it comes to basic human rights (Kate Legge, Living two lives', *The Australian Magazine*, September 3-4, 1994, 27)

Introduction

For liberalism, the possessor of fundamental human rights is the individual person. One's class, gender, culture, and location do not transcend this, because these items do not affect the essence of the 'individual human', and the rights that individuals need in order to live as human.

While liberal polities still experience widespread difficulties in extending this right to women in the private sphere, there is official commitment to such extension. However, Australian liberal-democratic states are experiencing difficulties in developing the same level of commitment to upholding the rights of Aboriginal women. This chapter explores two sides of a debate surrounding the type of responses Aboriginal people require to restore Aboriginal well-being, in the context of their cultural fragmentation and past policy mistakes in dealing with the 'Aboriginal problem'. The pro-cultural rights side of the debate argues that Aboriginal people will continue to endure high

rates of social pathology, including domestic violence, until they are re-enabled to practice a greater level of their own culture, identity, and determination of Aboriginal policy. The other side of the debate argues that idealism surrounding 'cultural rights'[1] and associated strategies such as Aboriginal self-management is leading to inappropriate government non-intervention into Aboriginal social pathologies, which is exacerbating, rather than ameliorating, Aboriginal alienation and associated violence.

Cultural Rights: a Core Principle of Government Policy-Making

> All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.[2]

This right was until recently, deemed to be applicable to colonised sovereign peoples, and not indigenous groups. Through the recent drafting in the UN of a declaration on the rights of the indigenous, recognition of a right to self-determination is in the process of extension to these groups. This has increased the legitimacy of Aboriginal claims for autonomy[3], including rights to negotiate or determine their political relationship with the state, manage their own services, and practice their own culture.[4] According to previous ATSIC Chairperson, Lois

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[1]The terms 'cultural rights', and 'group rights' are used interchangeably in this chapter, as they are in debates surrounding these concepts. 'Cultural rights' is the term used throughout the thesis.

[2]UN Centre for Human Rights (Geneva), 'UN Declaration on the Granting of Independence to Colonial Countries and Peoples, in *Human Rights: A Compilation of International Instruments, Vol. 1: Universal Instruments*, UN, New York, 1993, 56.

[3]In this chapter, 'autonomy' is used generically, rather than to denote a precise set of claims.

[4]G. Nettheim, 'International Law and Sovereignty', in C. Fletcher ed., *Aboriginal Self-Determination in Australia*, Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) Report Series, Aboriginal Studies Press (ASP), Canberra, 1994, 74.

O'Donaghue, '(t)here is possibly no right more fundamental for indigenous peoples than that of self-determination'.[5]

Well before this international support, Aboriginal autonomy was already becoming a basic principle of government policy-making. Soon after the 1967 referendum, Aboriginal autonomy, expressed as Aboriginalisation, self-management, or self-determination, gained bipartisan support on the federal level of government, beginning with the move away from assimilation and Prime Minister William McMahon's encouragement of Aboriginal people to 'manage their own affairs'.[6] Today, some expression of Aboriginal autonomy is treated as an ideal or standard norm, and policy and program procedures are censured if they dilute or undermine this principle.[7] Advocacy of cultural rights, either in a formal legal, or 'moral entitlement' sense, also permeates many, perhaps most, treatises and official prescriptions for the restoration of Aboriginal well-being, as well as Aboriginal demands for justice and compensation.

Cultural rights for Aboriginal Australians are commonly expressed as indigenous rights or entitlements to autonomy arising from colonisation. A Council for Reconciliation Key Paper enunciates it thus:

> ...Aboriginal and Torres Strait Islander people whose native title rights pre-date colonisation, have survived colonisation and require due recognition by our governments. The holders of those rights ought to be treated as, at least, partial custodians and bestowers of sovereign power accorded to government in the interests of all, including native titleholders. They hold an exclusive power to withhold their agreement to the moral legitimacy of the nation-state built upon their dispossession...

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[5] L. O'Donaghue, 'Keynote Address: Australian Government and Self-Determination' in Fletcher, 10.

[6] House of Representatives Standing Committee on Aboriginal Affairs (HRSCAA), *Our Future Ourselves: Aboriginal and Torres Strait Islander Community Control, Management and Resources*, AGPS, Canberra, 1990, 3.

[7] For a list of examples, see Appendix to Chap. 3.

The major shortfall in the Australian Constitutional framework is still the lack of recognition of Aboriginal and Torres Strait Islander peoples as the traditional owners of the land and the custodians of the only cultures unique to this land.[8]

Galarrwuy Yunupingu, in his case for a treaty with Aboriginal Australians, also expressed this perspective:

(t)here has been a total failure to recognise that we are unlike other peoples who have come to live in Australia as willing or unwilling migrants bringing their own culture and ways. Our culture and ways have always been here, in this land, our mother. Australia can no longer afford to ignore this reality and pretend it is otherwise.

...I agree there should be one Australia and we should be part of it. But our part should be on our terms.[9]

Underpinning advocacy for Aboriginal autonomy is the idea of the essentiality of separate spaces to enable the practice of a distinctly Aboriginal culture and identity, especially in the form of separate lands. The following extract exemplifies the commonly-held perspective:

the possession and ownership of land would provide Aborigines with the necessary economic, social and political capacity to live along the lines they choose, the resources to maintain their culture, and the realisation of their right to self-determination. It is also evident that without land Aborigines' right to self-determination cannot be assured.[10]

The demand for cultural rights also arises in prevailing interpretations about the causes and cures of Aboriginal disadvantage. Cultural rights are considered as pragmatic means to overcome present-day Aboriginal social malaise wrought by colonialism.[11] The degree that Aboriginal culture can be re-established is usually argued to depend upon the level

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[8]Council for Reconciliation (author, F. Brennan), *Agreeing on a Document: Will the Process of Reconciliation be Advanced by a Document or Documents of Reconciliation?*, Key Issue Paper no. 7, AGPS, Canberra, 1994, 36-7.

[9]G. Yunupingu, (Chairman of the Northern Lands Council), 'Why a Treaty?', in K. Baker ed., *A Treaty with the Aborigines?*, Institute of Public Affairs (IPA), Canberra, 1988, 11-12.

[10]J. T. Egan, 'The Moral Basis of Land Rights', in F. Brennan, J. Egan, and J. Honmer, *Finding Common Ground*, Dove Communications, Blackburn, 1984, 61, drawing on Justice A. E. Woodward, Chairman, *Second Report*, Aboriginal Land Rights Commission, AGPS, Canberra, 1974, 2; and P. O'Shane in D. Carne, *Land Rights: A Christian Perspective*, Alternative Publishing Co-op, Chippendale, 1980, 14.

[11]NRRCADC, Vol. 2, 105, quoting G. Turrell, J. Western and N. Williams, *Violent and self-destructive Behaviour Among Aborigines: The Cases of Barbara and Fay Yarrie*, RCAIADIC Exhibit QU115, 1990, 5.

of cultural destruction, social dislocation and westernisation experienced by Aboriginal groups and individuals. Nevertheless, policies to overcome Aboriginal disadvantage based on recognising rights arising from belonging to a discrete Aboriginal identity, are considered to be generally applicable. This position permeates such influential documents and structures as the NRRCADC[12], the Council for Reconciliation[13], the ATSIC Bill of 1988[14], ATSIC itself[15], as well as interpretations of the *Mabo* decision[16], and formal Aboriginal demands such as the Barunga statement.[17]

In these documents, there is a consensus that a continuation of white control over Aboriginal affairs, and a commonplace institutional failure to recognise special rights and needs arising from being indigenous people, are major causes of Aboriginal suffering today. The RCADC thus urged that mainstream institutions need to tailor practices to cultural difference, so that service delivery and outcomes are improved.[18] It also deemed that the employment of non-Aboriginal specialist staff is consistent with Aboriginal self-determination.

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[12]NRRCADC, especially chap. 19 and 20 in Vol. 2, chap. 27 in Vol. 4, chap. 37 and 38 in Vol. 5.

[13]Council for Reconciliation, *Key Issue Papers*, AGPS, Canberra, 1994, especially Paper 1, *Understanding Country...;* Paper 5, *Addressing Disadvantage...*; Paper 6, *Responding to Custody Levels...;* Paper 7, *Agreeing on a Document...*; and Paper 8, *Controlling Destinies....* (See Appendix to Chap. 3 for full titles).

[14]'The Preamble to the ATSIC Bill 1988', in K. Baker, Appendix 2, 48.

[15]See *Social Justice for Indigenous Australians 1993-4*, circulated by Hon R. Tickner MP, Minister for Aboriginal and Torres Strait Islander Affairs, AGPS, Canberra, 1993, 25-8.

[16]For example, Noel Pearson, 'Aboriginal Law and Colonial Law since Mabo', 155-9; and F. Brennan SJ, 'Constitutional Possibilities for Self-Determination for Aborigines and Torres Strait Islanders', 87-8; both in Fletcher.

[17]*The Barunga Statement*, in K. Baker, Appendix 2, 47. See also Council for Reconciliation, *Controlling Destinies: Greater Opportunities for Indigenous Australians*, Key Issue Paper 8, 23-31; G. Yunupingu.

[18]NRRCADC, Vol. 2, 160-1; and Vol. 4, 257-60.

However, the NRRCADC's following assertion goes beyond the tailoring of services to cultural difference:

> the resolution of the 'Aboriginal problem' has been beyond the capacity of non-Aboriginal policy-makers and bureaucrats. It is about time they left the stage to those who collectively know the problems at national and local levels; they know the solutions because they live with the problems.[19]

With this aim, the NRRCADC contains several recommendations for the reduction of white control of or involvement in Aboriginal policy and programs. Recommendation 192 is one example:

> (t)hat in the implementation of any policy or program which will particularly affect Aboriginal people the delivery of the program should, as a matter of preference, be made by such Aboriginal organisations as are appropriate....Where no appropriate Aboriginal organisation is available...then any agency of government delivering the service should, in consultation with appropriate Aboriginal organisations and communities, ensure that the processes to be adopted are appropriate to the needs of the Aboriginal people and communities receiving such services. Particular emphasis should be given to the employment of Aboriginal people by the agency in the delivery of such services and in the design and management of the process adopted by the agency.[20]

The RCADC further recommended a 'maximum devolution of power to the communities and organisations to determine the priorities for the allocation of (all their) funds'.[21] While it supported improved financial audits of Aboriginal programs, the RCADC argued that the different 'cultural orientation' of Aboriginal people may reduce the value of external monitoring of program priorities and outcomes, particularly when dealing with issues of 'cultural deprivation'.[22]

Under the heading 'Creating a Tribunal to Address Indigenous People's Rights to be Self-determining', a Council for Reconciliation Key Paper canvasses a set of options which, if implemented, could amount to the

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[19]NRRCADC, Vol. 4, 50; see also Vol. 2, 156-62 and 501; and Vol. 4, 21; and HRSCAA, *Our Future Ourselves*, 113.

[20]NRRCADC, Vol. 4, 29, Recommendation 192.

[21]Ibid., 21, Recommendation 191.

[22]Ibid., 28; also Vol. 2, 51. See also HRSCAA 1990, *Our Future Ourselves*, 59 and 93-6.

most significant devolution of non-Aboriginal, government influence upon Aboriginal policy, law, and practice:

> Aboriginal and Torres Strait Islander peoples may wish to call the executive arm of government to account before an independent tribunal for practices or policies inconsistent with the principle of self-determination. Our legislatures could be required by the Constitution to legislate subject to Aboriginal and Torres Strait Islander peoples' law in circumstances when all parties are indigenous, and consent to customary law prevailing. Our courts could be empowered to apply customary law when all parties including a victims' closest kin are Aboriginal or Torres Strait Islander, and agree to such law applying. Customary law could be best set down by indigenous community councils and applied by community courts.[23]

Defences for a 'Cultural Rights' Approach

From the perspective of those who support Aboriginal autonomy, Aboriginal social malaise is still at high levels because Australia's political and social institutions are failing to 'let go' of enough control over Aboriginal people's affairs, and hence Aboriginal autonomy is still a goal rather than a reality. One point of resistance arising from liberal-democracy is its interpretation of equal rights to mean that all people have the same needs for basic well-being. Hence, the notion of 'cultural rights', where an individual's well-being is contingent upon the continuation of their group culture even where that culture may have different, non-liberal ideas about human rights, poses a difficulty for liberal-democratic states.

There are, however, several related genres of defense arising within liberalism for the possibility of non-universality of some individual human rights. These genres all claim to be liberal because their arguments rest on another fundamental liberal goal, which is to maximise individual well-being. Proponents here claim that a universalising of rights which does not consider the cultural context of the individual can erode the well-being of individual minority members.

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[23]Council for Reconciliation, Key Issues Paper 7, 14.

One of these genres concerns the problem of designing, and entrenching in law, a universally applicable Bill of Rights into contexts where the population is characterised by group inequalities and cultural differences. The question that arises here for liberals concerns whether 'same-law' brings about 'same-effect' when applied to 'unequal plaintiffs'. This seems to be more a problem of procedure in how to apply universal human rights rather than a problem with a right *per se* being extended to all groups within a polity. In Australia, one resistance to the application of a Bill of Rights, which is essentially the shift of rights considerations from the legislature to the judiciary, concerns whether the judiciary is able to deliver justice by treating contextually unequals as equals in law. Law may be more concerned with equal application or procedure than a just outcome. For instance in the case of women's rights, '"equalising down" may prove to be a common outcome, eroding some of women's hard-won welfare gains.'[24] Indigenous minorities may be similarly vulnerable, as has been argued regarding the Canadian indigenous experience of the recently enacted Bill of Rights there.[25]

Australia does not yet have a Bill of Rights, nor any constitutional entrenchment of rights. Nevertheless, entrenched rights are an important issue within present official considerations of legal and constitutional reform, with implications for rights universality and Aboriginal victim rights. The Australian Law Reform Commission's (ALRC) Report on Aboriginal Customary Law recommends ways of reforming law so that injustice is not committed by the law's 'equal

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[24]Carol Bacchi and Vicky Marquis, 'Women and the Republic: "Rights" and wrongs', *Australian Feminist Studies* 19, Autumn 1994, 103.

[25]Will Kymlicka, *Liberalism, Community, and Culture*, Clarendon Press, Oxford, 1989, chap. 7, 8, and 9, especially 140-57.

treatment' principle. But government non-action on ALRC recommendations is generating fear within some Aboriginal groups that Australian rights considerations will continue to contain this 'same law' injustice for Aboriginal Australians.[26] In her discussion on this problem, Elizabeth Evatt proposes that rights guarantees can accommodate difference. In reference to the Mabo decision, she writes:

> ...the High Court has taken a significant step out of the past by holding that 'the common law of this country recognises a form of native title which, in cases where it has not been extinguished, reflect the entitlement of indigenous inhabitants, in accordance with their customs and laws, to their traditional lands.'...An influential factor in the decision was Australia's adherence to international rights standards. This is undoubtedly a ground-breaking decision, and it is to be hoped that this decision will further encourage the move to accord a proper place in Australian law to the customary laws of the indigenous people.[27]

The rights utility of using Evatt's argument here as a solution to the 'same treatment-unfair outcome' problem rests on its ability to improve the delivery of universal human rights to Aboriginal individuals, including Aboriginal victims of Aboriginal violence.

Another genre of liberal challenge to the universality of human rights concerns the liberal goal of maximising the well-being of individuals. Challenge arises when a significant component of individuals' well-being or self-esteem is believed to be derived from belonging to a minority group which is politically and geographically within a liberal-democratic polity, but its identity and viability depends on the maintenance of non-liberal principles. The rights specialist, Will Kymlicka, argues that it is not inconsistent with liberalism to bestow specialised 'minority rights' for 'distinct minority cultures', even if this entails some measures that seem to run against the liberal principle of

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[26]Elizabeth Evatt, 'Human Rights and Cultural Diversity', in P. Alston ed., *Towards and Australian Bill of Rights*, HREOC, CIPL, 1994, 104.

[27]Ibid., 104-5.

the universality of human rights to all individuals.[28] Indeed, he argues that it may be a fundamental liberal requirement to do so. This is because without such rights, the culture may collapse, thereby harming individuals who derive their well-being from belonging to the distinct cultural group.[29] Some form of 'consociational mode of incorporation' with the state may be necessary to protect the viability of minority cultures.[30]

The discourse surrounding this primarily concerns empirical matters about how to best identify and then secure well-being for individuals within minority cultures. There is a consensus within these discourses that the well-being of individuals is still paramount, because they recognise that individuals, not cultures, are the 'experiencers' of well-being.[31] Those that support at least some recognition of non-liberal aspects of minority cultures argue that the well-being of its individuals, their identity and their self-esteem, is dependent upon the viability of their culture.[32] It is generally understood in this perspective that

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[28]Kymlicka, 138-47.

[29]Ibid., 151-6.

[30]'Consociation' means that 'individuals are incorporated into the state, not 'universally' (i.e so that each individual citizen stands in the same direct relationship to the state) but 'consociationally' (i.e through membership in one or another of the cultural communities)': Ibid., 137.

[31]Although this is not always clear. For instance, Les Hoey writes 'The right of cultures to exist is of the same order as the right of individuals to exist': Les Hoey, 'The Right and Wrong of Land Rights', *Social Alternatives* 9(4), 1991, 41.

[32]See the following:
-Australian Law Reform Commission (ALRC), *Aboriginal Customary Law- A General Regime for Recognition*, conducted by J. Crawford, Commissioner, ALRC Research Paper 8, 1982;
-Frank Brennan SJ, 'Right reasons for Aboriginal land rights' in Frank Brennan, *Finding Common Ground*, Dove Publ., Blackburn, 1984, 18;
-Evatt, especially 85;
-Marc Gumbert, 'Paradigm lost: an analysis of anthropological models and their effect on Aboriginal land rights',*Oceania* 52(2) December 1981, 122;
-Kymlicka;
-NRRCADC, Vol. 2, 91 and 138-140.
-Ron Brunton also points to the NRRCADC, Vol. 3, p. 153, as an example of this. See his 'Black Suffering, White Guilt?: Aboriginal Disadvantage and the Royal Commission into Deaths in Custody', *Current Issues*, February 1993, 47.

cultures operate as organic wholes, and external interference in aspects of a culture may threaten the viability of the whole culture. Outside interference also upsets internal power structures, thereby disrupting the social relations and lines of respect on which the culture depends. Hence liberal-democratic states are obliged to implement special measures to preserve for minority cultures what the majority culture 'gets for free'.[33] These special measures may include consideration of non-liberal values and laws of and for minority cultures.

For liberals, other assumptions can further validate a 'cultural rights' position when applied to indigenous minorities as opposed to other minority groups such as migrants. Indigenous people did not freely choose to participate within the polity. Through violent colonisation they lost their sovereignty, and thus the liberal state is less legitimate to them. Liberalism today is inclined to recognise the injustice and inherent inequity in this, and seek to redress it through measures of land, cultural restoration and self-determination.[34] In Australia, this recognition has been enhanced by the realisation that Aboriginal people did not just hunt and gather, but fire-farmed the continent on grand scale, thus coming close to fulfilling the liberal Lockean precept for entitlement to the land.

Another related assumption is that, again unlike migrant and other minorities, indigenous minorities are regarded as fundamentally

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-*Social Justice for Indigenous Australians 1993-1994*, circulated by Hon. R. Tickner MP, Minister for Aboriginal Affairs, AGPS, Canberra, 1993, especially 21-4.
See also John Tomasi, 'Kymlicka, Liberalism, and Respect for Minority Cultures', *Ethics* 105, 1995, 580-603.

[33]See Kymlicka, chap. 9.

[34]For examples, see:
-NRRCADC, Vol. 5, chap. 38;
-*Social Justice for Aboriginal Australians*, 'Overview';
-Robert Tonkinson and Michael Howard, 'Aboriginal Autonomy in policy and practice', in Tonkinson and Howard, 68.

different from the rest of the polity,[35] with the development of cultural norms, community and identity predating the arrival of liberal-democratic society to their shores. They were functioning and viable polities before liberalism was introduced, and its introduction has detracted and continues to detract from, not add to, the well-being of individual members. The imposed polity does this by fracturing the belonging and identity of indigenous individuals suffering cultural loss.[36] Hence, the restored well-being of indigenous people is to be derived from a different source to that of the majority, and for strategies to be effective, it is necessary that policy makers pay heed to Aboriginal 'radical otherness'. Moreover, essential 'well-being' items are associated with indigenous rights to land that the liberal-democratic society has colonised, imbuing land rights that facilitate the practice of their culture, status for recognition within the liberal framework.[37]

This perspective assumes that pathologies such as a high rate of domestic violence are predominantly due to this fracturing or destruction of indigenous culture, identity, and access to land. Restoring Aboriginal culture is thus seen as a strategy to reducing Aboriginal domestic violence.[38]

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[35]Ron Brunton argues that 'radical otherness', is a concept that pervades the NRRCADC. See Brunton, 50.

[36]NRRCADC, Vol. 2, Chap. 10; W. E. H. Stanner, *White Man Got No Dreaming*, Australian National University Press, Canberra, 1979, 230-1, quoted in Brennan, 1984, 14-15.

[37]NRRCADC, Vol. 2, chap. 19;
-Hoey, 40-1;
-Brennan, 'Right Reasons...', 14-18.

[38] -Secretariat of National Aboriginal and Islander Child Care (SNAICC), *Through Black Eyes: a Handbook of Family Violence in Aboriginal and Torres Strait Islander Communites*, prepared by Maryanne Sam for SNAICC, 1992, 2.
-Kayleen Hazlehurst, *A Healing Place: Indigenous Visions for Personal Empowerment and Community Recovery*, Central Queensland University Press, Rockhampton, 1994, 24-5.
-QDVTF, *Beyond These Walls*, Report of the QDVTF, Department of Family Services and Welfare Housing, 1987, 255-68;
-NSWWCU, 'Report on Consultations with Aboriginal Communities', Discussion Paper no. 2 of the *NSW Domestic Violence Strategic Plan*, prepared by C. Thomas and ed. by F. Ellery for the NSWWCU, Haymarket, July 1991.

Self-determination as a central strategy against social pathologies resulting from colonialism is also commonly advocated, although there is a recognition that the present Aboriginal social and cultural malaise renders self-determination difficult to achieve. For example, while urging that Aboriginal self-determination is imperative, several documents discuss at length the internal barriers to self-determination. The NRRCADC contains a chapter on obstacles, many due to the internal social problems of Aboriginal population groups. It argues that ultimately, however, these are problems that only the Aboriginal people themselves can address:

> Government can transform the picture of Aboriginal affairs. But not so much by 'doing' things— more by letting go of the controls; letting Aboriginal people make the decisions which government now pretends they do make.[39]

In a Council for Reconciliation Key Paper, under the heading 'Giving Away the Grog' several authors including the Aboriginal Affairs consultant, Frank Brennan SJ, portray a non-romantic picture of the need to overcome the generalised social breakdown of Aboriginal communities before self-determination is a possibility.[40] Here, and in another paper by Brennan,[41] the limits of 'reinstating' customary law as a strategy for addressing Aboriginal social breakdown, including violence against women, are usefully explored. While they argue that

-J. Atkinson, ed., *Beyond Violence: Finding the Dream*, Canberra, the Aboriginal and Islander Sub-Program (AISP), National Domestic Violence Education Program (NDVEP), OSW, DPMC, 1990, 24, where the Incarcerated Persons Cultural Heritage Aboriginal Corporation (IPCHAC) program for perpetrators is outlined.
-South Australian policy makers have also implemented programs based on 'tradition' and 'healing', for Aboriginal perpetrators of domestic violence: PS 3, 1996.

[39]NRRCADC, Vol. 4, 50.

[40]Council for Reconciliation, 'Controlling Destinies...', 47-51. See also HRSCAA 1990, 131.

[41]Brennan 'Constitutional Possibilities...', 85-97.

self-determination is no panacea, there are no better alternatives.[42] Brennan argues:

> Imposed solutions will generate further alienation and despair. Government with and at the request of the local communities might keep in check needless(sic) violence and even remedy the causes embedded in a shattering colonial history.[43]

A common assumption in these perspectives is that Aboriginal men have taken on negative aspects of western male behaviours, while at the same time they have become disempowered by the colonial process. Drawing on the work of the Aboriginal scholar Judy Atkinson, Kayleen Hazlehurst writes:

> 'Spousal assault' is 'learned behaviour'. It was learned by Aboriginal people from the initial aggression of white occupation, and has since been transferred throughout the fabric of Aboriginal society over several generations of exposure to male-dominated colonial and paternalistic administrations. The violent and jealous behaviour of male partners, and their desperate need for dominance, has resulted in terrible mistreatment of Aboriginal women and children.[44]

Barriers to full indigenous participation as distinct cultures within the main polity and economy in the form of individual and institutionalised racism are seen as intensifying these pathologies, as these barriers further disempower Aboriginal people, and leave no space for the expression of the indigenous culture and identity that nurtures individual well-being.[45]

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[42] Council for Reconciliation, 'Controlling Destinies...', 53.

[43] Brennan 'Constitutional Possibilities...', 91.

[44] Hazlehurst, 24.

[45] Barbara Chambers and Jan Pettman, *Anti-racism: a Handbook for Adult Educators*, Human Rights Commission Education Series No. 1, Australian Government Publishing Service, Canberra, 1986, 7-8; -K. McConnochie, D. Hollinsworth, and J. Pettman, *Race and Racism in Australia*, Social Science Press, Wentworth Falls, 1988, especially diagram on p. 38.

Oppositions to Universal Rights 'Compromises'

The few critiques of present policy responses to Aboriginal domestic violence *per se* are nascent rather than definitive.[46] However there is a more developed critical analysis of assumptions underlying state responses to Aboriginal domestic violence.[47] Geoffrey Partington's critique of present day separatist policies is particularly significant, given his argument that a state retreat from the concept of universal human rights as well as a rise in Aboriginal domestic violence are both features of present separatist policies.[48] Brunton's critique of the NRRCADC is also pertinent, because the NRRCADC contains considerable implications for legal responses to Aboriginal domestic violence.[49] Together, these critiques proclaim several liberalist objections to universal rights compromises regarding one of Australia's indigenous minorities.

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[46]Audrey Bolger's book focusses on Aboriginal women and violence, but her analysis of state responses is also nascent. See Audrey Bolger, *Aboriginal Women and Violence*, Criminology Research Council and the Northern Territory Commissioner of Police, Australian National University North Australia Research Unit, Darwin, 1991, especially chap. 5-7. See also Lynn Savery's overall favorable review of this book. She comments that 'Bolger's exploration of the cultural relativism and human/women's rights debate, which she constantly alludes to, remains underdeveloped', in *Deakin University Newsletter* 5, March 1996, 7.

[47]Scholars who are critical of present Aboriginal policy tenets include David Pollard, Ron Brunton, John Hirst, and more recently, Geoffrey Partington.
-See also Kate Legge, 'Living two lives', *The Australian Magazine* September 3-4 1994, 20-27.
-In his analysis of endemic physically injurious behaviours among Kimberley Aboriginal groups, Ernest Hunter identifies the 'sharp transition from the paternalism of institutional life to the paternalism of welfare dependence' as a key cause. However, his critique of underlying policy tenets is restrained compared to Pollard and others. See Ernest Hunter, *Aboriginal Health and History: Power and Prejudice in Remote Australia*, Cambridge University Press, Cambridge, 1993, especially chap. 7 and 9. The quote here is on p. 284.
-Colin Tatz in 'Aboriginal violence: a return to pessimism' *Australian Journal of Social Issues* 25(4), November 1990, also notes with alarm a sharp difference between the promise and the reality of self-determining Aboriginal communities in terms of high domestic violence and other social pathologies. But here, Tatz writes more in despair than analysis.

[48]Geoffrey Partington, *Hasluck versus Coombs: White Politics and Australia's Aborigines*, Quaker's Hill Press, Sydney, 1996, especially chap. 10.

[49]Brunton.

Dilemmas for liberalism arise in the attempt to equate 'consociational' or 'group rights' with individual rights. This can be seen in the ALRC's deliberations concerning the recognition of Aboriginal customary law. Here,

> (t)he Commission concluded that there were special reasons justifying the application of customary laws to Aborigines. These reasons arose from the special situation of Aborigines in Australia, from the disadvantages and injustices flowing from non-recognition of their laws and from the special importance they attach to laws. Even so, in most situations where Aboriginal customary law was recognised, the Commission considered that care should be taken to preserve rights under the general law....[50]

> (While) 'the Commission concluded that a general customary law defence was not desirable, especially in cases of death or personal injury...it would be valid to allow a partial cultural defence, the effect of which would be to reduce a charge of murder to that of manslaughter[51]

when there was 'a well-founded belief' that customary law required that the act be undertaken.[52] This 'partial cultural defence' imperils the individual right to protection of the person, fundamental to liberalism. Michael Kirby, drawing on Strehlow's perspectives on the ALRC and customary recognition, points to a probable incompatibility between liberal principles and the protection of 'cultural rights':

> The point made by Strehlow...is this. (Violent) punishments are part and parcel of traditional Aboriginal law. Abolish them, remove the death sanction for sacrilege and spearing, fighting, and beating for other offences, and you undermine traditional law itself....
> This states a quandary for the enforcement of some at least of the customary laws of the Australian Aboriginal. Unless traditional punishments are countenanced the probable area of traditional law susceptible to modern day enforcement is severely narrowed.[53]

The cultural relativism contemplated by the ALRC above consists of specifically Aboriginal rights premised on cultural differences and defences and on a concern about Aboriginal group oppression by the white majority. A contemplation of cultural relativist responses to

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[50]Evatt, 83.

[51]Ibid., 93.

[52]Ibid., 94.

[53]M. D. Kirby, Hon. Mr. Justice, 'T. G. H. Strehlow and Aboriginal Customary Laws', *The Adelaide Law Review*, Vol. 7, 1980- 1981, 193.

traditional violent practices is also present in the SADVC.[54] One risk here is the possibility of dominant political forces within the minority group manipulating mainstream processes for their own rather than all group members' benefit. Mainstream processes subject to manipulation

include evaluations on the recognition of Aboriginal customary law. Some Aboriginal women for instance are claiming that this process provides for Aboriginal men the opportunity to construct new 'customary laws' to justify domestic violence against women. In the words of these women, there is 'tradition' and there is 'bullshit tradition'.[55] Moreover, some Aboriginal women argue that even where a law or general culture is traditional, it should not be recognised by mainstream law where it means a reduction in the individual rights of Aboriginal women to physical safety.[56]

There is criticism of the 'group rights' idea that rights arise from forceful possession. This criticism turns primarily on what implications the granting of such 'rights' have for today's indigenous people. Few would disagree that colonisation of indigenous lands was a forceful and destructive process. However, an unquestioned belief that Aboriginal people necessarily cannot benefit from acculturation nor want to become acculturated into the mainstream society that destroyed their

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[54]SADVC, *Domestic Violence, Report of the SADVC.* WAO, DPC, Adelaide, 1987, 23.

[55]Audrey Bolger, 50. A similar point is made by G. M. Eames QC, 'Aboriginal Homicide: Customary Law Defences or Customary Lawyers' Defences?', in H. Strang and S-A. Gerull, eds., *Homicide: Patterns, Prevention and Control*, AIC Conference Proceedings no. 17, 165. See also Maggie Brady, 'Alcohol use and its effect upon Aboriginal women', in J. Vernon ed., *Alcohol and Crime*, Australian Institute of Criminology (AIC) Conference Proceedings no. 1, Canberra, 1990, 135-48.

[56]Comments by Aboriginal women at the *Aboriginal Women's Issues Conference*, Department of State Aboriginal Affairs, Crystal Brook, 24-27 May, 1993.

culture is an ideology. Instead, Aboriginal people's experiences of and attitudes to acculturation should be treated as empirical questions.[57]

It is not necessarily the case that a majority of indigenous people in a particular locality see their well-being associated with the restoration of Aboriginal sovereignty or land rights, or any other form of alteration to their participation within the majority polity. This is particularly so for Aboriginal people no longer living within a traditional context who have lost their land and culture. David Pollard critically assesses the New South Wales Government's Keane Report, based on self-determination and land rights, as a response to Aboriginal poverty in that state. Within a few years following this Report's implementation in 1983, these assumptions came to be seen as defective, at least for the less traditional situation of Aboriginal people in New South Wales. There was a 'gradual perception that perhaps Aborigines do not want to be so different from the white community after all':[58]

> ...In New South Wales, Aborigines' aspirations do not differ much from those of non-Aborigines: work, housing, education, and membership of and participation in, the mainstream of New South Wales life.[59]

Opponents to 'fundamental difference' argue that this is a politically-driven ideology more than an empirically-based observation. 'Fundamental difference' is based on tenuous assumptions about today's indigenous peoples and also on rather romantic notions about the location and revivability of culture within human systems. John Hirst asserts:

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[57]David Pollard, *Give and Take: the Losing Battle in Aboriginal Poverty*, Hale and Iremonger, Sydney, 1988, 133.

[58]Ibid., 94.

[59]Ibid., 112.

> One thing is clear: the Aborigines in the country towns cannot return to a traditional culture. They are as far from that as we are from the medieval village. The oppositional culture they do have nurtures unemployment, drunkenness, crime and violence. This culture will have to disappear if the Aborigines are to live a richer and more fulfilling life, less damaging to themselves and others.[60]

Culture is largely a derivative of a particular mode of production.[61] While there is no directly determinist connection between a mode of production and culture, it is unrealistic to expect that most indigenous people can maintain a different culture that was embedded within, and made sense within, their pre-capitalist economy. Moreover in most localities, workable programs are more likely if posited on non-coercive integration and universalisation principles rather than on the principle of privileging cultural difference.[62] Problems arise when governments support an Aboriginal group's desire to stay in traditional or historical locations that they would otherwise abandon due to declining economic activity.[63] Some Aboriginal populations can survive in certain traditional or historically important locations only because of welfare funding, with a damaging 'recipient culture' a likely outcome. The resultant alienated lifestyle is fertile soil for domestic violence, and also mitigates against the work commitment needed by the Aboriginal population to tackle this and related social issues.[64]

The concept 'institutional racism' is challenged too. Proponents of 'fundamental difference' and 'cultural rights' argue that enabling Aboriginal cultural mores to flourish both within and outside

[60]John Hirst, 'Five Fallacies of Aboriginal Policy', *Quadrant* July-August 1994, 12.

[61] Ibid., p. 15. See also Brunton, 45-56.

[62]Pollard, 90; Brunton, 40.

[63]Pollard, 107-14.

[64]Hirst, 11-16. See also Partington, 143-5, where he draws on Tatz, 1990.

mainstream systems, in other words, the elimination of institutional racism by Aboriginalising services, would enhance Aboriginal success, general well-being, and effective service delivery. Opponents of this view state that this is based on a misunderstanding of culture. Cultural practices are not directly transferable from one mode of production to another. It may also be that the encouraged continuation of indigenous cultures that are maladaptive to capitalist settings is a root cause of Aboriginal suffering, rendering the notion of 'institutional racism' potentially damaging and, strangely, idealistic.[65]

Brunton argues that adherence to the concepts 'institutional racism' and 'fundamental difference' commit policymakers to a paradigm within which it is difficult to imagine causes of failure other than the white components of a service. Aboriginal policy recommendations tend to be limited to white institutional accommodations to indigenous cultures and the avoidance of blaming Aboriginal participants in any way for policy failures.[66] As such, attempts to avoid work place 'institutional racism' risk debilitating Aboriginal well-being by placing Aboriginal actors in passive mode regarding life chances. This may contribute to Aboriginal social malaise, including domestic violence, by taxing something possibly essential for well-being, which is achievement through personal endeavour.

For example, personal responsibility for inadequate work-place performance may be shifted onto the institution under the *aegis* of institutional or policy failure to adapt to or incorporate, Aboriginal culture, with the Aboriginal worker left unchallenged to improve

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[65]Brunton, 44-5; Hirst, especially 14; Pollard, 94-5.

[66]Brunton, 22.

performance. Furthermore, with neither the worker nor the work place encouraged to critically assess the worker's output, a compromise in the quality of Aboriginal services could result, thus further compromising Aboriginal well-being.[67]

Another premise of 'cultural rights' and the workability of self-determined programs is the assumed existence of community structure and orientation. The definition of community as 'sense of community...with ideas of social support, intimacy, and security'.[68] is assumed to apply to Aboriginal population groups, sharing much more than just locality. When applied to most Australian Aboriginal groups, this premise is claimed by opponents of cultural rights to be illusory. Whether or not Aboriginal people operated as a community before conquest, today the basic unit is usually the extended family.

Pollard asserts that Aboriginal program failure arises in part due to a 'community bias' in program structure. This structure cannot function given the present lack of Aboriginal community and both white and Aboriginal policymakers' failures to recognise Aboriginal groups' need 'to submerge factionalism in order to achieve potentially shared goals'.[69]

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[67]For related issues, see the following:
-Brunton's critique of NRRCADC assumptions, 45-6;
-Hirst, 14-15;
-Pollard, 94-5, especially P. M. Moodie quoted in Pollard here: P. M. Moodie, 'The Health Disadvantages of Aborigines' in *Racism: the Australian Experience*, 236, ed. F. S. Stevens, Australian and New Zealand Book Co., Sydney.

[68]*Collins Dictionary of Sociology*, 1991 ed., s.v. 'community'.

[69]Pollard, 118-19;
-see also Hirst, 14-15; and
-A-K. Eckerman, 'Cultural vacuum or cultural vitality?, *Australian Aboriginal Studies 1*, 1988, especially 35.

Another limit to the idea of 'Aboriginal community' concerns the extent that an Aboriginal population is a discrete group. Many indigenous people live amidst non-indigenous people, forming families, friendships and support networks between each other.[70] In 1980, nearly half of Aboriginal marriages in Adelaide were interracial.[71] The 1991 Census indicated that 52 percent of Australia's Aboriginal households 'had non-Aboriginal people present'.[72] These inter-racial formations seem to contradict the 'fundamental difference' or 'discrete indigenous community' tenets that 'cultural', 'group rights' depend upon. Arguments for separate or specialised services for indigenous people are not strongly supported here.[73] Furthermore, emphasis on Aboriginality as difference could have negative implications for Aboriginal individuals in mixed race households whose well-being may depend primarily on recognising and nurturing interracial commonality.

The 'group rights' justifying premise that pathologies endured by indigenous people including domestic violence are due primarily to colonisation, has been criticised on the grounds that it is not supported by the empirical evidence. The premise arises, in part, from an assumption that long-lasting, ecologically viable societies necessarily had

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[70]See Pollard, 80.

[71]Fay Gale and Joy Wundersitz, *Adelaide Aborigines: a case study of urban life 1966-1981*, The Aboriginal Component of Economic Life Series, Development Studies Centre, Australian National University, Canberra, 37. Based on personal communication with Aboriginal people during 1993, Aboriginal interracial marriage in Adelaide remains commonplace.

[72]Chris Brice, 'Aboriginal and Islander Households', *The Advertiser*, February 8, 1994, 19.

[73]Indeed, 'group rights' can result in children of differing race within the same family receiving differing access to Aboriginal services, with impacts on internal family relationships. Pers. comm. with Aboriginal community worker, Adelaide, during 1993.

a benign human culture. However, there is no evidence to support the idea that a human society's viability necessarily depends upon sound human rights. To assume such a connection is to engage in reductionism. Cross-cultural research across the globe suggests that viable indigenous societies were not necessarily peaceful systems that maximised the well-being of their members and could manage conflict effectively.[74] There is no denial here that colonising states and societies inflicted suffering and resultant pathologies onto indigenous people. Nor can it be extrapolated from existing studies that all Australian Aboriginal groups were violent. Rather, past and recent anthropological studies indicate that violence, including domestic violence, was far from a rarity among pre-contact, including Australian, indigenous societies.[75] Hence there are no grounds for a confident assertion that domestic violence was insignificant across pre-contact Australia. Indeed, there are

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[74]See Robert B. Edgerton, *Sick Societies: Challenging the Myth of Primitive Harmony*, The Free Press, New York, 1992. See also Robert Tonkinson, 'The Changing Status of Aboriginal Women: 'free agents at Jigalong', in *Going it Alone: Prospects for Aboriginal Autonomy, Essays in Honor of Ronald and Catherine Berndt*, ed. Robert Tonkinson and Michael Howard, Aboriginal Studies Press (ASP), Canberra, 1990, *passim*, especially 141-5.

[75]For examples, see the following:
-Daisy Bates, *The Native Tribes of Western Australia* (1901-1914), ed. Isobel White, National Library of Australia, Canberra, 1985, 120-121, 129, 131-132, 144, 145;
-Ronald M. Berndt and Catherine H. Berndt, *The World of the First Australians: an introduction to the traditional life of the Australian Aborigines*, Ure Smith, Sydney, 1964, 136, 159, 160, 166, 170-171, 173-8;
-Gillian Cowlishaw, 'Infanticide in Aboriginal Australia', *Oceania* 4, June 1978, 262-283;
-Gillian Cowlishaw, 'Socialisation and Subordination among Australian Aborigines', in *Man* 17 (3), September 1982, 492-507, especially pp. 498-499. Cowlishaw's articles, while drawing on past anthropological and other studies, focuses primarily on contemporary 'traditional' Aboriginal groups. In a footnote to her 1982 article, she writes: 'I would argue that the interpersonal relations evident in such things as child rearing practices cannot be understood simply as elements in the present context of Aboriginal social life. They can only be explained as having developed in an earlier phase of Aboriginal social history', 506.
-M. D. Kirby, 172-99.
-David McKnight, 'Fighting in an Aboriginal Supercamp', in *The Anthropology of Violence*, ed. David Riches, Basil Blackwell, Oxford, 1986, especially 146;
-T. G. H. Strehlow, *Songs of Central Australia*, Angus and Robertson, Sydney, 1971, quoted in Katherine S. Strehlow, *The Operation of Fear in Traditional Aboriginal Society in Central Australia,* The Strehlow Research Foundation, Prospect, 1984, 27;
-W. Lloyd. Warner, *A Black Civilisation: a social study of an Australian tribe* [revised], Harper, U.S.A., 1937(1958), 27-8, 129-30, 155-76.
See also Partington, including a comment on this issue made by Henry Reynolds: Partington, 134.

reports that some early white homesteads in the Pilbara provided a refuge for Aboriginal women escaping from traditional domestic violence.[76] Daisy Bates also relates that white man's law was by the early 1900s or 1910s preventing revenge murders for broken betrothal promises, an apparently commonplace traditional murder in the Gascoyne region of Western Australia.[77]

One concern here is that allocation of blame for Aboriginal domestic violence entirely onto the colonising process is not only unwarranted, but could reduce Aboriginal responsibility for the issue. Jock McLaren, a psychiatrist working amongst Aboriginal people in the Kimberley, is 'convinced' that

> white guilt is actually harming Aborigines because it is preventing them from taking charge of their own lives....His conclusion is there is a simple reason why widespread violence now exists in Aboriginal society. Aboriginal society was always violent.[78]

The universality or otherwise of this 'responsibility' factor is crucial to arguments about principles underlying Aboriginal perpetrator programs. Partington argues that the 'determination that all Aboriginal men must be seen as victims' is a central cause of '(t)he refusal to help Aboriginal women subjected to violence'.[79] One Australian specialist's approach to perpetrator therapy implies that owning responsibility is a universal necessity. While not addressing non-Western cultural contexts

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[76]Tonkinson, 'The Changing status...', 129. Burbank also refers to Tonkinson Ibid., as well as A. Hamilton, 'A complex strategical situation: gender and power in Aboriginal Australia, in *Australian Women: Feminist Perspectives*, ed. N. Grieve and P. Grimshaw, Oxford University Press, Melbourne, 1981, 69-85, to explore a similar point. See V. K. Burbank, *Fighting Women: Anger and Aggression in Aboriginal Australia*, University of California Press, Berkeley, 1994, 22.

[77]Bates, 124.

[78]Margaret Harris, 'Black Violence: why whites should not feel so guilty', *Sydney Morning Herald*, February 16, 1991, 37.

[79]Partington, 137.

per se, his principle tenet is that strategies which externalise blame for a man's violence are counterproductive to successful therapy:

> I have found causal explanations of abuse, and the search to discover them, to be highly restraining for men in taking responsibility for abusive behaviour....(C)ausal theories often relate to parameters of cultural structures and traditions, developmental backgrounds, relationship patterns and patterns of individual thinking and behaviour which are helpful in understanding and intervention in abuse, when considered...as restraints to responsibility rather than causes of abusive behaviour. The more restraints that are active, the less likely the man is to take responsibility.[80]

Aboriginal denial of responsibility for violence could be one reason for the dearth of Aboriginal professionals engaging with the problem, the opposite effect that proponents of self-determination would advocate. It could also encourage under-tested 'traditional' preventative strategies such as homelands[81] and spiritual healing, by idealising rather than critically assessing the traditional.[82] The risk here is that Aboriginal victims and perpetrators are not referred to mainstream-located, professionally-validated interpretations and solutions to social and physical pathologies, and instead, placed in indigenous programs based more on idealism than efficacy.

Conclusion

Australian policy makers of today resist assimilationist strategies.[83] Past mistakes of the Protection and Assimilation regimes intensify this resistance. Instead, policy-makers tend either to directly support, or claim no mandate to interfere with, Aboriginal programs that are based

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[80]Alan Jenkins, *Invitations to Responsibility: the therapeutic engagement of men who are violent and abusive*, Dulwich Centre Publ., Adelaide, 1990, 56.

[81]House of Representatives Standing Committee on Aboriginal Affairs (HRSCAA), *Return to Country: the Aboriginal Homelands Movement in Australia*, AGPS, Canberra, March 1987, 14-15.

[82]See Brunton, 49.

[83]For example see:
-NRRCADC, Vol 2, chap. 20 and 38;
-*Social Justice...*, 1.

on the idea of restoring of indigenous individuals' well-being through self-determined structures. Cultural restoration, sometimes called spiritual healing, is similarly endorsed. Responses to Aboriginal domestic violence are among these programs.[84] A central axiom here is that colonial-induced malaise is the root cause of Aboriginal domestic violence, and so unless cultural rights are granted, domestic violence will remain at high levels.

Freedom from domestic violence and access to adequate protection remains a non-contingent universal right within a liberal polity, because subjection to violence is considered self-evidently incompatible with individual well-being. Hence, 'consociational' approaches to rights[85], where the cultural group is positioned between the state and the group's individual members, is compatible, where 'consociation' reduces or does not exacerbate Aboriginal domestic violence rates, and where it assists, or does not compromise, measures to prevent domestic violence and secure victim safety.

Debates about Aboriginal domestic violence within the Australian liberal-democratic context are largely limited to a polemic between those committed to present policy principles based on cultural rights, and opponents to the concept of 'cultural rights'. Those who urge that the state should follow a 'hands-off' approach to Aboriginal domestic violence derive their position from assumptions about the nexus between traditional culture and Aboriginal well-being. These assumptions

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[84]For instance, the ATSIC-backed South Australian Family Violence Intervention Program (FVIP) Team (from 1994, known as the Family Training, Education, and Resource Centre-FTEARC), is the principal training program concerning Aboriginal domestic violence intervention in the state. Its Information Sheet *circa* 1993 includes the following statement:'[t]he central feature of the training will be Aboriginal Culture and Spirituality with an emphasis on contemporary issues and healing the spirit', FVIP Information Sheet 1993(?). See also Hazlehurst, especially 140-2.

[85]See Kymlicka, 137.

underpin state Aboriginal policy in general, and are reinforced by the publication of the NRRCADC. This position contains two strands. The first is that only by recognising 'cultural rights' of minority group members can the maximisation of their individual rights in standard liberal terms be met. The second is that, for the well-being of individual group members, cultural practices belonging to the minority group warrant recognition *per se*, and this may require the non-extension of rights principles hitherto regarded as universal.

Oppositions to these assumptions stem primarily from arguments that responses based on 'cultural rights' are not enhancing Aboriginal individual nor group social and physical well-being. Opponents reject assumptions surrounding 'cultural rights' because they are deemed false, or because they are given 'politically beyond challenge' status which precludes assessment of their impacts and inhibits exploration of other effective responses, including responses to Aboriginal domestic violence. The cultural rights approach to Aboriginal policy-making is thus argued to inhibit rather than enhance the state's ability to deliver universal human rights. The following chapter's examination of policy responses to Aboriginal domestic violence raises more questions surrounding whether more white intervention is needed, or whether 'leaving it in Aboriginal hands' is the more workable approach.

4

A Survey of State Responses to Domestic Violence Occurring Among Aboriginal South Australians

Introduction

While a location study is the main focal point of this thesis, an Aboriginal population in any South Australian place is subjected to federal and state-level policies and laws. This chapter surveys the development of policy and legal responses to Aboriginal domestic violence in Australia and South Australia, with some emphasis on principles underlying these responses. It also surveys the presence of the principle, 'cultural rights', within Aboriginal domestic violence policymaking.

Liberalism and Aboriginal domestic violence

During the 1960s and 1970s, C. B. Macpherson noted that liberalism has a fundamental philosophical problem concerning the status of wage workers' person and property rights within a capitalist economy. In the 1980s, Carol Pateman pointed to liberalism's failure to solve philosophically or in practice women's loss of citizenship on entering a marriage contract, due to liberalism's blurring of 'freedom and subjection'.[1] This 1990s thesis explores another philosophical and practical difficulty for liberalism regarding human rights application,

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[1]Carol Pateman, *The Sexual Contract*, Polity Press, Cambridge, 1988, 232.

which is the extension of the universal human right to physical safety in the context of claims for cultural rights.

Domestic violence within Australia's Aboriginal citizenry is in the formal sense equally amenable to political and legislative solution as non-Aboriginal domestic violence. The validity of this statement does not depend on the dynamics of Aboriginal domestic violence. Rather, its validity is located in the fact of Aboriginal citizenship within liberal-democratic Australia, and liberal-democracy's obligation to afford protection of the person to all its citizenry. The liberal-democratic state also seeks to extend cultural rights and rights to self-determination including self-managed services and places to its Aboriginal citizenry. The problem for a liberal-democratic state is whether the granting of these specialist indigenous rights is an essential component of, or instead, in some measure incompatible with, its obligations to protect Aboriginal citizens' universal human rights, such as the right to protection from physical assault.

Policy responses to Aboriginal domestic violence occur in the context of Australian liberal-democratic states' contemporary perception of domestic violence as a serious public policy issue. They also occur in the context of changing relations between Aboriginal people and the state, and different, Aboriginal perspectives on domestic violence and policy responses.

The higher rate and more serious nature of domestic violence among Aboriginal Australians has been noted since the early days of contemporary domestic violence policy development.[2] Emphasis on

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[2]For example:
-WATFDV, *Break the Silence*, Report of the WATFDV, Perth, 1986, 285-300;
-J. Atkinson, ed., *Beyond Violence: Finding the Dream*, ed. J. Atkinson, for the Aboriginal and Islander Sub-program, NDVEP, OSW, DPMC, Canberra, 1990.

Aboriginal domestic violence as being different, within a different social and cultural setting and thus needing specialised responses, has also been an ever-present factor. In reference to the effectiveness of 1980s reforms addressing Aboriginal domestic violence, South Australia's DVPC-DVPU Audit of 1992 signals a note of alarm:

> While the establishment of Nunga Miminis (the Adelaide-based Aboriginal Women's Shelter) is a welcome initiative, the prevalence and seriousness of domestic violence within the Aboriginal community continues to be a major problem. Additional responses are required if there is going to be a halt to the further disintegration of the Aboriginal community and culture.[3]

A 1995 unpublished report commissioned by the same Unit again notes the high rate of domestic violence among Aboriginal South Australians, and the lack of data collection which could assist policy on this phenomenon.[4] A survey of policy responses to Aboriginal domestic violence suggests that there is a tension between the officially acknowledged need for more adequate responses, and a lack of either political will or knowledges concerning what constitutes effective responses. This problem is more evident on the domestic violence policy-making level of the state government, compared to the domestic violence policy-parameter level of the federal government.

-P. Easteal, *Killing the Beloved: Homicide Between Sexual Intimates*, Australian Studies in Law, Crime and Justice, AIC, Canberra, 1993, 46-7;

-H. Strang, 'Characteristics of Homicide in Australia 1990-91', in H. Strang and S-A. Gerull ed., *Homicide: Patterns, Prevention and Control*, Conference Proceedings no. 17, AIC, Canberra, 1993, 9 and 17.

-See also S. Egger, 'Preface: An Overview of Violence in Australia', in D. Chappell and S. Egger, ed., *Australian Violence: Contemporary Prespectives*, AIC, Canberra, 1995, xxvii, where other references to Aboriginal violence rates are given.

[3]DVPC and DVPU, *Audit of the Progress in Implementation of Domestic Violence Council Report 1987*, Adelaide, 1992, 29.

[4]Office for Families (OFF), *A Preface to Planning: Results of the Domestic Violence Resource Unit's Statistics Project*, (draft, unpublished), prepared by R. Nechvoglod for OFF, Adelaide, July 1995, 14 and 37-8.

Domestic violence: a cross-cultural phenomenon

International and national awareness of domestic violence as a cross-cultural phenomenon emerged during the 1980s. Within relevant UN bodies particularly CEDAW, there is general agreement that globally, women's lack of equal status to men is a fundamental component of male violence against women. The UN recognises that domestic violence is a problem in need of concerted action in all cultures:

> Violence against women in the family has thus been recognised as a priority area for international and national action. It is an issue that affects all countries and all cultures. All the research evidence that is available suggests that violence against women in the home is a universal problem'.[5]

While competing cultural and religious rights claims on this international level cut across the UN commitment to eliminate domestic violence, these seem to have been, formally at least, overcome in the UN 1993 Declaration on the Elimination of Violence Against Women. Australia as signatory to CEDAW is internationally committed to addressing domestic violence occurring among all its citizenry regardless of race or culture. Thus Australia has a formal international obligation to effectively address Aboriginal domestic violence.

Before the late 1980s, there was no concerted federal or state policy response specific to Aboriginal domestic violence. Most state and community-level interpretations and responses to Aboriginal violence were shaped by the linking of this violence to post-colonial alcohol 'misuse' by Aboriginal people. This consensus has meant that most programs that address Aboriginal domestic violence across Australia were to be found within this setting. The effectiveness of these interventions became subject to study in 1994 by the National

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[5]UN Office at Vienna, Centre for Social Development and Humanitarian Affairs, *Violence Against Women in the Family*, New York, 1989, 4.

Symposium on Alcohol Misuse and Violence. This study concludes that 'the part played by alcohol in family violence is a matter of controversy.'[6] It refers to Aboriginal writer Judy Atkinson's comments on family violence. She argues that family violence is 'a related but distinct problem' (from alcohol abuse), and so requires specific responses.[7]

In the context of the growing mainstream concern during the 1980s about domestic violence in all sectors of Australian society, federal, New South Wales, Queensland, Northern Territory, South Australia, and Western Australia domestic violence reports identified the need for specialised responses to Aboriginal domestic violence.[8] Also during the late 1980s and early 1990s, events took place that signalled an emergent Aboriginal concern about domestic violence, and led to an increase in public and government awareness of the seriousness of this violence. In 1989, Secretariat of National Aboriginal and Islander Child Care (SNAICC) held a conference on domestic violence in Aboriginal 'Communities'. This resulted in SNAICC's publication of its ATSIC-financed handbook on Aboriginal domestic violence, *Through Black Eyes*, in 1991.[9]

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[6]P. d'Abbs, E. Hunter, J. Reser, and D. Martin, *Alcohol-related Violence in Aboriginal and Torres Strait Islander Communities: a Literature Review,* Report 8 of the National Symposium on Alcohol Misuse and Violence, hosted by the Department of Human Health and Services, 145.

[7]Ibid., 146.

[8]-WATFDV, 285-300;
-QDVTF, *Beyond These Walls,* Report of the QDVTF, Department of Family Services and Welfare Housing, 1987, 255-68;
-Elliott and Shanahan Associates, *Domestic Violence in Australia,* conducted by Elliott and Shanahan Research for the OSW, DPMC, Elliott and Shanahan Research, Sydney, 1988, 32-33, 113;
-SADVC, *Domestic Violence: Report of the SADVC,* WAO, DPC, Adelaide, 1987, 22-9;
-Audrey Bolger, *Aboriginal Women and Violence,* Criminology Research Council and the Northern Territory Commissioner of Police, ANU North Australia Research Unit, Darwin, 1991;
-NSWDVC, 'Report on Consultations with Aboriginal Communities', Discussion Paper no. 2 of the *NSW Domestic Violence Strategic Plan,* prepared by C. Thomas and ed. by F. Ellery, NSWWCU, Haymarket, July 1991.

[9]SNAICC, *Through Black Eyes: a Handbook of Family Violence in Aboriginal and Torres Strait Islander Communities,* prepared by M. Sam for SNAICC, 1992.

The publication and wide dissemination of the federal government-funded booklet on Aboriginal domestic violence, *Beyond Violence: Finding the Dream,* brought to national public attention the high levels of domestic violence among Aboriginal Australians.[10] The National Committee on Violence 1990 Report's address of issues relating to Aboriginal domestic violence had a direct effect on policy, leading to the establishment by the Federal Attorney General of the Family Violence Intervention Program (FVIP) in 1991.[11] This was the first specialised national-level response to Aboriginal domestic violence. This program is staffed in each state by 2 to 8 Aboriginal professionals whose task is to raise professional and Aboriginal community awareness about Aboriginal domestic violence. The FVIP's effectiveness is reported to have been limited by tardy support from its management body, Aboriginal and Torres Strait Islander Commission (ATSIC), and inadequate funding as well.[12]

At this time too, mainstream federal bodies acknowledged the need for specific responses so that Aboriginal women gain adequate protection from physical assault. In its *National Strategy on Violence Against Women*, the NCVAW listed directions for action by 'all governments in Australia' that have relevance to Aboriginal women. In particular, the strategy called for provision of adequate emergency and other resources

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[10]Atkinson, Figures from various references, in this handbook:
'-Aboriginal women were victims of 79% of all chargeable homicides in the Northern Territory in 1987.
- for every one white death in the NT ten Aboriginal people die from family fighting.
-53% of our men who died in prison cells over the last ten years were there because of acts of violence...more women have died through violence than all the deaths in custody in two states.' (p. 13)

[11]Pers. comm. with an FVIP worker, August 1993.
-See also National Agenda for Women, *Implementation Report*, OSW, DPMC, September 1992, 115 and 137.

[12]Pers. comm., Ibid.

to women with special needs such as Aboriginal women.[13] The Attorney General's 1995 *Justice Statement* announced new funding for services addressing domestic violence. It made no direct mention of Aboriginal domestic violence, even under headings such as 'Families', 'National Women's Justice Strategy', 'Resolving Disputes', and 'Human Rights (sub-section: Aboriginal and Torres Strait Islander Peoples)'. It did, however, recognise shortcomings in existing legal services, including Aboriginal legal services, in meeting the needs of Aboriginal women, and proposes to spend $5 million over four years to establish specialised legal services for Australia's indigenous women.[14] The Statement claimed that

> (t)his will be particularly important in cases where both parties to a dispute seek assistance from Aboriginal Legal Services, giving rise to conflicts of interest for those services. In other cases, such as sexual assault or in matters where evidence involves cultural or religious matters that are exclusively the province of women, Aboriginal and Torres Strait Islander women may prefer to consult a women's service.[15]

Given liberal-democratic standards concerning legal representation, it might be reasonably expected that Aboriginal Legal Services should not experience a conflict of interest when dealing with an intra-Aboriginal dispute such as domestic violence. Nevertheless, the proposed establishment of Aboriginal women's legal services is a valid attempt at minimising cultural and structural barriers to providing effective legal responses for Aboriginal women.

By the early 1990s, the UN managed to give priority to women's rights to freedom from violence above cultural and religious rights in its

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[13]NCVAW, *National Strategy on Violence Against Women*, OSW, DPMC, Canberra, October 1992, 28. See also, 'Aboriginal and Torres Strait Islander Women', in NCVAW's *The Effectiveness of Protection Orders in Australian Jurisdictions*, prepared by S. Egger and J. Stubbs for the NCVAW, OSW, DPMC, AGPS, Canberra, 1993, 42-7.

[14]Attorney General's Department, *The Justice Statement*, Office of Legal Information and Publishing, Canberra, 1995, 81.

[15]Ibid.

Declaration on Violence Against Women.[16] In Australia, the NCVAW argued that it is the responsibility of states to act on Aboriginal domestic violence. The NCVAW also made no mention of other rights that counter the obligation of states to act against Aboriginal domestic violence.[17] A concerted Aboriginal public expression of concern about domestic violence emerged at this time as well. It is reasonably expected that these trends would condition state-level governments to a committed program of effective responses to domestic violence among Aboriginal Australians. However, a difference between official Aboriginal and mainstream responses to domestic violence is detectable on this national level of policy-making. In its 1992 Position Paper, the NCVAW argued that

> (v)iolence against women needs to be dealt with as a crime. Any intervention must occur in a context which is consistent with the existing legislation relating to criminal assault'.[18]

SNAICC's position was a more reluctant one. Its 'Look at the Law' portrays Aboriginal concerns, 'for all the obvious reasons', to keep Aboriginal men out of the legal system. Thus, while SNAICC urges that Aboriginal women receive more protection, criminal charges are seen as a last resort: '(a)lthough we do not advocate this, criminal charges remain some of our women's only choice'.[19]

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[16]Hilary Charlesworth, 'The Draft Declaration on Violence Against Women', *Human Rights Defender*, 2 (4), August 1993, 3.

[17]NCVAW, *National Strategy...*,23 and 28.

[18]NCVAW, *Position Paper*, OSW, DPMC, AGPS, 1992, 11. This position was reiterated by the Federal Coalition in its policy platform regarding indigenous Australians. The statement on family violence in Aboriginal communities includes the following: 'A Coalition Government will work with the State/Territories to ensure that all communities are aware of the unacceptability of family violence and know that the full force of law will be brought to bear on the perpetrators of family violence': Liberal/National Coalition, *Aboriginal and Torres Strait Islander Affairs*, 1996 Australian Election Campaign, 1996, 21.

[19]SNAICC, 37-8. Partington notes the pressure on Aboriginal women not to have Aboriginal perpetrators charged and arrested: G. Partington, *Hasluck versus Coombs: White Politics and Australia's Aborigines*, Quakers Hill Press, Sydney, 1996, 137.

South Australian Responses to Aboriginal Domestic Violence

Prior to the 1987 SADVC Report, there was little public focus on domestic violence among Aboriginal South Australians. The South Australian Police Department implemented the Aboriginal Police Aide scheme in the mid 1980s. Some indigenous women saw this as 'offering hope for increased protection and remedy to women'.[20] The 1979 South Australian Customary Law Committee's consideration of customary law recognition attracted the attention of the ALRC, which raised concerns that such recognition could jeopardise the rights of Aboriginal women victims, thereby depriving them of 'equal protection under the law'.[21]

Besides these developments, there were no shelters catering specifically for Aboriginal victims, no official recognition of the prevalence of Aboriginal domestic violence, and no enquiries into the implications of victims' or perpetrators' Aboriginality regarding the appropriateness of legal and policy responses to domestic violence.[22]

The Report of the South Australian Domestic Violence Council, 1987

The SADVC adopted a multicultural approach to the development of recommendations in its 1987 report, in recognition that there are particular difficulties in providing effective responses to domestic violence among migrant, Aboriginal, and geographically isolated women. In this policy-establishing report, different principles are emphasised for these groups. In particular, while it urges that 'cultural difference' should

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[20]SADVC, 28.

[21]ALRC, *Aboriginal Customary Law The Criminal Law, Evidence and Procedure*, conducted by J. Crawford, Commissioner, for the ALRC, DP 20, Sydney, 1984, 15.

[22]In 1986, as part of the SADVC enquiry, the SADVC's Aboriginal Task Force and the Women's Advisor to the Premier commenced discussions with Aboriginal women in remote areas to obtain their views on strategies to deal with domestic violence: SADVC, 28.

never excuse domestic violence among migrant groups, the emphasis on Aboriginal consultation and recognition of traditional practices, produces a more cautious set of recommendations.[23]

20 recommendations emerged from consultations with the SADVC Aboriginal Task Force (AFT) and discussions with Aboriginal people [24] These recommendations reflect the predominantly Aboriginal female membership (9 women, 1 man) of the ATF. Indeed, an underlying principle of the ATF recommendations is that economic independence for Aboriginal women is an essential enabling factor for escaping a violent partner.[25] This suggests that a prominent Aboriginal female interpretation of domestic violence is akin to mainstream interpretations, such as those of Pateman, and O'Donnell and Saville.[26] Moreover, 17 recommendations concern improving the financial, housing, safety, education, and other welfare needs of Aboriginal women and children affected by domestic violence.

The Aboriginal Task Force also suggested that both Aboriginal male and female disempowerment exacerbates domestic violence. However, there are no recommendations that touch on addressing the life issues of Aboriginal men that may be exacerbating their violence. This includes the issue of Aboriginal employment. In one preamble, it states:

> Aboriginal women have benefitted from interaction within the wider community through their children and the education system, whereas the same opportunities have not presented themselves to Aboriginal males.
> Aboriginal women appear not to be dependent on their male partners financially.
> ...The imbalance of power, on a reverse basis, may be a contributing factor requiring consideration in domestic violence.[27]

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[23] SADVC, 15-32.

[24] For these twenty recommendations, see Appendix to Chap. 4, A.

[25] SADVC, 26.

[26] As discussed in Chap. 1 of this thesis.

[27] SADVC, 24.

Despite this, there is only a recommendation to improve Aboriginal female employment, proposed as an essential enhancer of Aboriginal women's ability to escape domestic violence.[28] While this is a reasonable recommendation in itself, the Aboriginal Task Force also acknowledged that Aboriginal women are already financially independent from their male partners, and reflection of this Task Force's concern for Aboriginal men remains restricted to a recommendation aimed at reducing male imprisonment. This may be a sign of an Aboriginal gender power struggle, where women resist services that may restore male status, even though male status loss was identified as a contributor to domestic violence.[29] Alternatively, it may signal a concern that increasing Aboriginal male status may be ineffective in reducing domestic violence.

Notwithstanding the above discussion, the recommendations themselves appear overall to be practical, prosaic and non-controversial, when read out of context of their preambles. When focus is shifted to principles embedded within the preambles, a philosophical dilemma for liberal-democracy becomes detectable. Some principles allow for a compromise of the fundamental liberal tenet that the right to protection from physical assault is a universal right.[30]

One principle, that domestic violence among Aboriginal South Australians is an issue requiring action to reduce suffering, is self-evidently compatible with the universality of this right.[31]

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[28]Recommendation 24, see Appendix to Chap. 4, A.

[29]SADVC, 23-4.

[30]These principles are listed in approximate order of increasing possible conflict with universal rights.

[31]SADVC, 22. This is a general principle, not earmarked by the SADVC to any specific recommendation.

A second principle is that Aboriginal women and children require improved quality and access to a comprehensive range of services aimed at enhancing their safety, welfare, and independence. This contains no challenge to the universalisation of rights. Its description of difficult circumstances endured by Aboriginal women, is intended to commit the state to broad strategies aimed at enhancing their safety. It documents that changing financial needs, family support networks particularly in relation to child-rearing, and gender power relations are increasing Aboriginal women's vulnerability to domestic violence. Many recommendations reflect this principle, with their goal of securing access to comprehensive support services for Aboriginal women and children affected by domestic violence.[32]

A third principle, that recommendations should reflect Aboriginal diversity in location and opinion, may have compatible pragmatic aspects, but also carries with it the risk of privileging opinion over the concept of unconditional rights.[33]

A fourth principle is that Aboriginal men have suffered more than Aboriginal women through colonisation.[34] The resultant loss of male status and responsibility, and the emergence of Aboriginal female financial independence, may be contributing to domestic violence. There are no recommendations that address this issue. The preamble for legal reform somewhat reflects this fourth principle, but signifies possible gender tension in rights demands. There is a call for more effective restraint orders and for less onus on victims to initiate them. There is also a call for the perpetrator, rather than the victim, to be accommodated

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[32]Ibid., 24. See Appendix to Chap. 4, A, (Recommendations 7-24).

[33]SADVC , Ibid.

[34]Ibid., 23-4.

away from the family home. At the same time, there is resistance to increased police powers of home entry in cases of domestic violence. Furthermore, imprisonment for perpetrators was considered by the Aboriginal Task Force to be 'not an option', when 'the perpetrator is charged by Police as a result of an assault occurring from domestic violence'.[35] It is in this context that the following apparently prosaic recommendation arises:

> 25. A Community Services Order Program should be established for Aborigines with the focus on maintenance of Aboriginal homes and gardens.[36]

A fifth principle is that equity of service requires consideration of societal and cultural difference. In particular, 'Aboriginal people are reluctant to use services established by non-Aboriginal people and which do not employ Aboriginal staff'.[37] For this principle to be compatible with universal rights, any prescriptive recommendation such as the need for more Aboriginal- personneled services needs to be empirically-based in terms of victim safety, and not based on a presumption that Aboriginal-personneled services are, beyond question, better for Aboriginal clients.

A sixth principle contains the greatest challenge to the idea of a universal right to physical safety. It maintains that in describing and responding to domestic violence within Aboriginal communities, differing aetiologies of domestic violence as well as cultural differences need consideration. Regarding different aetiologies, no recommendation is given other than a

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[35]Ibid., 27.

[36]Ibid., 27.

[37]Ibid., 25. Sixteen recommendations, 7-11, 13-23, reflect this principle. These concern the need to establish shelters in urban and rural areas for Aboriginal women, Aboriginal staff in mainstream women's shelters, Aboriginal child care services, appropriate responses by the Housing Trust to Aboriginal victims, and the development of counselling and education programs for victims, and education programs on 'an Aboriginal perspective on domestic violence' for human service professionals. In South Australia, the FVIP (now FTEARC) operates under the 'umbrella' of the SAHC and is in dialogue with the DVRU (now, the DVU), particularly concerning the development of 'culturally appropriate' programs for Aboriginal male perpetrators.

preamble note to be aware that Aboriginal domestic violence tends to erupt spontaneously regardless of public or private place, and to have a greater ripple effect on other family members.[38]

Non-intervention is recommended for traditional communities. It was considered that some traditional communities need no further intervention as they are capable of utilising their own and white legal resources to manage domestic conflict adequately already. As a general principle, the SADVC asserted that prevention and protection are issues 'over which the women and the communities must be given control to solve, with the support they require to do so'[39] There may be some validity to this claim of traditional community capability to deal with domestic violence. Indeed, the women of the Pitjanjatjara lands, on which this principle is primarily based, are developing their own apparently exemplary strategies. They nevertheless welcome liaison with non-Aboriginal expertise and legal services as crucial components to effective prevention and protection.[40]

However, the SADVC claim of traditional Aboriginal capacity to devise effective responses was made from the position of the SADVC's professed ignorance of the extent of domestic violence in 'traditional communities'; the SADVC's assumption that the strategy of providing

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[38]SADVC, 23.

[39]Ibid., 29.

[40]See Ngaanyatjarra, Pitjantjatjara, Yankuntjatjara Women's Council (NPYWC), *Looking After Children Grandmother's Way*, Report to the Child Protection and Planning Unit SA, on the Child Protection Project, Writer and research coordinator, J. Harrison, for the NPYWC, May 1991;
-'Atunypa Wiru Minyma Uwankaraku: Good Protection for All Women, NT', winner of an Australian Violence Prevention Award. Responsible Organisation is the NPYWC: J. Mugford and D. Nelson, *Violence Prevention in Practice: Australian Award Winning Programs*, AIC, 1996, 26. For a glimpse of the issues that this project is attempting to address, particularly those to do with the over-readiness of the Court to recognise customary law, see Rosemary Neill, 'Our shame: how Aboriginal women and children are bashed in their own community: then ignored',*Weekend Australian (Review)*, June 18-19, 1994, 2, and G. Partington's comment on this in Partington, 137. It is clear that problems with responses to Aboriginal domestic violence confronting the Pitjanjatjara women were, years after this 1987 SADVC Report, still pressing.

financial and staffing assistance to develop and control their own solutions is generally applicable across South Australian 'traditional' groups; and the SADVC's commitment to the principle that '(a)ny additional recommendations (for traditional people) should be developed by traditional people only'.[41] As such, the recommendation to grant to 'traditional' Aboriginal women control over solutions to domestic violence was based on limited knowledge, limited consultation, and adherence to an untested principle of Aboriginal autonomy.[42] Moreover, the Report does not define 'traditional community', nor clearly distinguish between traditional and non-traditional populations.

In this context, and while it noted that not all Aboriginal violence is traditional, the Report emphasised that even in non-traditional locations, Aboriginal behaviour 'may be directly affected by traditional law.'[43] Regarding cultural differences, the Report suggested caution or non-intervention where tradition features as part of the violence itself or as part of the community wherein the violence occurs. This is, in part, because 'outsiders' may misinterpret a traditional practice 'to be of a violent nature and therefore domestic violence'[44]:

> (i)t is not appropriate for Council members to comment on traditional law practices but simply to make readers aware that a very distinct difference (between traditional law practices and domestic violence) exists.[45]

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[41]SADVC, 27.

[42]Ibid., 28-9. A later report, written by a South Australian Aboriginal woman and addressed to South Australian policymakers, continues this advocacy for community consultation and program control of domestic violence responses for remote Aboriginal populations: K. Glover, *It's About Survival: Report on Alternative Models for Victims Escaping Family Violence in Remote South Australia*, Adelaide, 1991. This report outlines and recommends a strategy of locally-based outreach services. See especially its Conclusion and Recommendations, 19-21.

[43]SADVC, 23.

[44]Ibid., 23.

[45]Ibid., 23. The RCADC also draws attention to the need for caution when interpreting practices. Drawing from the work of McDonald and Langton: 'A fight (amongst the Wiradjuri people of New South Wales) is about the negotiation of identity and is essentially an act of communication.' Marcia

The Report's implication here is that Aboriginal violence in all locations may need to be granted some cultural consideration, if that violence can be deemed to be of a traditional nature.

The preambles to recommendations document both historically-created, and cultural/traditional, differences between the Aboriginal and non-Aboriginal experience of domestic violence. The Aboriginal Task Force of the SADVC considered that both sets of differences have ramifications for strategies against, and white involvement in, domestic violence in Aboriginal communities. Intervention is recommended where differences are historically-created, such as financial issues or problems within mainstream services. Intervention is dissuaded where traditional culture is a factor. However, 'traditional' culture or practice is neither defined nor described, and it seems that 'outsiders' have limited capacity to do so. Thus, cautious rather than vigorous outside intervention is a general principle of this Report.

So in this establishing report undertaken to guide the South Australian government on how to meet its obligations to victims of domestic violence, there is already a message that a liberal-democratic state should resist treading across a certain line demarcating cultural difference. Moreover, it is the prerogative of the cultural group, rather than 'outside' government policymakers, to locate that demarcating line. Even the liberal idea of a universal definition and recognition of violence and domestic violence is asked to be surrendered here.

Langton also argues strongly for the need to see not just fighting but also swearing as a rule-governed behaviour and as part of an effective process of social control: NRRCADC, Vol. 2, chap. 11, 104.

Principles in Tension in South Australia

In both policy-making and practice, the factor of 'tradition' as a delineator for government non-intervention into Aboriginal affairs tends to be dropped altogether, or perhaps more accurately, extended to cover all Aboriginal people in all locations. During 1993, South Australia's Department of Family and Community Services (FACS), the umbrella organisation for domestic violence policy, formally released a set of proposals to honour the International Year of the World's Indigenous People. Central axioms of these proposals are to increase consultation with Aboriginal people, and to increase Aboriginal program control:

> Programs which are established and those being established in the future should take into account the issues being raised by Aboriginal people and aim to increase the level of control Aboriginal people have over Aboriginal programs and those widely used by Aboriginal people.[46]

In the context of this affirmation of greater Aboriginal influence and control over the Department's programming, interviews with South Australian senior non-Aboriginal policy makers and practitioners signal a tension between their distress at the extent of Aboriginal domestic violence plus a lack of effective responses, and the principle that only Aboriginal people should formulate responses to Aboriginal domestic violence. This distress reflects their embodiment of UN and federal-level precepts about domestic violence being a cross-cultural issue warranting effective responses irrespective of racial or cultural contexts, juxtaposed with their acute awareness of the past mistakes of assimilation policies and the resultant sense that they should pay more heed to Aboriginal perspectives such as the following:

> As Aboriginal women the loss that our men have experienced has also been our loss. You have removed the pride and control we had over our lives and our families. We will continue to support and love our men— our brothers, sons and fathers. We will not be divided—

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[46]Family and Community Servicea (FACS), *Contribution to the International Year for the World's Indigenous People*, Aboriginal Coordinating Unit, FACS, Adelaide, 1993, 6.

women against men— to fight individualised issues. We must remain united to survive. We ask you to stop perpetrating*(sic)* our system with your values, attitudes and beliefs.
Support us in our attempt to reduce domestic violence within our communities in a manner which is appropriate to us.[47]

One senior female domestic violence policy-maker's assessment was that there are 'huge problems' confronting Aboriginal domestic violence policy, resulting from a prevailing Aboriginal position similar to that in the quotation above. The expertise of her unit is available to assist Aboriginal workers, but this is infrequently called upon. She identified problems with Aboriginal participants as causal here. Aboriginal workers resist liaison with and support from non-Aboriginal expertise, and so there is yet to be a formal strategy against Aboriginal domestic violence in South Australia. The predominant Aboriginal position— that the prime concern should be for Aboriginal men and that focus on Aboriginal women victims undermines this concern— was particularly disturbing to this policy-maker. This, she argued, had arisen because Aboriginal men have 'coopted the politics by and large...it's just so devastating.'[48] However, she worked within the 'hands-off' approach of her own unit: 'we can only offer support regarding what Aboriginal workers do. We can't be directive'.[49] Aboriginal control of programs remains a strong policy tenet, even when perceived by this policy-maker to be dysfunctional.

Other policy makers have fewer doubts about present policy principles. Two senior male policy-makers base Aboriginal perpetrator program

[47]B. Ridgeway, 'Domestic Violence: An Aboriginal Women's Viewpoint', Appendix C of the SADVC, originally presented at a *National Conference on Domestic Violence* in Canberra (See Hatty ed., 1986). B. Ridgeway is a member of the Aboriginal Task Force of the SADVC.

[48]If so, this signals a shift from the earlier predominance of women's interests, in the SADVC of the mid-1980s, as reflected in its mainly female Aboriginal Task Force and resultant recommendations. It is also noted that B. Ridgeway was a member of this original Task Force, and her paper of this time (Ibid.) already reflects a primary concern for Aboriginal male well-being. The 1988 federal report by Elliott and Shanahan also noted that Aboriginal women were 'very loyal and very supportive of their men'. This report does not make it clear whether this should be seen as a problem to be sensitively overcome, or a situation in need of increased accommodation by services: 32-33.

[49] See PS 1 in Appendix to Chap. 4, B.

design on unverified assumptions about tradition and difference.[50]
Certainly perpetrator programs in general have been under-evaluated, and
what indicators there are suggest the need for improvement and longer-
term evaluation.[51] Hence it is risky to assert that a new approach to
perpetrator intervention is not indicated. Program involvement at this
stage with Aboriginal men with reportedly less serious histories, plus
planned program evaluations, are also intended to counter problems here.

Nevertheless, given that the program is for a minority people who have
higher and more severe violence rates, the sharp disjunction in perpetrator
program tenets on the basis of race and a *presumption* of radical
difference in culture and domestic violence aetiology, smacks of
unwarranted risk-taking. As such, this program's existence is a sign that
state Aboriginal domestic violence policy is influenced by under-
questioned ideas about Aboriginal culture, over-adherence to the
principle of Aboriginal representation, and a prioritisation of the shared
SADVC and RCADC goal to reduce Aboriginal male imprisonment.
While the claimed primary goal is to reduce violence and increase female
victim safety, such influences seem to be oriented to male perpetrators
rather than to female victims.

Practitioner concern about cultural rights can be even less tempered, and
remain intact even at the point of victim crisis. In one case where the
physical safety of a young Aboriginal child was at risk, concern about

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[50]See PS 2 and PS 3 in Appendix to Chap. 4, B.

[51]See
-Ruth Busch and Neville Robertson, 'What's love got to do with it?: and analysis of an intervention
approach to domestic violence', Paper no. 7 128-131 (first published in *Waikato Law Review*, Vol 1
1993, 109-40), and
-Michael Paymar, 'Domestic Assault: building a coordinated community response, Paper no. 25 13-14,
both Conference Papers, *Challenging the Legal System's Response to Domestic Violence*, organised by
the Queensland Southside Domestic Violence Action Group.
-Also, discussion on male perpetrator intervention at the Domestic Violence Training Workshop,
'Working with Women', DVRU, Office for Families, Adelaide, October 11-13, 1995.

cultural demarcation lines was able to engender within one male senior practitioner, a sense of reluctance to uphold the basic liberal-democratic tenet of the right to safety. There are liberal-compatible reasons for reluctance available, such as 'Aboriginal intervention may be more effective'. But in this case, the practitioner debated whether an Aboriginal victim's right to safety is conditioned by a white obligation not to transgress a cultural demarcation line, and not vice versa. This constituted a fundamental challenge to the idea of universal victim rights, emanating from a key service in state domestic violence praxis.[52] This same policy-maker was also aware that Aboriginal men in his regional area do not see domestic violence as a problem, with 'awareness-raising not yet occurring from their perspective'. Yet he still advocated that changes in Aboriginal men's perspectives on domestic violence must arise from 'their own grass roots'.[53]

Remonstrance from prominent Aboriginal bureaucrats precluded another female senior practitioner from developing strategies based on her direct interface with Aboriginal victims. The interview is included here because it so vividly demonstrates liberal-democracy's philosophical dilemma about 'cultural' and individual human rights in operation.

> *How did your talk at the Aboriginal women's shelter go?*
>
> It went pretty well, but we were told by Aboriginal women that we shouldn't have done it because it should have been done by Aboriginal women.
>
> *Which Aboriginal women said that?- not their names, but what positions, what status did they hold?*
>
> Oh, the Aboriginal women who objected were all bureaucrats, working in government departments.

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[52]PS 'A' 1993. See opening quotation of Chap. 1, this thesis.

[53]Ibid.

What did the Aboriginal women who received the talk themselves think of your talk?

Oh they loved it! They were very positive and enthusiastic about the talk. None of the staff there had told them about the cycle of domestic violence or anything. The women were keen to hear about this and other issues. What shocked me more though was that the (all-Aboriginal) staff of the shelter believed that the women who were there for domestic violence must have done something to deserve to be bashed by their partners. That is, they were blaming the women for being bashed! This is pretty surprising. But it would still be better if it was an Aboriginal woman who was teaching them about the cycle of violence rather than me. I think it would have more impact coming from an Aboriginal person than from a white.[54]

It seems that the principle 'prominent Aboriginal people best represent the interests of victims belonging to culturally different groups', is not to be challenged. But by so privileging group representation by prominent Aboriginal spokespeople, practitioners create a barrier between themselves and Aboriginal victims that even on a conscious level, victims themselves may prefer not to have.[55] Above all, the hub of state Aboriginal domestic violence policy-making is prioritising group representation and Aboriginal-run programs, and aborts pursuit of optimal responses to Aboriginal domestic violence *per se*. In so doing, state practice may be jeopardising the safety of Aboriginal victims.

When a public servant prioritises victim safety, a different kind of response from those above is generated. In the experience of one male senior crisis practitioner, prioritising cultural demarcation lines over victim rights can work against victim interests. He gave consideration to cultural difference only where such consideration assisted in the securing of victim safety. In this context, Aboriginal networks and services were utilised by this practitioner where they enhance victim safety. And where

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[54]See PS 5 in Appendix to Chap. 4, B.

[55]A South Australian Aboriginal Women's Conference, which included attendance by both Aboriginal 'bureaucrats', and 'ordinary' Aboriginal women who were domestic violence victims, seems to have reflected such a 'victim' position. While the conference recorded calls for more Aboriginal staff and Aboriginal service design for domestic violence, it also documented that victims 'should have the freedom of choice to use either Aboriginal or non-Aboriginal...agencies....The organisations and service providers need to be accessible to these clients' needs': Department of State Aboriginal Affairs (DOSAA), *Proceedings of Aboriginal Women's Conference*, compiled by C. Divakaran-Brown for DOSAA, Crystal Brook, May 1993, 11-14.

Aboriginal services were failing to do this, there was no hesitation in referring Aboriginal victims to mainstream services. This practitioner was categorising Aboriginal victims as above all citizens whose right to physical protection transcends other considerations. As such, their higher 'at risk' situation, more than their Aboriginality, guided his response to Aboriginal victims.[56]

Liberal-Democracy's Dilemma

One general difficulty for the universalising of a human right, indeed, for the very idea of a universal human right, is that liberalism is not a global system, and so liberalism's commitment to this principle of rights universalisation occurs in an antagonistic environment. Opposition to rights principles proposed by liberal-democratic states occur within international forums, including the UN. Here, liberal representatives are often confident advocates for universal human rights principles. A liberal-democratic state as governing body of a pluralist society also meets challenges from the polity to the universal application of human rights principles. In internal and localised settings, liberal-democratic states are more likely to become apprehensive about both the applicability and the very principle of universal human rights.

Australia may face more problems in implementing universal rights protection than other comparable liberal-democratic states. While Australia's human rights practice is comparatively a good one, this may have more to do with its enlightened majority culture rather than Australian governments' commitment to enforce human rights principles *per se*. According to Hugh Collins, Australian responsible government is founded on Benthamite principles which spurn the notion of natural rights, placing more value on the *democratic* in liberal-democracy,

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[56]See PS 5 in Appendix to Chap. 4, B.

having faith in the sovereign majority will. As such Australia has hitherto rejected a Bill of Rights, and augments human rights on the basis that there is majority support or pressure to do so.[57]

Overall, this means that the liberal-democratic states of Australia act upon non-liberal practices after they come to light within the majority culture. This can be seen in the process of recent state engagement with domestic violence policy reform. While majority culture is not without dissenters, there is a strong enough legitimacy between the state and the majority culture. This means that today Australian states generally act confidently within a mandate to reform hitherto non-liberal responses concerning domestic violence.

A more difficult challenge to a liberal-democratic state's application of universal human rights occurs when an indigenous minority within its jurisdiction makes a claim based on 'cultural rights' for a different articulation with that state. These claims are moreover, in part due to locationally-associated historical reasons that liberal-democratic states are now prone to see as further validating the claim, particularly their forced occupation, resulting in the loss of land and culture. However, the 'Benthamite' Australian liberal-democracy is still comparatively 'reluctant about rights', and Australian liberal-democracy may be responding to these claims more from the perspective of extending democracy, particularly as representivity, to Aboriginal people, rather than from a liberal position of ensuring that Aboriginal people's rights, cultural or individual, are maximised.[58]

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[57]Hugh Collins, 'Political Ideology in Australia: the Distinctiveness of a Benthamite Society' *Daedalus* 114 (1) 1985, 147, quoted by Brian Galligan, 'Australia's political culture and institutional design', in *Towards an Australian Bill of Rights*, ed. Philip Alston HREOC, CIPL, Canberra, 1994, especially 63-6. See also Hilary Charlesworth, 'The Australian reluctance about rights' in Alston, 21-53.

[58]Australia differs from Canada here, where human rights have been 'constitutionally entrenched (by) a Charter of Rights and Freedoms' since 1982. See Charlesworth, 51, and Murray Wilcox, 'The North American Experience', in Alston, 203.

Perhaps because of Australia's Benthamite attitude to rights and majority rule, Australia is now treating Aboriginal citizenry as a separate 'black majority',[59] and for this reason, Australian states are falling into line with the Aboriginal prioritisation of 'cultural rights' over 'individual rights'. Collins' concern that even Australia's democracy is being undermined by public policy via bureaucratic 'rational' decisionmaking, is also reflected in the processes of policymaking for Aboriginal domestic violence, where the more powerful Aboriginal bureaucrats are able to determine the policy-making agenda.[60]

Australian states are presented with several dilemmas regarding human rights here. Even if a liberal-democratic state decides not to accommodate demands for a different minority articulation or cultural recognition concerning a specific right, addressing human rights problems within a minority group that might have different non-liberal norms about violence, is likely to be a challenging task.

However, 'black majority' recognition is leading to an altered articulation between the Aboriginal group and the state in the form of self-management or self-determination. This means that the state's policy-makers resist intervention, unless and until Aboriginal people themselves recognise a problem and request assistance, and even then, policymakers may be more prone to respond to Aboriginal 'spokespeople' rather than to Aboriginal victims. The risk of this approach is that Aboriginal groups in most need of intervention—those that do not see domestic violence as a

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[59]This term is Roberta Sykes'. See her *Black Majority: an Analysis of 21 Years of Black Australian Experience as Emancipated Australian Citizens*, Hudson Publ., Hawthorn, 1989.

[60]See Hugh Collins, 'Political ideology in Australia: The distinctiveness of a Benthamite society', in *Daedalus* 114 (1), 1985, especially 165.

problem, or who lack the political power to speak up about it— will be the least likely to receive it.

During the SADVC Enquiry, the South Australian government practised its responsibility in at least raising the issue of domestic violence among Aboriginal South Australians. When, after five years of this cautious advocacy role domestic violence among South Australia's Aboriginal people is at alarming levels, the DVPU in its 1992 Audit urges the need for 'additional responses'.[61]

Government reports continue to express their alarm over the failure of services to address Aboriginal domestic violence in South Australia.[62] Nevertheless, a cautious approach still permeates the development of 'additional responses'. In its *Five Year Strategic Plan 1996,* the Domestic Violence Unit sketched out strategies to reduce the incidence of domestic violence in SA. General guidelines of this Strategy include the following: that all women have a right to physical safety; that South Australia's culture should be one that does not accept domestic violence; and quality assurance of domestic violence intervention through monitoring is a key duty of government.[63] While these principles differ little to those of the 1987 SADVC Report[64] and its 1992 Audit[65], this *Strategic Plan* is

[61] DVPC and DVPU, 4.

[62] -OFF, 14;
-Office for the Prevention of Domestic Violence (OPDV), *Other Ways? A Discussion Paper on Best Practice Principles for the Prevention of Domestic Violence,* OPDV, CPU, Attorney General's Department, Adelaide, 1996, 23;
-Supported Accommodation Assistance Program (SAAP), *Review of Services for Women and Children Escaping Domestic Violence,* conducted by Thomson Goodall Associates for SAAP, South Australia, 1997, 49-50.

[63] Domestic Violence Unit (DVU), *Five Year Strategic Plan,* A Joint Initiative of the Department for Family and Community Services and the SA Health Commission (SAHC), OFF, 1996, 5, 7, and 8. See also SAAP, 49-50.

[64] SADVC, 11.

[65] DVPU and DVPC, 1-14.

intended to enhance the government's role in the development and monitoring of effective responses to domestic violence. Specialised plans for Aboriginal domestic violence are only briefly outlined in this *Strategic Plan.*[66] However, the axioms of employing 'an Aboriginal worker', to develop 'culturally-appropriate policies', in 'consultation' with targeted 'Aboriginal communities', remain central.[67] These indicate that there has been little shift in the cautions and tensions underlying official responses to Aboriginal domestic violence since the release of the 1987 SADVC.

Furthermore, there are indicators that this democratic principle of 'consulting' with Aboriginal people in the process of developing responses, on the basis that the cultural group best understands its own problems and solutions, may have limited application. Brady identified a problem with this approach in her work with the South Australian Aboriginal population of Yalata in south-western South Australia. Her findings indicate that they had accommodated so much to their social problems that it 'prevent(ed) their objectification and the collective disapproval of the group necessary for collective action'.[68] For example, while white community workers found the Aboriginal group's acts of social disorder 'threatening, stressful, and alienating', 'interpersonal violence was, for large sections of the (Aboriginal) population, a normal social process'.[69] This problem has also been identified in a more philosophical sense, by Moody-Adams:

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[66] DVU, 9 and 13.

[67] Ibid.

[68] E. Hunter, *Aboriginal Health and History: Power and Prejudice in Remote Australia*, Cambridge University Press, Cambridge, 1993, 283, referring to M. Brady's study, 'The problem with 'problematising research', *Australian Aboriginal Studies* 1, 1990, 18-20.

[69] M. Brady, 19.

> ...Sometimes— perhaps much of the time— cultures are perpetrated by human beings who are uncritically committed to the internal perspective on the way of life they hope to preserve.[70]

Given the 'hands-off' tendency among policy advisors to view violence as a necessary cultural item warranting non-intervention, an Aboriginal group inability or unwillingness to identify domestic violence as a serious issue seems to render a shortage of effective responses to Aboriginal domestic violence as inevitable.

Conclusion

There is still no clarity about the 'additional responses' required to reduce Aboriginal domestic violence and to secure safety for Aboriginal victims. This is in part because there is no certainty about what it means, or what is required, to extend a liberal-democratic idea of a human right into a non liberal-democratic context. Marcia Langton's call to Aboriginal women to express their reservations about a UN Convention that seeks to increase the rights of all women,[71] and South Australian Aboriginal demands for recognition of cultural differences and rights to determine their own strategies against domestic violence, signal that there are problems with such an extension.

The difficulty of formulating processes of extension confronts us when considering Aboriginal women and domestic violence policy development. While liberal-democracy is the ideal site for genesis of a concept of universal human rights, unless policy developments that arise out of this liberal-democratic concern with human rights consider different cultural contexts, they might well be ineffective. At the same time, the continuing high levels of domestic violence among Aboriginal

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[70]M. M. Moody-Adams, 'Culture, Responsibility, and Affected Ignorance', *Ethics* 104, January 1994, 296.

[71]M. Langton, 'Aboriginal women must act', *Identity*, 4 (3), 1981, 38.

South Australians after years of policy-making which has given some priority to recognising cultural difference has prompted official calls for 'additional responses'.

The question arising here concerns whether there has been too much or too little recognition of cultural rights and differences in comparison to other rights, and class, locational, or other differences or indeed similarities, between Aboriginal and non-Aboriginal couples experiencing domestic violence. Surveying this question is the task of the locational study of Viewtown. Another broader question also remains: in what sense are human rights universally applicable?

5

The Implementers of Viewtown

Introduction

When delineating rights principles and policy guidelines, peak international, national and state-level bodies (and their academic commentators) are relatively unburdened by institutional and societal restraints. It is local institutions that are the implementers of international, national and state domestic violence laws and policies. On this level of implementation, the real politics, the complex of institutional and societal boundaries, to a guideline's applicability and efficacy are experienced. For the policy implementers, policy needs to be daily expressed as action, and so unresolved or conflicting issues surrounding a policy's politics and efficacy are rendered immediately manifest and unavoidable.

For liberal-democratic states, policy implementation occurs through numerous institutions. These operate largely separated from one another and focus on a narrow range of tasks, mainly for reasons of efficiency.

The liberal-democratic state expects some control here, so that its principles do indeed become embodied by the institution, its workers, and above all, implemented through the myriad daily acts of service interface with the public. The service provider is thus an agent for the state institution in the first instance, and an independent moral agent in the second instance, the contingency being that the state and its institutions work within the law and within human rights principles.

A phenomenon which at least partially explains how a state can reliably expect to control its institutions and public servants is institutionalisation, defined as

> the process, as well as the outcome of the process, in which social activities become regularised and routinised as stable, social-structural features.[1]

The institutionalisation process enables the state to establish institutions that embody a particular set of state-endorsed principles. For instance, an institution may be established to increase awareness about domestic violence, or to prioritise Aboriginal self-management. Institutionalisation means that successful embodiment is likely. Difficulties for liberal-democracy arise when the embodied precept is unworkable or unethical, for an institution's original *raison d'etre* is likely to resist challenge and change.

Regarding liberal-democratic principles, there are positive and negative impacts of such resistance to challenge. While institutionalisation inhibits workers from acting on their own dysfunctional or unethical precepts, it also restrains workers from openly questioning state strategies. Resistance to change can both safeguard and jeopardise liberal principles, ranging from a refusal to adopt perspectives or procedures that compromise victim safety, through to self-interest, such as safeguarding political or economic power derivative from a dysfunctional *status quo*.

At the level of implementation, the institution is not the only cause of failure to deliver services that reflect rights principles. The state may fail to provide the institution with adequate economic or skills resources. The state may expect the institution to carry out ethically and strategically conflicting tasks. Or a client may resist an institution's services that in

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[1] *Collins Dictionary of Sociology*, ed. 1991, s.v. 'institutionalisation'.

liberal-democratic but not in client terms, are required by the client as their fundamental right.

Sometimes, successful embodiment of human rights principles in service delivery requires that a state institution is defied by its workers. Here a worker may opt to defy the work place *status quo*, and perhaps risk community wrath as well, so that the human rights of clients are upheld. For this to occur, institutionalisation cannot be so strong that its workers are only agents of the institution, but need in the first instance, to embody and know how to implement the fundamental rights values of the liberal-democratic state.

Institutionalisation is an underlying process that shapes and at times limits service extension of human rights to Aboriginal victims of domestic violence in Viewtown. Due to its resident activists and its regional centre function, Viewtown has a comprehensive range of human services. While services generally attempt to maintain or improve their nexus with the Aboriginal population, barriers to intervention are evident. In particular, the effects of institutionalised assumptions or ideologies underlying present responses such as 'cultural rights', self-management, Aboriginalisation, separatism, and so forth, are evident here. Localised political barriers to potentially effective services are also evident.

Refuge: a Contingent Right?

The state is obliged to provide refuge when the home environment fails to provide the basic rights of shelter and safety. Viewtown's Women's Shelter is the institution in the region that reflects state recognition of women's and children's right to both physical safety and shelter. It provides emergency services, particularly accommodation, for women and children whether local or from further afield. While users need not be

victims and shelter is for a range of emergency short term accommodation needs, most users are victims of domestic or family violence, and come from a broad range of cultural and ethnic groups.[2]

However, the shelter considers that access to these rights through Viewtown Shelter use is contingent upon fulfilling certain requirements and responsibilities. The shelter refuses referrals 'of alcohol and drug abusers'.[3] Other contingencies are strict residential rules including housework duties, night curfews, staff monitoring of contact with victims' partners, and compulsory payment of fees.[4]

Placing such contingencies on providing rights seems inconsistent with a liberal-democratic ethic. There is criticism from other service providers who work closely with Viewtown's Aboriginal women that Shelter rules do not cater to the lifestyle or 'culture' of Aboriginal women who therefore do not use the Shelter. Hence, intolerance of a different 'culture' may be preventing this service from fulfilling its obligations to Aboriginal women victims here.[5] However, Shelter management argues that its rules are essential both for victim safety and for the provision of a comfortable place to be for the residents, which can reach as high as 30 women and children. Moreover, the Aboriginal use rate is four times greater than the non-Aboriginal rate, a fact not consistent with the above claim of low Aboriginal use.[6]

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[2]Service 65, pamphlet— current 1994.

[3]Ibid.

[4]Service 65, October 1993 and February 1994.

[5]Service 68, March 1994, who expressed surprise on hearing the higher rate of Aboriginal shelter use; AWPC February g.21 1995. An SA government also reports that 'excessive focus' on rules in SA shelters generally was reported by Aboriginal women to be 'intimidating': SAAP, *Review of Services for Women and Children Escaping Domestic Violence*, conducted by Thomson Goodall Associates for SAAP, South Australia, 1997, 50.

[6]Service 65, Annual Report 1994.

In its daily interface with Aboriginal clients, the Viewtown Women's Shelter attempts to fulfil both its basic institutional tenet of providing emergency shelter to all women on demand as a first priority, and as a second but also high priority, to insist on adherence to rules. So Aboriginal women are freely given shelter, but once in, tension between shelter staff and Aboriginal clients emerge because rights to shelter and the insistence on rules conflict. The result is shelter over-stretching its limited financial and human resources, and staff resentment and burnout.[7]

The specifics of state shelter and Aboriginal victim mis-match here are legion. Aboriginal clients are likely to refuse to pay, interpreting shelter accommodation as 'guv'ment' and thus their right to it for free.[8] They tend to expect shelter staff to do 'everything' for them like cook meals and clean their rooms, again because 'it's guv'ment'. They are more likely to break shelter rules. Burnout and anger is emerging:

> Just recently we housed an Aboriginal woman in a shelter outreach house. The Housing Trust wouldn't because of her debts. Within two months, she owes us $200, broke many rules and created filth and damage incurring huge costs for us. We had to replace the whole carpet. So now we wonder if we'll give another Aboriginal woman a house. It's cost us time, money, human resources; we feel very let down.[9]

Aboriginal women's higher use of the shelter for non-emergency purposes also tests management tolerance. Aboriginal women use it regularly as a 'free' comfortable place for visiting relatives, or for when they have not budgeted, perhaps gambled, rent or electricity money. Sometimes, this involves sisters, cousins and all of their children being accommodated simultaneously by the Shelter.[10]

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[7]Service 65, February 94, and October 1994.

[8]Ibid. In fact the shelter is community-based, community-managed. Its main source of funding is from the government SAAP program funds, but relies on the addition of community donations for adequate service provision.

[9]Service 65, October 1993.

[10]Service 65, February 1994. It is reported that in SA, this phenomenon of extended Aboriginal families with several children moving into a shelter together can take up most, even all of a shelter's

Shelter management also reports difficulty in securing Aboriginal victim safety, due to different aetiologies in Aboriginal domestic violence. Aboriginal violence is more likely to be severe, and the victim more tolerant of that violence. The Aboriginal victim is less responsive to the Shelter's attempts to provide her with safety, being more 'recidivist' in her returns to even severe partner abuse. This may involve the shelter in repeated long-distance rescues from isolated areas. Staff burn-out is evident here also:

> we shouldn't always have to be driving way out there to rescue her when we know she's going to go back to him over and over again. We just don't have the resources for that.[11]

Moreover, the Shelter is resisting pressure to increase Aboriginal perpetrators' access to their partners in the Women's Shelter— pressure from both Aboriginal and non-Aboriginal male welfare workers. According to Shelter management, this 'inappropriate sympathy' for perpetrators, displays 'no understanding of the domestic violence cycle at all'.[12] Here, the Shelter's fundamental institutional tenet to uphold victim safety over cultural difference is being adhered to even while challenged.

While Shelter management is unwilling to yield to pressure to make the Shelter accommodate Aboriginal 'culture', it does attempt some provisions for the Aboriginal population. It has repeatedly attempted to employ an Aboriginal worker, but failed, with each Aboriginal worker leaving after a few weeks or months.[13] It holds sessions, albeit once a year only, on domestic violence and services at the Aboriginal Women's Place, but these seem to generate little interest from among the

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beds, straining the availability of emergency accommodation: Phone comm. with Domestic Violence Outreach Service, September 1993.

[11]Service 65, February 1994.

[12]Ibid.

[13]Service 65, October 1993.

Aboriginal women there.[14] Thus Viewtown's Women's Shelter attempts to fulfil the SADVC's Aboriginal Task Force recommendations to employ Aboriginal domestic violence staff, and to educate Aboriginal women about the domestic violence cycle. However, failure has resulted, with negative Aboriginal responses to these attempts. Understanding the nature of these negative responses is critical to overcoming these failures.

This situation indicates that there can be complex and costly practical problems associated with service extension of human rights to 'difficult' clients. Thus while the principle of such extension remains intact, problems in implementation can seem insurmountable on the grass roots level. The Viewtown Aboriginal interpretation of rights and responsibilities clash with the Shelter's institutional interpretation and institutional limits, straining total service provision and creating resentment among shelter staff. Ideal practice in providing Aboriginal victims' rights to shelter and safety are elusive compared to the act of ratifying that it should be done.

Overall, problems associated with longer-term South Australian Housing Trust (SAHT) and Aboriginal Housing Unit (AHU) housing of Aboriginal domestic violence victims are less intense. Indebtedness and maintenance costs are higher for Aboriginal compared to non-Aboriginal tenants, with the Aboriginal-managed AHU applying the more stringent regimens on its tenants in this regard. In the words of one Viewtown SAHT officer, Aboriginal tenants are 'very costly clients'.[15] However, it is reported that in Viewtown, Aboriginal or non-Aboriginal women need wait no longer than two years, and through the SAHT, AHU or Women's Shelter process of priority housing for domestic violence victims, much

[14]AWP visit June 1994; AWPC, February 1995.

[15]Service 48, February 1994.

shorter than that, to get housing for themselves and their children.[16] As such, the SAHT and AHU policy of priority housing for domestic violence victims is able to extend the liberal tenet of providing safer shelter to Aboriginal victims of domestic violence. Moreover, Viewtown Aboriginal management of the AHU operates in partnership with this extension, indicating that the principles of Aboriginal management and victim safety are compatible in this instance. Factors enhancing this compatibility warrant investigation.

'Difference' and Medical Service Responses

In Viewtown, about half of its ten general medical practitioners have a regular Aboriginal clientele. At least three of these doctors attempt to counsel and refer patients whom they identify as victims of domestic violence.[17] But they claim to experience difficulty in moving beyond physical medical assistance in the case of Aboriginal domestic violence. Aboriginal attitudes to violence is the reason given for not proceeding further with Aboriginal patients.

The two doctors who made prolonged general comments about their Aboriginal patients recount that domestic violence among these patients is more common and more severe. They note a higher tolerance of violence that renders Aboriginal patients less accessible to interventions beyond the 'crisis medical'. These doctors were also less willing to challenge domestic violence in an Aboriginal cultural context. In the

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[16]Services 48 and 65, during the service survey, September-October, 1994.

[17]Viewtown doctors during the service survey, September-October 1994.

words of one doctor,

> We don't fully understand Aboriginal violence. Many Aboriginal people don't seem to see it as violence, and in their culture, they are allowed to resolve their problems through violence. We're making cultural judgements when we call it violence.[18]

The institutional tenets of the medical profession render it a reliable service for medical treatment in the crisis of physical injury for both Aboriginal and non-Aboriginal domestic violence victims. The institution is also responsive to victim demands for more interventions. However, higher Aboriginal victim tolerance for violence, underscored by doctors' own precepts about cross-cultural intervention, dissuades Viewtown's medical practitioners from implementing preventative measures with their Aboriginal domestic violence patients.

Aboriginal victims are unlikely to receive comprehensive intervention from the hospital either. Hospital social workers who provide counselling and referrals for domestic violence almost never see Aboriginal clients.[19] Furthermore, hospital-Aboriginal relations are unlikely to encourage a positive interface. In a similar vein to Viewtown's Women's Shelter, Aboriginal patients and their families are viewed by non-Aboriginal staff to have unrealistic expectations of what a hospital institution can provide. This creates resentment, even fear, between Aboriginal users and non-Aboriginal staff. In the words of one administrative nurse:

> You see that I do not have my name badge on. I never do, because I am afraid that some Aboriginal upset with me or the hospital might track me down after work if they know my name....Aboriginal people expect preferential treatment however badly they treat us. They threaten staff and wreck hospital property if they feel they are not being treated fairly— very difficult.[20]

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[18]Viewtown doctor, during the service service, September 1994.

[19]Service 27, October 1994. This is the case for the non-Aboriginal hospital social workers. The HALO may provide counselling, but after several attempts, the researcher was unable to find out about this.

[20]Service 26, October 1994.

Problems akin to these were also encountered by the hospital's Aboriginal Liaison Officer (HALO), an Aboriginal man. In reference to an unexpected death of an Aboriginal man at the hospital, he stated that

> many of the community try to vent their anger by blaming the hospital and find it easy to believe that the hospital did not get him the best available care quick enough. I know that this is not true....Its hard work dealing with Aboriginal people.[21]

Such difficulties are considered to be one reason for the high turnover rate of Viewtown's HALOs, averaging 15 months duration for the last 8 years. Their job of liaising between the hospital and the Aboriginal community is exhausting even for committed Aboriginal workers. Perhaps it would be equally exhausting for a non-Aboriginal worker. What is argued here is that in Viewtown, Aboriginalisation does not necessarily augment cross-cultural work within a mainstream institution.

There are other institutionalised precepts that seem dysfunctional for the delivery of medical services to Aboriginal victims in Viewtown. The administrative nurse argues that the interface between the hospital and the Aboriginal community is difficult due to 'the deep schism' between Aboriginal and non-Aboriginal people in Viewtown, which is exacerbated by generalised separation of Aboriginal and non-Aboriginal services and state policies of special treatment for Aboriginal people. In particular, hospital service suffers due to the state requirement that institutions prioritise employment of Aboriginal staff over quality of service. Here, this Aboriginalisation requirement impedes, instead of improving, the quality of hospital care:

> For instance there's a policy that we must employ at least one Aboriginal nurse and clerical staff. The nurse is hopeless....It was like having no staff member at all. It outrages me considering that we are 20 nurses short due to budget cuts and we're forced to employ her![22]

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[21]Service 26A, October 1994.

[22]Service 26, October 1994.

While this evidence does not allow for a direct assessment of hospital response to Aboriginal domestic violence, general state Aboriginal policy parameters seem to have a negative rather than the intended positive effect on relations between Viewtown's Aboriginal population and medical services. The likelihood of optimal medical responses to Aboriginal domestic violence seems reduced in the resultant environment of 'difference', distrust, and resentment.

Counselling: in a Place between Mainstream and Difference

There are six mainstream services with a primary counselling or group work focus. While most of these services' contact with domestic violence perpetrators and/or victims is considerable, they have very few or no Aboriginal clients. For reasons to do with a higher acceptance of violence or fear of partner or community reprisal, Aboriginal clients are less likely to seek counselling *per se*. For the additional reasons of discomfort with mainstream services, and the fact that some mainstream services demand a fee, Aboriginal clients are likely to avoid mainstream counselling. As such, mainstream counselling services have little impact on Aboriginal domestic violence in Viewtown. The few Aboriginal people who do use these services are said to be more 'westernised' than most Aboriginal Viewtowners, or to have non-Aboriginal partners.[23]

'The FACS Place' is an outreach Department of Family and Community Services (FACS) program to meet the welfare needs of Aboriginal women, including counselling and arranging safe refuge for domestic violence victims.[24] This service is a reflection of FACS' acknowledgement that some Aboriginal 'prefer to receive services from

[23]Interviews with these services during the service survey, August-October 1994.

[24]Service 68, February 1995.

Aboriginal staff for reasons of confidentiality'.[25] As Viewtown Aboriginal people also tend to avoid Aboriginal managed- and personneled- counselling services too, this specialised white-run service for Aboriginal women aims to embody characteristics that reduce Aboriginal resistance to counselling. Its general tasks include welfare, information and referral, hence to be seen going there does not entail public knowledge of getting counselling. It is an Aboriginal location, hence reduces resistances associated with mainstream services. Moreover, this Aboriginal location is not a highly frequented one nor staffed by prominent community members, so problems to do with shame or confidentiality issues are minimised. The fact that it is provided by the one, long-term, reliable worker, known and trusted by the Aboriginal community also increases client use. That she is white, meaning above all that she is 'outside', not part of family and community politics of Aboriginal Viewtown, further enhances confidence in the service.[26] And the service is free. The service provider notes an increase in Aboriginal women seeking counselling from her for domestic violence over the last two years. This is a positive indication that her service is working and, perhaps, of a growing Aboriginal female intolerance of domestic violence.

In sum, neither mainstream nor Aboriginal-controlled services provide optimal settings for counselling of Aboriginal domestic violence victims. 'The FACS Place' is a sign that a government institution can develop and supply characteristics that at least partially overcome Aboriginal women's resistances to counselling about domestic violence, through the vehicle of grass-roots personnel singularly intent on identifying and overcoming

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[25]FACS, *FACS Contribution to the International Year for the World's Indigenous People*, Discussion Paper, Aboriginal and Islander Coordinating Unit, FACS, 1993, 6.

[26]Service 68, February 1995.

barriers. However its growing effectiveness is correlated with an emergent Aboriginal community intolerance of the program. On the local level of Viewtown, effective extension of human rights to Aboriginal victims by state institutions can meet with potentially violent and non-liberal oppositions. It is uncertain whether and how this institution can weather such oppositions.

Government Welfare: Dilemmas with Aboriginalisation

Viewtown's government and church welfare agencies have a large weekly clientele due to the low socio-economic structure of the Viewtown population. Generally, these agencies aim to treat different racial groups with equity. Only the government agencies, particularly FACS, regularly deal with the issue of domestic violence.

There are some general institutional barriers to the extent and commitment of FACS to domestic violence intervention. These barriers affect responses to both Aboriginal and non-Aboriginal cases. One procedural limit is that domestic violence between adults in a child's family is not among FACS' 30 listed items that constitute child abuse, even where the child witnesses that violence. FACS is also unable to remove child partners, say 13 or 14 years old, from abusive adult partners, say 18 years old, on the basis of domestic violence, but only for under-age sex. This institutional inability may affect as many as 20 Aboriginal and non-Aboriginal young people per year in Viewtown.[27]

FACS' most direct contact with domestic violence is through emergency financial assistance. One female Senior Social Worker argues that Aboriginal domestic violence clients are frequent users of this service,

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[27]Service 20, October 1994.

and present the least cultural barriers to using FACS for financial and other associated needs:

> We see virtually no people from European backgrounds— Yugoslavian, Italian— for any reason. ...Cultural values keep them from coming here for help... Aboriginal people are more open about their domestic violence than these European cultures. They see us freely and non-reluctantly seek our assistance....I think they feel less shame that white clients, and believe that the government is obligated to help them.[28]

This observation is another indicator that Aboriginal domestic violence victims in Viewtown are not highly reticent about seeking help from government services. They are thus not particularly 'different' from non-Aboriginal victims, in that they see government agency responses to the crisis of domestic violence as both necessary, and to some extent at least, appropriate.

FACS has two Aboriginal male social workers on staff. At least one of these shares the white staff's analyses of the dynamics and seriousness of Aboriginal domestic violence, and prioritisation of victim safety. These similarities indicate that Viewtown FACS' institutional culture can foster Aboriginal worker opposition to domestic violence.[29] This sharing of perspectives even includes a critical assessment of Aboriginal worker efficacy when dealing with Aboriginal clients. Here is a white female social worker's assessment:

> From my experience with both Aboriginal FACS and VAHC workers, it is difficult for Aboriginal workers to intervene as in Viewtown they are all related to each other. It is easier for someone with a more objective position to intervene in FACS matters.[30]

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[28] Service 20, February 1995. Note that the Viewtown Yugoslavian population is larger than the Aboriginal population.

[29] Ibid., October 1994 and February 1995.

[30] Ibid., February 1995.

A FACS male Aboriginal social worker makes this similar claim:

> It is difficult being an Aboriginal social worker in Viewtown because of the importance of family here. I belong to a prominent local family, which means very often that I can't be a social worker for families other than my own: they just refuse my services.[31]

Another issue regarding effective responses to Aboriginal domestic violence seems to have arisen within FACS, possibly due to Aboriginalisation or its interface with Aboriginal self-managed agencies. Since its expansion into new premises in 1993, more Aboriginal family interventions are handled by the Viewtown Aboriginal Health Centre(VAHC).[32] The reported increase in positive interaction and cooperation between FACS and VAHC is contemporaneous with the emergence of a shared Aboriginal and non-Aboriginal male professional perspective on appropriate responses to Aboriginal perpetrators. This has manifested principally as pressure on the Women's Shelter to allow greater perpetrator access to victims.[33]

Thus while there are some positive trends, FACS advocacy of Aboriginalisation and self-management may be impinging upon optimal service delivery to Aboriginal victims. Even the institutionalised liberal principle of a victim's unconditional right to safety may be under threat due to these processes.

Self-Management and Crime Prevention in Conflict?

The state Attorney General's Crime Prevention Program (CPP) has several projects in Viewtown, including a Crime Prevention Committee (CPC) which employs a full-time project officer. The CPP's institutional

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[31] Ibid., October 1994.

[32] Ibid., October 1994.

[33] Service 65, February 1994.

priority is community involvement in identifying criminal behaviours of concern to that community, and in the development of preventative strategies. While Aboriginal involvement within mainstream programs is sought, there is a separately funded Aboriginal CPP.[34] Aboriginal identification and control over its own programs and Aboriginal choice in how involved they become in mainstream programs are also institutional priorities of the CPP, because it is believed that imposition may cause Aboriginal resistance to the program. The Review of the Crime Prevention Strategy notes the 1992 Ministerial Statement on this:

> 'For Aboriginal Australians, the word 'crime' is too closely associated with...the police, who are seen as the perpetrators of black deaths in custody, and the symbol of oppression, the realities of 200 years of dispossession.
> ... To talk about prevention would automatically sabotage any chance of success. Yet the issue of preventative measures stands. Development of culturally appropriate methodologies is critical.'[35]

Within these institutional precepts, success regarding Aboriginal domestic violence has been limited. For instance, local, predominantly white, CPCs, including Viewtown's, perceived 'substance abuse and family violence...as areas to be targeted in Aboriginal communities'.[36] CPC funds to Viewtown's CPP Aboriginal-determined sub-program have instead targeted programs for young people. In Viewtown, this consists mainly of youth camps focussing on outdoor skills development and community and cultural pride, with the goal of reducing youth crime.[37]

Viewtown's mainstream CPC's attempts to involve Aboriginal people in a mainstream *Boys and Relationship* program which addresses youth crime

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[34]CPP. Doc. 1994.

[35] Ibid.

[36]Ibid.

[37]Service 43, February 1994.

and domestic violence, were largely unsuccessful.[38] While the 'Trainer Training' component of this project focussed on training school teachers, ten non-school 'community' positions were also available. Of these ten, 5 were scheduled for Viewtown's Aboriginal Association (VAA). Only one of these 5 attended:

> Discussions later revealed that while the aboriginal[sic] participants still remained interested, the mixed learning environment of Aboriginal and non-Aboriginal people was too threatening for them. This would indicate a need to provide the program initially with a more compatible participant group either with majority or total aboriginal[sic] participants[39]

At the end of 1994, a 'culturally appropriate' 'Trainer Training' program had still not been undertaken. This is either despite or because of the CPC officer's encouragement of 'culturally appropriate' settings and her prioritisation of Aboriginal self-determination:

> Our responsibility as whites to Aboriginal programs is to never interfere, to support what they want, and if we see that one of their programs is not working, we have no rights to impose things on a community. Imposing disempowers people.[40]

The limited Aboriginal uptake of the CPC program in Viewtown arises in the context of Ministerial precepts about Aboriginal resistance to the concept 'crime', and the need for self-determined and culturally appropriate settings. The upshot of these approaches is that the Viewtown CPC program has minimal involvement with the issue of Aboriginal domestic violence. CPC mainstream settings, with some focus on domestic violence, are claimed by Aboriginal professionals to be too threatening. Aboriginal organisations are not sustaining enough contact with the mainstream CPC to develop parallel 'culturally appropriate' settings, and self-determined Crime Prevention Programs avoid the issue of domestic violence *per se*.

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[38]*The Boys and Relationship* program was developed in the metropolitan region at the Tea Tree Gully Community Health Service, by Children and Families Team: CPC. Doc. 1994.

[39]Viewtown CPC. Doc. 1993.

[40]CPPO, February 1995.

In sum, the CPP's institutional priority that communities determine crime prevention priorities and strategies has so far not brought forth effective Aboriginal community responses to domestic violence in Viewtown. At the same time, there is a factor of racial separatism in Viewtown that manifests in Aboriginal resistance to mainstream, or perhaps mainstream-controlled, settings. A common factor here may be that institutional axioms that encourage racial distinctness and distance are dysfunctional to the implementation of effective Viewtown Aboriginal domestic violence prevention programs.

Viewtown's Domestic Violence Action Group (DVAG) is an institution where Aboriginal involvement in prevention is being attempted.[41] DVAGs are community organisations throughout the state, primarily of professionals who have domestic violence clientele. These groups function as points of receipt and discussion of policy and legal reform, the development of ideas and strategies for application of state policy by local services, and informally function as a professional support group. Except for occasional public awareness campaigns, they do not directly implement policy. Viewtown's DVAG is generally well-attended, and attracts male and female professionals from a range of services.

One or two representatives from Viewtown's Aboriginal Health Centre (VAHC) were regular attenders during 1994.[42] During that year, Aboriginal domestic violence was seldom raised at DVAG forums, despite Aboriginal attendance. Regarding the impact of Aboriginal attendance on Aboriginal service response to domestic violence, there is little overt change, with one white DVAG member stating that Aboriginal

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[41]Viewtown's CPC supports the DVAG through regular attendance and support funds.

[42]Researcher attendance at Viewtown DVAG meetings 1994; minutes of 1994 meetings.

attendance is not enhancing VAHC's responses.[43] Nevertheless, Viewtown's DVAG is the only functioning interface for regular Aboriginal professional exposure to mainstream perspectives, providing a chance for positive mainstream impact on Aboriginal responses and mainstream support for Aboriginal professionals working in self-managed settings. Moreover, by 1995, there were emergent positive signs, with at least one Aboriginal worker extending public domestic violence awareness programs, launched by the DVAG, to the Aboriginal population; and Aboriginal worker use of the DVAG as a professional 'outside' support group, where problems concerning some aspect of an Aboriginal-managed service were raised, albeit tentatively.[44] However, its rather informal ties with a wide range of institutions render the Viewtown DVAG's effect on Aboriginal domestic violence responses difficult to delineate.

Institutions of Law: Tensions in Advocacy and Protection

Viewtown's police force is an institution that aims to secure the safety of domestic violence victims, irrespective of race or cultural difference. Domestic violence 'best practice' is a high priority among Viewtown's senior officers, with strong liaising between the police and other domestic violence services, especially the Women's Shelter and the DVAG.[45] The Viewtown police force also demonstrates a concern for positive relations with Viewtown's Aboriginal community. It employs between one and

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[43]Service 44, April 1994.

[44]DVAG meeting, February 1995; SAGDoc, 1996.

[45]Service 65, October 1993.

three Aboriginal police aides[46] and there has been a police-Aboriginal liaison committee since 1989.[47]

Viewtown senior police portray a sense of being alone in their prioritisation of victim safety. They claim that victims, counselling services, Aboriginal services, lawyers and magistrates, government funding priorities, and the law itself all compromise Viewtown police attempts to secure that safety. They also claim that non-prioritisation of victim rights by other institutions has similar negative impacts whatever the race or class of the victim or perpetrator.[48] Viewtown police catalogue problems here. Counselling services are tardy about preventative programs for perpetrators. The law is restrictive, because arrests depend on the establishment 'beyond reasonable doubt of a committed act'. It is not sufficient that 'we police know he's probably going to kill her'. Furthermore, the Courts in Viewtown do not apply the tools that the law does provide:

> They are letting off perpetrators and Summary Protection Order (SPO) defaulters with a rap over the knuckles all the time. Us police want more of these bastards locked up, to give the victim and us some peace and safety. Here, we don't have enough specialised police, enough preventative services, nor Aboriginal initiatives in preventative programs and 'after the act' care, nor enough court backing, nor enough prison space, to deal properly with domestic violence.[49]

This institutional concern for domestic violence victim safety includes Aboriginal victims, and interviews with Viewtown police suggest no inhibiting accommodation to cultural difference such as a reduced response to intra-Aboriginal violence. Moreover, Viewtown police claim

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[46]This varying figure reflects the drop-out rate of police aides. At the start of 1994, there was one police aide. During that year 2 more were enlisted, but one left the police force after a short duration, and another had significant periods of absence, apparently for family reasons.

[47]Service 43, Document A2/2.

[48]Service 44/45, April 1994, January 1995, and February 1995.

[49]Ibid., April 1994.

that Aboriginal victims readily call on police intervention, meaning that the liberal principle of physical safety is sought by, and extendable to, Aboriginal people. At the same time, a considered institutional recognition of difference in the form of programs to develop positive police-Aboriginal relations seems a necessary adjunct to this extension. There seems to be Aboriginal consensus that Viewtown's police are fair and approachable compared with police in other locations.[50] These comparatively healthy relations between the police and Viewtown's Aboriginal population enhance the ability of Viewtown police to provide safety to Aboriginal victims.

In some contrast to Viewtown's police, the institution of 'lawyer' in Viewtown has a more conflictual set of legal tasks. This tends to compromise the profession's ability to uphold the liberal tenet of protection of the person. This conflict tends not to emerge when the client is a victim of domestic violence, whether the victim is Aboriginal or non-Aboriginal. Here, the role of legal advocate tends towards maximising victim complaint. This means that a lawyer is likely to reject cultural defences. For instance, one Viewtown lawyer uses his contact with Aboriginal or non-Aboriginal victims as an opportunity to inform them of their right not to endure injury from their partners. He does not treat this right as conditional on the race or culture of the victim.[51]

Viewtown's female lawyer deals with most Aboriginal domestic violence cases. Her caseload is comprehensive regarding Viewtown's Aboriginal domestic violence court cases because she takes on the intra-Aboriginal cases that Aboriginal Legal Rights Movement (ALRM) is not permitted

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[50]'The Burrows', July 1994.

[51]Service 57, February 1995.

to handle. Hence her perspective on Aboriginal domestic violence and culture in Viewtown and hinterlands is noteworthy:

> They have a real problem about culture here. They want to restore their well-being, and see this to involve a revival of Aboriginal culture. I think that for Aboriginal people, the quicker they shed traditional ways and ideas about cultural restoration, the better it is for the well-being of Aboriginal women and families, at least in terms of violence norms.[52]

She reports that magistrates working in the region are 'very aware' of the different cultural location of Aboriginal violence. Moreover, 'traditional culture' is routinely used by lawyers operating in the region as a defence for Aboriginal perpetrators of domestic violence, with effect on magistrate sentencing:

> Lawyers will plead with the judge to consider culture. This is used by lawyers to mitigate the sentence. For example, serious violence will get a suspended sentence instead of imprisonment. This is possible with perhaps 25% of cases in Viewtown, and they will be put on bonds or similar for violence. An Aboriginal man who is more integrated, say a professional, wouldn't be able to use such a plea. A man may be able to successfully plead 'culture' if he was, say, on CDEP, been in Viewtown for 2 or so years, and was from a more tribal area before that.[53]

Despite her concern about these trends, her personal perspective does not inhibit this lawyer's adherence to the institutional tenets of the legal profession under liberalism, which is to utilise whatever legal redress is available to reduce a sentence for a client:

> I am a professional who will act on behalf of any client, including male perpetrators. I have no problem with that. I use what legal tools there are to defend my clients. That is my profession.[54]

The pragmatic orientation of the institution of the legal profession, which is to win cases for their clients, renders it prone to drawing on any available legal redress, even where that redress has potentially non-liberal bases and consequences.[55] Viewtown's legal profession embodies this

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[52]Service 58, October 1994.

[53]Ibid., September 1994.

[54]Ibid., September 1994.

[55]The provision of 'cultural difference' as a defense for perpetrators of domestic violence is used by the Australian legal system in cases involving migrants as well. H. Assafiri and M. Dimopoulos, 'The Legal System's Treatment of NESB Women Victims of Male Violence', *Criminology Australia*, 6(4),

neutrality in legal ethics, at least at the point of representing client cases in court. Ethical neutrality works favourably enough in terms of human rights when an Aboriginal domestic violence victim is the client. Lawyers' encouragement of victims to speak up about incidents of domestic violence in custody battles may be above all a legal strategy, but with favourable ethical outcomes for the victim. For perpetrators too, the legal profession is an efficient implementer of available measures, including those that are potentially non-liberal.[56] This has direct implications for the human rights of Aboriginal victims, and for the overall status of cultural compared to individual human rights within Viewtown.

Aboriginal-Managed Services: Ideals and Realities in Tension

VAHC became separately incorporated as an Aboriginal community-controlled health service in 1993.[57] Its establishment is premised on the recognition that Aboriginal people suffer greater social, cultural and economic disadvantages than the rest of the population, and that these disadvantages exacerbate Aboriginal ill-health. Its principle aim is to develop a primary health approach that effectively addresses the social and physical health problems of Viewtown's Aboriginal population, by

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May 1995, 20-2. This was also cited in OPDV, *Other Ways? A Discussion Paper on Best Practice Principles for the Prevention of Domestic Violence*, OPDV, CPUt, Attorney General's Department, Adelaide, 1996, 23.

[56]There are indications that Aboriginality is associated with reduced sentences in other states too, from at least the late 1980s. Easteal argues that sentencing figures for domestic homicide, (New South Wales plus Victoria, 1988-1990) suggest that Aboriginality is a mitigating factor: P. Easteal, *Killing the Beloved: Homicide Between Adult Sexual Intimates*, AIC, 1993, 116, and 131-2. See also R. G. Broadhurst and R. A. Maller, 'The recidivism of sex offenders in the Western Australian Prison Population', *The British Journal of Criminology* 32, 1, Winter, 1992, 54-80, especially 62.

[57]Service 43, Information Booklet 1994/5.

supplementing existing health services. Another important principle is that the service be managed by the Viewtown Aboriginal community.[58]

A founding assumption of this institution is that the two pillars of addressing Aboriginal health, and Aboriginal control, are compatible. In fact, expertise in health administration and delivery received high priority in the first two years after establishment. Skilled white professionals were employed to establish services and then extend their expertise to Aboriginal service providers. By the beginning of 1995, an Aboriginalisation process was given priority. White workers attempting to impart to Aboriginal workers the skills necessary for an effective self-managed Aboriginal health service have several reservations about service outcomes of this. Already, they are concerned that VAHC's function of delivering effective primary social and medical health services to its Aboriginal clients may be incompatible with its Aboriginalisation priority, at least in the short to medium term.[59] Thus an institutional dual embodiment of the principles of self-management and of providing optimal services for Aboriginal domestic violence victims may be too difficult an ideal for Viewtown's Aboriginal health service. The reality status and reasons for this warrant detailed investigation.

Another key self-managed service is the Aboriginal Women's Place. This VAA service is managed by an all-woman Aboriginal committee, and employs a non-Aboriginal instructor/coordinator. While men are not banned and occasionally attend, there is consensus that it is a women's space. The Women's Place has several institutional goals. It is a place to share in activities such as CDEP skills development. It is an informal gathering place for delivering information about health and other issues

[58]Ibid.

[59]Service 43, October 1994; Service 42, December 1994 and October 1995.

to Aboriginal women. It functions as a place for Aboriginal women to enjoy each other's company and to catch up with what is happening in the community. It also offers day time respite from negative perhaps unsafe home environments. The Women's Place forms the hub of daily life for dozens of Viewtown Aboriginal women.[60]

The Women's Place's underlying institutional principle is that Viewtown's Aboriginal women are not yet ready for full participation within the mainstream community, especially the mainstream work place. For these women, a work ethic is more readily cultivated within a separatist setting, with a hard-working white migrant coordinator acting as mentor.[61]

The validity of these assumptions is uncertain. Whatever the case, many of the women use the opportunity of being together to reinforce their own culture or attitudes. Certainly at the Women's Place, for a while each day domestic violence victims are removed from the risk of domestic violence. Some women are referred here by social workers for that reason.[62] But it is also a place where through 'gossip', Viewtown Aboriginal women normalise their daily experiences and reinforce a shared tolerance of them. A white health professional comments:

> To heal, Aboriginal people certainly need to express their problems in an appropriate venue. At the moment, they certainly discuss what happens in their families with each other, but it is in a very destructive way that affirms bad behaviours and values. This works to perpetuate what is destructive in their lives rather than to overcome problems.[63]

The success of the Women's Place in enhancing Aboriginal women's well-being including their physical safety is at present reliant on the efficacy of a mainly separatist strategy, albeit with regular and varied

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[60]Aboriginal Women's Place attendance lists; researcher observations during 1994.

[61]AWPC February 1995.

[62]Ibid.

[63]Service 42, December 1994.

non-Aboriginal professional input. The present culture of Viewtown's Aboriginal people contains a certain level of negative values, including a tolerance of domestic violence, that risk being reinforced in the Women's Place's predominantly Aboriginal setting. Aboriginal and non-Aboriginal professionals running programs and information sessions may or may not be adequate counterbalances here. These issues warrant qualitative exploration.

Conclusion

In Viewtown, there is a comprehensive range of mainstream and Aboriginal institutions that provide a service to Aboriginal domestic violence victims and offenders. This initial survey indicates that the ability of these services to secure the right to physical safety for Aboriginal domestic violence victims may be hampered by other institutional principles. Aboriginalisation, self-management, separatism, and 'cultural rights' are among principles implicated here. Quantitative and qualitative analysis of services and qualitative analysis of Viewtown Aboriginal 'community' and gender politics are required before this is substantiated, and before some understanding is gained regarding whether or why these principles inhibit rather than assist in optimal service responses to Aboriginal domestic violence.

6

The Service Survey

The Goal of the Survey

Between September 12th and October 9th 1994, a survey was conducted to assist in the evaluation of service interface with Aboriginal and Caucasian domestic violence clients in Viewtown.[1] This service survey quantifies contact of Viewtown's services with Aboriginal and Caucasian physical violence victims and offenders, including non-domestic, family and domestic violences. 90 percent of organisations approached cooperated with the survey. This amounted to 66 participating organisations, of which 36 had contact with teenage and adult physical violence clients and 28 had contact with teenage or adult domestic violence clients, during the four weeks of the survey.

This survey was undertaken to provide a 'window' onto four weeks of service interface with offenders and victims of domestic and non-domestic violence in Viewtown. As a quantitative study, the survey goal is primarily to provide raw data. This data includes comparative rates of service use by Aboriginal and Caucasian clients associated in some way with violence, factors about, or associated with, the violence itself, types of services used, and service response. This data is an indication of the extent that Aboriginal compared to Caucasian domestic violence is

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[1]'Caucasian' is the preferred term in this chapter, because this was the term used to denote 'white' on the data sheet used by survey participants. See Appendix to Methodology.

picked up by Viewtown services, as well as racial and gender differences or similarities in service use and response.[2] Such information augments critical assessment of policy responses to Aboriginal domestic violence.

Aboriginal and Caucasian Client Contact with Services[3]

The [4] Aboriginal population of Viewtown utilise human services at a higher rate than the Caucasian population.[5] During the survey period, it is estimated that Viewtown's Aboriginal population had contact with human services somewhere between 3.7—4.7 times the rate of Viewtown's Caucasian population.[6]

During the survey period, participating services documented 106 Caucasian and 49 Aboriginal women, and 78 Caucasian and 33 Aboriginal men, as clients who had some association with domestic, family, or non-domestic violence. Among this group, there were 56 Caucasian and 30 Aboriginal women, and 21 Caucasian and 8 Aboriginal men, associated in some way with domestic violence.

These figures, when compared to service estimates of total Aboriginal and non-Aboriginal numbers, suggest that Aboriginal clients were about twice as likely as Caucasian clients to have some association with violence either as victims or perpetrators. When the total Viewtown

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[2]In this chapter, cross-tabulation is undertaken for several factors. A chi test is undertaken for counselling trends. In this thesis, a chi square level of significance at 0.05 or less is considered to be statistically significant.

[3]For more details on 'violence' clients numbers and trends, see Appendix to Chap. 6, A1 and A2.

[4]Throughout this chapter, 'population', 'clients', 'women' and 'men', and so on, refer to 'teenage plus adults' only, which includes 13 years of age and above.

[5]In this section, the extrapolation from the client group to the general population is a risky undertaking, mainly due to the fact that 'client' represents a client interface not an individual person. Also, totalt population figures are witheld here, to preserve place anonymity.

[6]See Appendix to Chap. 6, A1.

population is considered, these client figures mean that Aboriginal adults are about 7—10 times more likely than Caucasian adults to present at a human service as having an association with domestic, family, or non-domestic violence.[7]

This may indicate that Aboriginal domestic violence in Viewtown occurs in the context of a higher level of overall violence than is the case with the Caucasian group. Within the context of this overall higher rate, the Aboriginal group experiences fairly similar spreads to the Caucasian group in terms of both domestic, family, and non-domestic violence.[8] In both the Aboriginal and Caucasian group, male clients were represented more in the non-domestic than domestic violence categories.[9]

Service response figures on client numbers indicate several factors. The high Aboriginal contact with services provides at least a locational opportunity for effective interventions. The figures also suggest that there is no generalised service avoidance of the Viewtown Aboriginal population, and no generalised reluctance within the Aboriginal population to seek service assistance. Perhaps above all, they indicate that services in Viewtown are able to identify violent behaviour or subjection to violence within their Aboriginal clientele. Furthermore, services define these behaviours as violence. Thus there is no generalised invisibility of Aboriginal violence to services that could have inhibited appropriate service response, nor generalised service resistance to defining certain behaviours within the Aboriginal population as violence. Thus the

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[7]See Appendix to Chap. 6, A2.

[8]Except for a lower percent of Aboriginal violence in the 'family violence' category. See Appendix to Chap. 6, A3-6.

[9]'Domestic' refers to 'couple'; 'family' refers to 'non-couple domestic'. And unless otherwise indicated, all 'clients' referred to in this chapter are 'domestic violence' clients. 'Violence clients' includes all clients associated with violence, including domestic, family, and non-domestic violence.

principle of 'cultural difference' does not seem to be inhibiting service identification of Aboriginal violent behaviours.

Chart 6.1a. Number of 'violence' clients[10]

| [Expected][11] Actual | [Expected] Actual | Caucasian Caucasian |
| Aboriginal Female | Aboriginal Male | Female Male |
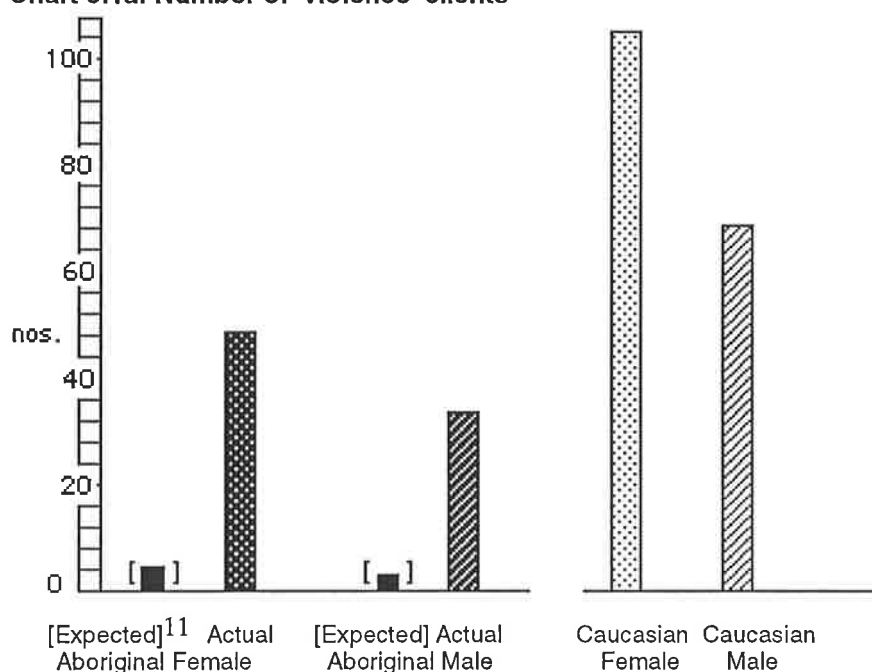
Chart 6.1b. Number and % of total 'violence' clients who are 'domestic violence' clients

■ =numbers

| [Expected] Actual Caucasian | [Expected] Actual Caucasian |
| Aboriginal Female Female | Aboriginal Male Male |

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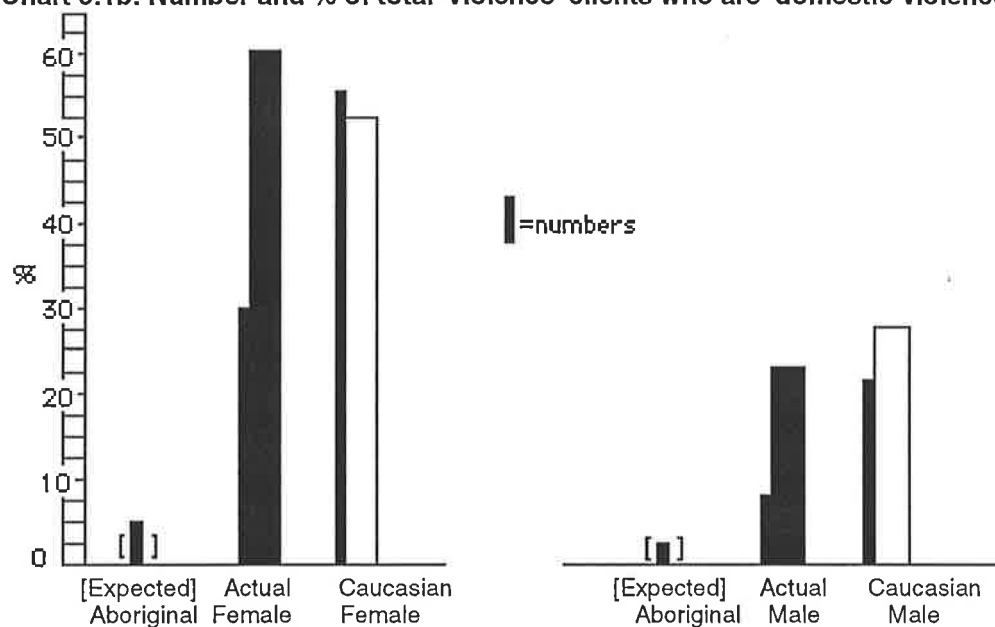
[10]Chart abbreviations used in this chapter and in Appendix chap. 6: Ab'l.=Aboriginal; cts.=clients; couns.=counselling; distribn.=distribution; emerg.=emergency; emot.= emotional; hous.=housing; no(s).=number(s); NPM=no police measures; poss.=possible; P=perpetrator; shelt.=shelter; unempl.=unemployment; V=victim.

[11]All 'expected' figures in these charts are the number of Aboriginal 'violence' or 'domestic violence' clients that would have been seen, if the rate was the same as that in the Caucasian population.

Types of Services Used[12]

Mainstream services identified 22 Aboriginal female clients and 7 Aboriginal male clients associated with domestic violence. Aboriginal-managed services documented one Aboriginal female and one Aboriginal male 'domestic violence' client. The white-managed and white-delivered service for Aboriginal people documented 7 Aboriginal female 'domestic violence' clients. However, a total-number comparison between mainstream and Aboriginal-managed service use is not valid because the mainstream provides a broader range of services. Comparing Aboriginal service use to the white- run and -personneled service has some validity because both offer a welfare and support service to Aboriginal people. Factors influencing the decision of Aboriginal domestic violence victims to prefer the specialised white-run to the Aboriginal-managed service, warrant qualitative investigation.[13]

The trends illustrated in Charts 6.2a and 6.2b raise a critical issue regarding the efficacy of service response to Aboriginal domestic violence in Viewtown. They indicate that Aboriginal females are more likely to first get service assistance during or soon after the crisis of a domestic violence situation. A smaller percentage of Aboriginal women sought counselling services, a service for voluntary clients desiring to prevent or pre-empt future exposure to violence. There was a concomitant over-contact with legal services by Aboriginal women 'domestic violence' clients, a service use based on crisis physical and legal necessity for police and other legal interventions.

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[12]See Appendix to Chap. 6, B.

[13]For 'all violence' client trends in service use, see Appendix chap. 6, B.

Similar comparative racial differences are evident within the male Aboriginal and Caucasian groups. However, males as a whole were over-represented in the legal and under-represented in the counselling categories.

These trends suggest that there are aetiologies within the Viewtown Aboriginal population, and axiomatic or implementation problems within services, that are causing an overall delayed response to Aboriginal domestic violence in Viewtown. Viewtown services seemed to have no barriers to providing emergency responses to Aboriginal domestic violence. However, white domestic violence cases had more chance of receiving preventative or preemptive intervention, thus saving more Caucasian victims from enduring escalation to more serious violences requiring crisis intervention. Data about the 'violences' augment the validity of detected trends here.[14]

Chart 6.2a. Categorised service use, female 'domestic violence' clients:
% distribution and numbers
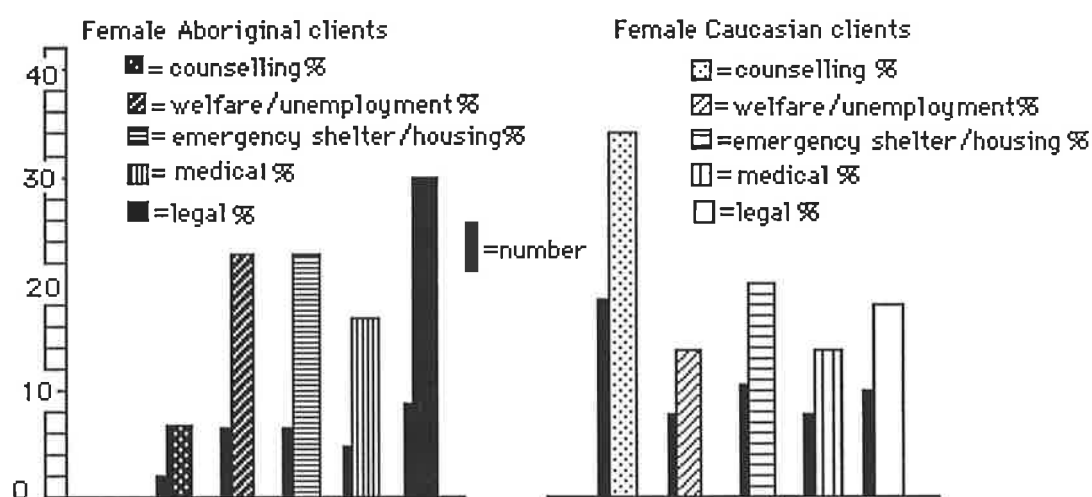
Female Aboriginal clients
■ = counselling%
▨ = welfare/unemployment%
▤ = emergency shelter/housing%
▥ = medical%
■ = legal%

Female Caucasian clients
⊡ = counselling %
▨ = welfare/unemployment%
▣ = emergency shelter/housing %
⊞ = medical %
□ = legal %

■ = number

The difference in the rate of female Aboriginal and non-Aboriginal 'domestic violence' clients seeking a counselling service is significant for chi square at 0.05.

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[14]Ibid.

Chart 6.2b. Categorised service use, male 'domestic violence' clients:
% distribution and numbers
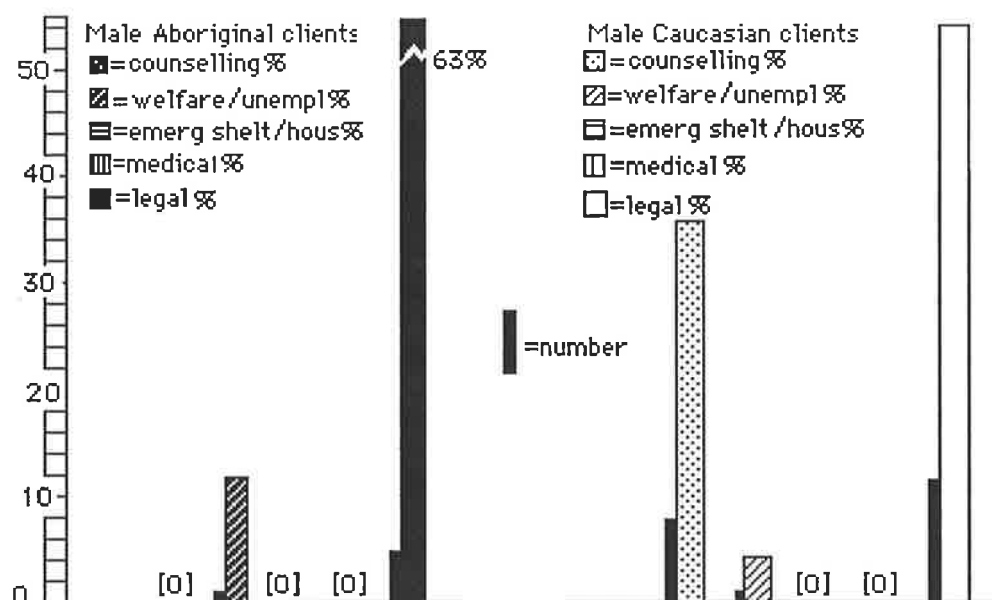
The difference in the rate of male Aboriginal and non-Aboriginal 'domestic violence' clients seeking a counselling service is significant for chi square at 0.05.

The Violences: Perpetrators and Victims, Severity, Time Span, Associated Factors

Some of these factors display differences between Aboriginal and Caucasian, as well as gender groups. Overall, they augment the 'service use' data suggestion that Aboriginal 'domestic violence' clients are more likely to come into contact with a service at the point of a violence-associated crisis.

All Aboriginal female domestic violence clients were victims. 1 Caucasian female was a perpetrator, 1 was both perpetrator and victim, and 96 percent were victims. All Aboriginal male domestic violence clients were perpetrators. 70 percent of Caucasian males were perpetrators, 15 percent were victims, and 15 percent were both.[15] The

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[15]Generally speaking, analysis has categorised clients into gender and identity groups only. Further fragmentation into perpetrator/victim groups was deemed to render the groups too small. Trends of gender and identity are interesting enough. That most males are perpetrators, and the vast majority of females are victims, and that there is only a small difference here between the 2 race groups, is to be 'kept in mind' when considering trends here.

cause of service contact with higher Caucasian female perpetration and higher Aboriginal female victimisation is not discernable from this quantitative data. It could either be that there is a higher comparative rate of female perpetration in the Caucasian group, or that cases of Aboriginal female perpetration are less likely to come into contact with a service.[16]

A significant factor that emerges from Charts 6.3a and 6.3b is that the percentage distribution of domestic violence severity was similar for Aboriginal and Caucasian female clients. This seems anomalous given the tendency for Aboriginal clients to resort to emergency services and avoid preventative interventions, which would lead to a prediction of service interface with more severe violence among Aboriginal women.[17]

There are possible explanations for this anomaly. While distribution patterns of violence severity are similar, Aboriginal women were still overrepresented per head of population in terms of service response to severe domestic violence. These figures could also be reflecting a middle to upper class female Caucasian aversion to crisis legal interventions even in cases of moderate to severe couple violence, as observed by Viewtown senior police.[18] Such women are less averse to counselling interventions, and so service contact with Caucasian women experiencing moderate to severe violences are high, despite low legal interventions in this group. These possible racial behaviour trends in Viewtown suggest that Aboriginal people may not be radically more resistant to effective state protection of their human right to physical safety. The difference resides primarily in a possible greater Aboriginal resistance to prevention, and a possible greater middle- and upper class Caucasian resistance to

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[16]For 'all violence' client trends in perpetration/victimisation, see Appendix to Chap. 6, C1.

[17]For 'all violence' client trends in 'severity', see Appendix to Chap. 6, C2.

[18]Service 44, April 1994.

crisis intervention. If so, this means that as a cultural group, Aboriginal clients do not possess all the most difficult aetiologies when it comes to effective state interventions.

Another problem is one of service interpretation of terms such as 'severe'. Some counselling personnel found it offensive to categorise any physical domestic violence as less than severe. One legal counsellor claimed that any domestic violence incident that warrants police intervention is 'severe', while police themselves had no trouble categorising a violent case from mild through to severe.[19] Hence, interpretations need to be cautiously delivered.

Chart 6.3a. Severity of violence, female 'domestic violence' clients: % distribution and numbers

Female Aboriginal clients
■=mild physical %
▨=moderate physical%
▤=severe physical%
▥=life threatening/fatal%
■=sexual violence %
▦=unstated physical%

Female Caucasian clients
▣=mild physical%
▨=moderate physical%
▤=severe physical%
▥=life threatening/fatal%
☐=sexual violence %
▦=unstated physical %

■=number

___
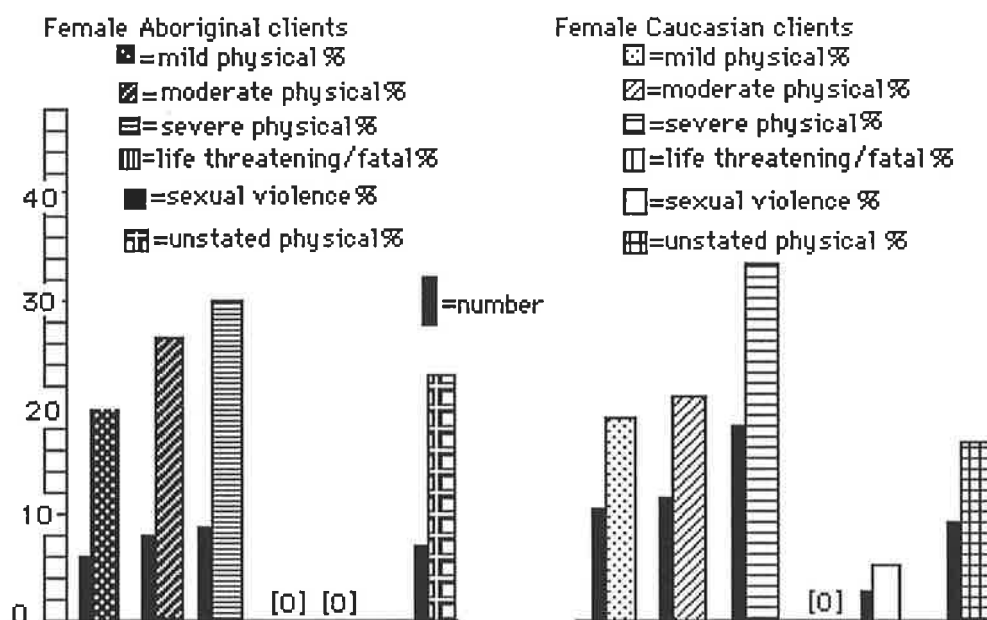
[19]Services 15, 27, 44, and 45, during the service survey, September-October 1994.

**Chart 6.3b. Severity of violence, male 'domestic violence' clients:
% distribution and numbers**
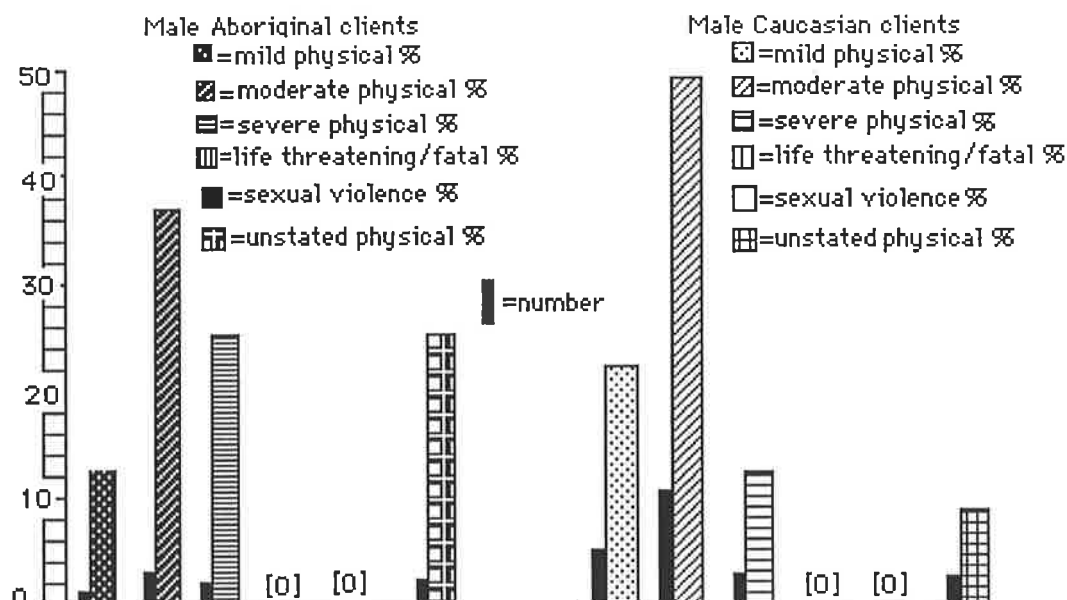
The factor 'time span of the violence' is not a measure of the actual time span that a client has endured or committed physical violence. It is a measure of the time span of violence that a service is aware of, and/or responding to. Counselling services are more likely to list a violent act as having occurred over several/many events, either current or in the past, whereas legal services are more likely to list a violence as a single event, either current or past. Identity and gender differences here almost certainly reflect the fact that Aboriginal clients have more contact with legal services concerned with a single present or past event,[20] and less with counselling or self-help groups concerned with a client's total history.

Thus, services had less opportunity to intervene on the level of altering habits of violent behaviour and victimisation within the Aboriginal

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[20]The high level of male 'past-one event' reflects the higher number of male perpetrators in court or in prison for a single past act of violence.

population. Again, this suggests that in Viewtown, services are having ethical or practical difficulties in extending the liberal obligation to protect Aboriginal victims to the realm of prevention. This at least *prima facie* warrants the exclamation 'too little too late.'[21]

Chart 6.4a. Time span of domestic violence, female 'domestic violence' clients: % distribution and numbers
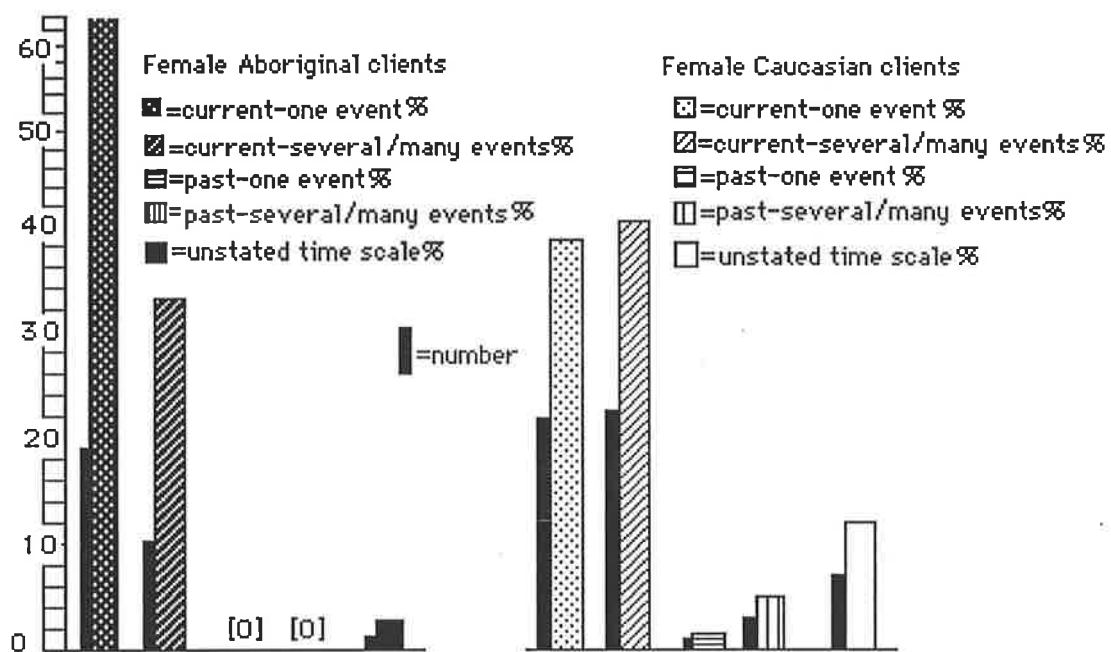
Chart 6.4b. Time span of domestic violence, male 'domestic violence' clients: % distribution and numbers

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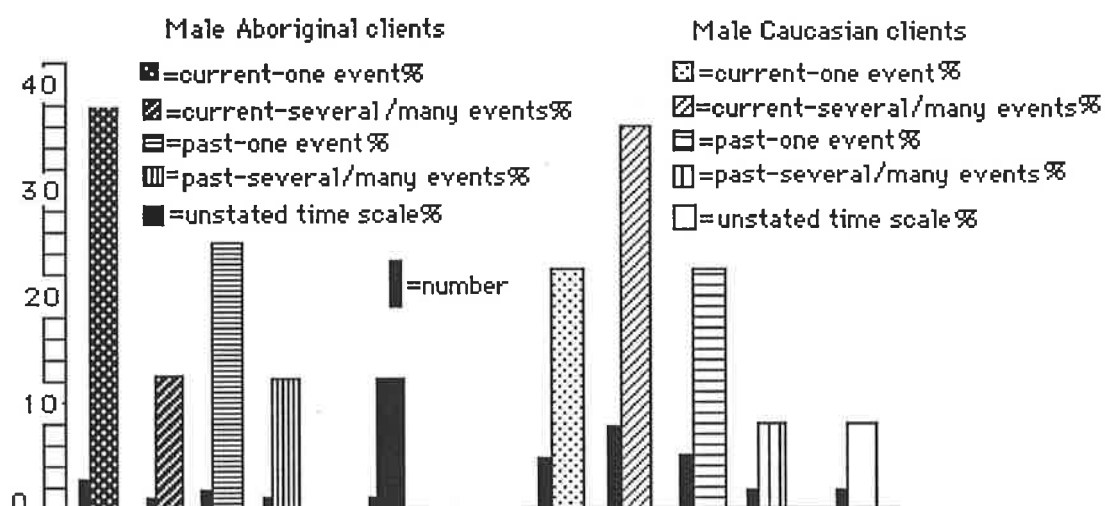
[21]For 'all violence' client trends regarding 'time span', see Appendix to Chap. 6, C3.

As reflected in the labelling of the data 'triggers or associated factors', no causal assumption, only observations of the presence of other factors, were expected to be made by service providers here. This data was collected by a disparate range of service providers. Hence, factors categorised are to some extent correlated with and possibly distorted by the type of service with which a client interfaces.[22]

Notwithstanding these qualifications, alcohol was present at a high rate in all four groups of 'domestic violence' clients, ranging from about 40 percent for Caucasian female clients, to about 76 percent for Aboriginal female clients. Only Caucasian females presented to a service with another factor, 'couple issues' more than the factor of alcohol. Besides alcohol, drugs were also a common factor, ranging from 16 percent for Caucasian female clients, to 30 percent for Aboriginal female clients.

It is noteworthy that there was a greater association in the Aboriginal group of all violence types with alcohol.[23] It is assumed that over-consumption of alcohol has multiple negative impacts on couple relationship, all increasing the likelihood of domestic violence. Alcohol abuse is associated with poor self-esteem and self-control, financial conflict, and unemployment. Perhaps above all, alcohol is an aggressant, increasing the likelihood of a violent response in conflict situations. So this data suggests that in Viewtown, a higher overall Aboriginal consumption of alcohol is a contributor to the higher Aboriginal rate of violence, including domestic violence, among Aboriginal clients.

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[22]Percentages within each group total more than 100, as many individual clients had violences with more than one trigger or associated factor.

[23]For 'all violence' client trends regarding 'triggers', see Appendix to Chap. 6, C4.

Chart 6.5a. Triggers/assoc factors, female 'domestic violence' clients: % distribution and numbers
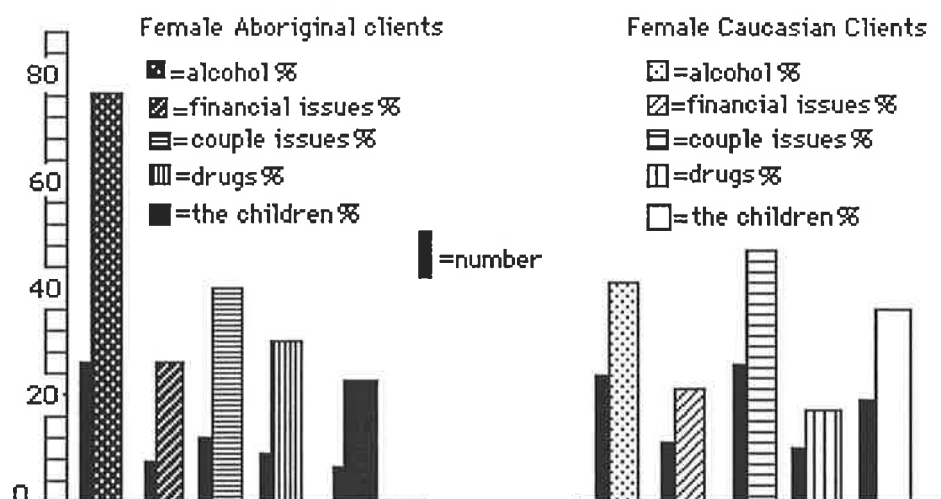
Chart 6.5b. Triggers/assoc factors, male 'domestic violence' clients: % distribution and numbers
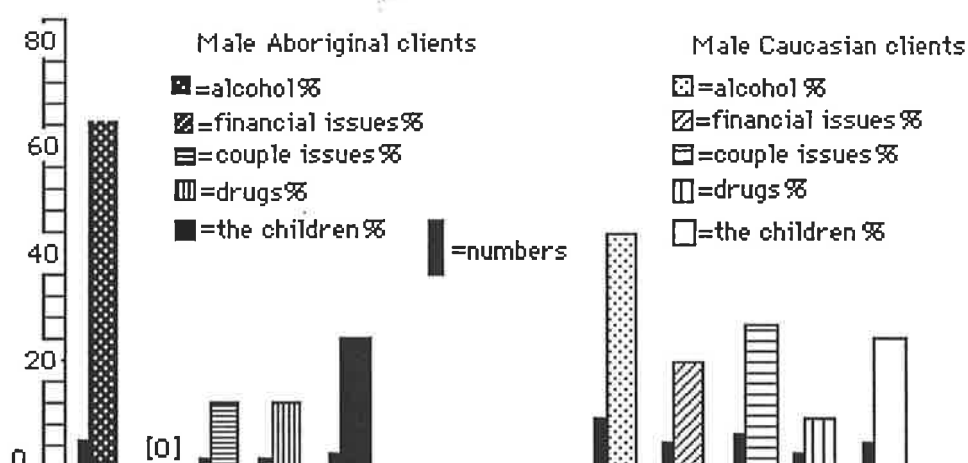
Service responses

Service response charts break down into variables containing small client numbers, thus affecting significance. A few trends are nevertheless tentatively discerned. The only 'domestic violence' client group registering the need for medical assistance was the female Aboriginal group. Among 'domestic violence' clients, only females required housing or refuge, with no significant racial difference.

The most significant legal response difference is that only in the Caucasian 'domestic violence' client group did impositions of Summary Protection Orders occur. Police responses to Aboriginal female victims tended to be of another and mild form, such as removal of perpetrator from premises or a warning.[24] This suggests that Aboriginal victims tend to seek short term-respite rather than a legal measure designed to increase the chance of long-term protection. So while Aboriginal victims do not resist legal assistance *per se*, there are barriers to full use of the law's protective measures. This warrants further investigation.[25]

Chart 6.6a. Service responses, female 'domestic violence' clients: % distribution and numbers
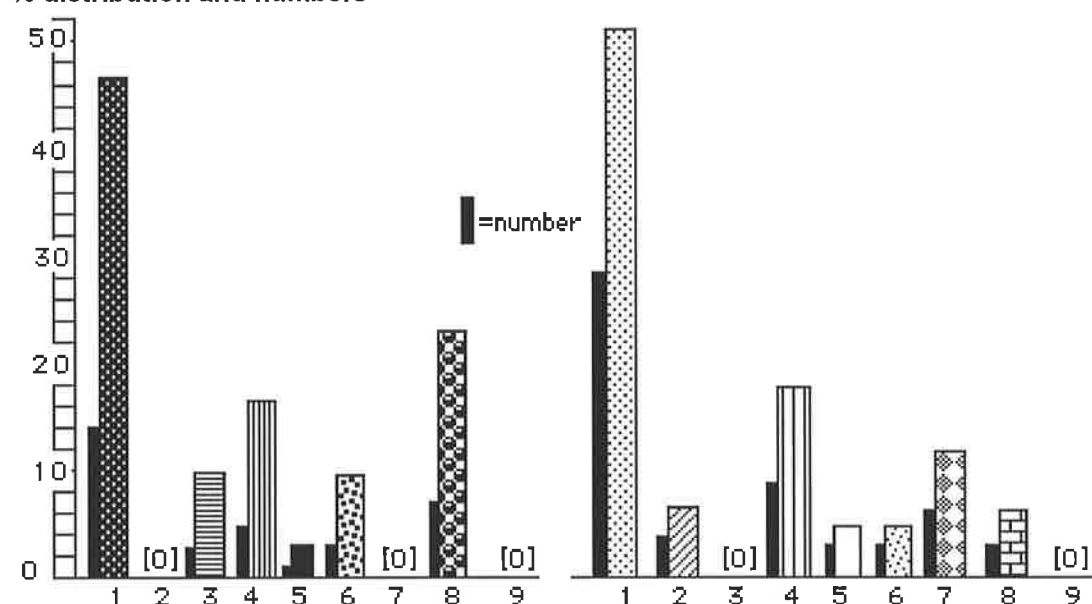
Chart 6.6a: Aboriginal females

1 ■= poss-definite counselling %
2 ▨ =welfare assistance given %
3 ☰=medical assistance required %
4 ▥ =housing/shelter/transport given %
5 ■=FACS enquiry/child access/lawyer %
6 ▨=P or V leaves, so NPM %
7 ▨=SPO obtained %
8 ▨=Mild police or court response %
9 ▥=Heavy police or court response %

Chart 6.6a: Caucasian females

1 ▨ = poss-definite counselling %
2 ▨=welfare assistance given %
3 ☐=medical assistance required %
4 ▥=housing/shelter/transport given %
5 ☐=FACS enquiry/child access/lawyer %
6 ▨=P or V leaves, so NPM %
7 ▨=SPO obtained %
8 ☐=mild police or court response %
9 ▦=heavy police or court response %

The difference in the rate of female Aboriginal and non-Aboriginal 'domestic violence' clients receiving a counselling response is not statistically significant.

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[24]Other legal response figures are too low for confident comparison.

[25]For 'all violence' client trends regarding 'service responses', see Appendix to Chap. 6, D1.

Chart 6.6b. Service responses, male 'domestic violence' clients: % distribution and numbers[26]
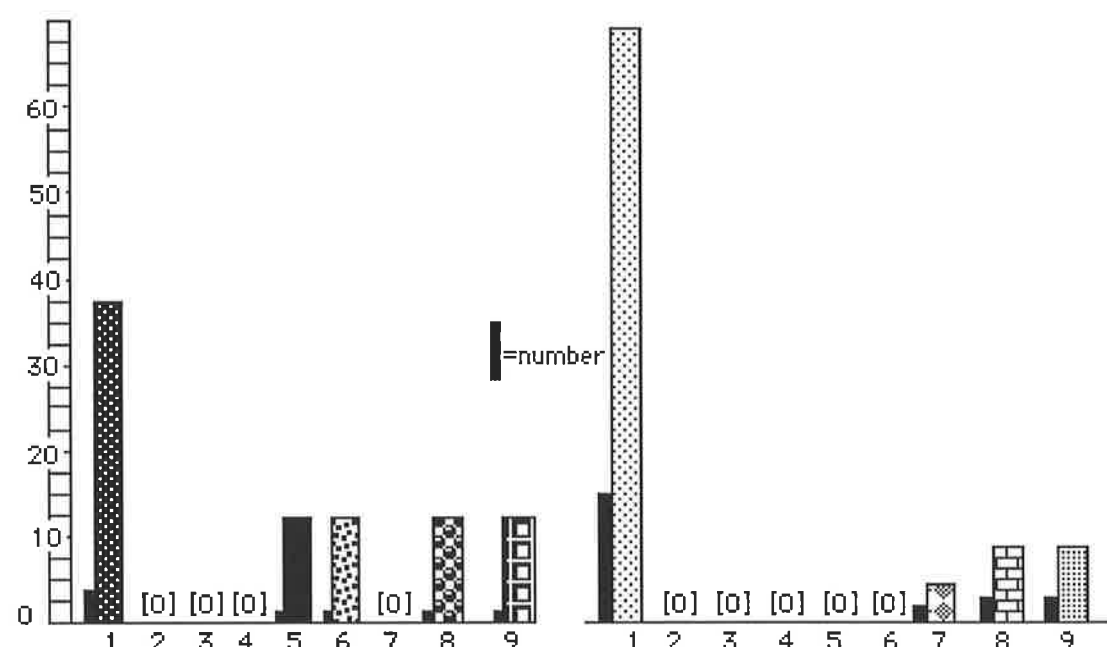
Chart 6.6b: Aboriginal males

1 ▦= poss-definite counselling%
2 ▨ =welfare assistance given%
3 ▤=medical assistance required%
4 ▥=housing/shelter/transport given%
5 ■ =FACS enquiry/child access/lawyer%
6 ▦=P or V leaves, so NPM%
7 ▨=SPO obtained%
8 ▦=Mild police or court response%
9 ▥=Heavy police or court response%

Chart 6.6b: Caucasian males

1 ▣= poss-definite counselling%
2 ▨= welfare assistance given%
3 ▭=medical assistance required%
4 ▯=housing/shelter/transport given%
5 ▢=FACS enquiry/child access/lawyer%
6 ▦=P or V leaves, so NPM%
7 ▨=SPO obtained%
8 ▦=mild police or court response%
9 ▦=heavy police or court response%

The difference in the rate of male Aboriginal and non-Aboriginal 'domestic violence' clients receiving a counselling response is not statistically significant.

Also of note is the greater number of counselling responses compared to the primary client or service intent of the intervention. While different patterns associated with gender and identity can still be discerned, convergence in response is detected. The presence of a specialised white-personneled welfare and outreach service for Aboriginal women is a major contributor to the high counselling outcome for Aboriginal female

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[26]The inclusion of the prison and post-prison services necessarily means that male clients are comparatively over-represented in the 'heavy police response' category in Chart 6.6b.

domestic violence victims. This service tends to have strong client attachment, meaning that ongoing support and counselling is likely for these 7 clients. 6.5 percent of Aboriginal, and 34 percent of Caucasian, female domestic violence victims attended a service with the primary intent being to receive counselling. Service response was that somewhere between 33—47 percent of Aboriginal, and 45—52 percent of Caucasian, female domestic violence victims received at least a once-off counselling session or counselling referral.[27] This also occurred for male clients. No Aboriginal, and 36 percent of Caucasian, male domestic violence clients attended a service to receive counselling. The number that actually received counselling or counselling referral from the service rose to 37.5 percent for Aboriginal, and 64—68 percent for Caucasian male, domestic violence clients. So services, and perhaps clients too, are 'opportunist', using the chance offered by interface to initiate preventative strategies, whatever the racial group of the individual client. Thus the result is a likely doubling of domestic violence clients who received counselling compared to the number of domestic violence clients who initially sought counselling. In Viewtown, such opportunist interventions mean that overall, an Aboriginal female client who is a victim of couple violence is about as likely to receive a counselling intervention as a non-Aboriginal client of this category.

A closer examination of counselling type allows for some indication of the quality of counselling outcomes.[28] Given the quantitative and short-term nature of this survey, no actual assessment can be made, especially

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[27]The percentage uncertainty here is due to the possibility that some services are likely to have given counselling, but this is not stated on the survey sheet. For instance, a stay at the Women's Shelter is likely to include some informal counselling at least. Other services simply wrote that they 'referred' the client, but the type of referral was not stated. However, the overall tone of survey information about the client-service interface suggests that the referral was to a counselling service.

[28]As seen in the charts, the breakdown of counselling into type renders factor numbers here low, hence the need for caution in drawing conclusions here.

regarding long-term impacts that counselling has on clients of different race, gender, and whether they were victim or perpetrator. It is assumed, however, that counselling is a conventional and often productive method of client support and attitudinal and behaviour modification. Thus counselling intervention indicates that a client was supported or challenged in some way regarding their present domestic violence situation.

In particular, 'ongoing counselling' indicates that the client has embarked on a sustained program to alter their violence situation in some way. So a counselling intervention is classified as a preventative intervention. Overall, up to 26 percent of Aboriginal, and 25 percent of Caucasian, total female 'domestic violence' clients, received ongoing counselling. While low male figures reduce significance, 25 percent of Aboriginal, and 45 percent of Caucasian, total male 'domestic violence' clients received ongoing counselling.

Hence, the problem of Aboriginal reluctance to seek counselling is being addressed by diligent service intervention. The result is that in Viewtown, preventative work with individual Aboriginal domestic violence clients is being undertaken by a range of primarily non-counselling services. A positive impact of the regular attendance by non-counselling human services at Viewtown's DVAG may also be in evidence here.[29]

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[29]For 'all violence' client trends regarding 'counselling type', see Appendix to Chap. 6, D.

Chart 6.7a. Counselling response by type, female 'domestic violence' clients: % distribution and numbers
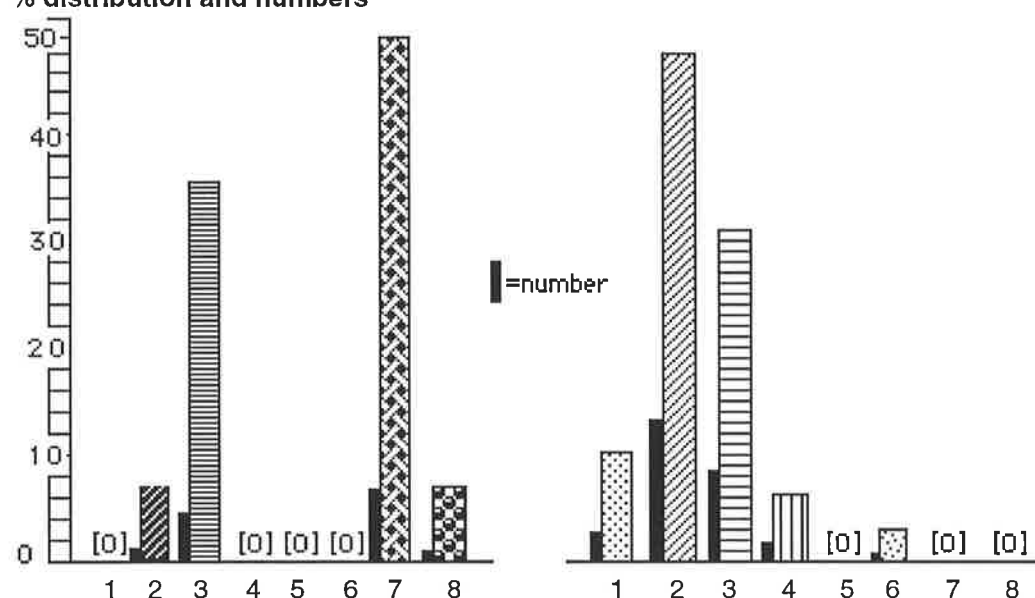
Chart 6.7b. Counselling response by type, male 'domestic violence' clients: % distribution and numbers
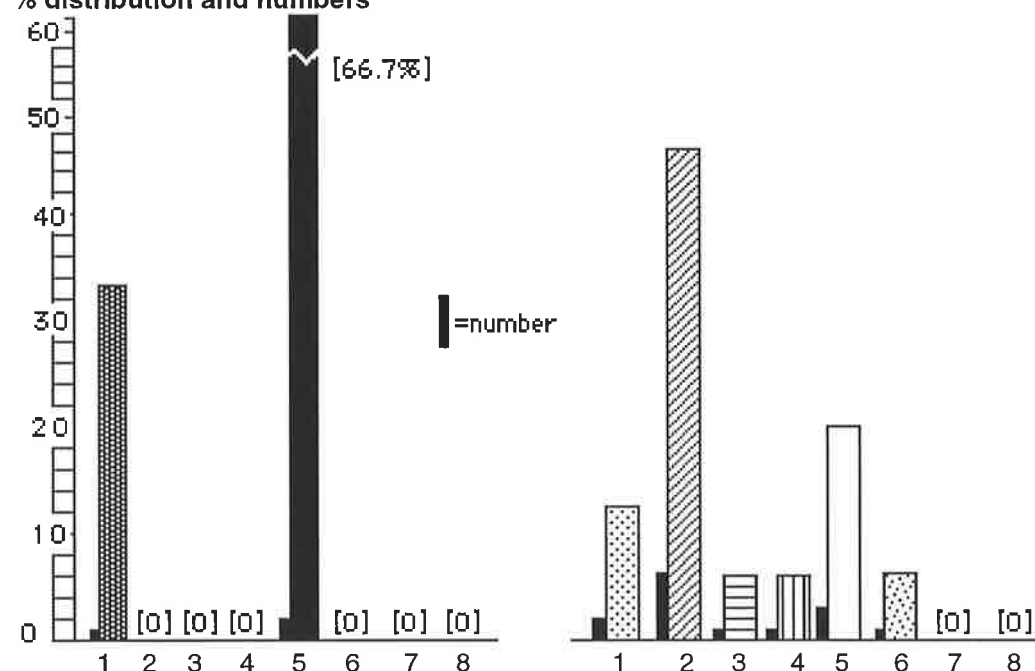
Chart 6.7b Aboriginal clients
1 ▨=one-off counselling-mainstream%
2 ▨=ongoing counselling-mainstream %
3 ☰=couns poss/referred to-mainstream%
4 ▥=one-off counselling-legal service %
5 ■=ongoing counselling-legal service%
6 ▥=couns poss/referred to-legal service%
7 ▨=white counsellor for Ab'l clients%
8 ▨=Ab'l counsellor for Ab'l clients%

Chart 6.7b Caucasian clients
1 ▦=one-off counselling-mainstream%
2 ▨=ongoing counselling-mainstream%
3 ☰=couns poss/referred to-mainstream%
4 ▥=one-off counselling-legal service%
5 ▢=ongoing counselling-legal service %
6 ▨=couns poss/referred to-legal service%
7 ▨=white counsellor for Ab'l clients%
8 ⊞=Ab'l counsellor for Ab'l clients%

However, the survey data overall indicates that Aboriginal victims are more likely to receive this counselling later in their domestic violence history, when the violence also requires some emergency medical, legal, or housing intervention. Thus the main inhibiting factor regarding Aboriginal domestic violence counselling seems to be the point that Aboriginal people choose, or are forced into, an intervention.

Figures on 'domestic emotional abuse' clients reinforce this interpretation. Given the claimed tendency for domestic violence to escalate over time, it is reasonable to argue that counselling intervention at the point of emotional abuse is a preventative measure for domestic violence. Very few Aboriginal clients sought or received intervention at the point of being a victim of 'mere' emotional abuse.[30]

Chart 6.8. Service contact with 'domestic emotional abuse' clients[31]

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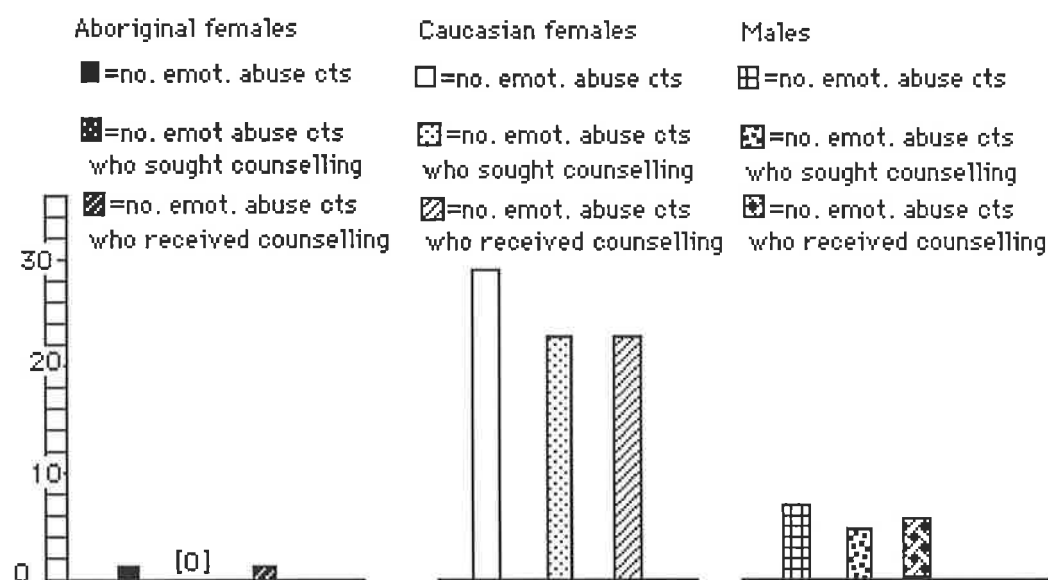
[30]'Emotional abuse' rather than 'psychological abuse' is the preferred term among Viewtown's service providers.

[31]Of the 7 male domestic emotional abuse clients, 5 were Caucasian, 2 'unstated' identity; 4 were victims, and three were perpetrators. Of the 29 Caucasian female emotional clients, one was a perpetrator, 3 were both, 22 were victims, 3 were 'unclear'. The Aboriginal female client was a victim.

Moreover, all but one of the counselling interventions for emotional abuse were undertaken by actual counselling services. This suggests that there is less 'opportunist' counselling for domestic emotional abuse, and so Aboriginal clients associated with emotional abuse only are unlikely to be picked up by non-counselling services.

For instance, in the case of the white-personneled service for Aboriginal women, only one of its seven domestic violence clients approached the service primarily for the issue of domestic violence. The other six sought help primarily for housing, child care, and similar. Counselling of these clients revealed emotional abuse associated with physical abuse, but none with emotional abuse only. This may indicate three situations. First, the service worker for some reason did not 'pick up' 'emotional abuse only' clients. Second, Aboriginal victims are less likely to seek intervention for emotional abuse only. Third, emotional abuse without the presence of physical abuse is uncommon among Viewtown's Aboriginal clientele. All of these possibilities render the state less effective in securing the right to physical safety for Viewtown's Aboriginal victims.

Conclusion

Viewtown's human services have an Aboriginal clientele that present with higher rates of domestic violence. These services are also more likely to interface with Aboriginal domestic violence at a more critical and overtly criminal point in the domestic violence cycle. Thus, services in Viewtown have not yet implemented effective broad-scale preventative programs for the Aboriginal population of Viewtown. While a significant number of Viewtown services are adopting a pro-active approach by implementing preventative counselling responses when individual Aboriginal clients in crisis present at a service, it seems that only in the

moment of violence is there a service opportunity or obligation to intervene.

As such, prevention is relegated to the realm of client democratic choice, and where cultural or other factors produce aetiologies that inhibit such a choice, Viewtown services seem both unable, and to feel themselves to be under little obligation, to act. This shift of onus onto the Aboriginal victim to seek state assistance is an inadequate strategy in terms of securing victim protection. From a liberal perspective, guiding principles and processes inhibiting effective, preventative, service responses to Aboriginal domestic violence in Viewtown thus need to be identified.

So far, service responses to domestic violence have been considered in general. A more detailed analysis of one important service that took part in this survey, Viewtown's police, is the subject of the next chapter.

7

The Police Contact with Aboriginal Domestic Violence in Viewtown

Introduction

The task of this quantitative survey is to identify trends in police responses to Aboriginal domestic violence between the years 1990-1 and 1994. RCADC recommendations with implications for police procedure were ready for adoption from 1991.[1] Government measures to enhance police legal and procedural responses to domestic violence also occurred during this period. This survey provides a measure of how these changes to policy contexts impinge upon Viewtown police responses to Aboriginal domestic violence.

Estimation of trends in police responses to Aboriginal domestic violence incidents is a hazardous undertaking, with strategies to minimise data 'noise' and uncertainties being unavoidably limited.[2] Hence results should be treated with qualification.[3] Notwithstanding this, trends indicated by these data signal that police by 1994 are attempting optimal responses in the context of conflicting pressures to reduce the Aboriginal arrest rate as well as maximise Aboriginal victim safety. Moreover, in cases of

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[1]NRRCADC, especially Vol. 3, 241-9.

[2]See Methodology chapter.

[3] See Keith Windshuttle, *The Killing of History: How a Discipline is Being Murdered by Literary Critics and Social Theorists*, McLeay, Paddington, New South Wales, 1994, especially 220. He writes that while empirical data is frequently besieged with ambiguity and confusion, it does not mean that one should retreat to some kind of 'Derridean nullity'.

Aboriginal domestic and family violence, it is increasingly likely to be victims themselves who seek police assistance during a violent episode. Despite these positive trends, Viewtown Aboriginal victims' rights to safety may still be compromised by 'cultural' issues and the state's Aboriginal policy principles that police are required to work within. Furthermore, these positive trends occur in the setting of a rise in the number and severity of incidents of violence involving Aborigines which were attended by police (VIAAP incidents).

Attended Incidents

Overall Trends in Viewtown[4]

While total incidents attended by Viewtown police, including violence, traffic offences, theft, lost persons, and so on, increased by 9 percent per capita between 1990-1 and 1994, there was a smaller rise of 3 percent per capita in incidents attended by police in which violence— possible or definite— occurred. While the large group, 'unstated relationship', reduces certainty, this seems due to declines in attended non-domestic and family (non-couple) violence. There is a 5 percent increase in attended domestic violence.[5]

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[4]For detailed figures on trends here, see Appendix to Chap. 7, A1.

[5]The only violence where increase in police attendance is greater than for attended Aboriginal domestic violence is for public inter-racial violence between Aboriginal and non-Aboriginal people, numbering 3 in the 1990-1 period, and 11 in the 1994 period. In this chapter, this type is subsumed as a small sub-grouping within 'public' violence.

Attendance at Aboriginal Domestic Violence Incidents[6]

In contrast to the overall trend, VIAAP incidents appear to be increasing. This seems due primarily to an increase in attended Aboriginal domestic violence. Given the higher reliability of the 1994 Aboriginal figures, what is certain is that in 1994, there were about 10 times the rate of VIAAP incidents per Aboriginal, compared to the rate of incidents of violence involving non-Aborigines which were attended by police (VINAAP incidents) per non-Aboriginal, Viewtowner.[7]

The data also indicate that there was a shift in the number of VIAAP incidents away from non-domestic, and towards domestic and family, relationships. 8 percent of all VIAAP incidents were domestic in 1990-1, and 19 percent were for domestic plus family violence. This increased to 13 percent for domestic, and 24 percent for domestic plus family, by 1994. There was also a shift in place, with 55 percent of VIAAP incidents occurring in the home for 1990-1 increasing to 61 percent for 1994. This reflects a qualitative research indication that Aboriginal disturbance and violence was less visible in 1994 than in 1990-1.[8] Dispersal of Aboriginal households amidst white households, thereby reducing Aboriginal inter-household conflict, plus the recent segregation of Aboriginal night-life to the locationally secluded Aboriginal football club, may be factors here.[9]

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[6]Note that this section of data is the most vulnerable to possible under-estimation of 1990-1 Aboriginal violence. This under-estimation may be minimal, so the data is worthy of consideration. However, this possibility has meant that figures in this section were not considered worthy enough for chi testing. What is definite from this data is that per capita Aboriginal domestic violence attendance rate is higher than the non-Aboriginal rate in both periods. The Methodology chapter discusses reasons for caution regarding assertions on trends here.

[7]Note that all percent changes are population-growth adjusted to record *per head* change, and so are less than actual percent increases.

[8]Aboriginal service personnel comments on the impact of CDEP: Service 20 October, and Service 43, July, 1994.

[9]However, police attendance is not a direct indication of the numbers of these incidents *per se*, so cautious interpretation only is possible here.

Chart 7.2 a & b. All attended violence, all places[10]

7.2a. Actual numbers
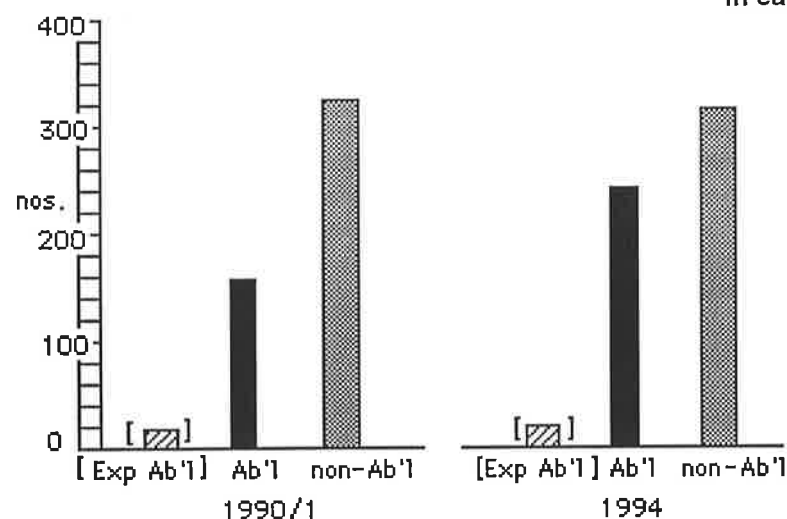
7.2b. % change per head in each popln. group[11]
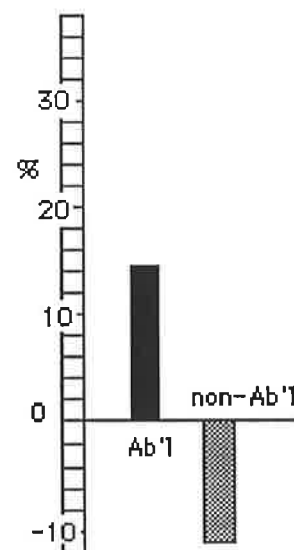
Chart 7.3 a & b. Attended domestic violence, all places[12]

7.3a. Actual numbers
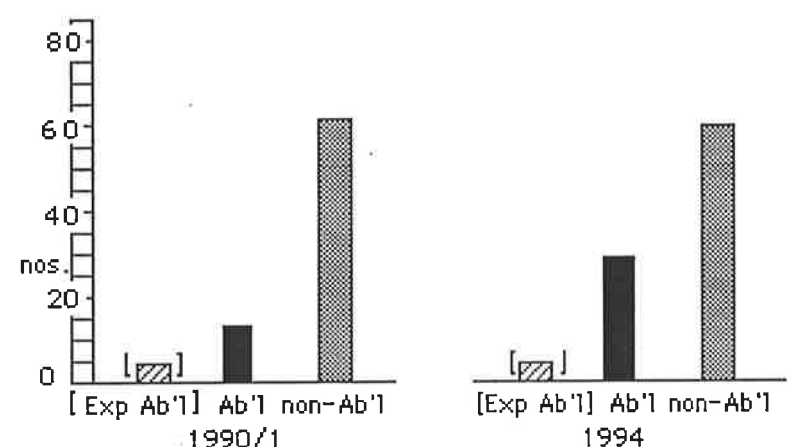
7.3b. % change per head in each popln. group
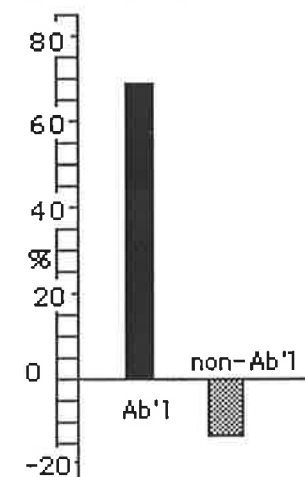
[10]For exact numbers, see Appendix to Chap. 7, A2, point iv. Note also that while most offenders are male, Viewtown figures for various violence categories are commonly about 10-15% Viewtown female perpetration in both identity groups.

[11]Chart abbreviations used in this chapter and in Appendix to Chap 7: Ab'l.=Aboriginal; dists.=disturbances; dom.=domestic; exp.=expected; fam.=family; non-Ab'l.=non-Aboriginal; non-dom.=non-domestic; nos.=numbers; popln.=population.

[12]For exact numbers, see Appendix to Chap. 7, A2, point vi.

Chart 7.4a & b. Attended non-domestic violence, all places[13]

7.4a. Actual numbers

7.4b. % change per head in each popln. group

1990/1   1994

(see footnote 13)
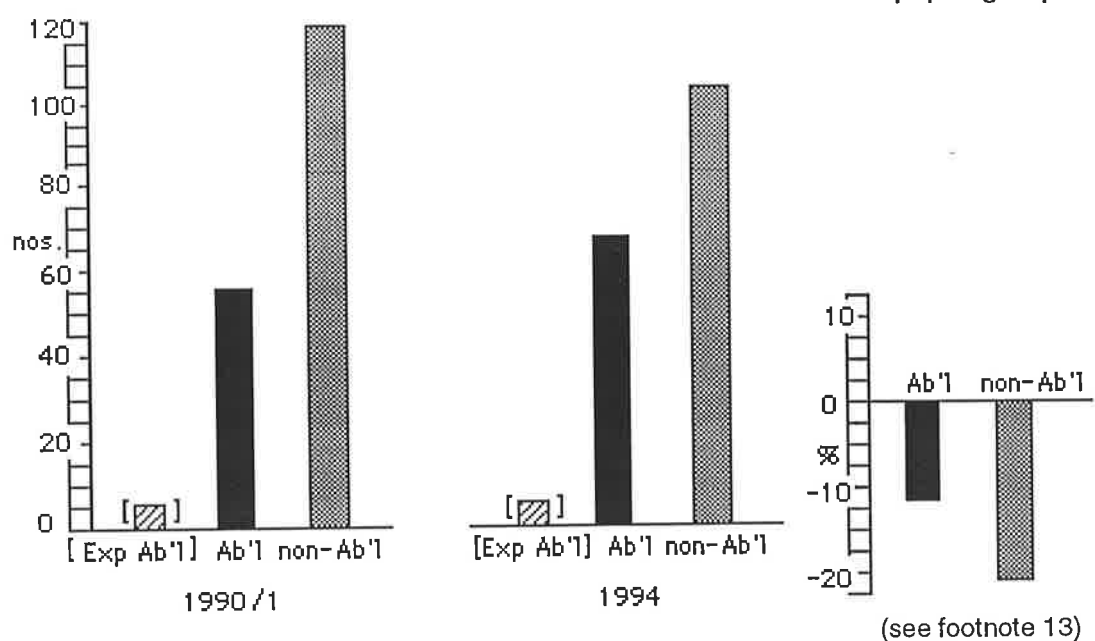
Police Responses[14]

Viewtown's Aboriginal-managed services are concerned on an official level with the high arrest and imprisonment rate of Aboriginal compared to non-Aboriginal Viewtowners. Furthermore, Viewtown's experience of a death in police custody involved the Viewtown Aboriginal population and the Viewtown police directly with the RCADC. In this light, and with the support and/or funding from the RCADC, the ALRM, the Department of State Aboriginal Affairs (DOSAA), ATSIC, the South Australian

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[13]For exact numbers, see Appendix chap. 7, A2, point viii. Note here that while the actual numbers of non-domestic VIAPP incidents has increased, population adjustments result in an 11% decrease in these incidents per Aboriginal individual.

[14]This section presents fewer problems for 'changes over time' interpretation. This is because here, it is possible to focus interpretation on 'within group' ratio changes in violence /police response. That is, in all the four groups viz. 'Aboriginal violence' 1990-1, 1994, and 'non-Aboriginal violence' 1990-1, 1994, the ratio of all police-attended violences to all police responses is 1/1. From this point of equity, variation in ratios of police responses can be interpreted to measure differences associated in some way with 'identity' and 'year'. The 1990-1 non-Aboriginal ratios here may be more distorted than the 1994 figures by the presence of a few unidentified *Aboriginal* incidents in this group. If so, the Aboriginal figures and trends are almost certainly the more accurate.

Police Commissioner and the Crime Prevention Program, Aboriginal organisations and corrective services have embarked on a process of addressing factors to do with Aboriginal crime rates, police responses, and prisoner welfare.[15]

Aboriginal-managed or supported responses to this concern since 1990-1 include the employment of an ALRM Field Officer, a prison visitors scheme, police employment of three Police Aides, opposition to the proposed Dry Areas in its present form, Aboriginal-Police Liaison meetings and improvement to the Offenders Aid and Rehabilitation Service. While they acknowledge that causes of higher crime rates need to be addressed, Aboriginal-managed services' plans seem more concerned with changing police responses and improving prison welfare and less with reducing Aboriginal crime. The Viewtown Aboriginal Association's(VAA) tardy involvement with the Viewtown Crime Prevention Committee has already been noted. Some Aboriginal-managed organisations' reservations about another preventative strategy in its present form, Dry Areas, are well-founded in significant measure. Development of exemplary strategies in response to Dry Areas is now occurring under the umbrella of VAHC.[16]

Nevertheless, one official argument in support of reservations about the Dry Areas proposal is that strategies such as the CDEP are already resulting in reductions in public park incidents and domestic violence. Claims about reductions in public park incidents are based on police information. However, the official claim about CDEP and domestic

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[15]VAADoc. 1993.

[16]VAHC document DAS, 1994. VAHC strategies acknowledge the negative impact that alcohol misuse has on Aboriginal social health and crime rates, in particular domestic violence, and in this light has commenced alcohol misuse programs and has planned a sobering-up centre. Discussions with Services 42 and 43, during 1994.

violence reduction is based principally on the observations of one possibly 'enculturated' white worker.[17] It is in association with this claim that the local official goal of halving Aboriginal arrest and imprisonment rates by the year 2000 is placed, a goal that has state government and high-level police support.[18]

Hence, Viewtown police now accommodate structures arising out of an officially-supported Aboriginal agenda that downplays non-domestic and domestic violence while it expects reduced arrest rates. The reduced Aboriginal arrest rate per violent incident in the context of an almost-certain numerical increase in police attendance at Aboriginal violent incidents, suggests that these agendas are effective in their influence on police responses.

While white Viewtowners widely report recent tardiness in police responses to Aboriginal suspects, police themselves deny this. However, one senior officer does acknowledge the following:

> There is reverse discrimination if anything. The rights of Aboriginal suspects are paramount. The Aboriginal Field Officer must be advised when an arrest is to be made, more considerations have to be taken regarding who is to be put in the police lock-up, and there is an Aboriginal Visitors Scheme. White prisoners have to make all their own arrangements in these matters. Whites have the same basic rights in law, but these extra Aboriginal procedures fall under the General Order of the Commissioner of Police. This makes the arrest procedure of an Aboriginal suspect take longer, but it doesn't affect the arrest rate itself.[19]

What can be said is that goals to halve the Aboriginal arrest rate and changes in police procedure are concurrent with a detected fall of greater than 40 percent in arrest-detention rates for Aboriginal violence since 1990-1, so that by 1994, arrest-detention rates for Aboriginal and non-Aboriginal violent incidents are equivalent. A rise in Aboriginal victim

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[17]Discussions with this worker, July 1996; comments of another white worker, October 1994.

[18]VAADoc. 1993.

[19]Service 45, February 1995.

requests for police assistance is also concurrent with these reduced arrest rate goals and police procedure changes.

Offender Arrest-Detention Rates[20]

Recommendation 87a of the RCADC seeks that 'All Police Services should adopt and apply the principle of arrest being the sanction of last resort in dealing with offenders'.[21] This recommendation seems to be reflected in arrest-detention trends of Aboriginal offenders in Viewtown. Data suggest that the arrest-detention rate for VIAAP incidents is declining, with the likelihood of a VIAAP incident receiving an 'on-the-spot' arrest or detention response falling by 43.5 percent between 1990-1 and 1994.[22] The result is that in 1994, the overall rate of arrests-detentions for VIAAP and VINAAP incidents becomes similar.

There remain however, variations between relationship and crime sub-groups. The decline in the arrest-detention rate for Aboriginal domestic violence brings this response more in line with the rate for non-Aboriginal domestic violence in 1994. This is different from the trend detected for non-domestic violence, where there is a similar slight decline in arrest-detention rate for both groups, resulting in a still-higher arrest rate for Aboriginal offenders.

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[20]The chi test has been done for arrest-detention trends for violence, domestic violence, and non-domestic violence.

[21]NRRCADC , Vol. 5, 88.

[22]The drop in the 19.5 percent arrest-detention rate for 1990-1 to 11 percent for 1994 is a 43.5 percent decline in the arrest-detention *rate*: (8.5/19.5) x 100 = 43.5 percent. Some more arrests probably occurred up to days after the attendance, perhaps especially for cases where police have documented 'further enquiries to be made'. But even including these, arrest-detention rates for Aboriginal cases still declined between 1990-1 and 1994.

Chart 7.5. Arrest-detention % for all attended possible-definite violence[23]
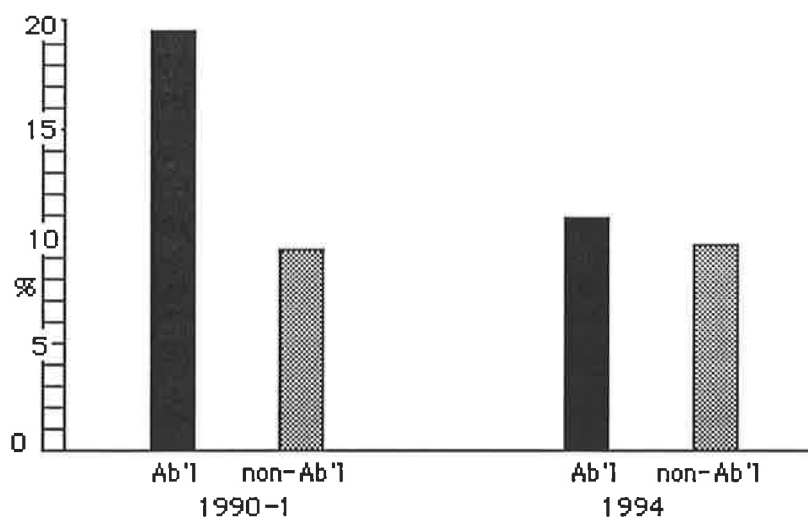
All violence. In 1990-1, the difference in the arrest rate for VIAAP and VINAAP incidents is significant for chi square at 0.01. In 1994, the difference in the arrest rate for VIAAP and VINAAP incidents is not significant.

Chart 7.6 suggests a relative decline among Aboriginal domestic incidents of violence types that attract an arrest-detention response, while in the Aboriginal non-domestic group, these types of violences remained more static. Notwithstanding this, when arrest-detention percentages for violence types are cross-tabulated for racial identity, police responses appear still somehow linked to racial identity. This is illustrated in Charts 7.8a and 7.8b.

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[23]For exact numbers, see Appendix to Chap. 7, B, point iv.

Chart 7.6. Arrest-detention % for attended possible-definite domestic violence[24]
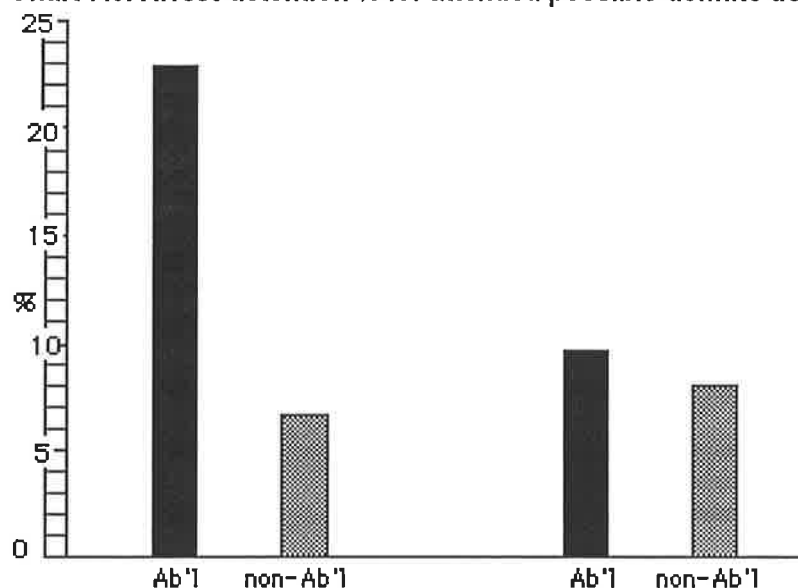
Domestic violence. In 1990-1, the difference in the arrest rate for domestic VIAAP and VINAAP incidents is marginally significant for chi square at 0.06. In 1994, the difference in the arrest rate for domestic VIAAP and VINAAP incidents is not significant.

Chart 7.7. Arrest-detention % for all attended possible-definite non-domestic violence[25]
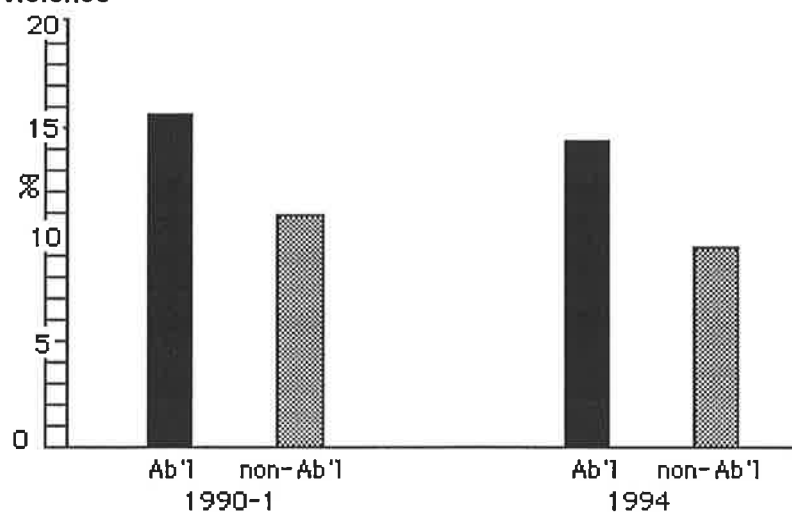
Non-domestic violence. In 1990-1, the difference in the arrest rate for non-domestic VIAAP and VINAAP incidents is not significant. In 1994, the difference in the arrest rate for non-domestic VIAAP and VINAAP incidents is not significant.

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[24]For exact numbers, see Appendix to Chap. 7, B, point vi.

[25]For exact numbers, see Appendix to Chap. 7, B, point viii.

Chart 7.8a. % Aboriginal arrests-detentions, all violence

■=Ab'l unstated physical violence
▨=Ab'l public disturbance
☰=Ab'l private disturbance
▦=other Ab'l 'unclear' cases
▥=Ab'l 'clear' violence
■=Ab'l average
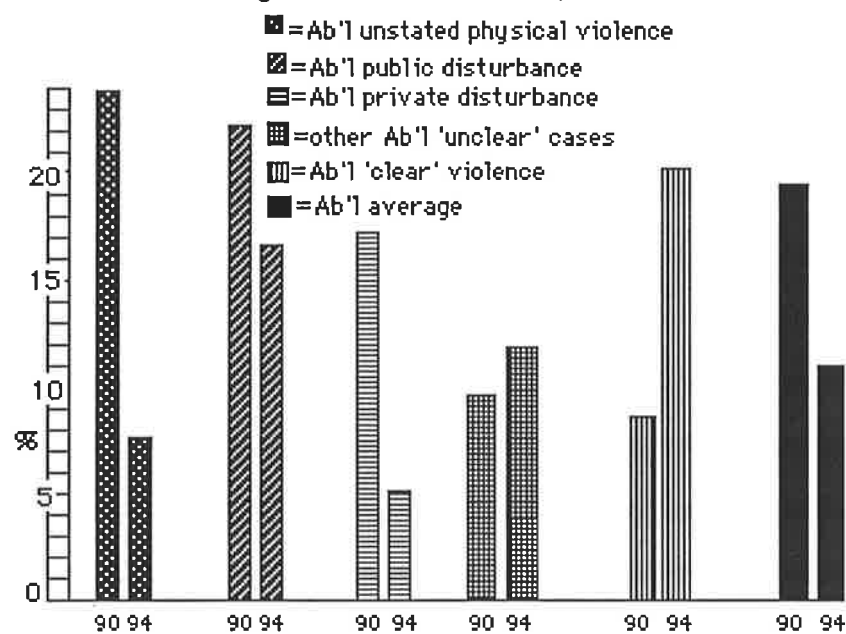
Chart 7.8b: % non-Aboriginal arrests-detentions, all violence

▨= non-Ab'l unstated physical violence
▨= non-Ab'l public disturbance
☰= non-Ab'l private disturbance
▦=other non-Ab'l 'unclear' cases
▥= non-Ab'l 'clear' violence
☐= non-Ab'l average
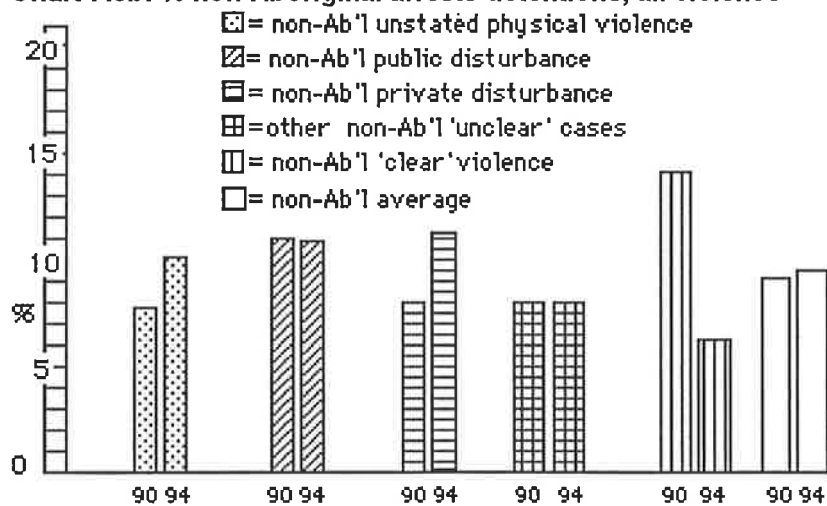
note*: '90' in Charts 7.8a and 7.8b means '1990-91'.

Chart 7.8a and 7.8b, along with Charts 7.5, 7.6, and 7.7, indicate that while overall non-Aboriginal arrest-detention rates are fairly stable, overall Aboriginal arrest-detention rates have declined from 19.5 percent, so that by 1994 they approach the non-Aboriginal rate at 11 percent.[26] However, the decline occurs only for 'vague' incidents categorised as 'unstated physical violence', 'domestic disturbance', 'public disturbance'. The Aboriginal arrest-detention rate has risen for more defined violent incidents which includes all the overtly serious cases. In 1990-1, total 'vague' categories of Aboriginal incidents averaged an 18.5 percent arrest-detention rate. All 'clear' cases averaged an 8.5 percent arrest-detention rate. In 1994, the arrest-detention rate for all 'vague' categories of Aboriginal incidents declined to 10.5 percent while for 'clear' cases it rose to 20.5 percent.[27]

'Vagueness' may reflect a difficulty for police to interpret the details of some cases. In 1990-1, arrest trends could mean that police responded to 'vagueness' with a higher discretionary inclination to arrest Aboriginal offenders. Small numbers within each incident category, and the complexities of each individual incident, render this as conjecture rather than assertion. Nevertheless, comparing percentages of Aboriginal with non-Aboriginal arrest trends reinforces this possibility, because in 1990-1, equivalent non-Aboriginal 'vague' categories are associated with a lower arrest rate.

The picture appears to be different in 1994. Police seem to have become more inclined by 1994 to desist rather than favour arrest of Aboriginal

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[26]An exception here is that for 'private disturbances' where the drop in arrests-detentions for Aboriginal cases is so great that it is now significantly lower than the white rate.

[27]For non-Aboriginal violence in 1990-1, 'vague' categories had a 9% arrest rate, and 'clear' categories had a 14.5% arrest rate. For non-Aboriginal violence in 1994, 'vague' categories were fairly stable at a 10% arrest-detention rate, while 'clear' categories declined to a 6.5% arrest-detention rate.

people in unclear circumstances, perhaps in a bid to reduce the numbers of Aboriginal people in custody. These figures may be evidence that state Aboriginal policies and procedural pressures arising from the RCADC, were by 1994 moderating Viewtown police responses to Aboriginal violence in the more discretionary cases.[28] This cautious conjecture is supported by claims of several independent witnesses that police in Viewtown are increasingly reluctant to intervene in incidents involving Aboriginal people. So attendance data and witness corroboration of events augments the 'reality' status of interpretation here.

Where cases are clear, police may be retaining their commitment to prioritise individual and community safety by arresting offenders. Society now has a reduced tolerance of domestic and non-domestic violence. The safety of victims, including Aboriginal victims, is perhaps more paramount than in earlier years, so police are now inclined to arrest Aboriginal perpetrators where it 'really matters'.[29] In sum, it may be that conflicting forces at work within the police force since 1991 are resulting in more thoroughly considered police responses for Aboriginal clients.[30]

Notwithstanding this, the arrest-detention decline for Aboriginal 'private disturbances', from 17 percent in 1990-1 to 5 percent in 1994, well below the 1994 white rate of 11 percent, raises concerns about trends in police

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[28]Note too that for the Aboriginal group, 1990-1 'possibles' that ended in arrest also declined more for the Aboriginal group. Here the trend seen in other sets of figures emerges again, of higher responses to more definite cases of violences, with arrest-detention rates for 'possibles' falling more over time, for Aboriginal cases. And the only case of higher Aboriginal than non-Aboriginal arrest-detention rate for 1994 is picked up in the probable/definite category. Note that the category 'possible' does not equate, but overlaps with, the vague categories of 'public disturbance', 'private disturbance' and 'unstated violence'.

[29]The decline in the arrest rate for 'clear' non-Aboriginal cases remains an anomaly here. The analysis of hospitalisation data offers a partial explanation.

[30]For a discussion on the role of discretion in 'street-level bureaucrat' decision-making, see Michael Lipsky, *Street Level Bureaucracy: Dilemmas of the Individual in Public Services*, Russell Sage Foundation, New York, 1980, especially chap. 2, 'Street-level bureaucrats as policy makers', 13-25.

intervention and the rights to safety particularly for Aboriginal domestic and family violence victims. Unless injury is visible, and it is obvious who the offender is, domestic and family violences are more likely to present as 'vague' to police, and hence more amenable to police discretionary response than for non-domestic violences. So, the increase in police discretionary practices for 'vague' Aboriginal incidents is likely to have a greater dampening effect on the arrest-detention response to Aboriginal family or domestic violence. These trends are intensified by the detected higher and rising numbers of Aboriginal 'private disturbances', from 52 in 1990-1 to 78 in 1994 with arrests dropping from 9 to 4, compared to Aboriginal 'public disturbances', which declined from 45 in 1990-1 to 36 in 1994 with arrests dropping 'only' from 10 to 6.

This suggests that, to the extent that arrest-detention is an optimal measure for victim safety, RCADC-associated changes may be placing Viewtown's Aboriginal domestic and family violence victims in greater jeopardy. The effectiveness of arrest as a safety measure for Aboriginal victims of domestic violence, particularly for non-remote areas, received scant analysis by the RCADC.[31] Indeed, only remote communities are included in the RCADC recommendation to consider the needs of Aboriginal women in policing and police custody decisions.[32]

Hospitalisations and Other Factors: a Qualitative View

Police response in some cases is too complex to categorise under one heading, and so a category of 'other' responses was included where appropriate to cross-tabulate with the primary police response. Two 'other' responses emerge as of particular significance here, namely

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[31]See NRRCADC ,Vol. 2, 98-110.

[32]See Recommendation 88b of the NRRCADC , Vol. 5, 89.

'Victim or offender needing ambulance and/or hospital', and 'Assault of police occurs' (as well as the original incident). These categories assist in interpretation of the primary police response, especially regarding case-by-case arrest-detention decisions. Moreover, the qualitative analysis, albeit limited, that this additional data allows assists in interpreting the apparently opposite trends in police arrest-detention responses to Aboriginal, versus non-Aboriginal, 'clear' cases of violence.

Association of arrest with needing an ambulance or hospitalisation of the victim increased for the Aboriginal group. Of all the 4 VIAAP incidents involving hospitalisation or ambulance attendance in 1990-1, none were associated with arrest, and none were clearly for domestic or family violence. In 1994, there were 11 VIAAP incidents involving hospitalisation or ambulance attendance, of which three involved probable-actual domestic violence, and there were 6 associated arrests-detentions. Out of these 6, five were for non-domestic violence including one female offender and 3 interracial violences, and one only for domestic violence.

The small number of cases in both years allows for cautious assessment only. Police in 1994 attended nearly three times as many Aboriginal hospitalised cases of serious injury, compared to 1990-1. Overall too, the severity of violences in 1994 was greater than those of the 1990-1 group. The non-domestic incidents requiring hospitalisation in 1994 were particularly severe, especially the three involving inter-racial violence.

These arrest-hospitalisation trends further support the conjecture that the overall decline in police arrests of Aboriginal people has more to do with a decline in police arrest where lack of clarity and the chance for discretion is available. It is not due to a decline in police attendances to

severe Aboriginal violence in Viewtown, which instead increased, with associated arrests increasing accordingly.

For VINAAP incidents, there were 11 associated with hospitalisation or ambulance attendance in 1990-1, of which 3 were for domestic violence, and 5 for family violence. There were 9 VINAAP incidents associated with hospitalisation or ambulance attendance in 1994, none of which were for domestic violence, and only one for a family violence. There was one only non-Aboriginal hospital-associated arrest-detention for 1990-1 and two for 1994. This smaller association of arrest-detention with non-Aboriginal violence hospitalisations needs qualitative explanation.

In 1990-1, 3 VINAAP incidents associated with hospitalisation involved the offender's mental disturbance as a major factor. Data on another 4 VINAAP incidents, including one domestic violence incident, indicate that both parties were equally victims and perpetrators, that the offending parties needed the hospitalisation but for minor injuries only, and no party wished to press charges. In 2 other cases, the police seemed to have access to the victim only, but intended to submit a crime report and further investigate details of the incident. In one case, no police response is mentioned, other than to drive the male victim to hospital. The one puzzling police response involves a 'pub brawl' which resulted in hospitalisation, but no response was recorded other than 'no assault occurred'. Finally, there was an arrest of a male for break, enter, and assault of two females.

Apart from the multiple individual nuances of all cases, the only obvious qualitative difference between VIAAP and VINAAP incidents associated with hospitalisation or ambulance attendance in 1990-1 is the presence of several cases of mentally disturbed offenders in the non-Aboriginal

group. Other factors such as victim reluctance to press charges, cases of home-based and public violences, and a dearth of police arrest responses is present in both groups.

Out of the 9 VINAAP incidents associated with hospitalisation or ambulance attendance in 1994, one case involved a mentally disturbed offender in a family violence incident. In 4 cases, all of 'unstated relationship', there was a victim only at the scene, rendering immediate arrest-detention impossible. In 3 of these cases, further enquiries or a crime report were to take place. In another case, no police response was mentioned, other than to convey the injured male assault victim of an 'unstated relationship' incident, to hospital. One case resulting in arrest was a life-threatening interracial drug dispute. The other arrest concerned violence between two men in a public place. The offender seemed to be arrested at the scene of the incident, and the police themselves called for 'urgent' ambulance attendance for the victim. There was one puzzling hospitalisation case, with a family violence resulting in a male victim and 'blood everywhere', but no police measures were taken and 'all (was) quiet on arrival', and that the family had already taken the victim to hospital.

Again, cases here are few, and individual nuances many, rendering assertion-making a risky undertaking. Nevertheless, these incident records are a primary source of actual events, and so are deemed worthy of cautious analysis. The main discernable pattern for both years seems to be that even in clear cases of violence, there are inhibiting factors against arrest. Most obviously when the offender has left the scene, police make no arrest. If all is 'quiet on arrival' and no offender is caught 'in the act of offending', no life is threatened, no drugs are involved, the victim does not want to press charges, and there are no pre-existing warrants, police

discretion results in non-arrest, whether the incident is domestic or non-domestic, Aboriginal or non-Aboriginal. Unless the victim wishes to make a statement or the offender presents with other reasons to be arrested, police regularly do not follow through an Aboriginal nor non-Aboriginal case with an arrest or detention. So victim response affected police response even where injury was obvious.

The only set of these incidents that has a high arrest rate, being 6 out of the 11 1994 Aboriginal incidents, the arrest-detention response can be accounted for in these terms, with no reference to the race of the parties involved.[33] This set contains a higher percentage of actual very serious injuries or deemed serious intent. For instance, the only domestic violence resulting in hospitalistation and an arrest-detention concerned an Aboriginal couple. Here, there were knife wounds, and a threat to the woman's life was deemed to have been with intent, and the victim pressed charges against her husband. All three inter-racial incidents requiring hospitalisation (all non-domestic) resulted in arrest, with injuries here to both Aboriginal and non-Aboriginal parties being the most serious.

Given the analysis of arrest-detention trends so far, several conjectures have been made. In 1994 compared to 1990-1, police seem more inclined not to arrest-detain where there was a factor of 'vagueness' associated with an Aboriginal violent incident. This change in police response to Aboriginal violence has resulted in an overall similar arrest-detention rate for Aboriginal and non-Aboriginal violent incidents by 1994. However, where a case of violence is clear and moderately serious, a complex of other factors still affects police response. Within this complex, the identity of the perpetrator or victim seems not to be a factor.

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[33]This is apart from the indirect factor that there were only Aboriginal cases that had arrested parties with pre-existing warrants.

Nevertheless, police discretion is still operational, raising the possibility that the optimal response for both Aboriginal and non-Aboriginal victim safety may not always be implemented. The scope for victim choice of police response is of concern here.

Another trend indicated by this hospitalisation/ambulance data is that for both Aboriginal and non-Aboriginal people, attended non-domestic violences were associated with more hospitalisations or ambulance assistance than attended domestic violences. This seems to be because non-domestic violences result in more serious injury in Viewtown. But police incident data is limited, and cannot shed light on other possibilities here. For it may also be that serious domestic violence injuries may not be receiving the appropriate medical attention, or they are not being identified as domestic violence injuries, or they are not being reported to the police by the hospital, perhaps at the victims' request. These conjectures are made in the context of the hospital's claim that Casualty rarely deals with domestic violence cases, Aboriginal or non-Aboriginal. The hospital claims to treat plenty of injuries resulting from Aboriginal non-domestic violence, with female victims and perpetrators both well-represented in this group.[34]

Not knowing the reality of these propositions has human rights implications for all Viewtown victims, whether Aboriginal or non-Aboriginal. It means that policy-makers cannot readily discern whether domestic violence severity is actually low and not in need of more hospital and legal responses, or whether there is under-identifying and/or under-responding to a more serious level of domestic violence than these

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[34]Service 26, September 1994. They are also made in the context of police claiming that they harbour fears for white women of middle and upper socio-economic status, who risk serious injury due to their greater reluctance to seek legal intervention 'in time': Service 44, April 1994.

hospitalisation and arrest figures, particularly for domestic violence, suggest.[35]

Whatever the case, by 1994 for 'clear' or serious domestic violence incidents, Viewtown police seemed unlikely to under-arrest or over-arrest on the basis of the Aboriginality of the parties. This challenges a generalised perception that police are more likely to arrest Aboriginal people due to race-associated factors besides the severity of the incident. By 1994, the main barrier to arresting in cases of serious Aboriginal domestic violence, at least in the moment of police interface, are those confronting police when dealing with parties of any race. But these barriers are important enough.

Data on 'assault of police' also challenge another related perception about Aboriginal vulnerability to police arrest in instances of domestic violence. It is claimed by two Viewtown legal professionals that Aboriginal domestic violence perpetrators in Viewtown are more vulnerable to arrest because an Aboriginal domestic incident is more likely to occur in a public place, perhaps in a large inebriated 'public nuisance' group, and so the police-Aboriginal interaction is prone to increase perpetrator assault of police. It also reduces the chance of an 'assistance response' to a domestic violence victim because of police failure to interpret it as domestic violence: getting the victim to safety, suggesting Summary Protection Orders (SPOs) and so forth. The RCADC also emphasises Aboriginal difference in use of public space as rendering them unfairly vulnerable to negative Aboriginal-police interaction and resultant police arrest.[36]

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[35]It was noted in the 1987 SADVC Report that '(d)omestic violence injuries are the kind most victims want to hide. It is believed that hospital casualty departments treat many more domestic violence injuries than is recognised': SADVC, *Domestic Violence: Report of the SADVC*, WAO, DPC, Adelaide, 1987, 1-2.

[36]NRRCADC, Vol. 2, 199-202.

Indeed, this survey indicates that there are no intervening barriers against police arrest for 'assault of police' in Viewtown. While figures are low, assault of police has a 100 percent association with arrest. However, assault of police in Viewtown has a low, though perhaps increasing, association with both Aboriginal and non-Aboriginal violent incidents. It is present in only 3 percent of 1990-1 and 7.7 percent of 1994 Aboriginal arrests, and 5.7 percent of 1990-1 and 11.4 percent of 1994 non-Aboriginal arrests. In only one instance was an arrest for 'assault police' associated with a domestic violence incident in any place, and this was for a couple categorised as non-Aboriginal. In sum, no incident identified as concerning an Aboriginal couple or family resulted in an arrest associated with 'assault police' in either 1990-1 or 1994. Moreover, all arrests for Aboriginal domestic and family violences in both 1990-1 and 1994 were for home-based incidents.[37]

Increasingly then, there are few if any racially-associated factors rendering Aboriginal violent offenders more prone to arrest, other than the seriousness of the violent incident itself. By 1994, having an outstanding warrant against one is perhaps the only exception to this trend.

Police Response to Victims[38]

While some problems persist, there is an overall increase in positive police responses to both Aboriginal and non-Aboriginal victims between 1990-1 and 1994. This trend is more pronounced in the Aboriginal group.

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[37]Also, both Aboriginal and non-Aboriginal attended domestic violences were mostly in the home. See Appendix to Chap. 7, A2.

[38]See Appendix to Chap. 7, C.

Salient trends detected regarding police response to Aboriginal victims include an increase in victims themselves calling for police help, an increase in police conveyances for victims to other households of greater safety, but also a persisting lack of SPOs.[39]

There are only 3 recordings of an SPO for Aboriginal domestic violence during the Survey periods, a case of a breached SPO in 1990-1 and 2 'refusals' in 1994. There is hardly an Aboriginal SPO 'story', unlike the white victims' mix of SPO acceptances, failures, refusals, mights, and breaches with one, possibly two, resulting arrests.[40] Qualitative data suggest that Aboriginal women's resistance arises mainly from fear that an SPO reduces victim safety by exacerbating the rage of the offending partner. Police also seem to offer fewer SPOs to Aboriginal women.

Apart from SPOs, attendance data indicate a growing accessibility and communication between police and Aboriginal victims, augmenting the possibility of safety for Aboriginal women. At the very minimum it is a point of contact for Aboriginal women in crisis with a service that prioritises victim safety.

This detected improvement in police-victim relations could be arising from recent changes in police practice associated with the RCADC recommendations, particularly the recent enlistment of Aboriginal police aides[41] and the existence of an Aboriginal-Police Liaison Committee in

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[39]For charts categorising police response trends for Aboriginal and non-Aboriginal victims, see ibid.

[40]For all months of 1994 (January-December) Viewtown, one Aboriginal woman took out an SPO, compared to 5 SPOs taken out by non-Aboriginal women. The one Aboriginal woman was described by police as 'educated and westernised'. She requested that the SPO be dropped as a birthday present for the perpetrator: Service 45, February 1995. However, while the rate of SPOs for VIAAP incidents is less than the white rate, the number of SPO acceptances in the white group is also low. Viewtown police report a resistance to SPOs within both racial groups, and for similar reasons.

[41]The effect of Aboriginal police aides is mixed. In one incident, the attendance of an Aboriginal police aide at an Aboriginal domestic violence incident increased the rage of the male offender, due to the 'shame' of being legally dealt with by a member of his own Aboriginal community.

Viewtown. It may also signal that government education campaigns against domestic violence are having a positive impact on the Aboriginal community too, by reducing victim tolerance of violence. They might be reflecting the 'opportunist' counselling undertaken by services in Viewtown, as seen in the Service Survey. The reported recent government policy of dispersing Viewtown's Aboriginal housing rather than the previous concentration may also be having an effect here, by increasing neighbourhood interracial, and thus inter-cultural, contact. Certainly, a growth in white assistance for Aboriginal victims is evident in the police attendance data.[42]

But resistances remain. While reasons for the different patterns of police assistance offered to or accepted by non-Aboriginal compared to Aboriginal victims cannot be discerned from attendance data, these differences support qualitative research evidence that for Aboriginal women, attempts at permanent escape from a violent partner are liable to bring forth Aboriginal 'community' condemnation onto the victim and sympathy for the male offending party. Temporary escape to a relative's house in 'the heat of the moment' however, is socially acceptable,[43] even with police assistance.[44] Police are now accommodating these different 'cultural' needs.

Another indicator of police-Aboriginal victim relations are changes in complainant patterns, discernible by asking the question 'who informed the police of the incident?' Trends here provide further evidence that

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[42]See Chart 7.9 below.

[43]Though there are signs of change here too, with a shift to an 'urban culture' versus 'blackfella'(sic) extended family ways, where extended family help for a victim becomes less readily available as nuclear family needs increase in priority: Service 43, June 1994.

[44]While Aboriginal use of the women's shelter is high, commonly this is done, at least publicly, for housing needs. It seems that conveyance to the women's shelter by police is avoided by Aboriginal victims.

Aboriginal victims are more likely to seek police help in 1994 than in 1990-1, either directly or through their (usually white) neighbours, as demonstrated in Chart 7.9.[45]

The rise in Aboriginal victim and victim's family requests for police assistance in domestic disturbances seems to indicate that there is a declining tolerance for domestic violence among Aboriginal people and/or an improved level of trust between Aboriginal victims and their families, and the police. This trust may have developed due to increased police discretion regarding offender arrest, coupled with police commitment to arrest if the victim requests. It is possible that in 1994, Aboriginal victims and their families felt more in control of outcomes when police are called in, compared to 1990-1.

The number of cases involving a white neighbour independently reporting or 'complaining' about an Aboriginal incident has remained much the same. This contrasts with a marked increase in the number and rate of Aboriginal victims seeking and receiving assistance from white neighbours for contacting the police. This evidence is reinforced by the frequent positive statements from both Aboriginal and non-Aboriginal people about neighbour-level relations between individual Aboriginal and non-Aboriginal households in Viewtown. Group-level and public-place level distance, fear and resentment between Aboriginal and non-Aboriginal people of Viewtown threatens to increase violence between the races, and police data on interracial violence indicates that this is already happening. Notwithstanding this, friendships between Aboriginal and non-Aboriginal families in the neighbourhoods, especially in the

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[45]Many Aboriginal families do not have phones, so ask white neighbours to ring for them.

Chart 7.9. Relationship of complainant to Aboriginal domestic/family incident[46]

Figures for Chart 7.9.
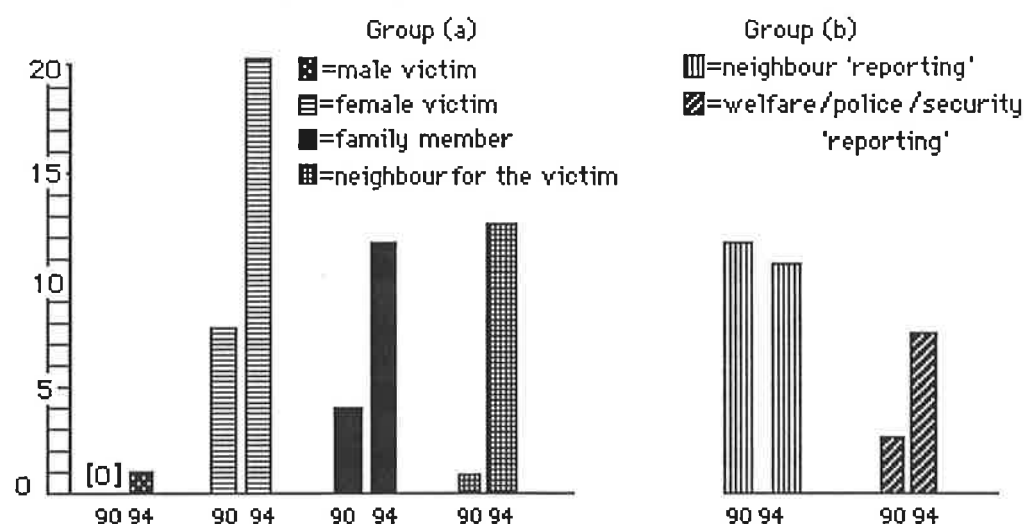
	1990-1	1994
Complainant Group (a)		
-Male victim	0	1
-Female victim	8	20
-Family member or friend	4	12
-Neighbour for the victim	1	13
Complainant Group (b)		
-Neighbour 'reporting'	12	11
-Welfare/patrol/security	3	8

In 1990-1, for domestic plus family incidents, the difference in the Aboriginal and non-Aboriginal rate of a complainant being of group (a) type, versus group (b) type, is significant for chi square at 0.015:

(a) Aboriginal =48%; non-Aboriginal =73%

(b) Aboriginal =52%; non-Aboriginal =27%

In 1994, for domestic plus family violence, the difference in the Aboriginal and non-Aboriginal rate of a complainant being of group (a) type, versus group (b) type, is not significant

(a) Aboriginal =71%; non-Aboriginal =66%

(b) Aboriginal =29%; non-Aboriginal =34%

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[46]Here, 'domestic/family incident' includes all incidents between couples or other family members: physical violence, property damage, self-injury. Attendances which do not identify complainant relationship to the incident are excluded. See Chart 7.11 on non-Aboriginal trends in Appendix to Chap. 7, C2.

form of a white neighbour with a telephone, are a key and increasing means of securing safety for Aboriginal victims in the home.

Indeed, it could be that this increase in Aboriginal victims and family members themselves seeking police assistance is a major factor in the rise in attended Aboriginal home-based incidents, especially for domestic violence and family violence, rather than there being an actual large increase in these incidents. These complainant trends certainly allow for this as a possibility, with a population-adjusted 67 percent increase in Aboriginal victim and family, including neighbour-assisted, calls for police assistance by 1994, and a population-adjusted 28.5 percent decline in independent neighbour reports of Aboriginal home-based incidents.

Conclusion

There are positive trends regarding Aboriginal-police relations and police responses to Aboriginal domestic violence. By 1994, police responses were determined primarily by the severity of the incident, the need to secure physical safety for the victim, and there was less evidence that race affected police response. These improvements probably stem from both the climate and the specific requirements of the RCADC recommendations. As such, the rights of Aboriginal domestic violence victims to physical safety may be indirectly enhanced by the RCADC, with Aboriginal victims now less dissuaded by police response implications for perpetrators.

However, the detected decline since 1990-1 in police arrest-detention responses to Aboriginal cases defined as 'private disturbances' is cause for concern, especially given the RCADC's implied expectation that inappropriate arrests due to police insensitivity to cultural difference

would decline primarily for non-violent public behaviours.[47] Moreover, while much of the increase in attended Aboriginal home-based violences could be attributable to rises in Aboriginal victim and families themselves calling for police help, this positive trend is occurring in the context of continuing higher and more severe Aboriginal violence in Viewtown, compared to the rate within the non-Aboriginal population. In particular, the improving relations between police and Aboriginal domestic and family violence victims, and the concentration of police arrest onto the more severe Aboriginal violences, may above all be indicators of an Aboriginal victim and police alliance-in-despair.[48]

The situation does not depict an Aboriginal victim client group that, for cultural reasons, spurns the idea of universal rights to physical safety. At the same time, some recognition of difference in the form of RCADC-initiated changes to police responses to Aboriginal incidents seems to be augmenting Aboriginal victim use of mainstream police assistance. However, there is a possibility that these modifications are facilitating a stalemate in both victim behaviour and police response, with temporary escape, versus longer-term safety measures, being the police-assisted option preferred by Aboriginal victims.

The SADVC Audit's call for 'additional responses' is evoked here. Viewtown police are attempting to optimise Aboriginal domestic violence victim safety, but within broader policy contexts that limit the scope and effectiveness of available strategies. For Viewtown police, an ideal service response 'narrowly' designed to secure long-term victim safety is at risk of failure in the Aboriginal context, necessitating service adaptation or compromise due to Aboriginal difference. This suggests

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[47]See especially NRRCADC, Vol. 2, 13.2, 'Community Relations and Control', 195-203.

[48]It is also possible that this concentration of police arrest onto the more severe cases is an outcome of increased police workload, due to increased reporting of incidents by Aboriginal people themselves.

that, in terms of Aboriginal victim rights, problems concerning police responses to Aboriginal domestic violence reside primarily in the broader policy context promotion of Aboriginal *difference*.

8

Aboriginal Domestic Violence in Viewtown: a Non-Liberal Situation

Introduction

The two previous chapters' quantitative data indicate that Viewtown human services come into contact with about ten times the rate of Aboriginal people, compared to non-Aboriginal people, that are associated with domestic violence. This suggests that Aboriginal Viewtowners experience higher levels of domestic violence. Underlining this, Viewtown's white residents more readily seek preventative help such as counselling and support groups, whereas Aboriginal residents are over-represented in the less voluntary, more emergency response services.

Nevertheless, there remains the risk of over-induction in extrapolating Aboriginal domestic violence rates from service contact. A more direct and qualitative examination of how domestic violence manifests in Aboriginal social life was thus undertaken. This chapter presents qualitative evidence further indicating that the Viewtown Aboriginal population experiences a higher level of violence, including domestic violence, than the white population, and that they have a higher tolerance of and higher inclination to justify that violence. Qualitative data also affirm that there is a growing intolerance of domestic violence among Viewtown's Aboriginal victims, and that this intolerance is attributable to some initiatives arising within both domestic violence policy and

Aboriginal policy. This trend towards greater intolerance is, however, a fragile one.

An initial task of the qualititative research was to establish whether Aboriginal Viewtowners as a whole have a higher acceptance of violence than non-Aboriginal Viewtowners. Employment of two yardsticks facilitated measurement of this. First, a non-relativist definition and identification of violence was adopted, this being a liberal one:

> When physical assault is deliberately utilised against a person to force, punish, sanction, express anger or seek revenge against that person, or for any other similar purpose, that person's human rights are abused. Carrying out, condoning, tolerating, or being amused by such physical assault indicates some level of non-recognition of this human right.

The second yardstick is the attitude to violence, especially domestic violence, of the white population of Viewtown. This may or may not have been a predominantly liberalist perspective on violence. If the predominant ethical stance on violence in Viewtown is similar across racial identities, the Viewtown Aboriginal population's stance is probably derived primarily from the majority population. If it differs, there are influences on the Aboriginal population not experienced by the white population. The reverse could also be true, that the white population is subject to influences not experienced to the same extent by the Aboriginal population of Viewtown.

Thus a liberalist attitude to violence could not be assumed with any certainty to be held by any member of the field population. Every interview and participant observation was in part a process of measuring the extent that the interviewee or the observed held a liberalist attitude and recognised that to be free from subjection to physical assault is a right of every human being.

A second task is to establish how domestic violence is located in the everyday social and political lives of Aboriginal Viewtowners. In her

article 'Gender in Aboriginal Social Life: A Review',[1] Francesca Merlan argues that a major debate among scholars examining Aboriginal women and gender relations is polarised around an either-or position on whether Aboriginal women held inferior or relatively equal positions within traditional society.[2] And as pointed out by Merlan, such polarised analysis has resulted in a reductionist use of interpretation of traditional woman's place, resulting in too readily-made assumptions on the transformation of Aboriginal women's position from the traditional to the non-traditional or post-colonial present location of women within Aboriginal family and society. So Aboriginal women's social life today, including female subjection to domestic violence, tends to be interpreted from the stance of seeing a dramatic change in Aboriginal gender relations since white contact, or a continuity in gender relations from pre-contact times, depending on how one interprets Aboriginal women's position in pre-contact times.

White Viewtown professionals point to a similarity between Viewtown Aboriginal people's attitudes to and use of violence, and how violence is located within the more traditionally-intact Aboriginal cultures of the hinterlands from where many of Viewtown's Aboriginal people came. However, in urban and rural settled locations including Viewtown, Aboriginal people often possess a variety of links with the past, with a variety of past places, kinships, and knowledges of traditional practices even within the same family. Hence it is difficult to discern what is

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[1]Francesca Merlan, 'Gender and power in Aboriginal Social Life: A Review', in *Social Anthropology and Australian Aboriginal Studies: a Contemporary Overview*, ed. R. Tonkinson and R. M. Berndt, Aboriginal Studies Press, Canberra, 1988, 17-76.

[2]For example see
-Dianne Bell, *Daughters of the Dreaming*, Allen and Unwin, Sydney 1983; and
-Annette Hamilton, 'A complex strategical situation: gender and power in Aboriginal Australia', in *Australian Women: Feminist Perspectives*, ed. N. Grieve and P. Burns, Oxford University Press, Melbourne, 1981, 69-85.

change or continuity from Viewtown's Aboriginal pre-settlement cultures regarding gender relations.

Hazards are minimised when a more dynamic interpretative method is adopted regarding the location of domestic violence among Aboriginal Viewtowners.[3] Whatever pre-contact gender relations might or might not have been, it is in the present time and place that Viewtown's Aboriginal gender relations and domestic violence are to be understood. These relations and domestic violence take on potent and interesting meanings within the process of present-day Aboriginal identity and cultural formations as they articulate with mainstream institutions and society.

In this approach, it does not much matter whether a violence is actually traditionally-derived, at least in terms of ethical questions surrounding appropriate service responses to a phenomenon deemed by present-day Aboriginal people to be a cultural difference. This poses two problems for the state.

First, some present state policies targeting Aboriginal people are in Viewtown intensifying the likelihood of Aboriginal domestic violence. These unintended policy consequences arise through failure to adequately consider the nature of Aboriginal gender relations, and so can be called (to use a borrowed medical term) 'iatrogenic'. Here, resultant remedial intervention would involve critical focus onto state Aboriginal policies, without having to tackle Aboriginal culture, and violence as an Aboriginal cultural item, head-on.

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[3]Victoria Burbank adopts a similar approach by interpreting the aggression within her studied Aboriginal population as 'a product of their unique cultural background whatever its amalgam of Aboriginal and Western elements': V. K. Burbank, *Fighting Women: Anger and Aggression in Aboriginal Australia*, University of California Press, Berkeley, 1994, 22. See also D. F. Martin, 'Aboriginal and Non-Aboriginal Homicide: "Same but Different"', 75-6, in *Homicide: Patterns, Prevention and Control*, ed. H. Strang and S-A. Gerull, AIC Conference Proceedings no. 17, AIC, Canberra, 1992.

Second and more problematic, indications are that Aboriginal people in Viewtown are caught up in a cultural construction process, encouraged but not controlled by the state. This runs the risk of Aboriginal violence being accepted as a cultural marker and thus receiving ethical and legal dispensation. It also runs the risk of creating structural impediments between the state and Aboriginal victims that may become difficult to surmount.

Attitudes to Domestic and Non-Domestic Violence Among Viewtowners.

Professional and Prominent Aboriginal People

Use of non-directive interviews and participant-observations reveals compromised attitudes to domestic violence among Aboriginal professionals and community activists. For example, Aboriginal female professionals are among those who participate enthusiastically in conversations that support or find amusing violent incidents against partners, adult children, extended family members, and strangers. One prominent woman questions whether a husband's 'slapping a woman around the face a little' should really count as violence.[4]

Viewtown's Aboriginal Health Centre (VAHC) fosters a critical approach among its Aboriginal workers to domestic violence. Domestic violence is ranked as a priority health issue among senior staff, both Aboriginal and non-Aboriginal, male and female. Nevertheless, there is conflict among Aboriginal staff over the issue of whether an 'Aboriginal' or a 'westernised' approach is more effective. Given the cultural and other agenda in this conflict, it is possible that the objective professionalism of their responses is compromised. One male Aboriginal worker's pursuance

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[4]June b.14 1994.

of a non-'blackfella' lifestyle, by upholding nuclear family privacy leads him to resist intervening, even while witnessing a family member suffer domestic violence. This seems problematic given that his job entails intervention in Aboriginal domestic and family violence. A female Aboriginal worker claims that a 'tradition' of family intervention is effective in minimising domestic violence. However, her defense of extended family obligations that sometimes included 'crashing' non-conforming members, as 'our way', is also of some concern. Moreover, the male worker's criticisms of such 'traditional ways' may refer to real experiences of escalating violence due to extended family interference, and thus merit consideration.[5]

Another attitude observed among Aboriginal service workers is a greater sympathy for perpetrators over victims, and a tendency to justify domestic violence. There are several examples of this. The Women's Shelter management claims to be under pressure from male Aboriginal service workers to allow Aboriginal men phone access to partners in the Shelter. Apparently, these workers claim that to deny a man's access, especially not to let them even speak to their partner by phone, seems 'pretty unfair', given that the 'poor fellows' are sorry for what they have done.[6]

Aboriginal female service providers also display sympathy for male offenders and criticism of the Women's Shelter. While the following

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[5] For an extract of this interview, see Appendix to Chap. 8, Group 1. A white service provider notes the 'upsetting' failure of Aboriginal friends and relatives to intervene in cases of domestic violence in public settings. Aboriginal people, she says, act as if nothing is happening, or make conscious efforts to ignore it, whereas white Viewtowners usually intervene to stop domestic violence in a public place, and verbally chastise the offender: Service 68, February 1995.

[6] Service 65, February 1994. This pressure is also emanating from non-Aboriginal male service providers within the same institutions, as discussed in Chap. 5 of this thesis. It is Women's Shelter policy to prevent such phone contact, due to victim vulnerability to be persuaded, so soon after her act of fleeing, by her partner's remorse.

arguments of one such worker seem practical and justified, overall she lacks sympathy for victims:

> The Women's Shelter hurts rather than helps the marriage. She keeps going back to the man anyway, he keeps getting more and more violent, and the Shelter keeps crying out for more assistance as it keeps having to take the women in. What is needed is more counselling, especially for the men, and for the couple together.[7]

This statement, while containing concern and understanding about the cycle of violence, nevertheless prioritises preserving the relationship. In the following statement, the same worker reveals a refusal to heed victim claims and a more overt proclamation of sympathy for the perpetrator:

> I would never go to the Women's Shelter myself if I was a domestic violence victim. They totally paint the male as a bad, violent criminal. Fair enough if we want to go there to leave a bad marriage. But I've dealt with clients that I know aren't violent— never committed any robberies, never hurt anyone— and all of a sudden his partner has gone to the Shelter and accuses him of being a violent criminal! What goes on at the Shelter for her to be saying that? Its no good— the Shelter should be working to reconcile the differences.[8]

Incredulousness of victim claims about their publicly respectable partners may in part arise out of this worker's role which excludes intra-Aboriginal crime, and involves supporting mainly Aboriginal male offenders confronting the criminal justice system. This may foster sympathy for male offenders generally. However, white legal professionals, both male and female, working with male offenders display no similar sympathy. Whatever its origin, this Aboriginal worker's claim that even if she were a victim she would not go to the Shelter because they 'totally paint the male as a bad, violent criminal', suggests a tendency to prioritise male public status and an over-readiness to dismiss consideration of Aboriginal women's human rights.

Another Aboriginal female service provider gave talks at the Aboriginal Women's Centre on domestic violence— its unacceptability, and services

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[7]February c.8 1995.

[8]Ibid.

for victims. She too has little truck with Shelter rules, again because they are 'anti-male', particularly regarding rules about phone calls from the male partner.[9] Her perspective is doubtless re-affirmed by Aboriginal victim complaints to her about this shelter rule. Nevertheless, this Aboriginal worker's orientation is different from mainstream perspectives on victim and perpetrator management in the early days of escape.[10] Her perspective seems more 'culturally'-embedded than professionally-informed.

While there is no overt advocacy of domestic violence within this group of Aboriginal service providers, its prevention and the protection of victims is given a different order of priority from that of a liberalist perspective. The American scholar Thomas Sowell depicts such prioritisation in terms of 'trade-offs'. While people may express a want for a good in an 'attitude survey', 'real world' choices entail sacrifices:

> Education and personal safety may be valued by a wide range of human beings in a great variety of cultures, but what they are prepared to do— to sacrifice— in pursuit of those goals varies enormously.[11]

For these Viewtown Aboriginal service providers, protecting victims is contingent upon the safeguarding of other 'goods' such as the privacy afforded by a newly adopted nuclear versus extended family lifestyle, violence as strategy against the female partner, and the wants and status

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[9]February b.6 1995.

[10]It is not argued here that this rule is effective in the case of Aboriginal victims. Commonly, the purpose of this rule seems incomprehensible to them as it lies outside their interpretation of violence in the home. Indeed, domestic violence victims in general frequently find this rule hard to abide, because these victims are typified by a dependency on their violent partners. A more mainstream perspective might respond to these requests as problems; argue that Aboriginal women victims are particularly difficult to protect, being more likely to seek respite rather than escape; and services need to address this high level of violence toleration. While mainstream services are failing to address this toleration, this Aboriginal worker is also not equipped to meet this challenge.

[11]Thomas Sowell, *Race and Culture: a World View*, Basic Books, New York, 1994, 10.

of the offender. So while concerns about domestic violence are sincere, it is embedded within a culture that prioritises other goods more highly.

Concern for violence tempered by other priorities is evident among the general Aboriginal population as well. A 1993 Survey indicated that among Viewtown's general Aboriginal female population, middle-aged and older Viewtown Aboriginal women prioritise domestic violence as a problem more than Viewtown's younger Aboriginal women. A conversation with a middle-aged Aboriginal woman displays her concern about domestic violence among Aboriginal Viewtowners, and the lack of appropriate responses. Nevertheless her attitude is that male violence against a female partner is justifiable:

> The man would be out all day at work or CDEP, then come home, start drinking and bashes her— and why would he bash her? She must have given him some reason to do it![12]

'Ordinary' Aboriginal People

Among young non-professional Aboriginal people, there seems to be even less objectivity or criticism of violence. Observed conversations of younger Aboriginal women regularly include stories of recent violent incidents, related as if violence is an inevitable part of everyday life.[13] In conversations at the Aboriginal Women's Place, younger Aboriginal women sometimes express approval of violence:[14]

> 'Pete' threw boiling water over 'Mia' on the weekend! She got just what she deserves too, leaving three such pretty little girls like that. I'd do the same myself to her! [15]

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[12]December e.19 1994.

[13]The researcher experienced such conversations to be upsetting and frightening, providing a kind of subjective measure of a different, non-liberal-democratic code regarding violence.

[14]For additional examples to the quotes below, see Appendix to Chap. 8, Group 2.

[15]May a.3 1994.

Sometimes there is an element of disapproval:

> Did you see 'Bruce' on the weekend? See how he just sat there while 'Wendy' kept punching him in the stomach? Pretty weak of him heh! He should have stood up to her and hit her back! I feel like punching her myself for doing that to him![16]

'Violence' stories are regularly told to amuse:

> Did you see 'Frank' with his front teeth missing from some fight?— he looks real funny! *[laughs all round]* — he probably got it by going after someone else's woman I reckon![17]

and sometimes there are tales of warning about violent outcomes if behavioural codes are broken:

> 'Jane's been sleeping around— her dad'll beat her, just you wait! If she keeps running around like she is now and gets pregnant, Ooooh! she'll be in trouble then! Her family will see to that! Her father, he'll give her a beating, no hesitation, he'll certainly give her a beating! She's got it coming to her, she has! [18]

Whatever the case, the frequency and prosaic manner that violence pervades their conversations portrays a people who are immersed in everyday lives where violence is an accepted albeit noteworthy, even exciting, element.

These documented conversations indicate that Viewtown's Aboriginal people commonly perceive violence as an expected consequence, a just outcome, and a corrector for a range of human relationship transgressions. Even its consequences, viz. physical injury, commonly fail to generate expressions of remorse or alarm. Younger women in particular seem immune from compassionate responses by their sense that the violence is justified either as punishment of or control over the victim, or that an injurious accident is a just outcome of reckless behaviour. This 'justified' violence instead commonly elicits praise for the offender and

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[16]June b.14 1994.

[17]Ibid.

[18]August a.2 1994 This tale is maintained in circular fashion for a while by three women all repeating similar phases, all nodding their heads in agreement.

amusement at the plight of the victim. The regular public relating of these incidents creates and reinforces a public standard that violence can be a valid and justified response for commonplace transgressions.

While this is of concern enough for those holding a liberalist perspective, condoning of violence in Aboriginal Viewtown seems to be extendable to apparently pointless violence, such as arbitrary 'flogging' outside a pub or going out to look for fights on a Saturday night.[19] If so, then for some Aboriginal Viewtowners violence is an intrinsically valuable activity that needs no justification.

White and Aboriginal 'Ordinary' Viewtowners Compared

Participant-observations of Viewtown white women's gatherings suggest an absence of publicly-expressed celebration or immersion in violence. Several visits were made to a women's craft workshop frequented by about 80 white women of all ages and class backgrounds. Here, 'gossip' is the main informal event. An occasional whisper of advice filters through on the management of a restraint order, or a woman hints that her husband is pretty controlling. Apart from this, no group conversations about violence were witnessed. Violence is never a source of group amusement, approval, or condemnation in observed conversations. Much the same applies to other witnessed informal gatherings of white women. It was once observed in the context of white women friends gathering together. Here, a woman   sought support for her intention to acquire an SPO against her ex-partner.

This public near-absence of domestic violence as topic of conversation does not shed light onto the domestic lives of these women. It does

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[19]See Appendix to Chap. 8, Group 2.

however suggest that domestic violence is unlikely to get public group endorsement or reinforcement among the white female residents of Viewtown. Rather, eliciting sympathy or advice seems to be the aim of public discussions about violence among the white women of Viewtown.

There is more overlap between Aboriginal and non-Aboriginal Viewtowners regarding the use of corporal punishment of children. Among white Viewtowners, tolerance and condoning of corporal punishment of children is commonplace. This is sometimes expressed as a lament about the demise of corporal methods of discipline in the schools. Resentment of FACS interventions into families in cases of corporal punishment against teenage children are expressed by both Aboriginal and non-Aboriginal parents[20]

However, indications are that the severity of corporal punishment within these white households tends to be less than that acceptable to Aboriginal households. One older Aboriginal man speaks with anguish about his observations of increasing violence, sexual assault and child neglect within the Viewtown Aboriginal community, including his own family. However, he advocates harsh corporal methods as an appropriate form of child discipline:

> One thing, the government's not helping. It's the government's fault that the young are not being disciplined enough anymore. I used to flog my girls with a belt if they misbehaved- not just a little slap but a good flogging 10, 12 times with a leather belt. That really taught them, they'd never do the wrong thing after that. ...the law won't let us touch our kids now...so our kids run around out of control. 'Jim's' parents did the same to him, but 'Jim' gave his (teenage) daughter just one back-hander across her face, so she goes to the police about it, and they took her side![21]

Control or discipline of children through considerable violence is seen as an integral part of family life in this instance. Denial of that strategy is

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[20] February b.2 1995; February c.7 1995; February d.10 1995; February f.17 1995; December d.14 1994.

[21] November d.17 1994.

experienced as an injustice, a deprivation of a workable control over children's behaviour. There is no insight that such violence might generate a high tolerance of violence in adult life. There is some suggestion that white familes using mild corporal punishment differentiate this from the level of corporal punishment used within some Aboriginal families, as well as the implications this has for later domestic violence. White Viewtowners, to a greater extent than Aboriginal Viewtowners, seem to be questioning and minimising learned violent behaviours. One white mother was observed using mild 'smacking' to discipline her toddler. During the same interview, she observed that

> child neglect and abuse is pretty obviously going on (in the Aboriginal household opposite). A few weeks ago, the dad was trying to belt his child over the head with an iron bar, but he was so drunk that he kept missing...
> We called the police. You can see by their upbringing why they become so violent...
> Some of us whites have had awful upbringings too but as a rule we decide as adults that we must behave responsibly and not perpetuate such bad behaviour as adults onto our own children.[22]

Exploration of other white people's evaluations of Aboriginal neighbours suggests a generalised lower tolerance of violence among white Viewtowners. Of the 200 interviews with white people, a non-focussed interview technique solicited relatively spontaneous expressions of fear of Aboriginal people from 49 interviewees, 46 due to Aboriginal violence, the remainder due to Aboriginal incidents of property damage and home invasion. Of these, 8 felt that Aboriginal violence is declining, 10 that it is increasing, and for the rest it is either steady, they cannot tell, or make no comment on trends.[23]

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[22]November a.1 1994.

[23]As noted in the Methodology chapter, a difference in the aetiology and extent of domestic violence between Viewtown's Aboriginal and non-Aboriginal people is also suggested by these interviews. An initial indicator of this concerns the relative number of Aboriginal compared to non-Aboriginal interviewees who were detected to have direct experience of family or domestic violence. The figures are 30, or 37.5 percent, of the 80 Aboriginal interviewees, and 34, or 17 percent, of the 200 white interviewees.

These fears arose from several sources, including the hearing of or witnessing Aboriginal fights in neighbouring houses, their own street, or in a public place, of having a family member or friend who was physically assaulted by an Aboriginal person, being personally 'menaced' by an Aboriginal person, or by being aware of the inter- and intra-racial violence among Aboriginal people in Viewtown through friendships and family ties with Aboriginal people, and through neighbourhood 'gossip'. While the local media was another source of information, none of these 49 based their fears on media sources alone. White men and women, young and old, the wealthy, working people and welfare recipients, white people who befriend, partner with, and sympathise through to those who resent and avoid Aboriginal people, and professional people working with Aboriginal clients, are among those who hold these fears.[24] The following quotation portrays a commonplace Viewtown white ambivalent position of both sympathising for and fearing Aboriginal people, and a resultant but reluctant distancing:[25]

Young non-Aboriginal woman.
The father of my children feels whites presume he steals, that he's a rapist, just because he's an Aboriginal. The trouble is though that many Aboriginal people DO rob and rape, so its hard to avoid such judgements....And they argue so much amongst each other too. They are so violent with each other, so much of the time. ...Its violence of men against men, men against women, women against women. Between the women its jealousy, nearly always jealousy. This really affects me. I only have to look at an Aboriginal man to trigger an Aboriginal woman to a violent rage. For my own safety's sake I keep away from Aboriginal people now as much as I can unfortunately....Its all very hard.[26]

These and other interviews reveal that white Viewtowners commonly experience Aboriginal Viewtowners as too prone to violence in a range of settings, domestic and non-domestic, inter- and intra-racial. These whites also consider this proneness to violence to be ethically unacceptable as

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[24]Interviews conducted during 1994.

[25]For other comments from white residents here, see Appendix to Chap. 8, Group 3.

[26]February b.3 1995.

well as frightening. Aboriginal violence strains white Viewtowners' genuine attempts to be non-racist.

White fear of Aboriginal people in Viewtown arises largely out of whites' experience of a more prevalent tendency among Aboriginal people in Viewtown to respond violently to even trivial social upsets. An American researcher has correlated a tendency among those experiencing violence in the home to misinterpret harmless social interactions as threats. He argues that offspring who are frequent witnesses of violence between their parents tend to 'misread social cues', startle more easily, and respond violently to harmless social actions because they misinterpret them as a threat.[27] Thus the white experience of Aboriginal Viewtowners being quick to violence 'even if you just look at them the wrong way'[28] is likely to be a further indicator that Aboriginal people experience high levels of violence in the home.

A common white response to Aboriginal violent behaviour is retreat from contact with Aboriginal people. Aboriginal violence causes white Viewtowners to spend money on increasing home security, to shift locations within Viewtown, to shift out of Viewtown, to change their children's schools, to avoid befriending Aboriginal people, and to adopt a variety of other ways that limit their use of time, space and services

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[27]Barry Zuckerman, Boston University Medical School, speaking on *Life Matters*, ABC Radio National, January 20, 1997.
-See also UN Office at Vienna, Centre for Social Development and Human Affairs, *Violence against Women in the Family*, New York, United Nations publication, 1989, under the heading 'Effects on Children', 23-24.
For a literature survey on effects of child witnessing of domestic violence, see Margaret Porter, *Not in Front of the Children: the Effects of Witnessing Domestic Violence on Children and Implications for Social Work Practice*, Honours thesis, School of Social Studies, University of South Australia, 1992, especially 28-38.

[28]June a.6 1994.

within Viewtown, in a bid to secure physical safety by locationally separating themselves from Aboriginal people.[29]

Associated with and intensifying white fear is the conviction, including claims of experience and police telling them so, that 'police can't do much anymore' about Aboriginal violence and other crimes. 25 white interviewees reported this perspective. They cite the RCADC, police fear of being labelled racist, or the lengthier procedural requirements for incidents involving an Aboriginal suspect, as causes of this police tardiness. This indicates that there is a growing inconsistency between the degree of state police response to Aboriginal violence, and the degree necessary to secure and maintain within the non-Aboriginal population a sense of being protected from Aboriginal violence.[30] Thus, it seems that white fear of Aboriginal violence in Viewtown is intensified because the state is detaching itself from a mainstream liberalist approach to Aboriginal violence in its quest to attend to other problems associated with Aboriginal people and legal intervention, particularly high incarceration rates.

A young Viewtown Aboriginal woman's observations fortify the validity of these white Viewtowners' interpretations:

> The police are often too frightened to intervene, because in an Aboriginal domestic violence incident, you're not only dealing with a couple, but you're dealing with the whole families of both persons. Payback is really big here....Families come in and take one side of the fight against the other, and the paybacks can spread on and on, go on and on, for a long time....The police can also become victims directly in this payback, and so they are quite often too scared to act. The police are frightened.[31]

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[29]Interviews conducted between April 1994- February 1995. Only a handful of white residents spoke to the researcher of more drastic ways to secure safety from Aboriginal violence such as buying a shotgun or enforced apartheid. For examples, see Appendix to Chap. 8, Group 3, extracts ii and iii.

[30]Interviews conducted between April 1994-February 1995. For an example, see Appendix to Chap. 8, Group 3, extracts iii and xi.

[31]June d.16 1994.

This observation also indicates that Aboriginal domestic violence imperils not only the safety of victims, but of intervening service providers as well. Moreover, this pervasive violence in the Aboriginal population seems more likely to impede police response than any element of police trivialisation of a case because it is domestic or the victim is Aboriginal. The following comments made by the same young Aboriginal woman indicate that police also give way to fear when the case is non-domestic and the victim is white:

> You can see (police fear) even when Aboriginal people attack whites. Not long ago, about 12 Aboriginal people attacked two white men in the street. The police came, but all they managed to do was drag one of the white men out of the fight and lock him safely in the police car, and then watch on from the safety of the police car while the 12 Aboriginal men kept bashing up the other white man. He ended up with a broken jaw and many bruises, and the Aboriginal men were not even charged because the police are too frightened of payback, and they are too frightened that they will be accused of racial discrimination[32]

Apposite to this white fear and complaint of Aboriginal violence, there are a few Aboriginal complaints about white lack of tolerance of Aboriginal violence. This includes complaints about whites resorting to police when a fight occurs.[33] Another example involves a conversation among a group of Aboriginal women at the Women's Centre about the white bands at the football club cabarets:

> Those disc jockeys and bands at the footy club stop playing, pack and leave, when a fight breaks out— pretty petty heh!? They should choose DJs and bands who don't mind the fights.[34]

Two Aboriginal references to white violence were also recorded. This includes the reference to whites involved in a 'pub' fight[35] and one

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[32]Ibid. Among the 25 white interviewees who reported police powerlessness or inaction in the face of Aboriginal violence and other crimes, there were also two reports of Viewtown police watching, but not intervening, into injurious Aboriginal group violence against a single white: December d.14 1994; February b.3 1995; and another report of police watching, but not intervening, into an Aboriginal man's violence against an Aboriginal woman in a public place: Appendix to Chap. 8, Group 3, extract xi.

[33]See Appendix to Chap. 8, Group 2, extract ix.

[34]April a.6 April 1994, and April a.12 1994.

[35]See Appendix to Chap. 8, Group 2, extract ii.

complaint about unfair white retaliatory violence against Aboriginal people in nearby Sandytown, not Viewtown.[36] This Viewtown dearth of Aboriginal complaint about white violence, and some evidence of Aboriginal complaint about the lack of white tolerance of violence, are both further evidence of Aboriginal acceptance of violence as a normal dimension of human relationships.

White Professional Observations About Aboriginal Violence

Among white professionals of Viewtown who have a high interface with both domestic violence and Aboriginal clients, there is agreement that domestic violence is more prevalent and more severe within the Aboriginal community of Viewtown. The following quotation encapsulates the professional consensus here.[37]

> *Female social welfare professional*
> The differences between Aboriginal and non-Aboriginal domestic violence are horrific. With whites, the violence is mild. Even emotional violence is considered 'the end of the world' for many whites....Physical violence is present in at least 50% of Aboriginal couples, probably more, and a lot of Aboriginal people are confused about domestic violence as they think that their culture says that a man has a right to control women. Both Aboriginal men and women believe this, and the attitude 'she probably deserved it anyway' is widespread among Aboriginal Viewtowners....I have cases of Aboriginal families rallying around the perpetrator, apparently supporting him in his violence. I've never seen such rallying to the defence of the perpetrator among white families.[38]

This and other observations are further evidence that Aboriginal Viewtowners experience worse levels of domestic violence because violence is regarded by them as a normal aspect of human interaction, a tool to be used to restore 'justice' or maintain control. Violence is thus frequently regarded by Aboriginal Viewtowners as an acceptable means to an end, and not an 'aberration'.

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[36]April a.6 1994.

[37]For other comments from white professionals here, see Appendix Chap. 8, Group 4.

[38]Service 68, February 1995.

Another point detectable in white professional observations is that Viewtown's Aboriginal violence is somehow becoming 'hooked up' to a sense of being Aboriginal. This introduces the danger of Viewtown Aboriginal violence being considered an intrinsic aspect of their Aboriginal culture and thus their individual well-being, again evoking the riskiness of promoting difference. The idea that an enhanced sense of Aboriginality is inevitably associated with individual well-being not only sits askew with possible resultant higher levels of physical injury among Aboriginal Viewtowners. For it seems that in Viewtown, intra-Aboriginal violence contributes to an observed 'crippling fear' of one another.[39] Thus while it may become exalted as a cultural marker, Aboriginal violence in Viewtown is unlikely to enhance well-being on either the group or individual level.

Summary

The above examination of the attitudes of these four different population groups illustrates the construction of different perspectives on Aboriginal domestic violence, depending on the group's level of immersion in, and ability for objective assessment of, violence in general. 'Ordinary' Aboriginal people can be so immersed within lives where violence was experienced as 'normal' that they can resent or be baffled by white intolerance of their violence. Violence among fellow Aboriginal Viewtowners is a source of amusement more than of disapproval or sympathy. Aboriginal service providers are adopting to varying degrees mainstream critiques of domestic violence, but are still immersed within Aboriginal daily life where other priorities, particularly the enhancement of male status, are extant. Hence they tend to hold attitudes that

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[39]Service 43, October 1994.

compromise, or practice behaviour that contradicts this critique. 'Ordinary' white Viewtowners are disappointed in, as well as baffled, frightened, and injured by, Aboriginal domestic and non-domestic violence. A common response among this group is to reluctantly develop distancing strategies from and racist attitudes towards the Aboriginal people of Viewtown. They also experience a gap between their own liberal interpretation and experience of Aboriginal domestic and non-domestic violence, and the present state responses to Aboriginal violence. The outcome of this gap is fear, and privatised means among whites of securing physical safety. A prevalent form of privatised response here is a geographic one, whereby place use patterns are adopted that minimise contact with Viewtown's Aboriginal people. Professional white Viewtowners often develop critical perspectives about what they have witnessed. These professionals speak of prevalent and serious violence that arise only partly from high conflict and drinking levels. For some Viewtown professionals, one key factor underlying Viewtown Aboriginal domestic violence is a different culture of violence, probably traditionally derived from the western hinterlands, where women are considered more subordinate to men than within the white tradition, and where violence is a normal, acceptable means to gain and maintain male control over women.[40]

These four levels of experience with Aboriginal violence, including domestic violence, portray and confirm in composite that a different non-liberal ethic about violence is common among the Aboriginal people of Viewtown. This is not acceptable to the mainstream polity. In particular, this ethic does not recognise the human right to be free from physical assault, and so falls outside liberalist and UN requirements for basic

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[40]For example, see Appendix to Chap. 8, Group 4, especially extracts iii and iv.

human rights criteria. Above all, too few within the Viewtown Aboriginal community have a critical-enough perspective on domestic violence. This suggests that the chances of an adequate challenge arising from within the Aboriginal population to that violence without substantial outside intervention and support are minimal.

Aboriginal Domestic Violence in Viewtown: an Epic of 'Rights', Status, Division,...

Within Australia's non-Aboriginal families, there is a correlation between the low public status of a female partner, and the likelihood of her victimisation to domestic violence. In particular, women who are dependent on their partner's income are most vulnerable.[41] It has also been argued that Aboriginal women's pre-contact economic independence from men is in contrast to their present subjection to domestic violence.[42] However, in the Viewtown context at least, examination of Viewtown Aboriginal women's present public status does not shed much light on the higher level of Aboriginal domestic violence. As a group, Viewtown Aboriginal women today enjoy higher status vis-a-vis Aboriginal men compared with white women vis-a-vis white men in the public sphere, albeit that Aboriginal male public prominence is still detectable.

Viewtown Aboriginal women's status ranges from autonomous actors in the public sphere through to victims of male violence in the home. Both Aboriginal women and men endure high levels of unemployment in Viewtown. Taken together, less than a handful are employed in the

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[41] Caroll O'Donnell and Heather Saville, 'Domestic Violence and sex and class inequality', in *Australian Studies: Family Violence in Australia*, ed. Carol O'Donnell and Jan Craney, Longman Cheshire, Melbourne, 1982, 52-66.

[42] See Kayleen M. Hazlehurst, *A Healing Place: Indigenous Visions for Personal Empowerment and Community Recovery*, Central Queensland University Press, Rockhampton, 18.

private sector and in mainstream government services. About 80 (excluding CDEP) are employed, many part-time, in government or Aboriginal-managed services for Aboriginal people including community organisation, education, health, welfare, law, youth, employment and sport.[43]

Women are equally or slightly over-represented within this workforce, and figure most prominently in education and health. Men are more likely to be in positions which have more status and power attached to them and occupy nearly all the government welfare positions which can exercise power over Aboriginal family life.[44] The same pattern emerges in the Aboriginal committees of Viewtown.[45] Thus there is a gendered pattern of public employment and other public participation. The men seek not only employment and to contribute to community well-being, but to gain status and authority as well. Viewtown's Aboriginal women are less likely to pursue, or at least to secure, public positions of highest status and authority.

While not commonly expressed, there is a view among Aboriginal women in this workforce that their career opportunities are unfairly shaped and limited by gender. One woman expressed it in terms of it not being fair that men 'run everything', and 'are in charge of all the organisations.'[46] Nevertheless, Aboriginal women of Viewtown interested in pursuing a career, view the public sphere as territory in which they have a right to participate. But rather than directly challenging the prominent positions already occupied by Aboriginal men, Aboriginal

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[43]Researcher contact with Viewtown Aboriginal organisations, 1993-1995.

[44]Ibid.

[45]Ibid, and organisation documents.

[46]October a.28 1993.

women are mapping out newer employment territory, namely the education sector. Here, Aboriginal women predominate as teachers, Aboriginal education officers and student teachers.[47] This seems to be an accepted gender demarcation line for the sharing out of limited Aboriginal career goods.

While the public sphere clearly has some role in enhancing Aboriginal male status in Viewtown, it is comparatively limited. It is the home or family site that is the key site, the chief determinant of Aboriginal male status in Viewtown. In comparison to one's gender, what family one belongs to has a greater impact on employment access. And, while there does not seem to be a major public-sphere gender conflict in Viewtown's Aboriginal population, the private sphere is fraught with gender conflict. Moreover, women's involvement in the workplace appears not to threaten Aboriginal male status as much as male lack of control over home-based finance and other activities. This anomaly between the relative public prominence of the Aboriginal female and her higher vulnerability to domestic assault needs exploration.

'Family' determines a range of statuses in Viewtown, and government policy impacts on family status within and between Aboriginal families has direct implications for Aboriginal domestic violence aetiology there. Evidence suggests that in Aboriginal Viewtown, the private or family sphere takes precedence over the public or workplace sphere in terms of inter- and intra- family status, authority, obligations, and rights to money and material goods. Aboriginal family status, especially whether one's family is deemed 'local' or not local, determines one's considered right to

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[47]The Aboriginal student-teacher ratio is about 5:1 female:male, meaning that there are more Aboriginal women than men with tertiary qualifications in Viewtown: Service 74, during the service survey, 1994. Also 1991 Census of Population and Housing, *Aboriginal Community Profile for (Viewtown),* Commonwealth of Australia, 1993, 2.

a job more than one's job determines family status. In this manner, the importance of 'family' to Aboriginal people commonly spoken of is perhaps most productively interpreted. In Viewtown, the genesis of Aboriginal female oppression is partly located within this family dynamics, as is the phenomenon of domestic violence, despite Aboriginal women's public prominence.

It might be expected that higher levels of domestic violence among Aboriginal families is essentially to do with their low socio-economic status, where poverty engenders hopelessness and high alcohol consumption with resulting increasing family conflict and violence: as experienced by poor white families. Whether this is the case in Viewtown is debatable. One local white professional claims that Aboriginal domestic violence is increasing along with generalised rises in income levels derived from the CDEP and from steady employment within Aboriginal services. Her interpretation is that more money adds more fuel to the underlying tensions within Aboriginal families of Viewtown, namely who controls money and how it is to be shared out. Aboriginal couples come into conflict and physically fight over this. She argues that finance is a common site for Viewtown Aboriginal domestic violence, and that financial conflicts have a more difficult form than those endured by white families.[48] There are several reasons for this.

Male force against women is arguably a sign that control or access over some tangible or intangible 'good' is being contested.[49] In Viewtown,

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[48]Service 68, November 1994. There is evidence of a positive correlation of poverty and unemployment with domestic violence in one regional study of a general population: see Christopher Devery, *Domestic Violence in NSW: a Regional Analysis*, NSW Bureau of Crime Statistics and Research, General Report Series, 1991.

[49]See Annette Hamilton, 69. See also Merlan, 30- 32.

Aboriginal women as a group have higher incomes,[50] and frequently have SAHT and AHU houses in their own name too.[51] That is, they have tangible goods in greater supply that men also need. Some men's most ready access to these goods is through a female partner, but force may be necessary to acquire them from her.[52] This likelihood is intensified by the women's attempts to prioritise essential household and children's needs. Is this an 'irreconcilable' gender conflict, referred to by Hamilton, which invariably leads to the use of force?[53]

At the same time, a significant number of Aboriginal women in Viewtown participate regularly in gambling and drinking, spending large amounts of their incomes regularly on these items, some would argue to the detriment of their children's well-being. Hence, gender battles over access to money for the same purposes also arise. Tensions mount when the car is repossessed because the re-payments cannot be made, or the unpaid electricity is cut off because of gambling losses. The family may move into the home of relatives who feel culturally obligated to take them in until they can afford electricity again, bringing family crowding and conflict into yet another household.[54]

A further intensifier of conflict over money arises due to Aboriginal extended family obligations. In the white community, there is a widespread practice that adequate money is set aside for immediate

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[50]1991 Census of Population and Housing, *Aboriginal Community Profile for (Viewtown)*, Commonwealth of Australia, 1993.

[51]Service 48, during the Service Survey 1994, and interviews with Aboriginal women, 1994.

[52]Partington also notes that there is evidence of heightened Aboriginal male violence against women, due to their economic dependence on women: G Partington, *Hasluck Versus Coombs: White Politics and Australia's Aborigines*, Quakers Hill Press, Sydney, 1996, 138.

[53]Hamilton, 69.

[54]Various interviews and participant observations, especially Service 68, November 1994; April b.14 1994; and February b.3 1995.

family essentials such as bills and the children's needs. There is financial conflict and resultant violence within Viewtown's white families, but less so. Aboriginal families are more likely to be 'extended', with obligations less focussed onto the immediate family and more contested by non-immediate family members. That is, an individual Aboriginal person in Viewtown is more likely to consider as his or her primary right access to money earned by his or her brother or aunty or cousin. These other extended priorities and obligations are experienced as very pressing and come into conflict with immediate family needs and goals. The tension between extended family demands for unproductive goods like gambling and alcohol, and essential money for children's needs, rent and electricity, can become the trigger for couple conflict and violence.[55]

Aboriginal women are the more vulnerable party in these conflicts. While the physical violence might be commenced by either party, the female is usually physically weaker, and thus tends to 'come off worse' unless the fight is 'equalised' through weapons.[56] There also seems to be a generalised belief among Viewtown's Aboriginal community that Aboriginal women are more 'deserving' of being beaten by men than vice versa. This belief manifests in several ways.

First, the running of the household and its finances is the woman's responsibility. Responsibility is a double-edged sword here. Her likely receipt of more money and the house being in her name implies control. However, women are also blamed when things in the house go wrong. While this 'blaming the victim' and then beating her for her misdemeanours is present in both Aboriginal and non-Aboriginal

[55]*ibid.* Also in February g.21 1995.

[56]Going by service survey results and qualitative interviews with various services, such an 'equalisation' strategy seems seldom undertaken in Viewtown.

communities, it is only among the Viewtown Aboriginal population that it is a publicly professed, publicly acceptable behaviour. 'If he hit her, she must have done something wrong', 'she wasn't a good mother'; 'she didn't keep the house clean' 'she couldn't handle the household money' are some of the documented excuses made for male violence against a partner by other Aboriginal *women* of Viewtown.[57] White claims of witnessing Aboriginal male ill-treatment of partners in public places also suggests that male domination over their partner is less a matter of shame within the Aboriginal population. The two white female interviewees quoted below have had continuous interaction, one on a professional, the other on a friendship basis, for years with the Aboriginal population in Viewtown:

> I don't know for sure, but by the way I see the Aboriginal men treat the women who come here, the way he talks to her, just spends money and drinks without regard for her or the children's needs, domestic violence would be occurring in at least 50 percent of the couples, at least.[58]

> The Aboriginal attitude to domestic violence is different than the white attitude. For them its more about the woman being under the man....Also you often see Aboriginal men talk nicely to people in public places and then turn to talk to their wives like shit.[59]

A second reason is the importance of male public status. While female victims are seen as 'deserving' of domestic violence, Aboriginal Viewtown does not allocate a positive status to men for committing acts of domestic violence. Instead, men are to be protected from such accusation. This may be linked to the factor of living amidst a white population, whereby Aboriginal public status depends in part upon one's standing within mainstream society. The process results in Aboriginal women being further victimised. A woman 'bringing shame' onto an

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[57]Service 68, February 1995; May a.2 1994; June b.10 1994; November c.11 1994; December e.19 1994; February b.3 1995.

[58]February g.21 1995.

[59]November c.11 1994.

Aboriginal man by publicly declaring that he beat her, for instance by going to the Women's Shelter, can engender sympathy for the man even from professional Aboriginal women, and condemnation of the woman for sullying his good name especially if he had public status.[60] The result is that his need for feeling 'shame' is reduced, and 'community' anger is transferred onto the female victim. This process is a salient one, for shame is a common measure against unethical practice in Aboriginal social groups. Being 'shamed' is experienced as a mild rebuke through to significant status loss and rejection, and as such can be an effective measure against unacceptable practice.[61] The Viewtown Aboriginal population's priority of preventing victim actions from resulting in offender shame may thus be a public attempt to hold at bay the liberalist position that domestic violence is unethical. For to admit that would be to threaten the fabric of Aboriginal gender power relations in Viewtown, wherein male violence against women is an essential strategy.[62]

To the extent that state Aboriginal family welfare, housing and employment policies are contributing to this gender conflict, effective state responses to Aboriginal domestic violence entail consideration of these policy areas. However, this process needs to avoid the risk of disempowering Aboriginal women. For in Viewtown, the most disempowered Aboriginal women are vulnerable to a differently-generated domestic violence.

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[60]Service 68, February 1995; February c.8 1995.

[61]-NRRCADC, Volume 2, 106-107;
-WATFDV, *Break the silence*, Report of the WATFDV, Perth, 1986, 298-299.

[62]The example, given in this chapter, of the Aboriginal man punched by a woman and then being derisided for not standing up to her by beating her back, suggests that Aboriginal men may get more sympathy if they are perpetrators of violence against women rather than victims of female violence. June b.14 1994.

Some Aboriginal women in Viewtown are more likely to be victims of domestic violence than others. The patterns of this vulnerability present another dimension of the public dominance/private subjection phenomenon of Aboriginal women that exists in Viewtown. A woman's vulnerability to severe domestic violence and 'community' condemnation of her is reported to increase if she is an outsider or a low status local woman who is a partner to a local man from a higher status family.

One Aboriginal male service provider and two non-Aboriginal female service providers of Viewtown, all of whom work regularly with Aboriginal people, claim that Aboriginal men of high status local families are more likely to seriously physically abuse their partners and to do so publicly, if their partners are low status and non-local women.[63] The Aboriginal service provider argues that this stems from some degree of male shame about having coupled morganatically or exogenously. All three claim that it is exacerbated if the victim is on her own with no family support in Viewtown, and hence no other family household to flee to or from whom to gain other support.[64]

It is thus possible that women in such partnerships are subject to higher levels of domestic violence because Aboriginal women in the private sphere bear the burden of 'carrying the culture' or 'maintaining the present hierarchy'. This may mean that battles over scarce public goods do not have to be carried out so intensely in the public sphere. This possibility is strengthened by the fact that Aboriginal women who are most vulnerable to domestic violence at the hands of local Aboriginal men belong to the same groups that are considered less eligible for various Aboriginal

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[63]Service 20, during the service survey, 1994; Service 68, February 1995.

[64]White female partners of these Aboriginal men are also vulnerable on this score. It tends to be intensified by the white female's lack of cooperation in extended family obligations, especially regarding drinking and gambling money. Service 68, February 1995.

goods and services in Viewtown. In other words, some Aboriginal domestic violence may in part be a sub-conscious means of maintaining the present local-outsider identity and hierarchy. Thus when partnerships between different groups occur— and they frequently do— lines demarcating family rights to a limited supply of goods such as local jobs, services, and homeland acquisition funds, are maintained.[65]

Another phenomenon that impacts on violence against Aboriginal women is the lack of a sense of 'sisterhood', of Aboriginal women supporting each other to overcome shared oppressions. Strong family loyalty cuts across such a 'sisterhood' in Viewtown. This is seen in the female defense of violent men in their own immediate and extended family. 'Local' versus 'outsider' divisions are strong among Viewtown Aboriginal women too. Fleeing from family or domestic violence is a common cause for coming from far afield to Viewtown among both Aboriginal and non-Aboriginal women, thus becoming Australia's internal refugees.[66] Hence, the exclusion process by local Aboriginal people of 'outsiders' inadvertently targets particularly vulnerable and needy Aboriginal women, meaning that there are Aboriginal victims seeking assistance

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[65]The correlation of domestic violence to these local-outsider partnerships is not a simple one, and in some cases in Viewtown, 'outsider' women are less vulnerable than local women because they have fled from domestic violence elsewhere to Viewtown, and have a heightened awareness that they do not want to endure domestic violence again. There are marriages between prominent local men and outside women in Viewtown where both partners seem to have transcended this local-outsider dichotomy and work together for the good of their own family life and for the whole community. Also, it is not argued here that the outsider women who have the jobs are themselves more likely to be victims, nor that local men who have jobs are more likely to be perpetrators against outsider women. Rather, the private family sphere as a whole seems to bear the brunt of local-outsider conflict, especially intense around the male-female partnership, whether the male is employed or not, and probably particularly if the female is unemployed, under-resourced generally, and hence more vulnerable. Moreover, there are perpetrators and victims in all groups.

[66]Quantitative survey information, esp. Service 44 and 65, 1994; plus the following interviews: May a.22, 1994; May b.27 1994; July a.6 1994; October a.5 1994; November c.11 1994; December a.12 1994; December c.13 1994; December d.14 1994; December e.16 1994; February d.10 1995.

from a local Aboriginal community to which they are considered not to belong.[67]

Aboriginal women's unity is further fragmented in terms of who uses what women's spaces. The women who use the Aboriginal Women's Place are referred to by some other women as 'that mob— I don't like them and I never go there'[68], or 'I went there but they made sure I was not welcome so I never went back'.[69] Hence, the fractured social relations among Aboriginal women in Viewtown reduce the chances of an Aboriginal woman victim receiving solidarity, support, or empowerment from other Aboriginal women. The chances of a broad-based Viewtown Aboriginal women's group against domestic violence are reduced by these present social conditions. Furthermore, beyond some positives such as skills development, the Aboriginal Women's Place is not overall empowering Viewtown's Aboriginal women, especially not against violence. Rather, through their 'violence stories' the women frequently use this space to reinforce their own oppression, the opposite to an empowering sisterhood.[70]

This lack of unity among Aboriginal women in Viewtown has implications for the feasibility of a Viewtown Aboriginal women's shelter too. Viewtown Women's Shelter management argues that there are 'incredible splits' between Aboriginal women who attend the shelter, based on place of origin, class, and 'tribal' group. These splits mean that the women 'won't even communicate with each other', but as for 'mixing

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[67]This exclusion process is a serious development within the Aboriginal-managed service sector in terms of the well-being of 'outsider' Aboriginal woman victims. This is discussed in Chap. 9.

[68]Service 39, during the service survey, 1994.

[69]May a.22 1994.

[70]Participant observations at the Aboriginal Women's Place, between April and August 1994.

them together in their own shelter: forget it!' At least in a mainstream shelter, it is argued, access to the care that they need is assured.[71]

...and Alienation

The derivation of status acquisition and maintenance through family more than through workplace, and the fact of Aboriginal women's public recreational spaces being sites for maintaining rather than challenging their oppression in the home, are in Viewtown symptoms of an alienated people, a people who lack enough internal motivation for positive change. Certainly there are individual Aboriginal men and women in Viewtown with courage and ability to work for change, but they confront a resistant and at times hostile Aboriginal setting. This setting both exacerbates, and militates against internal challenges to, domestic violence.

In composite, interviews with Viewtown's Aboriginal and non-Aboriginal people portray an Aboriginal alienation with several causes. These include few external sources of self-esteem acquisition for Viewtown's Aboriginal population. A pervasive and heightened sense of entitlement to free services, and an underdeveloped ethic of responsible citizenship and work-culture among Aboriginal Viewtowners, results in a resistance to the experience of individual endeavour and achievement considered vital to self-esteem development.

Low self-esteem increases the likelihood of emotional insecurity and dependency between couples, with resultant violent 'jealousying', reportedly a common cause of Aboriginal domestic violence in

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[71]Service 65, October 1993. This problem of 'splits' between Aboriginal women is possibly the *raison d'etre* for the suggestion in one government report that 'Aboriginal women escaping domestic violence need a cluster type secure shelter to accommodate women and children from a range of tribal and urban backgrounds': Thomson Goodall Associates, *Review of Services for Women and Children Escaping Domestic Violence*, SAAP, South Australia, 1997, 50.

Viewtown.[72] Low self-esteem also produces a need to 'escape' from not feeling good, and this is commonly done through drink and drugs and gambling, all readily available in Viewtown. Gambling is rife throughout the Viewtown Aboriginal population, with young and old, professional and non-professional, men and women, frequently participating in all common forms including pokies, TAB, Keno, and cards, at a higher rate than the white population. This is obvious to the most casual of observers, with Aboriginal people regularly over-represented in the main street gambling venues. Added to this, there are large privately-held card-gambling sessions attended by around 70 Aboriginal women on a weekly basis.[73]

In Viewtown, excessive drinking and drug-taking are more prevalent among the Aboriginal population amidst an already high alcohol- and drug- consuming white population. A white service provider with experience in other Aboriginal populations has observed that Viewtown Aboriginal peoples' high consumption of gambling, alcohol, and drugs is on a par with other Aboriginal populations. However, compared to when he worked in Viewtown in 1979-1980, this consumption has increased. The main difference between Viewtown and other Aboriginal communities concerns peer pressure:

> It is much harder in Viewtown for Aboriginal people to give up drinking. The peer pressure is much stronger here to keep drinking and to use their money for gambling than in other communities I've worked in. Aboriginal people here talk to me about the rut they are in, that they want to get out, but they find it hard due to pressure from the others not to change. The women too do a lot of gambling with women's gambling sessions on Wednesday and Thursday nights.[74]

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[72]Service 68, November 1994; February b.3 1994. For an analysis on the factors of low self-esteem, and of jealousy, in domestic violence, see Jan Horsfall, *The Presence of the Past: Male Violence in the Family*, Allen and Unwin, Sydney, 1991, 94 and 125-6.

[73]Service 68, February 1995; Service 10, during the service survey, 1994.

[74]Service 10, during the service survey, 1994.

While alcohol, drugs, and gambling bring temporary relief, these three 'demons' tend to intensify domestic violence further by generating financial conflict, and particularly in the case of alcohol, by physiologically increasing the likelihood of violent responses to conflict. Professionals claim that alcohol is a factor in at least 50 percent of Aboriginal domestic violence clients, and one claims it to be a 100 percent presence.[75] Alcohol is a powerful depressant which produces a short-term sense of feeling good, but its overall effect is to lower self-esteem and personal drive further. It is also a powerful aggressant. As such, a Viewtown substance abuse worker claims that removing alcohol alone would dramatically reduce Aboriginal domestic violence in Viewtown.[76]

This argument is persuasive. Nevertheless, the cause of resistance to giving up alcohol, viz. the Aboriginal population's alienation and pressure not to achieve underlying it, needs to be addressed first.[77] On this level, the substance abuse worker speaks pessimistically:[78]

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[75] Service survey, where the average service estimate of alcohol as trigger or association with couple violence is for 65 percent of the Aboriginal clients; Also, Service 42, during the service survey, 1994.

[76] Viewtown professionals are divided on the role of alcohol in domestic violence. The majority claim that it only aggravates an already violent setting. One professional reports that when she asks an Aboriginal victim if her partner beats her when he is sober, a typical answer is; 'Only sometimes, only a few times a week'; and when she asks a victim if he gets jealous rages when he's sober, a typical answer is 'yes he does'. Another professional holds that alcoholism is a violence-producing syndrome *per se*, and until the alcohol has been totally, permanently abstained from, violence is more likely in both the sober and drunken state of the alcoholic. Service 68, November 1994; Services 15, and 42, during the Service Survey, 1994.

[77] The researcher spoke to 2 Aboriginal women, one who never attended, and another who ceased attending CDEP, on the basis that it took up valuable 'drinking time'. 2 young men also told the researcher why they ceased CDEP. They professed preference for sitting around, drinking, taking drugs, and in one instance, robbing white households. For him, CDEP 'stinks' (June c.16 1994). This is not a universal attitude however. Of the 100s of Aboriginal Viewtown adults over 15, over 20% are in a CDEP program, nearly 20 percent are employed, and nearly 20 percent are receiving tertiary education mostly in Aboriginal-specific TAFE courses. This does not mean that 60 percent Aboriginal individual adults are engaged here, as many are in two sectors. That is, employed or CDEP participants frequently undertake tertiary studies.

[78] For other comments on alienation, see Appendix to Chap. 8, Group 5.

> Local families are not defined solely by who has been here the longest but also on whether families conform to the local norms adequately....One particular family from interstate was accepted here for over 20 years and played the norm of being heavy drinkers and non-achievers. But when this family stopped drinking and started achieving they were no longer acceptable because they weren't fulfilling these norms anymore. Indeed they lost status and they were ostracised. This has been so traumatic for this family that they have dealt with their isolation from the Viewtown people by leaving Viewtown altogether and settling in Sandytown.[79]

Aboriginal people in Viewtown aspire to the same material and non-material goods as Viewtown's white population. The difference is that Aboriginal individuals are more likely to seek these goods through pathways that nurture neither endeavour nor positive interpersonal relationships. Access to these pathways is limited by local ideas about status-derived rights, rights that are determined by a politicised and therefore unstable and contested inter-family hierarchical system, based on who are the most 'local' (and thus most deserving) families, through to who are the 'least local' (and least deserving) families. This affects access to employment, probably the major source of self-esteem in Viewtown. But within the Aboriginal population, work is too often a marker or enhancer of pre-existing status and power, more than a character- and skills- enhancing pursuit of service goals. Thus even when work is acquired by an Aboriginal Viewtowner, work is likely to have less esteem-building potential than it could have.

The development of a work ethic is further hindered by a sense of being wronged, robbed, by white settlement. There are Aboriginal Viewtowners who claim that this loss bestows on them the right to be housed, clothed, and otherwise cared for by the state. For them, to work for the purpose of earning a living is a void, even oppressive concept.[80]

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[79] Service 42, December 1994.

[80] See Appendix to Chap. 8, Group 5, especially extract v.

In sum, pervading Viewtown's Aboriginal population is a sense of entitlement to power and goods, based on status within community and family, and compensation 'due to them' from the state. This sense renders it difficult for Aboriginal individuals to embark on the self-actualised quest necessary to overcome the alienation underlying Aboriginal domestic violence. Inter- and intra- family pursuit of aberrant 'tall poppies', plus the normative lack of necessity for personal endeavour, render such escape either too painful or irrelevant.

One of the main defences of privileging group or cultural rights over individual rights, is that the viability of the group culture is an intrinsic element of individual members' self esteem or well-being. This is compatible with liberalist precepts about individual rights.[81] In the case of Viewtown, this defense is difficult to sustain on two counts. First, Viewtown Aboriginal people generally aspire to advance their material and non-material well-being by the acquisition of mainstream 'goods', not 'goods' of an 'other' culture. Second, evidence indicates no connection between Aboriginal Viewtowners' particular or 'other' mores or means of achieving these 'goods', and the enhancement of individual members' well-being. Rather, the opposite is the case. Thus in Viewtown, a fundamental argument for non-intervention into underlying contributions to Aboriginal domestic violence— that it requires tampering with a different culture, a culture essential to the well-being of individual minority members— does not seem available to the liberal-democratic state.

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[81] It is assumed that violence is incompatible with individual well-being of both the perpetrator and victim, in all cultures.

Sources of Challenge to Aboriginal Tolerance of Domestic Violence

While there are these complex social and cultural reinforcements of domestic violence within Aboriginal Viewtown, there is also evidence of a growing protest emanating from the Aboriginal population, at least on a fragmented individual level, against domestic violence. Between 1990-1 and 1994, police attendances to Aboriginal domestic violence incidents increased at a faster rate than the growth rate of the Aboriginal population. It seems that this resulted mainly from a growing number of calls from the victims themselves, the victim's relatives, and from white neighbours at the victim's request.[82] This is probably the strongest indicator picked up during fieldwork of this growth in individual protest. Hence, forces are at work within the Aboriginal population that are challenging tolerance of domestic violence. This needs explanation.

An educational campaign against domestic violence within Viewtown emanates regularly from the mainstream culture. The DVAG ensures through periodic campaigns that anti-domestic violence messages and information about domestic violence services permeate the Viewtown white and Aboriginal community. The local radio and television channel and newspaper are targeted, and the DVAG distributes domestic violence literature regularly throughout mainstream and Aboriginal services. So the Aboriginal community is exposed to these 'background' general community education campaigns.

The DVAG also encourages Aboriginal professional membership and general Aboriginal involvement in its activities, with some, albeit limited, success. As previously mentioned too, the Women's Shelter holds domestic violence sessions at the Aboriginal Women's Place. These are

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[82]See Chap. 7 of this thesis.

reported to occur once a year only, and going by the 1994 session, they are poorly attended by Aboriginal women.[83] However, these sessions do engage the interest of a handful of Aboriginal women, and to this extent are contributing to the detected increase in Aboriginal victim intolerance of domestic violence.

There are also sources of challenge emanating more directly from the Aboriginal service sector. Viewtown Aboriginal service providers and other community members attend state or national workshops on domestic violence and related issues such as substance abuse. The impact that these have on the individuals who attend, and on the wider Viewtown Aboriginal population, is also difficult to measure, although a resultant increased interest in, and perhaps commitment to, the problem of domestic violence after attending such workshops was observable among some Viewtown Aboriginal participants.[84] Hence, these workshops may be one source of the growing intolerance to domestic violence.

The Women's Shelter Manager argues that while Aboriginal domestic violence is as intense as ever, Aboriginal crisis care personnel within PLAHC and FACS are assisting in breaking down Aboriginal victim tolerance of domestic violence. They are Aboriginal people in positions of authority who list domestic violence as a key area of concern within their work. As such, they are a high profile challenge coming from within the Aboriginal community to domestic violence. This, she suggests, is a factor in an observed higher number of Aboriginal women leaving their violent partners.[85]

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[83]June b.14 1994.

[84]November e.22 1994; DVAG February 1995 meeting; Service 43, July 1996.

[85]Service 65, October 1993.

An interview with one of the FACS Aboriginal crisis workers suggests that he has a developed analysis of the aetiology of Aboriginal domestic violence within Viewtown, is sympathetic to victims, and is committed to supporting them.[86] This tends to verify the Shelter Manager's observations here. However, the extent of their impact on domestic violence tolerance can be questioned. There is a generalised cynicism among white professionals working within Aboriginal services about the impact of conferences and workshops generally on Aboriginal staff. Moreover, there are no resultant regular domestic violence programs attended by the Aboriginal community that can be pointed to, nor a sustained anti-domestic violence campaign emanating from Aboriginal services nor established at the Aboriginal Women's Place. The Women's Shelter manager is critical of Aboriginal crisis workers' tendency to support perpetrators inappropriately, putting victim safety at risk.[87] Furthermore, it is often difficult for Aboriginal personnel to operate in crisis intervention due to their own connections with Viewtown Aboriginal families.

There are also signs that Aboriginal victims are tending not to call on Aboriginal assistance. In December 1994, one Aboriginal crisis worker reported a decline in domestic violence cases in recent months, and in some weeks he saw no family or domestic violence cases at all:

> I've been spending a lot of time lately away at conferences and VAA meetings. But I haven't seen many clients lately over the last few weeks even while I've been here.This must indicate that more fellas out there are accepting their responsibilities and stopping the drinking.[88]

During this same period, a white crisis worker reported that she was 'very busy' due to a consistent rise from about September onwards in the

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[86]Service 20, during the service survey, 1994.

[87]Service 65, October 1993.

[88]Service 43, December 1994.

number and severity of Aboriginal domestic violence clients, from an average of one to a consistent average of two cases per week. This increase is attributed by her to the seasonal rise in drinking and gambling of the post football season, and mounting financial stress associated with pre- and post- Christmas, a seasonal pattern that affects her white clients too. Police attendances to Aboriginal domestic violence also rose sharply in the latter half of 1994, remaining high through to December and possibly beyond.[89]

These seemingly anomalous reports indicate that Aboriginal victims prefer white crisis worker rather than Aboriginal crisis worker intervention. While definite assertions cannot be made, this raises doubts concerning the influence that Aboriginal crisis workers have among Aboriginal female victims, and about how 'in touch' they are with changes in the drinking and violence behaviour of Aboriginal men.[90]

Aboriginal service providers tend also to speak positively about the impact on Aboriginal family well-being, including alcohol consumption and domestic violence, of programs developed by Aboriginal services particularly over the past 5 or 6 years, some under the auspices of the RCADC. The CDEP established in 1988-9 is cited as particularly effective. By 1994 Aboriginal Viewtowners have experienced this program for another 3 years.[91]

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[89]However, some Aboriginal spokespeople were also aware of this trend. For one police officer reported that Aboriginal people expressed their concern to him about the rise in domestic violence over the last months of 1994. He did not disclose which Aboriginal people, nor whether they were service providers: February 1995.

[90]Ibid.

[91]For Viewtown Aboriginal comments on CDEP, see Appendix to Chap. 8, Group 6.

One white female service provider makes similar claims:

> When five men got contract employment with National Parks and Primary Industry, and others got CDEP work, I noticed that the women who turned up at the centres were becoming free of bruises and stitches. It was obvious that domestic violence was no longer such a problem in these households. The men couldn't drink and then fight every night because they had to be fit and sober for work the next day.[92]

The statement of an Aboriginal woman partnered to a 'notoriously violent' man verifies these professional observations:

> My partner has settled down a lot now, and footy and the CDEP has made a big difference to him. They give him something to do, something to aim for, each week. In WA it was drinking all week for me and him. Now, drinking is something for the weekends only, and then things can get a little out of hand, but its manageable.[93]

There are others who view CDEP's impact on Aboriginal domestic violence less positively. This view of a white female service provider is a cautious one:

> In one Aboriginal family I know, the CDEP program gives the family a break. At least he is not there for two days a week. So CDEP seems to have a minimal positive impact on Aboriginal domestic violence, but it doesn't seem to be breaking the cycle.[94]

Another white female service provider through her extensive contact with female victims has witnessed that CDEP, where it increases a family's income, often exacerbates domestic violence. She is quoted at length here to convey the multiplicity of negative impacts when money, but little else, enters a situation of alienation and despair:

> One of the changes that I've noticed over the 7 years of working with Aboriginal women is that CDEP often increases a family unit's income. But this does not mean that it reduces family suffering and the terrible cycle that their domestic violence is a part of. Instead it means that they have more money for gambling, alcohol, and lovely cars that they have to pay off. So the arguments remain the same, in fact become worse, arguments over sharing the money out between family members, gambling, and debts, especially the car debts. The car stuff is really horrible. Everyone wants a nice car now, and the pressures to get one are enormous. So the banks lend them huge amounts of money at huge interest, few questions asked. And these brand new cars regularly get smashed through drink-driving, so the car is worth next to nothing in no time. Car repossessions, even gaol results. And increased money means more drinking which in turn means they are often too ill to work. So with CDEP and other Aboriginal-funded jobs, many Aboriginal families in Viewtown are in a worse physical

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[92]July a.11 1996.

[93]September a. 20 1994.

[94]Service 20, February 1995.

> and financial crisis. Sure, a few have benefitted, but most Aboriginal families here are now suffering in a more materialist setting, and overall their suffering is now worse.[95]

There is no ready solution to the anomalies between this service provider's observations and the preceding more positive observations. It is assumed that all interviewees are speaking honestly, relating their actual observations of trends here. But the different orientations that Aboriginal compared to non-Aboriginal crisis workers have to Aboriginal programs and to the Aboriginal community seem to be affecting perspectives. 'Gatekeeping' in order to present Aboriginal programs and the Aboriginal community in a good light is possible. And the white female professional who is positive about CDEP is considered by another white professional to have become too 'enculturated'. He purports that she has lost a critical 'outsider' perspective by working for the same Aboriginal community and organisation for too long.[96]

This may or may not be the case. One issue here is that assessments of the impact of Aboriginal programs on domestic violence and tolerance of that violence, are at risk of being based on subjective impressions or political interests derived from an assessor's position in relation to the program, the 'community', or the problem, rather than on objective measurements. Aboriginal victims may also be presenting a different picture to Aboriginal compared to the non-Aboriginal service providers. This may arise due to their different approaches in addressing domestic violence. Contrast the following white female crisis worker's approach

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[95]Service 68, February 1995.

[96]Service 43, October 1994.

with that of one Aboriginal male crisis worker's:

> *White crisis worker*
> Tne main task when working with Aboriginal women is that they can trust you. They need to know that they can come to me, that I shall support them, and that whatever they tell me is confidential. It took the first 2-3 years'work on my behalf for this trust to build.[97]

> *Aboriginal crisis worker*
> Usually, I deal with domestic violence in the context of child welfare. Its an effective strategy. I tell them that unless he stops the drinking so that there is no more bashing of their children's mother and there is enough money for the kids' food and clothing, we'll have to contact FACS who might take the kids off them. As you know, many Aboriginal people hate FACS as they are seen as the organisation that takes the children away, so this is a very effective threat, and they usually behave then.[98]

It is inappropriate to conclude that the Aboriginal worker's approach is ineffective or otherwise amiss. His claims of effectiveness may indeed be valid. Moreover, he schedules time to 'keeping in touch' with what is happening in the 'community'.[99] Nevertheless, it is possible that this fear/disclosure strategy may be one cause of a detected shift of Aboriginal victims away from Aboriginal professionals and towards white professionals in Viewtown.[100] Whatever the cause, these shifts from Aboriginal to non-Aboriginal professionals would mean that domestic violence is becoming more hidden to Aboriginal professionals and more visible to white professionals, and different interpretations made accordingly.

There are several salient points to emerge from this analysis. Viewtown professional commentaries about actual trends in and changing tolerances

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[97]Service 68, November 1994.

[98]Service 43, June 1994.

[99]Service 43, May 1994.

[100]Service 68, February 1995. This possibility is strengthened further when this white crisis worker has recently had to defend a female victim against Aboriginal community claims, probably false, that she is abusing her child and thus 'deserves to be beaten' by her partner. Also, Aboriginal women are shifting away from seeing this professional at her Aboriginal location, to her mainstream location. Another factor here could be the gender of the service providers. In 1994, while there were several white female crisis workers, there were only male Aboriginal crisis workers, itself a telling phenomenon. By mid 1994 there were calls by a male Aboriginal crisis worker to employ an Aboriginal female crisis worker, but in early 1995, there were still no formal achievements here.

for domestic violence need critical interpretation. In particular, divergent trends are detected in the interface between Aboriginal and non-Aboriginal professionals and Aboriginal domestic violence. Hence, they may be commenting more about these changing patterns of interaction rather than actual domestic violence and tolerance trends. Also important is an understanding of the reasons for this detected shift of Aboriginal domestic violence clients from Aboriginal to non-Aboriginal services. Finally, while there are grounds for caution regarding statements about positive impacts of Aboriginal programs such as the CDEP, the number of claims about their amelioration of the domestic violence cycle also warrant consideration. A more focussed examination of the decline in Aboriginal victim tolerance of domestic violence is illuminating here.

In a different way than noted by either Aboriginal or white professionals, CDEP and other benefits to Viewtown's Aboriginal women may be affecting their tolerance of domestic violence more than they are affecting the rate of domestic violence itself, with consequent rises in seeking help. CDEP brings more financial benefits to Aboriginal mothers, especially with several children, than any other group, contributing further to Aboriginal women's financial independence, a likely factor in declining Aboriginal female tolerance of domestic violence.[101]

Another empowering factor for Aboriginal women is access to good housing in Viewtown. While, as already noted, this may contribute to Aboriginal male violence against partners in Viewtown, it also means that Aboriginal women are frequently not dependent on men for housing. Indeed, it is estimated by public housing personnel that about 50 percent of public housing throughout the state, including Viewtown, is in the woman's name. The figures are considered to be similar for Aboriginal

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[101]Data obtained from a Viewtown CDEP officer, Feb b.6 1994.

and non-Aboriginal households.[102] And in Viewtown, Aboriginal women need wait about two years only,[103] and through the SAHT, AHU and Women's Shelter process of priority housing for domestic violence victims and others in crisis, much less than that, to get housing for herself and her children.[104] While these factors were in place since before 1990, it is probable that there is a time lag between securing these benefits and manifestations of the power shifts that they contain.

Corroborating evidence indicates that there are Viewtown Aboriginal women who are pursuing their need to exclude others, especially men, from the home by getting a house for themselves. The following quote is one example of this:[105]

> I'm so angry with my *de facto*, taking off for a day without telling me. I'm starting to think he might be up north being lover-boy to other women. If he comes back tomorrow or later, he'll be greeted with his bags packed and me telling him that he has to go, that he can't live in my house anymore. I can do that because the house is in my name! I pay the rent on the house! I'm sick of him and I'm not putting up with him anymore![106]

Viewtown's own SAHT clientele estimates are a further indicator of this 'feminisation' of Aboriginal heads of households. Housing staff report that 70-75 percent of the Viewtown SAHT Aboriginal clientele are female. It receives about 16 requests for housing each month from the Aboriginal community, 12 of these coming from Aboriginal women. About 1-2 of these women per month are identified positively as domestic violence victims, and one housing consultant claims that if you

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[102]SA Women's Housing Caucus, monthly meeting, Adelaide, December 19, 1996. The main demographic difference here is that in Viewtown, as throughout the state, only a minority of white households are in public housing, while nearly all Aboriginal households are in SAHT or AHU housing, meaning that perhaps half of Viewtown Aboriginal households are headed by women, or have houses in the woman's name.

[103]This was the 1994 waiting time for Viewtown. SAHT, 1997.

[104]Service 48, September-October 1994.

[105]For other examples, see Appendix to Chap. 7, Group 7.

[106]May a.7 1994.

'scratch the surface' domestic violence is a factor in as many as 75 percent of Aboriginal clients. Most Aboriginal domestic violence clients are granted priority housing or at minimum placed on the SAHT or AHU waiting list, meaning that at least a dozen new Aboriginal female-headed households are forming in Viewtown annually due to domestic violence.[107]

The CDEP program is a source of female empowerment, but in a different way from that already discussed. Both Aboriginal and non-Aboriginal professionals note that the CDEP 'gives shape' to the previously amorphous lives of Aboriginal men in particular. Others have noted that the football season does this too, with rigorous training seasons for half the year, particularly since the Aboriginal people now have their own team. Professionals note that these weekly and seasonal football and work demands at least give women regular respites from domestic violence, even if they do not 'break the violence cycle'. No doubt, this improves some women's lives. It is also possible that this relatively recent waxing and waning of domestic violence exposure provides some Aboriginal women with a yardstick of violence-free days and less-violent seasons. Hence it provides a chance to experience and compare another and better normality, thereby reducing their tolerance of the partner's violence. A hint of this possibility is in the words of one Aboriginal man:

> For me, the end of the footy season means more drinking. But the footy season can also be hard on marriages in the Aboriginal community. The fellas go out training several times in the week, then drink alot after the training period of the week is over, and then go home having had too much to drink.[108]

Thus while the incidents of Aboriginal domestic violence remain high, Aboriginal women in Viewtown are making tangible gains in financial

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[107]Service 48, during the service survey, 1994.

[108]Service 7, during the service survey, 1994.

and housing independence, as well as 'time out' from their partner's violence. All these factors are increasing the bargaining power of Aboriginal women, contributing to a reduction in their tolerance of male violence in the home.

Counselling is also a likely source of Aboriginal victim empowerment in Viewtown. The impacts of small, individualised interfaces with human service professionals may result in widespread Aboriginal victim resistance to the idea of 'inevitable' domestic violence. It was demonstrated in the four weeks Service Survey that a lower percentage of Aboriginal compared to Caucasian domestic violence victims attend a service for the purpose of counselling. Nevertheless, counselling is provided to many more clients in both groups. Welfare, shelter, housing, medical, and legal professionals are positively 'opportunist', and either counsel or get counselling for Aboriginal domestic violence victims when they interface with a service for other stated reasons. Hence, the high interface of individual Aboriginal women with human services for a range of reasons is another source of challenge to their acceptance of violence. The words of male legal practitioner bear witness to this:

> Among my Aboriginal clients, domestic violence is seen as the norm, that is they don't complain to me about the black eye, the bruising. I reinforce to them that they should not put up with this treatment.[109]

One young Viewtown Aboriginal woman testifies to the potent effect of coming across a different message:

> The Women's Shelter was just wonderful to me. They were the first people ever, in my whole experience, to tell me that it was not my fault that I was being bashed up all the time. I used to think it was my fault, that I was doing something wrong, getting him upset. They helped me see that it was not my fault, that I had the right not to put up with it.[110]

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[109]Service 57, February 1995.

[110]June d.16 1994.

Another factor, already explored, is the improved relations between police and Aboriginal domestic violence victims and their families. Aboriginal victim-initiated police attendances have thus increased, with victims displaying a greater trust in police procedures in 1994 than in 1990-1. Such trust augments an emergent situation where there is less 'need' for Aboriginal women to tolerate domestic violence.

Conclusion

In Viewtown, the Aboriginal orientation to violence is still commonly a non-liberal one. And while trends during the early 1990s indicate that Aboriginal victim tolerance is challengeable, it is also likely that this 'challengeability' is a fragile one. Viewtown Aboriginal domestic violence remains high due to complex gender inequalities, a common attitude that using violence to correct relationship transgressions is acceptable, a pervasive underlying alienation, and regular reinforcement of these attitudes at Aboriginal-only gatherings. Victim intolerance, if too publicly expressed, is liable to attack so that offenders are protected from shame and status loss. These factors are retardants to Aboriginal Viewtown's adoption of more mainstream, liberalist attitudes to domestic violence. This means that individual Aboriginal victims need to derive substantial psychological and practical support from the mainstream sector.

Consideration of this precarious mix of dangers, limits, and benefits for victims embedded within Viewtown Aboriginal gender and family relations, cultural formations, and Aboriginal-specific programs provides a measure of the difficulty of leading a people enmeshed in everyday violence out of that violence. It evokes while it challenges the possible need for a partial 'different procedure — same rights outcome' approach.

A primary need for liberal-based mainstream intervention remains unchallenged. The next chapter indicates that present trends in Aboriginal service provision in Viewtown, arising from an emphasis on 'cultural' rather than individual rights, are exacerbating problems rather than addressing these issues.

9

Implementing Group Rights and Protecting the Person: Policy Oppositions in Viewtown

Introduction

The political question for liberal-democratic governments that emerges out of the Viewtown case-study concerns the management of opposition, in other words, how much can be held to be non-negotiable regarding the physical safety of Aboriginal citizens, within present Aboriginal policy parameters.

The case-study of Viewtown delineates the legal and policy difficulties that governments can face when attempting to uphold Aboriginal citizens' rights to physical safety. It also challenges the often unquestioned acceptance of publicly-acclaimed, fashionable assumptions about what is needed for Aboriginal well-being, and this has particular relevance for the needs of Aboriginal domestic violence victims. Assumptions under challenge here include those concerning self-management and Aboriginalisation of services, the fostering of Aboriginal identity through cultural revival and separate spaces, and Aboriginal 'community'. Governments are under pressure to recognise the 'group rights' of Aboriginal people in Viewtown. They are also confronted with the dilemma of intervening into, even modifying, the very culture of this minority group in order to uphold their human right to physical safety. This chapter examines problems, resulting from these assumptions and

pressures, confronting the task of implementing effective responses to Aboriginal domestic violence in Viewtown.

Separate Spaces in Viewtown

Throughout Australia, governments support local Aboriginal umbrella organisations that function as community development and fund acquisition bodies for an Aboriginal regional population. The Viewtown Aboriginal Association (VAA) has been exemplified in an official government document as a successful umbrella organisation due to the plethora of Aboriginal projects and services that it has generated, on the premise that these services enhance Aboriginal well-being.[1]

That these services achieve some positive results is not questioned. Improvements in Aboriginal child health, housing, and employment are clear gains. However, there is no logical limit to the scope of these services, which include pre-school to tertiary education services, legal service support, welfare, primary health care, housing, land issues, employment, sport, entertainment, culture, youth, women, and more. The result is that Viewtown's Aboriginal population can increasingly avoid using mainstream services and spaces, and thus lead separate public lives from the white population. So while Aboriginal and non-Aboriginal people geographically and relationally live amidst each other on the private level, the Aboriginal experience of public life is at risk of becoming an increasingly different, less liberalist one. Moreover, this has arisen in recent years due to federal and state government encouragement of Aboriginal self-management and cultural revival.

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[1] Reference withheld to preserve place anonymity.

Both Aboriginal and non-Aboriginal Viewtown service providers concerned with crime prevention and community social health lament the decrease in racial sharing of public spaces, especially recreational spaces, due to the negative impact that separate services are having on black-white race relations in Viewtown.[2] While this is a valid concern, the effect on Aboriginal people's internal relations is perhaps more deleterious. For it is in their own separate public spaces that Viewtown's Aboriginal people have secured their main opportunity to uphold unchallenged, their tolerance and encouragement of violence as a means of expression or control. In other words, governments are assisting them to secure spaces in Viewtown which facilitate the maintenance of attitudes that are anathemas to fundamental human rights.

To be sure, this is mostly an unintended by-product of well-intentioned projects, of projects that secure other benefits. Furthermore, within some Aboriginal services, such as the VAHC, challenges to Aboriginal domestic violence are emerging. But so far, these are limited challenges with minimal compensatory impact, compared to the extent that separate Aboriginal spaces can maintain the acceptability of violence. Two particular Viewtown venues established on the premise that Aboriginal separate spaces are inherently good for Aboriginal people present antithetical evidence here.

One reason for the establishment of a regular Aboriginal football club cabaret was to put Aboriginal public fighting beyond the reach of white interferers and white law. This was for the professed reason that white intervention and police intervention escalated the violence. Aboriginal

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[2]Discussions with both Aboriginal and white service personnel in 1993 and 1994. Viewtown's CPP coordinator advocates a shared neighbourhood drop-in centre, where Aboriginal and non-Aboriginal Viewtown people can informally meet and chat over a 'cuppa'. Just this, she argues, is likely to improve race relations: February c.8 1995.

club management has developed its own and better intervention strategies, it is claimed, and there is little trouble at the club.[3] There are indications that this is not so. Participatory observation suggests that white interpretations of it as a dangerous place are not shared by Aboriginal patrons. Aboriginal patrons act in ways that suggest a higher tolerance of tension, menace and commonplace violent outbursts.[4] Their disdain at white disc-jockey intolerance of fighting on the dance floor and taxi-driver avoidance of the place are further indicators here. Moreover, quantitative data suggests that physical assault and property damage remain higher at this venue compared to the other football clubs. Police intervention at the Aboriginal football club is still regularly resorted to.[5]

The other space is the already-discussed Aboriginal Women's Place. One of the *raison d'etres* for this space is that Aboriginal women benefit from being together while they acquire marketable skills. This is claimed to act as a bridge between their present alienated position and labour market and mainstream expectations.[6] While it equips them with some skills, it cordons them off from the social mores and expectations of the wider society and marketplace, much like a sheltered workshop. Its comfort, its popularity, seem to reside in the fact that the women can 'be themselves together'. But this 'being themselves together' contains a reinforcement of high Aboriginal domestic violence, which is their public affirmation of violence.[7]

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[3]Service 43, February 1994; April b.16 1994.

[4]April b.16 1994; May a.17 1994.

[5]April b.16 1994; May a.7 1994; various services 1993 and 1994.

[6]AWPC, February e.21 1995.

[7]Participant-observations at the Aboriginal Women's Place 1994.

Sarah Radcliffe's comments about the *Madre's* movement of Argentina have some application to the gatherings at Viewtown's Aboriginal Women's Place. She writes how Argentinian women from different classes and places

> came to share among themselves knowledge and experiences through their visits to countless police and detention centres searching for relatives. These experiences, confirming and providing evidence for an unofficial truth, made the women aware of a potential common identity, through the sharing of places and histories.[8]

Radcliffe writes that while this process enabled the women to effectively oppose the state military regime, it was unable to generate resistance against domestic violence, because the *Madre* movement used the essence of the traditional women's place as the driving identity of opposition to the regime. Perhaps too, Aboriginal women's identity in Viewtown, their need to feel 'other' from white women and of 'belonging in community' with each other, is being regularly created and reinforced through their stories about the weekend's violence. If so, this Aboriginal women's identity and community formation has difficult policy implications. David Harvey's analysis is apt here:

> We encounter here, a peculiar tension...A political programme that successfully combats (oppressions) has to face up to the real difficulty of a loss of identity on the part of those who have been victims of...oppression. And there are subtle ways in which identity, once acquired, can precisely by virtue of its relative durability seek out the social conditions (including the oppressions) necessary for its own sustenance.[9]

Separate women's spaces cannot be simply correlated with women's power.[10] Nevertheless, the anomaly of Viewtown Aboriginal women's public autonomy and private oppression appears again. Their public strength is reflected in their securing of women's spaces, but these spaces

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[8]Sarah Radcliffe, 'Latin America and the politics of gender identity', in *The Place and Politics of Identity*, ed. M. Keith and S. Pile, Routledge, New York, 1993, 108.

[9]David Harvey, 'Class relations and social justice, in *The Place and Politics of Identity* , ed. M Keith and S. Pile, 4.

[10]See Francesca Merlan, 'Gender and power in Aboriginal social life', in *Social Anthropology and Australian Aboriginal Studies: a Contemporary Overview*, ed. R. Tonkinson and R. M. Berndt, 1988, 32.

become the *loci* for maintaining the *status quo* attitude of many Aboriginal women of Viewtown: that it is 'OK' for men to beat women.

As such, the liberal-democratic state is confronted with a problem regarding Viewtown's separate Aboriginal women's place. For it seems that this popular space, a product of the present government policy of encouraging Aboriginal difference and Aboriginal control of programming, is helping to maintain a high tolerance and level of domestic violence in Viewtown. To challenge this aspect of the Aboriginal Women's Place may consist of little beyond more regular and effective education and intervention programs held within this Aboriginal space. A more politically and philosophically problematic scenario emerges if it requires at a minimum that this Aboriginal venue be radically altered, even phased out, to be replaced with more racially inclusive spaces and programs.

Separate Spaces from Viewtown: Homelands

Perhaps the epitome of the Aboriginal 'separate space' concept in Viewtown is the homeland. The homelands movement across Australia is primarily an Aboriginal initiative. The 'homelands' concept fulfils present interpretations about how governments should respond to Aboriginal aspirations, such as self-determination and cultural revival. Hence, Australian states are generally supportive of homelands. In a 1987 federal government report, homelands benefits are so described:

> ...significant social and other benefits are emerging through the homelands movement as Aboriginal people, who establish on traditional lands, are better placed to develop and adapt to a lifestyle which gives them a greater say in the interface between Aboriginal culture and the non-Aboriginal society.[11]

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[11] HRSCAA, *Return to Country: the Aboriginal Homelands Movement in Australia*, AGPS, Canberra, 1987, 76.

The RCADC argues that access to traditional or historically significant lands for Aboriginal people, including in the form of homelands, is an essential part of counteracting the harm done to Aboriginal family and community by colonisation. And so meeting the 'land needs' of Aboriginal people is a crucial factor in reducing the high Aboriginal arrest rate.[12] Drawing on Marcia Langton's submission, the RCADC writes of '(t)he necessity for Aboriginal people to retain ties to land, or "country", in order to maintain the "welfare" of Aboriginal society'.[13] While it acknowledges that access to land will take different forms and with greater and lesser degrees of traditional associations intact, the basic premise that social benefits arise from discrete Aboriginal community lands as determined by local Aboriginal communities is not questioned.[14]

There are 6 homeland applications in Viewtown by 1994, all made by large prominent Aboriginal Viewtown families. Two more large Viewtown families already have homelands in the Sandytown hinterland.[15] Potentially this means that over the next decade or so, more than 100 Aboriginal Viewtowners may leave Viewtown to settle on rural properties in its hinterland. Much as is claimed in the 1987 government report on homelands and in the NRRCADC, Aboriginal Viewtowners commonly visualise their future homeland as a kind of *Arcadia* where present worries are left behind, and a harmonious family life will be

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[12]The RCADC prefers the term 'land needs' rather than 'land rights', to capture the sense that Aboriginal people need land to restore their individual, family, and community well-being. See NRRCADC, chap. 19 in Vol. 2, 467.

[13]Ibid., 471.

[14]Though it does admit that its confidence in this process is derived primarily from the positive outcomes of Northern Territory land rights legislation— see Ibid., chap. 37 in Vol. 5.

[15]November f.24 1994.

restored:[16]

> *Woman elder'*
> I'm all for Homelands because for me it means getting away from all these problems— I'm
> tired of working and struggling to get the right things to happen and now I just want to rest.
> Our family has a beautiful homeland we're working to get— on the coast a little north from
> here. I just want to relax and sit on the beach and put all these problems behind me.[17]

Indeed, there are attempts on present homelands in the nearby Sandytown area to implement strategies to benefit the social health of residents, such as limits on alcohol imports, and visitor numbers.[18] But in Viewtown, some of the tensions and some of the visions already signal warnings regarding homeland dwellers' locational separation from liberalist norms and state protection from physical assault. Homelands are unlikely to eliminate conflicts that arise within Viewtown Aboriginal families. It is possible that they may maintain present gender and other conflicts and introduce new ones, rendering Aboriginal domestic violence even more prevalent. In Viewtown, homelands offer to individuals in families a significant source of both material benefit and power. There are no set rules as to who is to secure and yield that power and wealth, and so family and domestic contests over who has authority are already arising:

> *Woman:*
> My family has a claim in but it causes lots of arguments. See, my sister is married to a white
> man, and he wants to put pigs on the homeland. But we don't want pigs on it. And anyway,
> what right does he have to say what is going on the homeland? He's a whitey! So he can't have
> a say over what happens on the homelands of his wife's family![19]

It may be hoped that such problems are confined to pre-establishment stage, before things have been negotiated. There are challenges to this hope, with signs of chronic conflict over rules intended to improve

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[16]For other examples of attitudes to homelands, see Appendix to Chap. 9 , Group 1.

[17]December e.19 1994.

[18]These are contested, with the elder, 'Mr. Peter', also a Viewtown resident, railing against such 'stupid' rules because they mean that 'we can't do what we like on our own land!': April b.14 1994.

[19]February e.16 1995.

environmental and social health, and over rights to authority:

> *'Mr Peter', male elder, Viewtown:*
> Its no good for me and my own direct line at the moment (on the Sandytown homeland) and there's bad feeling between me and my two brothers over this, plenty of bad feeling over there!...My two brothers' children, they think they can make all the rules because they live on the homeland permanently. But the elders, and there are 10 of us, should be equal bosses; with equal rights to pass on the land's houses to our own direct bloodlines. None of this sideways takeover which is happening now. Because we don't live there permanently, my own children and grandchildren haven't got right of access anymore to the houses there![20]

Observations of a white service provider who works with Aboriginal women indicate that homeland-associated inter-family and couple tensions are already widespread:

> 'Homelands' is already having a big effect on family conflict here. It is causing a huge volume of conflict between families over which families have rights to funding and which don't. It's also creating a huge volume of dispute within families. This occurs in some families around the fact that husbands and wives come from different families with planned or present homelands in very different locations....There is one family that I know of where the husband and wife have actually split. The woman wanted to shift to her family's homeland, and the man didn't want to and the arguments between them included a lot of physical violence by the man against the woman.
>
> *Researcher: But Aboriginal people that are for the homelands talk about it as getting back family unity, for healing.*
>
> Oh yes! of course that's what's said! That's the ideal, the dream about homelands. But the reality of homelands is very different from that dream.[21]

Tensions also arise when a family member sees no personal benefit in moving to a homeland, as it distances them from the benefits of a mainstream location:

> In other families...only one of the partners wants to actually shift to the homeland and the other wants to stay in Viewtown for work or education or just prefers city life.[22]

These examples, taken as a whole, also evoke a people who are culturally heterogeneous, indeed divided, on a number of fronts. Even within the same families, there exist fractious ties across racial lines, conflicting aspirations to stay or to leave mainstream society, and little consensus on basic economic and social guidelines for the family homeland. They seem

[20] April b.14 1994,

[21] Service 68, February 1995.

[22] Ibid.

to lack a modicum of the unifying cultural 'glue' necessary to avoid chronic conflict and to establish a reasonably harmonious group life that might be deemed worthy of 'group' or 'cultural rights' consideration.[23]

The other problem is that the very separate space of the homeland entails more exemption from liberalist inroads into Viewtown's Aboriginal tolerance of violence. The present outcomes of the less isolated but still separate Aboriginal football club, which fails to meet its *raison d'etre* of reducing public violence, and the Aboriginal Women's Place, which perpetuates more than it challenges tolerance of violence, signal this probability, as do Viewtown individual sentiments:

> *Woman:*
> Homelands for me means a place where families can be together more independently from white ways and white law, where we will have more control over our family lives, and gain control back over our children. It will be a healing place, give us all a chance to heal. Now, we can't discipline our kids. The government will cry 'child abuse' if we belt our kids, but it never did our kids any harm.[24]

This Viewtown woman's sentiment indicates that the homelands ideal includes a freedom from state interference when families use physical force to gain control. This throws critical light onto the following position heeded by the RCADC. In the context of assessing the role of land rights, economic self-sufficiency, and Aboriginal well-being, the RCADC quotes: "'We (Kooris) are making a deliberate attempt to live our own lives and not to be dependent or responsive to government'".[25] This and other evidence is harnessed by the RCADC to illustrate its claim that meeting land needs is likely to reduce Aboriginal arrest rates. But in the

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[23]This evidence supports Partington's skepticism, rather than Tatz's optimism, about a more harmonious Aboriginal social life in small groups compared to large communities: G. Partington, *Hasluck Versus Coombs: White Politics and Australia's Aborigines*, Quakers Hill Press, Sydney, 1996, 144, referring to C. Tatz, 'Aboriginal violence: A return to pessimism', *Australian Journal of Social Issues*, 25 (4), 1990, 252-4.

[24]February c.7 1995.

[25]NRRCADC., chap. 19 in Vol. 2, 474.

case of Viewtown at least, this is unlikely to be because homelands will reduce social ills as expected by the RCADC, but because homelands will place Aboriginal violence further from the reach of state laws and the liberalist norms upon which they are based.[26]

This Viewtown evidence raises issues concerning Aboriginal safety in antithesis to the state principle of 'hands-off' support for homelands, a principle captured in the following government statement:

> ...the homelands movement is about Aboriginal people having identified what they want for their future and proceeding in a spontaneous way to achieve it....It is now up to governments to respond to the evident desires of Aboriginal people by providing appropriate, sensitive support to the movement without threatening its spontaneity and creativity.[27]

This discussion points to difficult policy issues presented by 'Aboriginal separate spaces' and Aboriginal domestic violence. The Viewtown evidence presented here undermines grounds for the hitherto unquestioning acceptance, as evident in the NRRCADC, that separate Aboriginal lands and other spaces inevitably enhance Aboriginal well-being. However, the NRRCADC is not a rigorously liberalist document, because it comes close to recommending tolerance of violence in traditional forms. For political reasons, 'cultural revival' settings such as homelands will probably be deemed to have traditional status of some measure. Certainly, this is a detectable expectation within the *Arcadian* visions of some Aboriginal Viewtowners. Hence, given present policy and judicial inclinations, it seems likely that violence on homelands will receive a tolerant response from government executive and judicial bodies. Thus this evidence raises questions about the meaning of Aboriginal well-being adopted by the RCADC. Moreover, challenging potentially lucrative movements like homelands, through to the popular

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[26]See also Partington, 135.

[27]House of Representatives Standing Committee on Aboriginal Affairs, 260-1.

Viewtown Aboriginal Women's Place, presents not only ethical dilemmas, but confronts cultural resistances and political oppositions that may be difficult to overcome.

The State and Aboriginal Gender Relations: Identity, Cultural Rights, Victim Rights

Because elements of Aboriginal gender relations are traditionally— or historically— derived, intervention entails a foundational challenge. As such, resistances can be expected. Challenging Aboriginal individuals' tolerance for violence when they interface with a mainstream service is one aspect of intervention which is already occurring in good measure.[28] However, both mainstream and Aboriginal service attempts to involve Viewtown Aboriginal people in group workshops have so far met with barriers. Interventions into Viewtown Aboriginal public space cultures where non-liberalist gender mores are reinforced are also likely to meet with apathy or resistance.

A further perplexity is that material benefits flowing from the state to Aboriginal families have gender power implications that may be exacerbating domestic violence. At least, Aboriginal female economic independence does not seem to reduce her vulnerability to domestic violence, as it reportedly does for white Australian women. It is rational for the state to target social security and CDEP incomes onto Aboriginal child rearers, usually the mothers and grandmothers. Benefits of this targeting in terms of Aboriginal child health and Aboriginal housing are evident in Viewtown. But, as already discussed, higher female income renders them vulnerable to male demands, including violent demands, for these women-held essential family funds, frequently to support male

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[28]Service survey 1994.

drinking, drug-taking, gambling, and car acquisition habits. One outcome of this is that utility and rental debts[29] leading to evictions, overcrowding, and more family conflict continue, despite the overall improvement of income within the Viewtown Aboriginal community.

Increasing male incomes is perhaps an obvious solution. However, signs are that for a large percentage of Viewtown Aboriginal men, consumption of deleterious items is elastic with income. This risks rendering the situation worse rather than better unless other aspects of Aboriginal men's life situations are also addressed. Moreover, simply having a better source of income independent of a woman may still leave the male sense of priority right to female money intact. Aboriginal masculine identity needs to be separated from drinking culture and rights over women and more derivable from positive experiences of personal endeavour, before Aboriginal domestic violence can be successfully addressed. In Viewtown, the limited nature of present employment opportunities, Aboriginal men's alienation from mainstream mores including work culture, and the failure hitherto of services to engage Aboriginal men in counselling either as individuals or in group settings, render these goals difficult for any state to attain.

In Viewtown, there are few grounds for optimism regarding the construction of a less violence-prone Aboriginal male identity emerging from 'cultural rights' strategies either. Instead, the present policy climate which encourages, embellishes, difference, helps to maintain 'cultural' obstacles to Aboriginal victim safety.

One example of this is that when a service threatens Aboriginal male dominance by assisting a female victim to secure a permanent escape, a

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[29] About half of Viewtown's Aboriginal households have rent debts running into several $1000s: Service 43, November 1994.

political struggle can be unleashed against both the victim and support agencies on a scale and form not seen within the Viewtown white population. 'Community' support for the male, and verbal abuse, physical threats and private property damage against an agency have resulted. The Viewtown Aboriginal 'community' has also attempted to draw on the power of the state in their bid to discredit a victim and justify her partner's violence by accusing a domestic violence victim of child abuse. Such an accusation obliges the state to investigate the victim. This undoubtedly arouses victim fears of the child being taken away, and is an attempt to silence the victim and discredit agency support for her.[30]

Victim fears of such offender and 'community' response partially explain the negligible take-up of SPOs by Aboriginal victims despite mainstream service encouragement.[31] The outcome of this is the phenomenon of Aboriginal women returning repeatedly to violent partners. Aboriginal women tend to use mainstream services such as police and shelter for temporary respite only, a rational strategy in that it minimises partner 'shame' and 'community' ire, thus maintaining her 'community' standing. The challenge for the state is that she needs assistance to do more than that if her safety is to be secured. But this may involve state services in political battles with much of the Aboriginal population.

There may be strategies that can avoid confrontation. But given that a successful strategy here involves challenging existing power relations, there are grounds for pessimism. In his study of programs that assist poor and disempowered groups in rural third world settings, Robert Chambers has found that powerful groups' tolerance of programs declines in proportion to the extent that a program threatens entrenched power

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[30]Service 68, February 1995.

[31]Ibid.

relations. When *status quo* power relations are threatened, prominent power resistance perhaps expressed with force can be expected.[32]

While political objections arise in the process of ratifying liberalist victim rights within international bodies such as CEDAW, the process of government implementation of these rights occurs within localised settings where the position of more powerful group members depends upon the witholding of rights from the less powerful. Overcoming this entails a more demanding politics, and requires even greater state expertise, risk-taking, and commitment. Lengthy conflict, perhaps with some violence, may be an inevitable part of this politics. Rights are not free goods, and neither the bestowing nor the receipt of rights can be done without political, and perhaps even economic, cost.[33]

The improvement in Aboriginal-police relations is an example of a process that did not threaten existing Aboriginal power relations. The VAA has worked with police to develop structures and procedures that have improved police-Aboriginal relations. The RCADC-initiated reductions in offender arrest rates are no doubt favoured by Aboriginal male offenders. These same processes have probably enhanced Aboriginal victims' willingness to call on police help for temporary escape. However, while these structures and procedures have increased Aboriginal power in police-Aboriginal relations, they seem to have caused marginal change only to Viewtown's Aboriginal internal power relations, including those of gender. In contrast, programs and procedures

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[32]Robert Chambers, *Rural Development: Putting the Last First*, Longman House, Essex, 1983, chap. 6, especially 160-3.

[33]Thomas Sowell discusses rights as costs in his *The Economics and Politics of Race: an International Perspective*, William Morrow and Co., New York, 1983, 164-5. See also Hilary Charlesworth, 'The Australian Reluctance about Rights', in *Towards and Australian Bill of Rights*, ed. P. Alston, HREOC, CIPL Canberra, 1994, 46. Here, Charlesworth delineates the 'Critical' attack on rights, including this position: 'the only consistent function of rights has been to protect the most privileged groups in society'. In the case of Viewtown, the costs of implementing victim rights cannot be interpreted from such a position.

which secure more permanent safety for victims of Aboriginal offenders are likely to threaten Aboriginal male dominance, and are thus may be resisted given the generalised Aboriginal support for male domination over partners. Hence the state should expect as inevitable, 'community' challenge to the liberal obligation of upholding victim safety.

In Viewtown, another basis for pessimism regarding the construction of a less violence-prone Aboriginal male identity emerging from 'cultural rights' strategies lies in the particular hinterland sources of traditional culture. The existence in Aboriginal Viewtown of a different moral reference located in traditional past and present hinterlands, intensified by the vision of future homelands, threatens to hold Aboriginal gender relations to notions of male rights over women rather than to liberal notions of human rights. For the state, this is a challenge, even antithesis, to its precept that encouraging and recreating a distinct, traditionally-derived, Aboriginal identity is an *a priori* good thing for Aboriginal well-being.

Aboriginal writers tend to locate the genesis of Aboriginal domestic violence within white settlement times, and then conclude that a renaissance of Aboriginal traditional culture would lead to a decline in Aboriginal domestic violence, for it is not 'the Aboriginal way'.[34] But the Viewtown Aboriginal peoples' reference points for cultural revival are not Aboriginal written documents, but their own recent past and present links with their traditional cultures. It is generally agreed by local white service providers that these cultures were and are even more violent than

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[34]For example, see
-SNAICC, *Through Black Eyes: a Handbook of Family Violence in Aboriginal and Torres Strait Islander Communities*, prepared by M. Sam for SNAICC, 1992, 4;
-B. Ridgeway, 'Domestic Violence: An Aboriginal Women's Viewpoint', Appendix C of SADVC, *Domestic Violence: Report of the SADVC*, WAO, DPC, Adelaide, 1987, originally presented at the *National Conference on Domestic Violence* in Canberra (See Hatty ed., 1986).

Viewtown Aboriginal culture is at present, including male violence against female partners. One professional expressed disagreement with the argument that pre-contact society was a primary source of domestic violence among Aboriginal Viewtowners. Nevertheless her argument still raises concerns about a renaissance of a traditionally-derived identity:

> There was violence against women in Aboriginal culture in Viewtown's western hinterland before whites came, but it wasn't the problem it is now because it was very controlled and related to specific laws or behaviours, and violence only came about in the context breaking those laws. For instance, a woman might have her teeth knocked out if she was found to commit adultery.[35]

Another white service provider communicates with pessimistic eloquence the generally held perspective. He maintains an opposing argument, that mainstream values are reducing Aboriginal violence against women. In the more traditional hinterlands, sobriety is at present providing a barrier that prevents the full weight of traditional male dominance from breaking through a mainstream behavioural veneer. This service provider is quoted at length here due to the richness of his observations and insight:

> In my conversations with the traditional Aboriginal inmates, I have discovered that the Aboriginal traditional community in the (nearby western hinterland) region is very male-dominant. I have heard talk of men's right to crack women's skulls if they as much as utter certain male-only terms, especially when they are drunk. That is, when the men are sober other conditioners are able to work in preventing the violence, but when they are drunk these other barriers are reduced and there's an increase in the traditional rights as the main determinant of the action. The result is that terrible violence against women occurs....I don't think that such traditional justification of violence has survived with such specificity in Viewtown. However, male domination in the Viewtown Aboriginal community has survived in more general terms. I have never heard of women having equivalent rights versus men regarding men transgressing women's language and space, in either the urban or traditional context.[36]

An ex-'Sandytown' Aboriginal woman's observations augment this perspective. She argues that the Aboriginal people of 'Sandytown' are more violent to each other than the Aboriginal people of Viewtown:

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[35]Service 68, February 1995.

[36]December e.19 1994.

> You should go to 'Sandytown' to see how Aboriginal people really live....Blacks are hurting each other all the time in 'Sandytown', because there they are more tribal, many are just starting to come into town there, and are not used to the different life. They are at a different stage of transition to us here in Viewtown.[37]

So in Viewtown as in the hinterlands, a renaissance of and new-found pride in Aboriginal identity carries with it the risk of re-establishing a traditional justification for Aboriginal men to physically assault their partners, wherein the protective effect of sobriety would tend to become less effective.[38] There are pressures in both directions, and there is still a high level of disinterest in and fear of tradition among Aboriginal Viewtowners. Nevertheless, Aboriginal cultural renaissance versus integration may become the dominant trend in Viewtown over the coming decades. This is especially so when present state Aboriginal policy principles, and the local politics of cultural revival with concomitant population shifts to homelands are considered. One white service provider argues that a cultural renaissance is likely in Viewtown, but mainly for the economic and power gains it promises to some:

> The drive (for a cultural renaissance) by 'locals' is not a quest for a cultural renaissance to heal their identity crisis, real though their identity crisis is. They fear traditional culture, the demands and responsibilities that it implies. Rather, claims to assert a cultural renaissance through a whole range of structures and land claims is a strategy for 'local' political and economic dominance. At the moment, this is being waged on the front of 'local' versus 'outsiders', especially against those from Western Australia. But it will come down to family against family: this is already starting to emerge.[39]

This quest for cultural re-establishment is acquiring some momentum in Viewtown, for where some aspects of local traditions are no longer available, they are beginning to be imported from further afield. At least one prominent Viewtown man has already undergone, and another one is

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[37]April a.12 1994.

[38]Partington also draws attention to the risk of more, rather than less violence, if Aboriginal groups re-establish community identity and traditional practices: Partington, 137, referring to J. Lloyd's comments on white legal use of Aboriginal customary law, in R. Neill, 'Our Shame: How Aboriginal Women and Children are Bashed in their Own Community— Then Ignored',*The Weekend Australian (Review)*, 18-19 June 1994, 2.

[39]October a.5 1994.

planning to undergo, traditional male initiation ceremonies to re-establish traditional authority within Viewtown, accessing more northern cultures where such ceremonies still occur.[40] Such ceremonies could bestow upon these men the status and authority needed to enhance the level of law and non-violent conflict resolution onto the Aboriginal people of Viewtown. The words of the wife of one initiated man is indicative of this intention:

> He'll come back with more authority. Fellas often give each other cheek. Well, they won't be able to with him when he comes back— they'll have to show him respect.[41]

There is, however, no certainty concerning the level of recognition that other Viewtowners will extend to this traditionally-acquired authority. It may also create new lines of power struggle. In particular, there are possibly negative implications regarding traditional male authority re-establishment, gender relations, and domestic violence in Viewtown and its hinterland. Again, governments may confront here the problem of dealing with consequences of allowing 'cultural rights', but having to place limits on the extent of these rights in order to safeguard physical safety. But this amounts to an undermining of this newly acquired 'traditional' male authority.

Another case of cultural importation occurred when VAHC invited and hosted a traditionally-based, cross-cultural workshop.[42] The main focus of this workshop was to introduce traditional northern Aboriginal family relationships into the Viewtown Aboriginal community through traditional naming methods, long gone from the Viewtown traditional hinterlands. Official participant feedback about this workshop emphasised its capacity to restore unity within the Aboriginal population,

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[40]October a.5 1994 and November c.11 1994.

[41]November c.11 1994.

[42]Details kept confidential for place anonymity reasons. 1994.

and between the Aboriginal and non-Aboriginal people, of Viewtown.[43] Unofficially, resistance among Aboriginal Viewtown participants to this process, on the grounds that it was traditional, and therefore of limited relevance to modern, urban Aboriginal people, was expressed.[44] There were also hints that some Aboriginal participants perceived its potential as a new source of obligation and thus power. One white administrator commented that 'the naming we underwent could come with a new set of expectations from Aboriginal people regarding who they are connected to.'[45]

This emerging cultural renaissance could mean that more Viewtown Aboriginal people attempt to claim traditionally-derived defences for crimes including physical assault, both within Viewtown and on nearby homelands. The challenge presented to governments by 'cultural rights' regarding Aboriginal human rights is thus likely to become more pressing and more difficult in the case of Viewtown. Already in operation are the RCADC and Aboriginal pressures to reduce arrest and imprisonment rates, and the ALRC consideration to recognise Aboriginal law. Present policies of respecting 'cultural rights' are reported to reduce prison sentences, with a significant percentage of Aboriginal people, both in Viewtown itself and in the hinterlands, successfully utilising a cultural defence for violent crime.[46] Given these present policy and judicial axioms, a cultural renaissance in Viewtown and perhaps especially on homeland locations does not augur well for future Aboriginal victim protection. When the safety of Viewtown's Aboriginal domestic violence

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[43]Viewtown Document VCCW 1994.

[44]Service 42, July 1994.

[45]Service 43, June 1994.

[46]Service 58, October 1994.

victims caught up in the above-discussed cultural processes is considered, the idea of a formalised partial cultural defence, as considered in the ALRC report, is becoming increasingly untenable.[47]

Aboriginal Self-Management Realities: Community

Aboriginal self-management of programs and services is encouraged by the RCADC and other state bodies as both strategy and ideal. Through self-management it is expected that institutional racism will be avoided, dignity and self-esteem through personal responsibility will be restored, and programs better suited to the different social and cultural settings of Aboriginal people will be created. The Viewtown reality of Aboriginal self-management of services related to Aboriginal domestic violence raises doubts about these assumptions. In part, failure of self-management in Viewtown arises due to flawed presumptions about Aboriginal social structures.

While there is a growing acknowledgement among policymakers that diversity and contention exist both within and between Aboriginal population groups, the goals of self-management and self-determination are still premised on the assumption of a functional community. It is assumed by government that Viewtown Aboriginal individuals live in community wherein their right to local Aboriginal services, on the sole criterion of one's Aboriginality, is recognised. While in a formal sense this is still usually so, it regularly does not happen on an informal level. In reference to Aboriginal Viewtowners, the idea of 'community' underlying government responses to Aboriginal domestic violence, especially the idea of a supportive people committed to participation and mutuality for all members, is not applicable. In Viewtown, there are not

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[47]Elizabeth Evatt, 'Human Rights and Cultural Diversity', in Alston, 83.

enough Aboriginal individuals committed to liberalist concepts of equality and human rights as paparmeters for fair service delivery. The result is that arbitrary, exclusionary, local and nepotistic 'rights' to service delivery are commonplace touchstones, undermining effective, community-based service provision.

Moreover, there are moves afoot within the VAA to formally ration Aboriginal services on the basis of whether the VAA committee deems one to be a 'local' or an 'outsider'. One white service provider expresses alarm at this recent trend:

> A Community Council is being established, on the premise that there is a plethora of Aboriginal services and so a coordinating body is needed to ensure optimal and efficient service delivery. The few dominant local families are particularly influential on this body. They showed me their Constitution for comment. What they are attempting to do is outrageous! Written into it are provisos that only locals have the right to Aboriginal services overseen by the Council. This includes such basic provisions as health and housing. Thus it is a human rights issue. This Council establishment is all about a political and economic power game played by local Aboriginals, and not about providing better services to those who live here.[48]

One 'outsider' Aboriginal man from interstate, resident in Viewtown for ten years, is finding that outsider exclusion is already occurring:

> Because of the closed community here in Viewtown, homelands is in some ways another aspect of the local community trying to keep everything that's going such as land, housing and other services for whom they classify as local. We're not one people you see....I thought the colour of my skin was enough, but no. For the past three years, there's a requirement for forms from VAA to become part of the community, for housing, for welfare, etc. You see, you (whites) can travel anywhere you like and expect to be catered for as a resident citizen in a democratic country! Well not us!...The local Aboriginal people here prevent that from happening![49]

As already discussed, escaping domestic, family and communal violence are among the reasons for Aboriginal Viewtown immigration from other South Australian regions and more distant places such as urban and rural centres of New South Wales, Northern Territory, Victoria, and Western Australia.[50] Individuals fleeing such violence do not always have family

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[48]October a.5 1994.

[49]February e.12 1995.

[50]May a.22 1994; July a.6 1994; October a.5 1994; Service 65, October 1993; Service 44, during 1994.

connections in Viewtown, and so depend on service provision and a supportive community to obtain their needs. To be met with ostracism and arbitrary bestowal of assistance is a major cause of social distress and isolation, as alluded to in the words of one Aboriginal woman who fled domestic violence from New South Wales to Viewtown:

> My experience of adjusting to life in Viewtown simply blew me out. I was not prepared for the prejudice that the local Aboriginal people have for us Easterners....I've been here for 4 years now and the prejudice against me is still strong and so I don't go to Aboriginal services or functions.[51]

A white service provider has also noted the social distress caused by this exclusion process. At the later-stalled substance abuse program, Viewtown Aboriginal participants

> expressed a deep sense of loneliness, of non-community....Powerful families are in a position to delineate who the community is and isn't on the basis of who and who is not local, and these definitions are not fixed but operate on an emotive rather than rational basis....For instance one family is being told that it has no rights to welfare services by people in that organisation whose families came here later than the family seeking assistance.[52]

Homelands are likely to increase the dysfunction of Aboriginal 'community' as basis of Aboriginal service provision in Viewtown. One prominent Viewtown Aboriginal man, despite his involvement in homeland funding negotiations and his own family's bid for homeland funding, expressed spontaneously his concerns about homeland implications for 'community' and Aboriginal services:

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[51]May a.22 1994. This phenomenon is not exclusive to Viewtown, may be even more prevalent in other states and is likely to get worse, going by the following example. At a 1993 Aboriginal SA Women's Workshop, one Aboriginal woman 'A' claimed that another woman 'B' had no right to be on any of the committees, as she did not belong to any local SA community. This is because 'B' started living in the locality of one SA community after fleeing from domestic violence from Victoria 6 years earlier. That this SA conference outvoted this attempt at excluding her brought forth a further attack from 'A' who then claimed that SA Aboriginal women were well behind the political development of their Eastern state Aboriginal sisters who understood more correctly the full implications of the Mabo decision. That is, Aboriginal communities' priority identity is with a local community, and this involves among other measures excluding 'outsiders' from voting rights on local committees. Participant observation, *Aboriginal Women's Workshop,* DOSAA, Crystal Brook, 25-26 May 1993.

[52]December a.6 1994.

> Homelands tend to emphasise family rather than community, with each homeland family attempting to get funds for services on their own homeland....Homelands will tend to draw funding away from centralised services to the point that centralised services established for all the community become starved of funds and threatened thus with contraction or collapse....This may result in families languishing away from the towns on their own property, underserviced and in squalor perhaps like in times past, just the sort of thing we want to avoid, that we've been working to move away from.[53]

The experience of one 'non-local' Viewtown family portrays how homelands emphasise family over community in another way:

> My father came to Viewtown 16 years ago. He was a good worker in mainstream Viewtown, and was the main driving force behind the setting up of the Aboriginal Housing Unit here. But he was the first to acquire homelands money in Viewtown too. This upset the other Aboriginal families very much as we weren't considered local, being here for only 16 years. And VAA actually voted us out of the community, voted that we were non-members of the community![54]

These growing trends present difficult policy issues for governments committed to protecting Viewtown Aboriginal victims. Among these trends are attempts to limit 'outsider' access to Aboriginal services. In particular, domestic violence victims are over-represented in the group of Aboriginal people least likely to benefit from these trends away from community.

There are several reasons for this. Some Viewtown Aboriginal domestic violence victims are 'outsiders' through having fled to Viewtown from elsewhere to escape a violent relationship. Also, women deemed 'outsiders' are more vulnerable to become domestic violence victims once they are in Viewtown, due to their location within the complex 'local'-'outsider' politics. Geographic isolation, such as on family homelands, is likely to reduce the safety of women in violent relationships, given the tendency of isolation to increase offender control and reduce access to

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[53]November f.24 1994. Partington raised this possibility regarding family-based homelands and fund dispersal: G. Partington, *Hasluck versus Coombs: White Politics and Aboriginal Australians*, Quakers Hill Press, Sydney, 1996, 144.

[54]February c.8 1995.

safety services.[55] The possible trend towards contraction of centralised Aboriginal services has clear implications for Aboriginal self-management as provider of domestic violence services. Aboriginal domestic violence victims' access to emergency housing may be compromised by these trends' effect on Viewtown Aboriginal housing funds. In particular, Aboriginal women's present empowerment through state-controlled and pan-Aboriginal-based housing policies risks being lost through homeland family-controlled housing arrangements, with clear impacts for domestic violence victims. Moreover, the possible contraction and dispersal of housing and welfare funds due to these trends may increase domestic violence in both Viewtown and on the homelands, due to increased financial and housing stress.

The RCADC notes reasonably that good housing conditions are one key factor to reducing family and domestic violence.[56] The RCADC further suggests that improved housing conditions are more likely to emerge when land needs are addressed.[57] In contrast, this Viewtown evidence indicates that land 'needs' as demanded by prominent Aboriginal families in Viewtown could have negative consequences for the housing supply and housing conditions of Viewtown Aboriginal people, particularly but not only for 'outsiders', and particularly for domestic violence victims. The RCADC notes that 'community' cannot be assumed. There remains though a problem in the RCADC assumption that Aboriginal kin groups' acquisition of separate lands is a solution to community breakdown and rising inter-family conflict, symptoms of the historical legacy of sharing

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[55] See C. Nolan, 'Domestic Violence in Country Areas of Australia', 19-24, and L. Coorey, 'A Rural Perspective on Domestic Violence', 25-30, both in NDVEP, *Discussion and Resource Kit for use in Rural and Isolated Communities*, updated edition, NDVEC, OSW, DMPC, 1992.

[56] NRRCADC, chap. 18 in Vol. 2, 453-62.

[57] Ibid., chap. 19.

places but not community.[58] The RCADC has thus overlooked the disruptive, divisive, and exclusionary possibilities of offering families, who at present share place but not community, the chance to compete for their own geographically separate lands and services. The Viewtown experience bears witness to the reality of this.

Arguably perhaps, a government has some chance of extending liberalist attitudes about physical safety and human rights to a town-based Aboriginal population that is moving towards community and embraces some form of pan-Aboriginality. The present political forces reshaping Viewtown Aboriginal relations to place and community are of an opposite form. Overall, these forces are tending to weaken existing pan-Aboriginal approaches to service provision, and there is a concomitant retreat from a united urban-based community, both relationally and geographically. The consequences for domestic violence victims are manifold.

This situation presents the state with considerable challenge regarding the needs of Aboriginal victims caught up in these historical transformations. For it implies a critical reassessment of the state's fundamental Aboriginal policy doctrines of self-management, land needs, self-determination and cultural preservation. Of course, Aboriginal citizens have equal rights in law to acquire goods such as land to support whatever law-abiding lifestyle they choose. What is argued here is that in Viewtown, state policies such as the Land Acquisition Fund are giving extra encouragement and assistance to Aboriginal demands to live differently, more 'traditionally', separately.[59] This too is valid if it assists in alleviating Aboriginal social and physical distress. However, the state's

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[58]See Ibid., chap. 18.

[59]Aboriginal and Torres Strait Islander Commission,*Annual Report 1993-4*, especially 6 and 41-3.

premise for such encouragement and assistance— that it will enhance Aboriginal well-being— is flawed in the case of Viewtown, especially regarding the rights and needs of Aboriginal 'outsiders', and Aboriginal victims of domestic violence.

Aboriginal self-management and Aboriginalisation

Along with the problems of service distribution and client exclusion, there are several other problems arising from Aboriginal self-management in Viewtown. While there is an official acknowledgement that some Aboriginal clients prefer white service providers, it is assumed by policy-makers that Aboriginal people are more likely to deliver culturally appropriate, effective services. Thus, Aboriginalised service delivery is more likely to succeed in meeting the needs of Aboriginal people, including those affected by domestic violence. In particular, more Aboriginal control of services is a central policy principle.[60]

Given these policy assumptions, the presence of white executive officers within Aboriginal services is in decline in Viewtown, along with their liberal-democratic influence on Aboriginal staff selection processes. Shedding of white staff, particularly those in executive positions, is occurring on the principle that the white role is to establish services, extend the necessary skills, and then hand management and decision-making positions over to Aboriginal people.[61] That is, Aboriginalisation and self-management is being practiced.

However, evidence indicates that in Viewtown, the presence of white staff within Aboriginal services is an effective means for governments to

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[60]For example, see FACS, *FACS Contribution to the International Year for the World's Indigenous People*, Discussion Paper, the FACS Aboriginal and Islander Coordinating Unit, 1993, 6.

[61]Field work observations, and discussions with white staff, 1994.

counteract non-liberal-democratic and other counterproductive practices from compromising service effectiveness. White executive staff are probably essential to ensure the optimal staffing, workplace practices, and programs that vulnerable Aboriginal clients need.

According to a metropolitan service provider, it is particularly crucial that Aboriginal victims receive high quality, dependable crisis care and long-term support and counselling. This is because the violence they are experiencing is usually more severe, they are under more pressure to return to their partners, and they have a lower trust of and attachment to services. Typically, service attachment for Aboriginal victims occurs when the victim receives assistance from a highly skilled, committed and reliable individual service provider, a service provider who can give long-term support and be there for the victim anytime and at short notice. Workshift changes and holidays are more likely to cause the 'loss' of an Aboriginal victim from the service.[62]

Given this, services ideally take these factors into account for Aboriginal clients, as much as workplace practicalities allow. And, according to this service provider, the mainstream counselling service in his district fulfils these criteria, particularly those of reliability and spontaneity, better than the district's Aboriginal counselling service. Hence for the well-being and safety of Aboriginal victims— his main concern— he sends Aboriginal victims to the mainstream counselling service.[63]

The assumption that Aboriginal people are better at providing culturally appropriate services is also challenged by Viewtown evidence. While the mainstream Women's Shelter was criticised for the infrequency of their

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[62] PS 5 1993.

[63] Ibid.

domestic violence education sessions at the Aboriginal Women's Place, a visiting team of Aboriginal FTEARC trainers was similarly derided by the same white service provider:

> Very little happened (when FTEARC visited the Aboriginal Women's Place). They came for a quick 'fly-bye' visit: totally inappropriate to the needs of Aboriginal people. They are city bureaucrats governed by bureaucratic schedules. So they stayed for less than an hour....No questions were asked and they left the Women's Place having had virtually no impact. What they need to do is spend at least a few days just being here, having cups of tea and really getting to know the women and building friendships and trust over a period of time.[64]

Too commonly, Viewtown's own Aboriginalised and Aboriginal-managed human services also lack the personnel criteria necessary for meeting the needs of Aboriginal domestic violence victims. Moreover, these service problems relate to entrenched attitudinal and political issues, so are unlikely to respond to readily-formulated remedies such as a training course or similar. These problems fall within one of five related categories: inappropriate attitudes to work, lack of confidentiality, nepotism, localism, and 'reverse' racism.

Aboriginal Workers: Attitudes to Work

Viewtown Aboriginal attitudes to work are reported to be, too commonly, counterproductive to effective service provision. The hospital's experience with Aboriginal workers is one of high staff turnover, high absenteeism, and too frequently, poor work performance. The Women's Shelter has made repeated attempts to employ an Aboriginal worker, but none of them have lasted for more than a few weeks or months.[65]

These problems also affect Aboriginal-managed services, where they can be more generalised and have greater impacts. White supervisors in Aboriginal services experience these problems as very taxing, both on

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[64]AWPC, February g.21 1994.

[65]Service 65, October 1993.

service provision, and on workplace priorities where too much time must be allocated to getting Aboriginal workers to do their delegated tasks:

> Despite the availability of good services in Viewtown, Aboriginal people here are still very unhealthy. Their work patterns, their drinking, their poor eating habits that they are not breaking and so on, are all because they are too apathetic about their own well-being...
> They lack: what's the word? the dedication to the work needed to be done among their own people. Work just doesn't seem to have the same meaning for them....It's very stressful. I have to spend a lot of my time just getting them to do the work....One of my workers was pretty good, but she's left now, gone to be with her sister in Sandytown.[66]

Another white supervisor illustrated it thus:

> The Aboriginal staff are forever going to conferences. In Viewtown, Aboriginal conference-going is part of a 'can't-settle' problem, of spreading their time thinly across several venues... This lack of Aboriginal commitment to a single job or future direction...means that too great a percentage of time and resources must be invested in recruiting and retraining staff. The constant leaving of the 20 or so jobs in the 'Aboriginal sector' is only partially a process of training Aboriginal people completely new to the workforce, but of recycling a limited number of Aboriginal people, that is those who want full-time work, through the 'Aboriginal sector' with a lot of job-hopping occurring even within this more work-oriented group: we've probably gone full-circle with this job re-cycling now![67]

By 1996, one white supervisor reported that in her section a level of continuity was emerging, with several Aboriginal health workers being in the same job for about a year, which she described as a 'real achievement'. However, the need for persistent supervision of Aboriginal health workers so that required tasks were carried out, remained the same.[68]

One long-term Aboriginal worker interprets these workplace problems in a different, less critical light, but his perspective still suggests that there are fundamental 'demographic' workplace difficulties associated with Aboriginal autonomy. His experience is that a few dedicated Aboriginal people attempt to maintain, wearing different organisational 'hats', a comprehensive array of community services. Employed Aboriginal

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[66]Service 43, October 1994.

[67]October a.5 1994. Note that there are actually at least 80 'Aboriginal sector' jobs in Viewtown. This figure of '20' here probably refers to full-time human service positions only.

[68]Service 43, April 1996.

people tend to be ATSIC counsellors and active committee members as well:

> My job is a hard one. There are not enough Aboriginal people to cover all the positions and meet all the needs of the community. So too few of us have to do a lot of work. Naturally, I feel burnt out at the end of the week.[69]

The addition of this perspective does not fully cover the complexity of Aboriginal workplace difficulties here. Another Aboriginal worker, originally from interstate, reports a particularly high level of apathy among Viewtown Aboriginal people, which is compounded by the use of the public sphere and the workplace as an arena for political power:

> There's just so many things that need to get done for the people here, but it's only a few families who get the jobs: it's who you know, not whether you can do the job, that counts here....Aboriginal people here keep you right out of participating in the running of things if you don't agree with the opinions of the main families....this means that nothing much gets done, little changes for the better in Viewtown.[70]

The unifying problem expressed in these perspectives is that there is a shortage of Aboriginal people in Viewtown who are in a position to provide the high level and quality of service work needed by their group, particularly for such specialised interventions as domestic violence.

Aboriginal Self-Management and Staffing: Confidentiality

For all, both Aboriginal and non-Aboriginal, victims living in small centres like Viewtown, attaining confidentiality is a concern, given the difficulty of being seen by others to use certain services, and of being known by the service provider. There is thus an onus on service providers to be highly professional in their protection of client confidentiality in small urban centres. It has been reported that some mainstream services in Viewtown are less than diligent. It is also reported by white service

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[69] Service 43, July 1994.

[70] May c.31 1994.

providers involved with Aboriginal services and clients that Aboriginal services are typically worse:

> the concept of confidentiality is just not in the Aboriginal vocabulary here, and this is a real issue with VAHC....Once self-management is established, confidentiality will be placed at even greater risk.[71]

One Aboriginal woman expresses her rejection of VAHC thus:

> I wouldn't go to VAHC for help because they let everyone know about your own private business if you go there, so I couldn't trust them.[72]

A process of increasing Aboriginal control over services is likely to have a negative impact here. The 'FACS Place', the white-personneled Aboriginal welfare and support service, is soon to be moved to the 'high-powered' VAHC building, apparently so that VAHC can 'locate all Aboriginal services together'. Confidentiality concerns are a primary reason for the white service provider's resistance to the forced shift to the VAHC location. She argues that for most of her clients, it would not be feasible for them to visit her at VAHC on the basis that powerful and related members of the Aboriginal population will see them using her service which has a significant counselling component. Nevertheless her submission of protest on these grounds has been rejected by VAHC. Having Aboriginal services under more direct supervision or control of an Aboriginal body seems to be a more important consideration to VAHC.[73]

Fortunately for Viewtown Aboriginal women there is another choice. Already, more Aboriginal women are shifting to the mainstream service run by the same service provider. The imminent shift of her Aboriginal

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[71]October a.5 1994.

[72]May a.7 1994.

[73]Service 68, April 1996. Note that the 'FACS Place' fulfils FACS official recognition that some Aboriginals prefer non-Aboriginal service providers because of this issue of confidentiality. Hence, the forced change in location, due to the principle of increasing Aboriginal management of services, is in clear contradiction to this recognition.

service to VAHC is likely to cause an even further rise in Aboriginal use of her mainstream service.[74] However, this means that her time and state money dedicated to the service specifically for Aboriginal woman clients is to be compromised by poor location. Furthermore, some Aboriginal women, while not comfortable with VAHC as a place for counselling, resist mainstream locations too. There is thus a need for the existing white-controlled and run, sensitively located counselling service for Aboriginal women to continue. In sum, Aboriginal access to good counselling is at risk of being effectively reduced, perhaps halved, in the quest for greater Aboriginal management of services.

Aboriginal Self-Management and Staffing: Nepotism in Service Delivery

In Viewtown, most Aboriginal people belong to a few large families, and those that do not are generally well known by the Aboriginal population and ranked according to place of origin, length of stay, and behaviour. This renders it difficult for Aboriginal service providers and their clients to respond in a purely professional way to each other. Certainly there are Aboriginal service providers in Viewtown who are highly professional, but even for them family expectations and inter-family conflicts can impinge on their attempts to provide a fair and effective service to clients. The following lament of a young male ex-health worker from a large 'local' prominent Aboriginal family is illustrative here:

> I quit my job...because the issue of 'family' made it almost impossible for me to operate as a health worker. My own family made it extremely difficult. They interpreted my role as obligating me to use my position to drive them in the work car around all day on all sorts of errands and when I refused it upset them...It was even harder working for families that I didn't belong to....The pity is I really loved my job, I really did, I really love work.[75]

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[74]Ibid.

[75]February g.21 1995.

Another male Aboriginal service provider's experience is much the same:

> I belong to one of the prominent local families of Viewtown, and this means that very often I cannot be a social worker for families other than my own.[76]

One government welfare service has partially addressed this problem by employing two Aboriginal social workers, one local, and one an 'outsider who is not part of the local power structure'. But difficulties remain for these service providers due to 'the importance that family plays in Aboriginal society in Viewtown'.[77] Moreover, 'outsiders' are frequently resented for getting professional jobs which locals say should all go to 'locals', creating added difficulties for service delivery.

While there are Viewtown Aboriginal workers who resist these family demands, this Viewtown evidence challenges the principle that Aboriginalised services *per se* deserve government encouragement. In particular, it also signals the riskiness involved when the Aboriginalising of services, as part of the ideology of self-management and 'cultural rights', takes priority over other state goals such as delivering optimal services to Aboriginal victims. In Viewtown, the 'importance of family' is so intense that a further Aboriginalising of services for domestic violence clients may compromise client needs and rights.

Aboriginal Self-management and Staffing: 'Services for the Clients' or 'Jobs for the Family'?

Aboriginal services in Viewtown provide employment to at least 80 Aboriginal men and women. Many of these positions come with skills acquisition, good income, status, authority, a work car, and the chance for regular interstate travel to conferences and workshops. These are valid

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[76]Service 20, during the Service Survey, 1994.

[77]Ibid.

and worthwhile goods to aspire to, and can enhance Aboriginal workers' overall quality of life and psychological well-being. However, maximising employment opportunities for certain Aboriginal sub-groups is being asserted at the expense of the optimal staffing needed by Viewtown Aboriginal clients.

Aboriginal nepotist and localist oppositions to primarily merit-based staff selection procedures are more likely to succeed under Aboriginal self-managed systems. State agencies external to these local rivalries have played an essential intervening role in Viewtown Aboriginal services to date. In one place, white administrative intervention, and in other places metropolitan-based, state-controlled processes, have ensured that Aboriginal applicants for professional employment positions within Viewtown are selected on merit, and not on other criteria such as local versus outsider rivalry. This has been effective in maximising the quality of Aboriginal professional workers within Viewtown. In the words of one white service provider:

> I play a crucial role to ensure that hiring of staff does not occur on 'family' and 'local' grounds. For example, when the appointment for an Aboriginal (executive position) was made, the Management Committee were not going to appoint the best candidate on the grounds that she was not local (even though she's been here for 15 years)...I had to fight very hard to ensure that she got the job which she did, and she's good at her job too.[78]

Nevertheless, this is a resented and protested selection process among Viewtown's 'local' Aboriginal people. These 'locals' argue that they, on the primary criteria that they are 'local', should have the better-paid, higher status positions reserved for them. The result is a tense and hostile environment for the 'unacceptable' employee. One employee left her position for a while because the hostility in the workplace against her was

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[78]October a.5 1994.

too strong.[79] Another 'non-local' Aboriginal female service provider, in Viewtown 'only' 16 years, speaks about it thus:

> They make life hell for me in the workplace and elsewhere. It's very hard to cope with at times. People around me in this building and in the community deeply resent that a 'local' doesn't have my job....I hear all the rumours that go on about me all the time, that a 'local' should have got my job, that it's not right that I'm here.[80]

These problems are an inherent part of Aboriginal self-management in Viewtown, and hence optimal service delivery to Aboriginal domestic violence clients is likely to be jeopardised by further increases in Aboriginal self-management.

'Services for the Clients' or 'Jobs for Aboriginal People'?

Prioritising a service as job provider for Aboriginal people also tends to exclude skilled staff who are white. In Viewtown, this exclusionary process jeopardises quality service for Aboriginal clients. This problem has particular, perhaps critical, implications for the effectiveness of national and state specialised Aboriginal domestic violence programs such as the Family Training, Education, Awareness and Resource Centre (FTEARC). During 1994, VAHC and the Women's Place provided the opportunity to some Aboriginal staff and service-users to attend a state-level Aboriginal domestic violence training workshop and a national level Aboriginal alcohol misuse conference. In Viewtown, there is a lack of confidence among white professionals about the value of Aboriginal participation in such workshops and conferences. This is due, not to the content of the programs, but to the reported failure of Aboriginal participants to bring back much of value to Viewtown from workshops and conferences generally. Trends within VAHC illustrate this:

[79]December a.6 1994.

[80]February c.8 1995.

> For instance, our (white) alcohol misuse consultant, who rarely gets any recognition from the Aboriginal people she works with, really should be funded to go to the alcohol conference in November. She'd come back with good information. But there's little chance of that. The Aboriginal people will use the money to get themselves there and we probably won't get much out of their attendance.[81]

The resentment by some Aboriginal employees of whites being allocated sought-after tasks on the basis of higher skills may be so intense that destructive inter-racial power struggles ensue:

> (L)ies can be spread about a white worker if it suits a purpose. For instance, I had to appoint a member of staff for an important task. I selected a white worker on the grounds that her greater skills were needed. This so infuriated one of the Aboriginal workers that I was accused of sleeping with the white worker, and the Aboriginal worker threatened to spread this around as a rumour. Strong words from me have hopefully stopped this possibility, but its very scary, especially as the white worker has a partner: what if her partner heard about it?[82]

It is also possible that in Viewtown, white staff have become so cautious about, even distrustful of, Aboriginal worker potential that effective Aboriginal workers may be being overlooked. For instance, one female Aboriginal worker seems to have developed a sustained interest in the issue of domestic violence, particularly after attending a domestic violence training workshop. However, her white supervisor remains resistant to the idea of encouraging her to work on the issue. This may be due partly because the terms of reference of this Aboriginal worker's primary health position do not specify domestic violence work.[83] The supervisor's skepticism about Aboriginal worker long-term commitment to any particular project, generated by her experience with Viewtown Aboriginal workers, is also a factor.[84]

Above all, the supervisor's resistance is strengthened by her experience that Aboriginal self-management entails little or no monitoring of

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[81]October a.5 1994.

[82]Ibid.

[83]DVAG February 1995 meeting.

[84]Service 43, October 1994.

programs. On both an official and unofficial level, there is little or no expert, outside monitoring of this or other Aboriginal workers, nor indeed, of herself, the white supervisor.[85] Thus, the frequency, type and quality of this Aboriginal worker's responses to domestic violence remain unknown. In the context of the dearth in monitoring procedures associated with Aboriginal self-management, the higher rate of inadequate Aboriginal worker performance may also cause, in apparent irony, over-caution among white workers. The risk here is that good Aboriginal workers may be overlooked and their skills remain underdeveloped, due to the 'high risks' that white service providers have experienced to be associated with the employment of Aboriginal workers in unmonitored settings.[86]

Since these interviews, the white administrator of VAHC has been replaced by a male Aboriginal administrator. Aboriginalisation and self-management of VAHC is thus now almost complete, with no white staff in policy-influencing positions, and only two white positions remaining, the most senior being the primary health supervisor position.[87]

'Services for the Clients' or 'Jobs for Aboriginal people': a Case Study

An early casualty of this shift towards self-management has been the Viewtown Aboriginal Substance Misuse Program. This program, its demise, and struggle to re-establish itself illustrates the damage that

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[85]Service 43, April 1996.

[86]Thomas Sowell has noted this phenomenon regarding employer resistance to employing minority groups in the United States. Sowell argues that potentially good employees from these minority groups remain unemployed, not so much from employers' baseless prejudice, but due to a higher rate of poor work performance among members of particular minority groups, and the higher economic or other costs involved in the attempt to identify the potentially good workers from these groups. T. Sowell, *Race and Culture: a World View*, BasicBooks, New York, 1994, chap. 4, especially 89-90.

[87]Researcher observations and interviews, 1994 and 1995.

unmonitored Aboriginal self-management can inflict on projects with potential to address Aboriginal alcohol abuse and domestic violence. It also illustrates the crucial role that professional whites perform in bringing forth promising Aboriginal professional and client responses to these endemic problems. And as with other Aboriginal-specific programs in Viewtown,[88] this program's history both supports and challenges the need for a 'different approach — same rights outcome' for Aboriginal clients.

The VASMP was established in late 1993 by a white registered nurse, given a consultancy by VAHC when it was under white administration. One of her program's tenets was that alcohol misuse and domestic violence are strongly correlated, and that reducing alcohol misuse invariably reduces clients' tendencies to respond to conflict with violence. To this extent, it was also a domestic violence program.

The consultant's expertise and application were impressive. She scanned the globe for programs suited to indigenous or mainstream settings, and adapted these knowledges for the Viewtown setting. Through regular evaluation of program process, she identified problem areas to the point of challenging her own ideological commitments. For instance, while preferring cross-cultural settings, her Viewtown experience indicated that for a while yet, the public distance between races in Viewtown is too great and the internal Aboriginal 'community' problems too pressing for effective mixed race client group work.[89] Above all, her goal was to devise a program that Aboriginal people would voluntarily attend, and choose to remain in on a long-term basis for maximum effect. Indeed, this program secured voluntary Aboriginal participation in a long-term

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[88]Such as the already-discussed FACS Place program.

[89]Service 42, December 1994.

group program that addressed difficult personal and community social health issues. This achievement is exemplary and for Viewtown, unique.

An early funding difficulty arose due to the reluctance of mainstream funding bodies to recognise the potential of this specialised response to Aboriginal social malaise. The consultant reported that a major government funding body would only fund a substance misuse program if it conformed to prevailing theories about overcoming alcoholism, being 'controlled drinking' rather than 'complete abstention.'[90] However, the consultant found programs based on 'controlled drinking' theories to be ineffective, while programs based on abstention, akin to Alcoholics Anonymous techniques, were productive, among Aboriginal clientele. Hence, funding from this source entailed unworkable restrictions on programming.[91] This funding problem was somehow overcome, but program funding remained subject to the discretion of VAHC.

Again as emphasised by other white service providers, developing trust between the Aboriginal client and the service provider was considered paramount. So much of the program's first year was dedicated by this consultant to gaining acceptance from Viewtown's Aboriginal people,

[90]There is a theoretical debate about the effectiveness of alcohol abstention versus controlled drinking as means to overcome alcohol abuse. At present, controlled drinking is considered most effective, and this, no doubt, is influencing government policy and program funding. See:
-Peter Anderson, 'Treatment in Primary Health Care', in *Drug Problems in Society: Dimensions and Perspectives*, senior ed. Jason White, Drug and Alcohol Services Council, Parkside, South Australia, 1992, 222-7;
-John B. Saunders and Kym Foulds, The WHO on Early Intervention for Harmful Alcohol Consumption', in White, 228-31;
-Martha Sanchez-Craig and D. Adrian Wilkinson, 'Brief Interventions for Alcohol and Drug Dependence: What Makes Them Work' in White, 294-9.
The RCADC touches on this debate, cautioning against being 'ideological' regarding treatment for alcohol misuse among Aboriginal populations, and arguing that programs should be 'tailored to the needs of the program client': NRRCADC, Vol. 4, 288-289. Note that none of the studies of alcohol intervention programs, in White (Ibid) involve studies of Aboriginal populations. The Viewtown Substance Misuse Consultant (in Viewtown Doc SMP93), and d'Abbs *et al*, in *Alcohol Misuse and Violence 8: Alcohol-related Violence in Aboriginal and Torres Strait Islander Communities: a Literature Review*, 103-10, also point to the need more research into intervention strategies for Aboriginal alcohol abuse.

[91]Service 42, May 1994.

particularly the most marginalised and needy. Another goal was to extend her knowledge to Aboriginal and non-Aboriginal service providers. The program's Aboriginal and non-Aboriginal trainee facilitators, both male and female, were claimed by the consultant to be professional and dedicated to community. Perhaps above all this was demonstrated in their own achievement in winning the trust of Aboriginal clients, which means that they were managing to transcend family and other divisions. Nevertheless, the consultant described her involvement as an essential source of both skill and personal empowerment for these Aboriginal workers.[92]

By late 1994, the program was taking on a consolidated, workable shape. It was located in a converted house away from mainstream and also major Aboriginal service centres, bestowing to it a relaxed and non-threatening atmosphere. This was further assisted by the non-hierarchical process, with both white and Aboriginal facilitators sharing their own family sufferings with alcohol misuse with the group. About one dozen Aboriginal people, both women and men, were regular clients.

Success of settings and techniques were evident in that these clients felt safe enough during group sessions to relate to each other their own painful experiences of non-community and inter-family rivalry in Viewtown, most unlike the usual destructive gossip. The consultant saw this as a significant first step towards personal and community health. While harder issues such as domestic violence were not touched upon, the consultant expected that these too would be raised by the group given time. Some of these clients started to abstain from alcohol.[93]

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[92]Service 42, December 1994.

[93]Ibid.

But the group was no longer functioning by early 1995. VAHC no longer utilises this consultant because VAHC's Aboriginal committee, under the influence of the new Aboriginal administrator dismissed her and her program. The consultant was informed by a committee member that a primary motivation for her dismissal was the fact that she was 'a white who takes Aboriginal money and then tells us what to do'.[94] The main victims of this decision were Viewtown Aboriginal people. Aboriginal clients who had freely chosen the program as a path to abstinence and a better quality of life were now without this supporting program.

The two Aboriginal trainees were said to be 'struggling', having been left 'high and dry, doing the best they can, trying to find a way to make things happen', but restricted by lack of expertise and by being more tightly under the aegis of VAHC. These Aboriginal trainees still regularly visited the consultant for informal support and advice, enough for them to put on single day information sessions. While this demonstrates the dedication of these workers, the consultant's professional expertise is needed within the workplace for the full-length substance misuse courses to happen.[95]

By mid-1996, the program was still not re-established. Apparently, VAHC claimed that it lacked the approximate $30,000 the program required. A white service provider still employed by VAHC argued that funding was available within the VAHC budget, but VAHC's Aboriginal

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[94]Service 42, October 1995 The consultant observed a discrepancy between prominent Aboriginal responses and responses of more powerless members of the Viewtown Aboriginal population to her program. Alcohol abuse and associated problems occur across the Aboriginal community in Viewtown. For the powerful, a program such as hers is a threat as it defines their drinking as a problem rather than as a norm or status, and so it threatens their standing. Hence, prominent Aboriginal professionals are 'just not ready' to support the program, because it is 'too close to home'. The more powerless Aboriginal people in Viewtown are receptive to what the program offers. For them, it is a pathway to achievement, of increasing their well-being. This is possibly behind the VAA's recent refusal to fund an Aboriginal worker for the Women's Shelter, despite lobbying from VAHC's white nurse and a VAHC Aboriginal female service provider. The nurse says that their refusal is because VAA's decision makers 'just do not see domestic violence as a problem'. Again, funding is available, but poor allocation is the issue, she says: Service 42, April 1996.

[95]Ibid.

administration and committee lacked the expertise to prioritise client needs and to allocate funding accordingly. She urged that it is an abuse of Aboriginal client rights that governments privilege Aboriginal services with the right to self-management beyond adequate evaluation, thereby increasing the risk of service delivery failure.[96]

This experience has re-affirmed for the substance misuse consultant that for the long-term viability of Aboriginal social health programs such as the substance misuse course, some form of intercultural approach and location is needed.[97] The present separatist Aboriginal-mainstream divide renders Aboriginal programs vulnerable to failure, and so attracting accusations to Aboriginal people that they are 'just not capable' she argued. But mainstream group programs[98] are also not attracting Aboriginal clients, and so are failing to meet their needs as well. Ultimately, systems where 'Aboriginal and non-Aboriginal people work and learn together' are likely to be the most effective and viable.[99] In particular, such systems may be less vulnerable to politicised, racial attacks from either side of the present racial divide.

Collaborative work between the substance misuse consultant, the white VAHC service provider, and the Aboriginal substance misuse workers, has resulted in Viewtown TAFE agreeing to adopt the program, and to locate the program on TAFE premises. It was expected to commence in late 1996.[100] So in Viewtown, the mainstream TAFE umbrella and not the Aboriginal self-managed umbrella offered the better chance for

[96]Service 42, April 1996.

[97]Service 42, October 1995.

[98]Such as GROW and Alcoholics Anonymous.

[99]Service 42, October 1995.

[100]Service 42, July 1996.

Aboriginal substance misuse program development. The challenge for government here is that self-managed Aboriginal services are more likely to operate under agendas that fail to prioritise the needs of vulnerable Aboriginal clients. Attaching excellent professionals to unsupportive systems in the name of Aboriginal self-management runs the risk of destroying exemplary programs, stunting the development of Aboriginal workers, and causing suffering to Aboriginal clients due to service collapse.

Aboriginal-White Relations in Viewtown: Policy Implications

An under-recognised or neglected dimension of Aboriginal domestic violence and government responses is the impact that these have on race relations. In Viewtown, everyday life for both Aboriginal and non-Aboriginal people involves some interaction with each other. As noted earlier, they live amidst each other, especially in the less public spheres of family and neighbourhood. Both the higher rate of Aboriginal domestic and public violence and the specialised, separate treatment afforded to Viewtown Aboriginal people are having a negative effect on race relations, reducing the life options for both Aboriginal and non-Aboriginal people.

The issue of importance here is the inherent danger of implementing policy when success depends upon unvalidated assumptions. In the case of Viewtown, the assumption of a closed Aboriginal group where race relations are of no moment to Aboriginal policy outcomes is emerging as misplaced. In relation to policy responses to Aboriginal domestic violence, there are several dimensions to this.

Aboriginal domestic violence in Viewtown affects not only Aboriginal people. It may or may not be conceded that Aboriginal domestic violence

is a tradition that should attract 'cultural rights' status in law and other policy measures. But if one concedes this, to grant cultural status to Aboriginal violence may necessarily entail the additional component of locational and relational separation from other cultural groups. In Viewtown, non-Aboriginal people become direct or indirect victims of Aboriginal domestic violence, as a non-Aboriginal partner of an Aboriginal spouse,[101] as a witness of Aboriginal domestic violence, or as a service provider. Whites are also regularly assaulted by Viewtown's young Aboriginal people.[102] As already discussed, it is expected that these young people's higher exposure to violence in the home environment exacerbates their liability to respond violently to real or imagined affronts within and beyond the domestic sphere.

Public awareness of reduced police and court responses to Aboriginal violent incidents is adding to the fear and resentment among the white population. As discussed earlier, more cautious legal responses to Aboriginal incidents are resulting in a shift to private responses among Viewtown's non-Aboriginal population. To date, this shift involves primarily defensive strategies to secure physical safety, such as improved home security, spatial and relational avoidance of Aboriginal people, through to leaving Viewtown altogether. References to shotguns or enforced apartheid as strategies against Aboriginal violence were also detected, but these were rare. The existence of resort to either defensive or offensive strategies signals that the well-being of the non-Aboriginal

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[101]Indeed, it has been observed by two white female service providers that in Viewtown, white female partners of Aboriginal men are at high risk of becoming domestic violence victims. This group seems over-represented in the Women's Shelter. As noted earlier, they are reported to be at higher risk than Aboriginal women due to their refusal to conform to extended family obligations, such as refusing to hand over essential housekeeping money for 'brother-in-law's sherry': Service 65, October 1993; Service 68, February 1995.

[102]Numerous interviews with white Viewtowners, May 1994- February 1995.

population is being compromised by both Aboriginal violence and the 'ameliorated' legal responses to Aboriginal violence in Viewtown.

The other area of policy and race relations concerns separate services and spaces for Viewtown's Aboriginal people. The separate public lives, including both services, and recreational activities, work against both the development of positive race relations and against Aboriginal acquisition of the stronger anti-violence attitudes of the mainstream population. Moreover, these two results reinforce each other.[103] A white response to Aboriginal separate spaces and services is resentment of Aboriginal people. This resentment is particularly detectable among Viewtown whites of poorer socio-economic background. To many in this group, Aboriginal people seem to be getting services and spaces that Viewtown's poor whites also need in equal measure. The following extract expresses the sense of injustice felt by one young white mother, dwelling in the low income district of Viewtown. Both she and her partner are on invalid pensions, and one of their four school-age children has cerebral palsy:[104]

> we don't have a car or phone, we've got nothing, and yet the Aboriginals get heaps more than we do, even though we're no better off!...I don't think that they shouldn't be getting all these things, I just want things to be equal, based on what you need, that's all.[105]

Accurate or not, there is an emergent resentment and distancing between Viewtown's Aboriginal and non-Aboriginal people which is an outcome of policies that foster reduced spatial interaction between Aboriginal and non-Aboriginal Viewtowners, and exclusive, specialised services for Aboriginal Viewtowners. These trends are jeopardising the hitherto positive private and neighbourhood level race relations. As this level of

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[103]A further likely product of this reinforcement is a reduction in the likelihood of Aboriginal employment in the commercial sector, thus exacerbating Aboriginal alienation.

[104]For further interview extracts on this issue, See Appendix to Chap. 9, Group 2.

[105]May c.31 1994.

everyday race relations has become a source of both crisis help and informal support and advice, this jeopardy is of moment to Aboriginal domestic violence victims. Investigation and implementation of conditions that enhance positive race relations by reducing racial distancing and increasing everyday friendship are implicated here as essential components of Aboriginal domestic violence policy development.

One implication here is that race relations development based on commonality rather than difference is an important component of Aboriginal well-being, not least as a source of protection from and challenge to their violence. To some who support present policy directions, addressing this implication may smack of Machiavellian expediency, for it involves acknowledging that white racism in Viewtown is, in part at least, a product of what have hitherto been deemed to be progressive Aboriginal policies.

Conclusion

In Viewtown, any partial dislocation of Aboriginal citizenry from inclusion within the liberal-democratic state's polity, either through separate services or separate places, entails placing a fundamental human right at risk. Viewtown's mainstream services, based as they are on liberalist principles, grant primary recognition to the right to be free from physical assault, but due to issues surrounding Aboriginal difference, they are experiencing problems in extending prevention and protection to Aboriginal citizens While there are individuals and programs within the Aboriginal sector that demonstrate equal commitment to human rights, they are working within service contexts that prioritise other agendas, thereby jeopardising the effectiveness of these individuals and the

viability of their programs. The resultant reduced challenge to Aboriginal domestic violence has negative flow-ons in terms of race relations and in turn, for Aboriginal opportunities in the mainstream society. Thus the Viewtown case study presents a critical challenge to the policy priorities of Aboriginalisation, self-management, cultural renaissance and separate Aboriginal spaces and programs. Nevertheless, well-designed specialised programs for Aboriginal domestic violence are still indicated, again as pragmatic responses to the *problems* of Aboriginal separation and difference, rather than their encouragement or celebration.

Conclusion

Liberal-Democracy's Failure

Effective responses to Aboriginal domestic violence remain elusive. The central problem is the assumption within Australian liberal-democracy that optimal Aboriginal policy necessarily requires that the state reduce, even relinquish, control over the formulation and implementation of policies and programs for Aboriginal people. In particular, pragmatic, 'culturally appropriate' strategies to reduce Aboriginal domestic violence are attempted within broader Aboriginal policy contexts and politicised Aboriginal settings in which there is insistence upon Aboriginal autonomy, and over which state domestic violence policy-makers and services have little control.

'Cultural appropriateness' is a broad term. It can imply pragmatic adaptation of an implementation process so that policy becomes effective in different social or cultural settings on the one hand, through to fundamental alterations to policies and programs in response to claims by minorities for 'cultural rights' on the other.

Formulation and implementation of domestic violence policy occur mainly at the extreme ends of this 'same-difference' spectrum.[1] At one extreme, policies and programs are based on the liberal principle of 'equal treatment'. Responses generated by this extreme can be too inflexibly directed to mainstream society, and may result in Aboriginal resistance to

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[1] Carol Bacchi analyses the problems of 'same-difference' and 'equal treatment' within Western thought and political practice, in reference to gender. See C. Bacchi, *Same Difference: Feminism and Sexual Difference*, Allen and Unwin, 1990, especially the Introduction.

using these services, or service resentment and burnout when Aboriginal people use mainstream services 'differently'. At the other extreme, recognition of Aboriginal difference becomes subjected to 'cultural rights' claims and related principles. In this setting, 'cultural appropriateness' tends to become 'cultural rights', whatever the initial policy intention. Promising programs can be lost through this process too, such as programs entailing a level of white involvement that is threatening to those seeking 'cultural rights'. Neither extreme is able to deliver optimal domestic violence prevention and protection programs, designed for Aboriginal populations.

This thesis indicates that to date, Australia's liberal-democracy is experiencing difficulties in developing a moderate approach of adapting effective domestic violence programs to indigenous Australians. It is yet to adequately lay claim to a multicultural middle-ground, wherein universal principles can be extended through methods tailored to different, Aboriginal, settings.

Liberal-Democracy, Aboriginality, and a Violent Social Milieu

In Australia, the principle of 'cultural rights' is a guideline for Aboriginal domestic violence policy. Within this perspective, it is assumed to be self-evident that Aboriginal individual and community social health is enhanced through processes that encourage a self-determined, distinct Aboriginal cultural identity, and boost Aboriginal community control over policymaking and implementation.

This is not self-evident. Thomas Sowell argues that factors internal to a group's culture can be definitive in enhancing or limiting the life chances of its members. As such, one's culture is not an *a priori* benefit to an individual in all settings. He also argues that present-day policy-makers

are more comfortable in addressing factors external to a distinct ethnic, class, or locational group's culture, rather than the group's culture itself, as inhibitors to social and economic well-being.[2] The findings of this thesis offer confirmation for Sowell's argument.

An initial problem confronting Australian states seeking to both uphold the rights to safety of Aboriginal individuals as well as to respect Aboriginal 'cultural rights', is that Aboriginal 'cultural' settings can have an underdeveloped notion of the individual right to physical safety. Whatever the origins of Viewtown Aboriginal culture, the pervasiveness of negative behaviours, including an everyday reinforcement of violence, signal that Viewtown's Aboriginal domestic violence is an aspect of a largely self-generating, alienated social setting. In this social setting, violence is commonly regarded as 'natural' and acceptable rather than aberrant. Given this, and the heightened concern for Aboriginal male status and well-being, Aboriginal opposition to domestic violence, and Aboriginal-initiated 'additional responses', are limited.

The implication of this setting for effective responses to Aboriginal domestic violence is that the state is obliged to initiate and implement outside intervention to alter the Aboriginal 'cultural' milieu that tolerates violence. However, the pervasive, 'crash through or crash' institutional commitment to Aboriginal autonomy inhibits even expressions of the idea that a difficult cultural milieu renders outside intervention imperative. Instead, policy-makers' and implementers' responses to Aboriginal domestic violence are either determined by, or must struggle to overcome, the dictates and limitations of the political and policy settings presented by Aboriginal demands for autonomy.

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[2]Thomas Sowell, *Race and Culture, a World View*, BasicBooks, New York, 1995, chap. 1, especially 10-11.

Embedded in these restrictions is a philosophical problem for liberal-democracy and domestic violence policy, which is that the principle of indigenous group autonomy implies a significant and largely ignored redefinition of the basic unit for the receipt of a right. This redefinition is akin to previous limits on the extension of liberal rights to women in the home. In this earlier limit, the female individual person's access to state protection of this right was thwarted by the idea of a private family unit, headed and protected by the male as husband and father. By recognising specialised, 'cultural rights' through the granting of Aboriginal autonomy, liberalism risks creating a new private realm of Aboriginality, outside the purview of liberalism and its principle of universal rights. Much as Locke's treatise on women's 'natural subjection' left women outside the political sphere, 'cultural rights' carry the risk of placing Aboriginal victims of domestic violence outside the scope of state intervention. Hence, if an Aboriginal group nominates a feature of their social life, and this could include domestic violence, as a defining aspect of their culture, or if an Aboriginal group should nominate control over responses to a problem such as domestic violence as their 'cultural right', then group members' individual rights would necessarily receive contingent status. This is so irrespective of the extent to which Aboriginal domestic violence is traditionally-derived or recently-developed, primarily because the principle of 'cultural rights' bestows on the group itself, the 'right' to define and assess their 'culture'. It is on this philosophical level that the guardedness of government responses to Aboriginal domestic violence initially arises. In the case of Viewtown, the result is limited intervention, and policy neglect and failure.

Mainstream Institutions, Aboriginal Difference, and 'Cultural Rights'

In Viewtown, mainstream services are inhibited in their responses to Aboriginal domestic violence. There are two forms of this, the first being under-adaptation, the second, over-adaptation, to Aboriginal difference— both a part of the 'same-difference' spectrum of problems in Aboriginal policy-making. The first form manifests as service failure to attract Aboriginal clientele, principally because they have not extended their services to meet the 'different' needs of Aboriginal clients. Mainstream counselling and support group services in particular have little interface with Aboriginal clientele, primarily due to this lack of service extension.

The second form of mainstream inhibition in Viewtown arises from the principle or demand for Aboriginal 'cultural rights' and Aboriginal autonomy. In the region's courts of law, the principle of 'cultural rights' is already reported to be an effective partial defence for domestic violence. In this process, freedom from physical assault is not fully recognised as a universal human right, but becomes a contingency that depends upon the cultural context of the perpetrator. The principle of the individual as moral agency, subject to the usual consequences of law, is compromised here. Aboriginality thereby becomes an effective filter for the transmission of rights.

While some mainstream institutions are attempting to extend effective responses to Aboriginal domestic violence clientele, their adaptations to Aboriginal 'difference' nevertheless entail limits to these responses. Indeed, the delineation between an adaptation that enhances or compromises Aboriginal victim safety is not always clear. The RCADC's principle that cultural considerations be a part of police decisions on whether to arrest or not, coincides in Viewtown with a period of increase

in Aboriginal victim calls for police help, as well as a probable decline in the arrest rate for Aboriginal violent crimes, a decline which seems particularly marked for domestic violence. Thus, changes in the policing of Aboriginal domestic violence seem both improved and compromised by 'cultural rights' axioms.

Some mainstream institutions in Viewtown resist adaptations to Aboriginal 'community' or client demands, because of this tendency for adaptations to compromise Aboriginal victim safety. In Viewtown, Aboriginal demands for greater understanding and leniency for perpetrators, and objections to the isolating of victims from their violent partners, are resisted by the Women's Shelter on the grounds of victim safety. While the reasons for this resistance to adaptation are well-founded, it may reduce Aboriginal use of the Shelter, and thus inadvertently compromise Aboriginal victim safety.

Other Viewtown mainstream institutions resist 'interference' when Aboriginal people do not engage with a program, or when Aboriginal people themselves fail to implement effective programs, because of the 'cultural rights' principle that white institutions should not interfere.

Overall, mainstream services in Viewtown are failing to effect optimal responses to Aboriginal domestic violence. A common underlying feature is that mainstream responses will remain compromised unless the principle of 'cultural rights' is replaced by an approach to Aboriginal policymaking that is more effective in identifying and addressing problematic cultural issues within Aboriginal populations. It is inescapable that effective 'additional responses' require some kind of intervention into the very 'culture' of Aboriginal Viewtown. In such a setting, the concept of a 'culturally appropriate response' takes on a very specific and politically demanding meaning.

Human Rights for Aboriginal Victims: Through Consultation and Victim Choice?

The Viewtown case study signals that the policy commitment to consultation or negotiation with Aboriginal people can pose a barrier to extending liberal principles of human rights, above all because of the more violent Aboriginal cultural milieu. In particular, the assumption underlying consultation— that Aboriginal people best understand the kinds of responses that suit Aboriginal needs— is brought into question here.

Even Aboriginal victims themselves may not be ideal 'candidates' for consultation. The burden of identifying effective responses is not heavily placed upon domestic violence victims, because practitioners recognise that the very nature of victimisation reduces individuals' capacities to identify, or lay claim to, their own rights and needs.[3] In the Aboriginal policy emphasis on consultation, Aboriginal domestic violence victims seem differentiated from this interpretation of victimisation. Victimisation to domestic violence should instead be seen as presenting a fundamental limit to the utility of consulting with Aboriginal victims, particularly while their culture remains immune from official outside intervention. While consultation with— or qualitative research among— Aboriginal victims remains necessary, to be effective, a more developed, critical assessment of factors affecting Aboriginal victim perspectives and limiting their choices should underline the approach to consultation or research.

A related problem is that in the context of 'cultural rights', the democratic principle of 'free choice' is evoked as a kind of solution to upholding

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[3]See E. Hilberman and K. Muson, 'Sixty Battered Women', *Victimology: An International Journal*, 2(3/4), 1977-78, especially 466-9.

liberal or universal human rights principles, while allowing individuals to freely participate in minority cultures that do not recognise such principles. The draft UN declaration on indigenous rights incorporates the principle of 'choice' in this manner:

> Indigenous Peoples have the right to maintain and strengthen their distinct political, economic, social and cultural characteristics, as well as their legal systems, while retaining their rights to participate fully, if they so choose, in the political, economic, social and cultural life of the state.[4]

In his article on the problems of cultural relativist responses to female circumcision, Steven James addresses the factor of individual choice as a 'solution' in human rights violations. He argues that in some societies, the cultural imperative of female circumcision renders the idea of girls' free choice unworkable as a validation of the practice, on universal human rights grounds. That is, her choice not to have the operation entails significant, frequently harsh, social and economic consequences, and is thus not a free choice at all.[5]

It is asserted among domestic violence analysts that free choice to leave a violent partner is frequently unavailable to domestic violence victims without significant outside support, including changes to the cultural norms that legitimise victimisation.[6] As such, the idea of free choice for individuals while their group's culture remains immune from outside intervention is an unworkable human rights 'solution' in the case of Aboriginal domestic violence intervention.

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[4]UN Document, *United Nations Draft Declaration on the Rights of Indigenous Peoples* (in progress), 1996, Article 4.

[5]S. A. James, 'Reconciling International Human Rights and Cultural Relativism: the Case of Female Circumcision, *Bioethics*, 8(1), 1994, 1-26: generally, especially 20-2.

[6]For example, Hilberman and Muson; and Victorian Women's Policy Coordinating Unit (VWPCU). *Criminal Assault in the Home: Social and Legal Responses to Domestic Violence*, VWPCU, DPC, Victoria, 1985, 10-18.

The service survey undertaken for this thesis indicates that Aboriginal resistance to prevention is a key inhibitor to effective intervention. Exacerbating factors such as alcohol, drugs, and financial conflicts are also higher in the Aboriginal group of clients, signalling the deeper enmeshment of Aboriginal domestic violence within a 'cultural' setting of greater alienation and destructive behaviours. However, Viewtown Aboriginal cultural difference is in this instance a circumscribed one, because the use of services by Viewtown Aboriginal victims demonstrates that there is an Aboriginal sub-group seeking mainstream intervention at the point of crisis protection. Their calls for outside assistance, albeit delayed and circumscribed, point to a possible inconsistency between the assertion of 'cultural rights' and self-identified rights and the needs of individual members of the cultural group. At the same time, these same individuals have other culturally different expectations or restrictions which reduce their ability to utilise mainstream interventions to maximum effect. Compared to white households, intervention into Aboriginal households is more confined to dealing with the moment of a domestic violence crisis. For Aboriginal women, their immersion in, perhaps embodiment of, Viewtown Aboriginal mores, cuts across their desire for, or ability to choose, interventions which bring about longer-term protection.

However, compared to white women, Viewtown Aboriginal women as a group have fewer economic reasons to remain with their violent male partners. On this practical, financial level— usually listed as the most critical factor inhibiting escape[7]— it should be easier for Aboriginal women to leave. Hence, the factor of culture as a limit on women's ability to choose to leave is probably more critical for Aboriginal women.

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[7] VWPCU, Ibid.

Indeed in Viewtown, there are indications that assertion of a 'different Aboriginal culture' may increasingly serve as a strategy of last resort to hold Aboriginal women to their violent male partners.

It is valid to advocate a basic human need for group or family belonging, and the implication of escape for Aboriginal victims could involve a too-painful sundering of this. However, this situation can also be applied to many white victims, and this does not lead to any domestic violence policy position akin to saying that a white victim's need for belonging and family entails non-intervention into the culture of her group. A 'cultural rights' position ensures that for a larger number of Aboriginal women, the choice remains a more painful and potentially more dangerous one, that of staying in a physically perilous relationship endorsed by its cultural context, or leaving one's partner and cultural group for the sake of basic physical safety. Aboriginal victims' ability to choose to escape domestic violence is further restricted by the heightened normality of violence within Aboriginal populations, rendering Aboriginal victims even less likely to aspire to freedom from violence. From a 'victim rights'— and hence, a state responsibility— perspective, intervening into the victims' cultural group to render it less violent is a benign option, rather than an act of 'cultural chauvinism'.

Guaranteeing individual rights in situations of such restricted victim choice obliges liberal-democratic states to increase, not decrease, commitment to intervention. Within liberal-democracies, the primary obligation of guaranteeing individual rights resides with the state, not the individual. And while the 'equality of cultures' may be a valuable concept, to be compatible with individual rights, it needs to be circumscribed by state systems committed to non-negotiable, universal,

human rights, rather than to the potentially unfettered concept of a 'cultural right'. James' qualification of cultural equality is useful here:

> Ironically, this form of cultural relativism could sanction as moral 'the predominant opinion in any locality...(and let it) prevail whether or not there is any good reason to support it.[8]

James' argument here can be directly applied to Australia's 'Benthamite' emphasis on majority will over human rights, which is now manifested in reliance on Aboriginal representivity and consultation in Aboriginal policymaking. Prevailing norms and power relations, not victim rights, are likely to determine agendas here. Hence, advocacy of government non-interference in non-liberal Aboriginal practices, as long as individual Aboriginal members have free choice to participate or not, is untenable as a solution to Aboriginal domestic violence.[9]

These issues present critical limits to consultation and victim choice as solutions to the problem of how to both assist Aboriginal victims and avoid cultural intervention. Without these 'solutions', the liberal-democratic state is left with more difficult policy options. The state's dilemma regarding Aboriginal domestic violence arises due to the inherent conflict between victim rights and Aboriginal claims for 'rights' to autonomy. From a 'cultural rights' position, intervention to change aspects of a culture is an act of cultural chauvinism, and in contradiction to Aboriginal autonomy. From a victim rights perspective, enabling Aboriginal victims to make real choices about their safety unavoidably involves cultural intervention, given that present Aboriginal settings frequently 'normalise' victimisation to domestic violence, reducing

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[8]James, 4.

[9]This approach is embedded in the above-quoted UN clause (UN 1996, *op cit.*)and is also advocated by Brennan. See F. Brennan, 'Constitutional Possibilities for Self-Determination for Aborigines and Torres Strait Islanders', in *Aboriginal Self-Determination in Australia*, ed. C. Fletcher, AIATSIS Report Series, ASP, Canberra, 1994, 94-5. See also his *Sharing the Country: The Case for an Agreement Between Black and White Australians*, Penguin Books, Ringwood, 1991, 5-6.

victims' ability to choose a life free from violence. Moody-Adams captures both the difficulty and the imperative facing policymakers:

> A readiness to engage in moral criticism and debate with individuals who will perpetuate a culture manifests the highest respect for culture...This readiness also prepares us to contend with those difficult circumstances in which we must decide whether and how to aid those (inside or outside of a culture) who may become unwilling victims of morally indefensible practices.[10]

Cultural intervention is, fundamentally, essential to victim choice. However, a decision to intervene remains in contradiction to present policies of Aboriginal autonomy.

Aboriginal Autonomy and Domestic Violence Responses.

South Australia's policymakers have the task of extending domestic violence responses into an increasingly differentiating, culturally more assertive, Aboriginal setting. While they acknowledge that some Aboriginal clients prefer white service providers, policymakers support autonomy in the form of Aboriginalisation and self-management, on the basis that Aboriginal-controlled services are deemed to be more appropriate to Aboriginal clients' needs, and the outcome should thus be better service extension.[11] However, this is resulting in a failure to tackle response problems located within the very processes of Aboriginal autonomy: Aboriginalisation, self-management, and separate spaces.

The Viewtown case study indicates that Aboriginal autonomy is not an ideal setting for the development of effective responses to Aboriginal domestic violence. Even dedicated Aboriginal staff experience a range of imherent limits or challenges to their workplace effectiveness, due to difficult 'cultural' expectations emanating from the Aboriginal population.

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[10]M. M. Moody-Adams, 'Culture, Responsibility, and Affected Ignorance', *Ethics* 104, January 1994, 309.

[11]SADVC *Domestic Violence: Report of the SADVC*, WAO, DPCt, Adelaide, 1987, 24; Thomson Goodall Associates, *Review of Services for Women and Children Escaping Domestic Violence*, for SAAP, SA, 1997, 50.

The Viewtown Women's Shelter's experience of ostracism and conflict between its Aboriginal women clients does not augur well for autonomous Aboriginal domestic violence programs either.

The reported high turnover of Aboriginal staff, and the lack of Aboriginal workers' commitment to workplace tasks in Viewtown, are further challenges to the doctrine that Aboriginal autonomy is the ideal location for domestic violence intervention. Along with inappropriate 'cultural' attitudes to the workplace, high staff turnover and lack of dedication may also stem from the demographic fact of too few skilled Aboriginal people, who thus attempt to spread their needed skills too widely. In both cases, alienated, troubled peoples are unlikely to produce from their own ranks the number of professionals needed for effective intervention into their own population's problems. The Viewtown case-study also demonstrates a mirror image of white institutional racism, with white administrative staff experiencing as imperative the need to extend mainstream work practices to Aboriginal workers, in order that an Aboriginal service meets the needs of vulnerable Aboriginal clients. In Viewtown, shedding of white personnel while increasing Aboriginal self-management is associated with under-monitoring and poor prioritisation of services.

It is thus difficult to envisage how effective Aboriginal domestic violence programs can be implemented in such settings without significant outside intervention and monitoring. However, the Aboriginal autonomy ideal is leading to a reduction in outside involvement. In Viewtown, Aboriginal autonomy means that white personnel possessing essential skills for a functioning program are shed through the process of Aboriginalisation. Voluntary or involuntary loss of skilled white personnel, and the

diminution of white control over services, places key Aboriginal domestic violence programs in jeopardy.

Services relevant to Aboriginal domestic violence seem to be at particular risk here, in terms of loss of funds, lack of consistency, lack of monitoring, and subjection to other, inappropriate agenda. In official documents that support Aboriginal autonomy, most notably the NRRCADC, such problems are either swept aside, or considered to be responsive to interventions consistent with greater Aboriginal autonomy. Given the negative implications of the increase in Aboriginal self-management for Aboriginal domestic violence service delivery in Viewtown, these official interpretations have limited application.

In Viewtown, the Aboriginal autonomy ideal of separate identity formation through separate and autonomous spaces entails the risk of reinforcing violence as a part of Viewtown Aboriginal social life. To some extent, this is because key reference points for the development of a distinctly Aboriginal identity are the cultures of more 'traditional' Aboriginal populations of the hinterland, reported by both Aboriginal Viewtowners and white professionals to contain a significant element of male violence against women. In such a setting, a prevailing Aboriginal policy strategy of asserting that domestic violence is not 'the Aboriginal way', makes minimal sense, and thus is unlikely to make much headway in Viewtown and its hinterland. Separate spaces also entail a greater degree of separation from liberal-democratic society, particularly its principle of universal, individually-based rights.

This trend towards separatism also threatens the present positive situation in Viewtown of good race relations on the neighbourhood level. Positive race relations are a significant source of safety for Aboriginal domestic violence victims. However, the continuation of more violent behaviour

among Aboriginal Viewtowners, almost certainly exacerbated by the process of separatism, has a direct impact on the well-being of whites living in their midst, and on the quality of race relations. As such, a basic expectation of the liberal-democratic social contract, that its laws and mores are held by enough of its members to maintain a daily modicum of physical safety, is being threatened by Aboriginal separatism. 'Cultural rights' is an unworkable concept here in its failure to consider the interdependent relations between Aboriginal and non-Aboriginal people, an interdependency that affects the very minutiae of everyday life in Viewtown's Aboriginal and non-Aboriginal people.

One suggested limit to Aboriginal autonomy— that the rights of non-members be considered— offers a scope to outside intervention while still recognising Aboriginal 'cultural rights'.[12] However, there are indications that Aboriginal domestic violence in Viewtown is increasingly occurring in the private space of the home, resulting in a decline in the direct or immediate impact on the wider population. Hence, while Aboriginal violence in public places may to the extent that it affects others, still attract mainstream legal responses, the factors of Aboriginality plus the private sphere of home render this 'solution' particularly perilous for Aboriginal domestic violence victims. Viewtown police response trends for Aboriginal domestic compared to non-domestic violence, seem to affirm this possibility.

Aboriginal domestic violence on homelands may be particularly immune from outside intervention, on the 'cultural rights' grounds of Aboriginal entitlement to choose autonomy, free from mainstream contingencies. The intensification of Aboriginal autonomy with the formation of homelands has been shown to hold particular dangers for Viewtown's

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[12]Brennan, 'Constitutional Possibilities...', 94-5.

Aboriginal domestic violence victims. These dangers are embedded within the very fact of such autonomy from a liberal-democratic society. The spatial and cultural isolation of homelands are also likely to increase the difficulty of leaving one's cultural group in order to escape domestic violence, thus further reducing the likelihood that Aboriginal victims will choose to escape.

Individual Rights and Cultural Rights in Opposition

Viewtown's Aboriginal people are becoming hostages to government-intended benefits, or government-recognised 'rights', associated with having an Aboriginal identity. Aboriginal female victims of domestic violence are at particular risk here, as these scenarios either have the potential to exacerbate underlying causes of Aboriginal domestic violence or to politically and spatially distance victims from effective preventative and crisis assistance.

The Viewtown case-study thus challenges the idea of a philosophical dilemma for liberalism in choosing between specialised indigenous 'group' or 'cultural rights' and a more direct application of individual universal rights. The problem for liberal-democratic states is thus essentially a pragmatic one, particularly given that the present promotion of Aboriginal autonomy upholds existing Aboriginal power-blocks. As domestic violence, Aboriginal control of programs, plus Aboriginal separate identity formation, are all woven into the fabric of the Viewtown Aboriginal power structure, this will be a politically formidable mission. Any embarking by the state to shift away from 'cultural rights' is likely to entail engaging in a difficult politics at the grass roots level.

There are already manifestations of the difficult political engagement necessary to upholding Aboriginal victim rights. In Viewtown, the cross-

cultural point— where programs are tailor-made by white professionals working with Aboriginal Viewtowners— is the most promising place where effective responses to Aboriginal domestic violence are to be found. At the same time, it is a most risky or vulnerable site.

A common factor in these effective cross-cultural responses is their pragmatic acknowledgement of Aboriginal difference, where they respond to, rather than promote, Aboriginal difference, to get programs to work for Aboriginal victim safety. But the ubiquitous policy context wherein underlying axioms *promote* racial distance and difference, threatens to make their work unviable, or at least limit their effectiveness. In particular, the fact that such programs can be deemed not to conform to prevailing Aboriginalisation and self-management criteria, places them in inevitable jeopardy. This indicates that viable, optimal Aboriginal domestic violence intervention programs require a back-drop of government Aboriginal policy-making that encourages more Aboriginal integration with, rather than more differentiation and distance from, the white population, and a critical, liberalist assessment of 'cultural rights' principles underlying Aboriginal policymaking.

A major difficulty is that Aboriginal identity formation processes are no longer fully controllable by the state. They are, indeed, 'self-determining', albeit in less than a positive, self-actualising sense. This is resulting in structural impediments between the state and Aboriginal victims that might become increasingly difficult to surmount. Insisting on a liberal-level priority for victim rights within such a setting is provocative, resistance is inevitable, and much more than a domestic violence education program is required.

The Viewtown situation exemplifies the political resistance to social intervention that can arise from within a target population itself,

particularly from elites within a group who benefit most from existing power relations. This point demands that the effects of a group's elite power, organisation and voice, and victim powerlessness, disorganisation and silence, be factored in to programs for Aboriginal domestic violence.[13] To this can be added a target group inability to objectify and respond effectively to their own problems.

Human rights are broadly applicable, and philosophically at least, are not able to be conditioned by the application of 'cultural rights'. By grappling with a minority population's dynamics on the local level, the thesis has exposed the philosophical fallacy in assuming that 'group' or 'cultural rights' inevitably benefit the least powerful members of a minority group, such as its domestic violence victims. It has also exposed the dangers of Australia's tendency to rely on 'black majority' democracy and representation without an insistence that universal human rights extension is non-negotiable. It evokes a necessity for courageous rather than tardy outside intervention into Aboriginal domestic violence, so that Aboriginal people become equipped to identify and secure their human right to physical safety.

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[13] See Chambers on 'elite power' in other settings, in his *Rural Development: Putting the Last First*, Longman House, Essex, 1983, 160-7. See also D. F. Martin, 'Aboriginal and non-Aboriginal Homicide: "same but different"', in H. Strang and S-A. Gerull, *Homicide: Patterns, Prevention, and Control, Conference Proceedings,* no. 17, 1992, Canberra, AIC, 168.

Appendix to Methodology. Sample of Service Survey Guidelines, 'Concluding Questions', and Chart.

(Viewtown) and Rural District Survey of

-Client Use of Services

-Client Association/non-Association with Domestic and non-Domestic Forms of Violence

Survey Guidelines

The Date of Survey Sheet

Where appropriate, use a separate sheet for each day. However, some of you may see less than 15 or so clients or cases per week or month. It may then be more practicable to mark the date of each case in the Client/Case number boxes. As long as the date of client/case is clear, I do not mind what is done.

Client/Case No.

a-Some participating organisations have clients that formally utilise a service for counselling, welfare needs, health care, legal assistance, and so on. Other participating organisations experience incidental cases or events of some disturbance or violence that perhaps require intervention by the organisation or an outside agency. Some participating organisations fall into both categories. For the purpose of this survey, both formal clients and incidental events are relevant.

b-For the purpose of comparative evaluation, the survey is more valuable if it includes both clients that do and do not have any apparent association with domestic and other forms of violence. Hence, to the extent that it is feasible as discussed, document on the survey sheet all clients that require new or ongoing service over those 4 weeks, even where the association of violence with their presentation is unlikely.

c-For incidental events, include to the extent that it is feasible all incidents of some disturbance requiring significant intervention by the service provider or the reporting of the incident to another outside agency. Describe briefly as best you can, the nature of the event, especially the most apparent cause or focus of the dispute or disturbance. Such incidents may include for example *refusal to pay for a good* or *service, street-* or *school yard-* or *domestic- violence, property damage by a client at a service's counter*

Gender
Place M or F in this column.

Age
Place a tick in the estimated or known age range.

Identity
Place a tick in the appropriate column.

Socio-economic group & marital status
If known, describe this briefly as best as you can, for example *sole parent on pension, employed skilled tradespsn (married), unempl. professional (de facto), home duties (widow).*

Reason for Presentation
Describe this as best as you can in brief terms.This refers to the most readily apparent reason for a client's use of a service, or the need for intervention. Examples may be *counselling to improve self-esteem , finance counselling, physical injury.*

Violence as Factor in Presentation
Place a tick in the appropriate column. (If unknown, place a question mark in the 'unlikely' column.)

If Violence is Present, is Client the Suspected/Definite Perpetrator, Victim, or Other?
(Fill this section in only if violence is poss/prob/definite.)
Place a tick in the appropriate column.('Other' may be for example a relative who has been significantly affected by a couple's violence.)

Relationship of Client to Perpetrator/Victim
(Fill this section in only if violence is poss/prob/definite.)
Describe this in brief terms. For example, if the client is a suspected perpetrator, he/she may be related to victim as perhaps *girl/boyfriend ,* or *husband/wife,* or *de facto,* or *son /daughter (prob. V. is mother/father)* or *self (self-injury),* or *strangers.*

Scale and Type of Violence
(Fill this section in only if violence is poss/prob/definite.)
Classify this briefly as follows:
Scale: *mild(mild) moderate(mod)   severe(sev) life-threatening(l-thr)*
Type: *physical   sexual   psychological   financial.*

For some organisations, the inclusion of physical violence only may be appropriate. Other organisations may wish to include other categories of violence not given here.

Place of Event
(Fill this section in only if violence is poss/prob/definite, or in case of some other significant disturbance.)
Here, place a single identifier such as *house, street, foreshore, office counter, hotel carpark*, etc.

Area of Abode
Place initials of the area of client's abode. [by suburb or region: outlined for survey participants, kept anonymous in this thesis].

Date and Time of Event
(Fill this section in only if violence is poss/prob/definite, or in case of some other significant disturbance.)
How this is noted will vary. Sometimes it is a recent single event, eg *evening* or *11pm, 18/9/94*, or it may be an ongoing cycle of violence, eg *ongoing since 1992*, or it may be an event or a period of violence that occurred in the clients' childhood, egs *1972*, or *1963-67*.

Trigger(s) or Associated Factor(s) of the Violence or Presentation
It is important to the value of the survey that this section is answered even if no violence is associated with the presentation. A grading of the severity of these triggers or factors on a scale of *1(mild), 2(mod), 3(severe)* would be appreciated. If this is not possible, a simple *tick* will do. In the column 'Other', note down one or more item(s) that you know or suspect to be likely triggers or factors. These could include *housing problems, low self-esteem, study problems* , etc.

Outcome
Note here briefly the outcome of that particular presentation or service intervention. This will vary widely depending on the organisation, but could include *ongoing counselling, referred to X agency or program, police attended, cautioned, housing problem solved*, etc.

CLIENT / CASE	GENDER	AGE						IDENTITY			SOCIO-ECONOMIC GROUP & MARITAL STATUS	REASON FOR PRESENTATION	VIOLENCE AS FACTOR IN PRESENTATION				IF VIOLENCE MAY BE / IS PRESENT, IS CLIENT THE SUSPECTED / DEFINITE PERPETRATOR, VICTIM, OR OTHER?			RELATIONSHIP OF CLIENT TO PERPETRATOR / VICTIM	SCALE AND TYPE OF VIOLENCE	PLACE OF EVENT	AREA OF ABODE	DATE AND TIME OF EVENT	TRIGGER(S) OR ASSOCIATED FACTOR(S) OF THE VIOLENCE OR PRESENTATION					OUTCOME
No.	M/F	<13	13-18	19-35	36-55	>55		Cauc-asian	Abori-ginal	Other	(please state)	(please state)	Unlike-ly	Poss-ible	Prob-able	Defin-ite	P	V	Other (state)	(please state)	(please state)	eg house	eg NV	(please state)	Alcohol	Finance/ Property	Couple issues	Child-ren	Other (please state)	(please state)
1																															
2																															
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Service survey: Stephanie Jarrett, 1994, with inspiration and suggestions from the substance misuse consultant, Viewtown, and from Pamela Lyon's *What Everybody Knows About Alice, A Report on the Impact of Alcohol Abuse on the Town of Alice Springs*, prepared for the Tangentyere Council, June 1990, especially 1¯

SOME CONCLUDING QUESTIONS- answer these as best you can when the Survey has concluded. If they cannot be answered, place a dash or question mark as appropriate.

1.How many clients did you, the service provider, see over the 4 weeks of the Survey?

2.What was the weekly average number of clients seen by you, the service provider, over the past year?

3.What was the weekly average number of clients associated in some way with violence seen by you, the service provider, over the past year?

4.Could you make a general comment regarding any longer term trends or patterns in your clientele's association with domestic and/or non-domestic violence?

5. General comments about the Survey or other related comments.

Appendix to Chapter 2

A. Examples of Official Domestic Violence Reports and Initiatives Include the Following:

Federal

ANOP Research Services. 1994. *Community Attitudes to Violence Against to Violence Against Women: Detailed Summary.* Conducted for the OSW, DPMC. Canberra: AGPS.

ANOP Research Services. 1994. *Community Attitudes to Violence Against to Violence Against Women: Executive Summary.* Conducted for the OSW, DPMC. Canberra: AGPS.

Australian Bureau of Statistics (ABS). 1996.*Women's Safety Australia 1996.* Prepared by W. McLennan for the ABS. Commonwealth of Australia: ABS.

Chesterman Schwager Associates. 1991. *Submission to SAAP Functional Review on Services for Women Escaping Violence* . Conducted with L. McFerran for the NCVAW. Barton: Chesterman Schwager Associates.

Easteal, P. 1993. *Killing the Beloved: Homicide between Adult and Sexual Intimates.* Canberra: Australian Institute of Criminology (AIC).

Elliott and Shanahan Research. 1988. *Domestic Violence in Australia.* Conducted for the OSW, DPMC. Sydney: Elliott and Shanahan Research..

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B. The SADVC Report's Terms of Reference

The SADVC Report's terms of reference are as follows:

To stop domestic violence in South Australia's multicultural society and prevent its recurrence.

Specifically:

i) to identify and examine aspects of our society which perpetuate or promote domestic violence and recommend measures to address them;

ii) to recommend strategies that prevent and intervene in the occurrence of domestic violence;

iii) to recommend to major social institutions and agencies in both government and non-government sectors, (that is, health, welfare, education, legal, housing, media, unions, churches etc.) ways of modifying their policies, practices, and procedures in order to respond appropriately to domestic violence;

iv) to review and make recommendations on the nature, extent and effectiveness of the role of civil and criminal law as it relates to domestic violence;

v) to recommend an integrated program of services for victims and families 'at risk';

vi) to propose and promote research into domestic violence, including the perpetrators, focusing on the causes of violence and the effectiveness of different types of interventions, and recommend appropriate responses.

(page 11 of the SADVC Report, 1987.)

Appendix to Chapter 3

Examples of Official Documents that Advocate Aboriginal Autonomy Include the Following:

Australian Catholic Bishops. 1988. *Pastoral Letter*, January. In *A Spirituality of Catholic Aborigines and the Struggle for Justice.*, 102. Aboriginal and Torres Strait Islander Apostolate(ATSIA): Catholic Archdiocese of Brisbane (1993).

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Key Issue Paper 1. *Understanding Country*: *The Importance of Land and Sea in Aboriginal and Torres Strait Islander Societies.* Prepared by D. Smyth.

Key Issue Paper 5. *Addressing Disadvantage: A Greater Awareness of the Causes of Indigenous Australians' Disadvantage.* Prepared by B. Davidson and C. Jennett.

Key Issue Paper 6. *Responding to Custody Levels: A Greater Community Response to Addressing the Underlying Causes.* Prepared by D. Hollinsworth, L. McNamara, J. Sutherland, and K. Kemp.

Key Issue Paper 7. *Agreeing on a Document: Will the Process of Reconciliation be Advanced by a Document or Documents of Reconciliation?*.Prepared by F. Brennan.

Key Issue Paper 8. *Controlling Destinies*: *Greater Opportunities for Indigenous Australians.* Prepared by F. Brennan, M. Davis, S. Greer, M. Brady, S. Pritchard, and J. Sutherland.

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NRRCADC, generally, especially chap. 20 in Vol. 2, and chap. 27 in Vol. 4.

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Examples of Academic Works that Advocate Aboriginal Autonomy Include the Following:

Altman, J. C., ed. 1991. *Aboriginal Employment Equity by the Year 2000*. Research Monograph no. 2. Canberra: Academy of the Social Sciences in Australia, Centre for Aboriginal Economic Policy Research, ANU, 172.

Beck, E. J. 1985. *The Enigma of Aboriginal Health: Interaction Between Biological, Social, and Economic Factors in Alice Springs Town-camps*. Canberra: AIAIS, 115.

Brennan, F., J. Egan, and J. Honmer. 1984. *Finding Common Ground*. Blackburn: Dove Communications, especially 43-4 and 58-64.

_____. 1991. *Sharing the Country: The Case for an Agreement Between Black and White Australians*. Ringwood: Penguin Books, especially 43-52.

Fletcher, C., ed. 1994. *Aboriginal Self-Determination in Australia*. AIATSIS Report Series. Canberra: Aboriginal Studies Press, generally.

Hazlehurst, K. M. 1994. *A Healing Place: Indigenous Visions for Personal Empowerment and Community Recovery*. Rockhampton: Central Queensland University Press, 9.

Hunter, E. 1993. *Aboriginal Health and History: Power and Prejudice in Remote Australia*. Melbourne: Cambridge University Press, 224.

Rowley, C. D. 1986. *Recovery: the Politics of Aboriginal Reform*. Ringwood: Penguin Books, 133-52.

Sullivan, P., ed. 1996. *Shooting the Banker: Essays on ATSIC and Self-Determination.* Darwin: North Australia Research Unit, ANU, generally.

Sykes, R. 1985. Implications for Criminal Justice Policy for Studies in Justice. In Hazlehurst, *Justice Programs*, 22-8.

Tonkinson, R., and M. Howard, eds. 1990. *Going it Alone: Essays in Honor of Ronald and Catherine Berndt..* Canberra: Australian Institute of Aboriginal and Torres Strait Islander Studies, Aboriginal Studies Press, especially R. Tonkinson and M. Howard, 'Aboriginal Autonomy in Policy and Practice: an Introduction', 67-81.

Appendix to Chapter 4

A. Recommendations of the SADVC 1987 Pertaining to Aboriginal South Australians

(Following each recommendation is the 1992 Audit's category for its implementation status, *viz.* 'outstanding', 'in progress', 'completed': DVPC and DVPU, *op. cit.* Note that 'outstanding' here means 'not done'.)

7. That funds be made available to the Aboriginal Sobriety Group to enable them to proceed with the proposal to establish a women's shelter at Alberton. This should be the top priority for the Supported Accommodation Assistance Program for 1988/89. (completed)

8. That an allocation of funds be made available for the establishment of Aboriginal shelters in country areas where no existing shelter service is available. (in progress)

9. That where existing shelters are available in country areas and there is a large percentage of Aboriginal people resident in that area, at least one Aboriginal person be employed with that shelter. (completed)

10. That where shelter services are providing child care and other services for children which includes Aboriginal children, that Aboriginal staff be employed to work with those children. (in progress)

11. That the Aboriginal Child Care Agency to be given assistance to establish a child care centre which can provide a wide range of services for Aboriginal children. With the breakdown of the extended family support network, it is vital that immediate consideration be given to the establishment of alternative child care services. (outstanding)

12. That all services established to cater for Aboriginal children include a component of their service which facilitates domestic violence services, and that these services be broad enough to provide counselling, support, education, prevention, accommodation and referrals. (outstanding)

13. That the Aboriginal Housing Board and the S.A. Housing Trust be approached to develop a policy which gives priority consideration to applicants who are victims of domestic violence and who:

.   have custody of children;
.   are referred for emergency housing by a domestic violence service.
    (completed)

14. That, where damage to S.A. Housing Trust accommodation occurs as a result of domestic violence and the tenant is not the party responsible for the damage, every attempt be made to ensure costs are recovered from the appropriate person. (completed)

15. That the Aboriginal Housing Board give priority consideration to allocation of shelter housing in those country areas where currently no shelter service exists, e.g. Coober Pedy. (outstanding)

16. That, where victims of domestic violence obtain alternative accommodation within the services offered by the S.A. Housing Trust accommodation and where the victim wishes to remain in the house, transfer of tenancy be negotiated and alternative accommodation be offered to the perpetrator. (completed)

17. That staff (of the Housing Trust) who work directly with clients be trained to understand the domestic violence issues. (in progress)

18. That the Education Department incorporate into the school curriculum a program which encourages children to develop alternative skills to enable them to handle situations of conflict. (in progress)

19. That the Education Department incorporate into the school curriculum a program of awareness on domestic violence issues. (in progress)

20. That the Education Department ensure access for all students to adequate counselling referral services where domestic violence may be an issue confronting any child. (completed)

21. That Aboriginal Adult Education programs incorporate into their services adequate counselling and referral services for student victims of domestic violence.(outstanding)

22. That the T.A.F.E. Colleges' Aboriginal section be approached to develop a specific program targeted towards meeting the education and development needs of Aboriginal women. (outstanding)

23. That education/training facilities teaching professionals incorporate into their programs a specialist section on an Aboriginal perspective on domestic violence. This specialist section to be included in training for doctors, lawyers, social workers, teachers, etc. (in progress)

24. Employment programs specifically aimed at encouraging Aboriginal women into the work-force should be given a high priority. (outstanding)

25. A Community Services Order Program should be established for Aborigines with the focus on maintenance of Aboriginal homes and gardens. (completed)

26. Additional funds should be made available for further consultation with the Pitjantjatjara women, the Yalata and Maralinga women and other tribal groups so that the solutions to domestic violence in their communities can be developed by them. (in progress)

(These recommendations are listed in Appendix B, 1-3, of the SADVC.)

B. Public Servants' Comments Pertaining to Aboriginal Domestic Violence Policy

Public Servant 1, female

Oh there are huge problems here concerning our involvement with Aboriginal domestic violence. We can only offer support regarding what Aboriginal workers do. We can't be directive. We have no formal focus for Aboriginal domestic violence, and we have tried unsuccessfully for years to get an Aboriginal member onto our committee, without success. So we have informal ties only with Aboriginal workers. There needs to be a formal strategy for Aboriginal domestic violence. At the moment, Aboriginal men have coopted the politics of this by and large, so that the main thing that the women are saying is 'our men are suffering'.[1]

Public Servant 2, male.

We need to understand why Aboriginal domestic violence is occurring....Why are Aboriginal men killing themselves with drugs and grog, for instance? It has to do with power, and the lack of power. Domestic violence is a reflection of alienation for black men, versus control of white men over their partners. That is, for black men violence is about lack of power. For white men it is about exerting control.

What is your task regarding Aboriginal domestic violence?

In my role assisting organisations develop policies, we have targeted some Aboriginal organisations. But because of cultural sensitivity, we have left it in their hands to shape it up or not. This is as much as we can do. We are much less pro-active with Aboriginal organisations.[2]

Public Servant 3, male

We are developing alternatives to imprisonment group programs for men, both Aboriginal and non-Aboriginal. This will not be available to serious violence offenders such as repeat offenders and child sexual abusers and so on, but up to the discretion of the magistrate, some men found guilty of domestic violence will be scheduled to this program instead of imprisonment. As the RCADC pointed out, many Aboriginal men are in prison for violent crime: 60 percent of those in Pt Augusta prison are there for violent offences. The women don't want the men to be locked up. And prison doesn't stop the violence, it only hardens them further. So they come out and bash the women again. We need preventative strategies for the women's sake.

So this option will become available for both Aboriginal and non-Aboriginal men. Will the program be the same for both groups?

No. We believe that Aboriginal men should not be in the same group as the white men. Aboriginal men need a more traditional approach revolving around issues of spirituality and healing, the earth, the soul. Hence it is not

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[1]PS 1 1993.

[2]PS 2 1993.

appropriate for whites to develop programs for Aboriginal perpetrators. We do though have a non-Aboriginal man and Aboriginal man running these programs for Aboriginal men together at the prison: very exciting stuff!

The main touchstone of your unit's work with white perpetrators is that of their acknowledging responsibility for their violence. Is the factor of responsibility a part of this program for Aboriginal men?

No, it isn't.

Has this kind of program been evaluated? Do you know if it will work?

We have a strong group of Aboriginal people that inform us. Beyond that I don't know. But research into the effectiveness of any male perpetrator programs is very scant, and these programs will be thoroughly evaluated by us soon. The bottom line of any of these programs is the decline in male violence against women in the home.[3]

Public Servant 4, female

The Aboriginal Family Violence Intervention Program had a conference in the Barossa recently. It is best that they run their own programs like that I suppose. It was for Aboriginals only, with whites going only by invite which I suppose is good. It apparently went pretty well. We had some direct input into Aboriginal domestic violence ourselves too. We went to (the Women's Shelter in Adelaide staffed by Aboriginal women for Aboriginal women), for instance, to give talks to the women using that shelter about the cycle of domestic violence, and other information about services.

How did your talks at the shelter go?)

That went pretty well, but we were told by Aboriginal women that we should not have done it because it should have been done by Aboriginal women.

Which Aboriginal women said that?-not their names, but what positions, what status did they hold?

Oh, the Aboriginal women who objected were all bureaucrats, working in government departments.

What did the Aboriginal women who received the talk respond to the talk?

Oh they loved it! They were very positive and enthusiastic about the talk. None of the staff there had told them about the cycle of domestic violence or anything. The women were keen to hear about this and other issues. What shocked me more though was that the staff of Nunga Miminis believed that the women who were there for domestic violence must have done something to deserve to be bashed by their partners. That is, they were blaming the women for being bashed! This is pretty surprising. But it would still be better if it was an Aboriginal woman who was teaching them about the cycle of violence rather than me. I think it would have more impact coming from an Aboriginal person than from a white.[4]

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[3]PS 3 1996.

[4]PS 4 1995.

Public Servant 5, male

Aboriginal victim needs are the same as white victims, because the issues are the same. That is, male control over women is the overriding issue. The main difference is that the violence endured by Aboriginal women is longer and more serious, she is less likely to have had interventions such as counselling, and she is more likely to have less attachment to services, lower levels of trust in them.

What are the implications of this?

It means that Aboriginal women victims are harder to deliver services to, and are more vulnerable to return and receive repeat attacks. This means that she should receive the very best of counselling when she does come into contact with a crisis service such as police, and the service should provide highly reliable and professional care. At the moment, there is an excellent counselling service for most migrant groups, but there is no reliable service specifically for Aboriginal women. We are not happy with the Aboriginal counselling service, especially as they could not offer the spontaneous support so crucial to these women. So we have to refer Aboriginal women to general domestic violence counselling.[5]

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[5]PS 5 1993.

Appendix to Chapter 6

This appendix details more data collected from the service survey.

A. Numbers of Clients

A1. Total Numbers

This includes professional service provider-client interfaces only. Thus it excludes total hotel/football club patrons, total parishioner numbers, total housing trust dwellers, and similar. It includes all parishioners seen in a counselling/outreach capacity by a priest, all 'problem' incidents at football clubs and hotels, all clients seen by a doctor, a lawyer, and similar, during the Survey.

27 percent of total clients documented during the 4 weeks of the survey were Aboriginal, which is a greater rate than the 6.5 percent Aboriginal population of Viewtown.

A complication here is that many services documented their 'violence' clients only. Nearly all services did, however, provide the researcher with an estimate of total Aboriginal and Caucasian clients seen during the 4 weeks. Based on service provider estimates of Aboriginal client visits, there were an estimated 2.4—2.8 contacts per Aboriginal teenager or adult person during the 4 weeks— considered a 'usual 4 weeks' by nearly all participants. However, it is noted that the survey documents the number of client visits, and not the number of individual person numbers. Anonymity and confidentiality renders this unavoidable. Moreover, the primary goal of the survey is to register client *interfaces* with varying services, so this problem does not fully matter.

There were about 0.55—0.6 contacts per Caucasian teenager or adult person during the 4 weeks, also considered 'usual 4 weeks' for Viewtown.

Thus, Viewtown's Aboriginal teenagers plus adults are coming into contact with services somewhere between 3.7—4.7 times the rate of Viewtown's non-Aboriginal teenagers plus adults.[6]:

A2. Numbers of 'Violence' Clients

'Violence' clients in this chapter refers to the total number of clients associated with any physical violence, including domestic, family, and non-domestic, and 'unstated rel' violences. All participating services documented all 'violence' clients. 266 adult clients were suspected or identified to need the service at least partially due to violence, comprising 106 Caucasian women, 49 Aboriginal women, 78 Caucasian men, and 33 Aboriginal men. This is about 3.2 percent of total Caucasian clients, and 7.5 percent of total Aboriginal clients.

Overall, the percentage of 'violence' clients that are Aboriginal is 30.8 percent. When the whole Viewtown is considered, percent estimates of these 'violence' clients seen during the four weeks survey are 1.85 percent of Viewtown's teenage plus adult Caucasian population, and 18.2 percent of the total teenage plus adult Aboriginal population. Thus the Aboriginal rate is 9.8 times greater than the Caucasian rate.

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[6]Note that exact population numbers are withheld here, to preserve place anonymity.
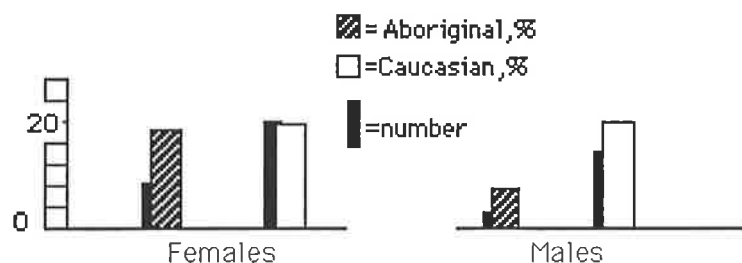
A3. Numbers of Domestic Violence Clients

Among the 'violence' clients, there are 115 domestic violences, being 43 percent of total violences. This includes 56 Caucasian women, 30 Aboriginal women, 21 Caucasian men, and 8 Aboriginal men. Charts 2a and 2b in main text show that Viewtown's Aboriginal population is also over-represented within the 'domestic violence' client category. Indeed, 33 percent of 'domestic violence' clients seen by services during the survey were Aboriginal. When the whole Viewtown teenage plus adult population is considered, percent estimates of these 'domestic violence' clients seen during the four weeks Survey are 0.78 percent of Viewtown's teenage plus adult Caucasian population, and 8.3 percent of the total teenage plus adult Aboriginal population. Thus the Aboriginal rate of domestic violence in contact with a service is 10.6 times greater than the Caucasian rate.

Charts 6.2a and 6.2b (in main text) demonstrate that gender has a greater effect than identity on the likelihood that a 'violence' interfacing with Viewtown services is a domestic violence.

A4. Percent and Numbers of 'Violence' Clients that are 'Family Violence' Clients

25 percent of 'family violence' clients are Aboriginal, which is lower than the overall Aboriginal 'violence' clients rate. When the whole Viewtown teenage plus adult population is considered, percent estimates of these 'family violence' clients seen during the four weeks Survey are 0.36 percent of Viewtown's teenage plus adult Caucasian population, and 2.6 percent of the total teenage plus adult Aboriginal population. Thus the Aboriginal rate of family violence in contact with a service is 7.2 times greater than the Caucasian rate.
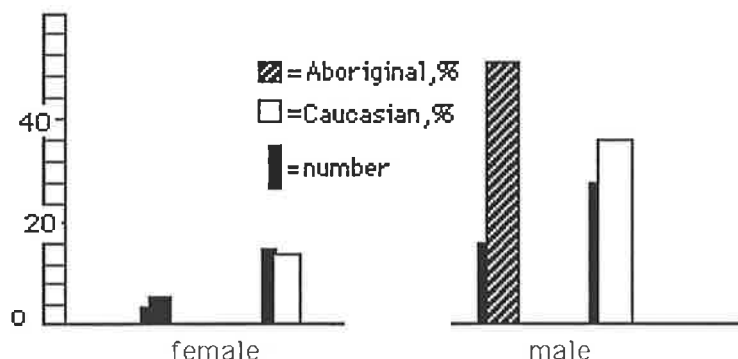
6.9a. Percent and numbers. of 'violence' clients that are 'family violence' clients

A5. Percent and Numbers of 'All Violences' that are 'Non-Domestic Violence' Clients

31 percent of 'non-domestic violence' clients are Aboriginal, which is about the same as the overall Aboriginal 'violence clients' rate, with gender having a great influence on figures here. When the whole Viewtown teenage plus adult population is considered, percent estimates of these 'non-domestic violence' clients seen during the four weeks Survey are 0.44 percent of Viewtown's teenage plus adult Caucasian population, and 4.4 percent of the total teenage plus adult Aboriginal population. Thus the Aboriginal rate is 10 times greater than the Caucasian rate.

6.9b. Percent and numbers of 'all violences' that are 'non-domestic violence' clients

A6. Percent and Numbers of All Violences that are 'Unstated Relationship Violence' Clients

34 percent of the 'unstated relationship violence' clients are Aboriginal. When the whole Viewtown teenage plus adult population is considered, percent estimates of 'unstated/unclear/ unknown relationship violence' clients seen during the four weeks Survey are 0.25 percent of Viewtown's teenage plus adult Caucasian population, and 2.8 percent of the total teenage plus adult Aboriginal population. Thus the Aboriginal rate is 11 times greater than the Caucasian rate.
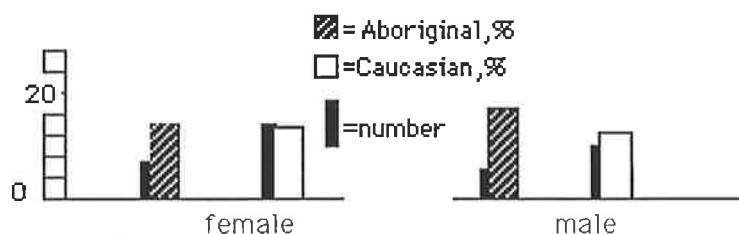
6.9c. Percent and numbers of all violences that are 'unstated relationship violence' clients

B. Type of Service Used

B1. Mainstream or Aboriginal Service?

Note that one of these services, FACS, has 2 Aboriginal social workers on staff, but it is not discernable from the Survey sheets which Aboriginal 'violence' clients saw white or Aboriginal workers. This organisation discerned a total of 3 Aboriginal women and one Aboriginal man as having some association with violence. While these were possibly assisted by an Aboriginal worker, they have been categorised as using a mainstream service.
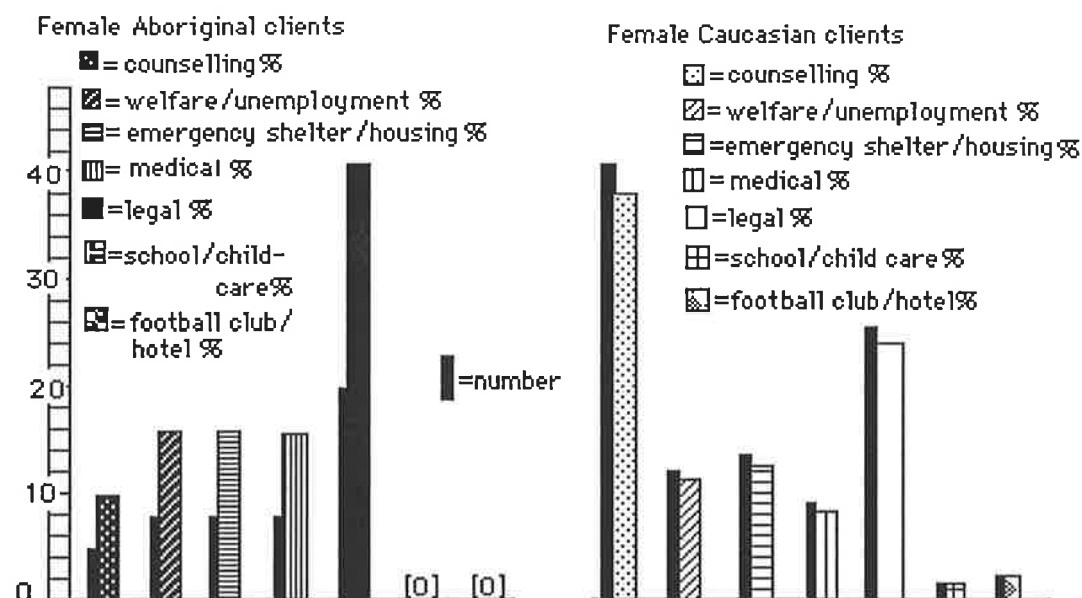
'All violence' clients. The first categorisation involved discerning the distribution of Aboriginal 'all violence' clients between Aboriginal and mainstream services. During the Survey period, mainstream services documented contact with 40 Aboriginal women and 33 Aboriginal men who had some association with violence. The Aboriginal-controlled health service documented 2 women and one man who had some association with violence. Finally, a white-personneled service for Aboriginal people documented 7 contacts with Aboriginal women associated in some way with violence.

B2. Numbers of Clients Using Categorised Services

Categorisation according to 7 broad types of service use was undertaken. Categories are counselling/emotional support, welfare/unemployment/home care, emergency shelter/ government housing, medical, legal, education/child care, and football club/hotel.

'All violence' clients. Clear trends are discernable here, with Aboriginal clients under-represented in the counselling category and over-represented in the legal category, as demonstrated in charts below. Caucasian male 'violence' clients are also more likely to interface with a legal service above all other services, although they are more likely to seek counselling than Aboriginal men. These patterns are similar to with that for domestic violences.

6.10a. Categorised service use, all female 'violence' clients: % distribution and numbers

Female Aboriginal clients
- ⬛ = counselling %
- ▨ = welfare/unemployment %
- ▤ = emergency shelter/housing %
- ▥ = medical %
- ■ = legal %
- ▦ = school/child-care%
- ▦ = football club/hotel %

▮ = number

Female Caucasian clients
- ▦ = counselling %
- ▨ = welfare/unemployment %
- ▤ = emergency shelter/housing%
- ▥ = medical %
- ☐ = legal %
- ⊞ = school/child care%
- ▨ = football club/hotel%

The difference in the rate of female Aboriginal and non-Aboriginal 'violence' clients seeking a counselling service is significant for chi square at 0.01.

6.10b. Categorised service use, all male 'violence' clients: % distribution and numbers
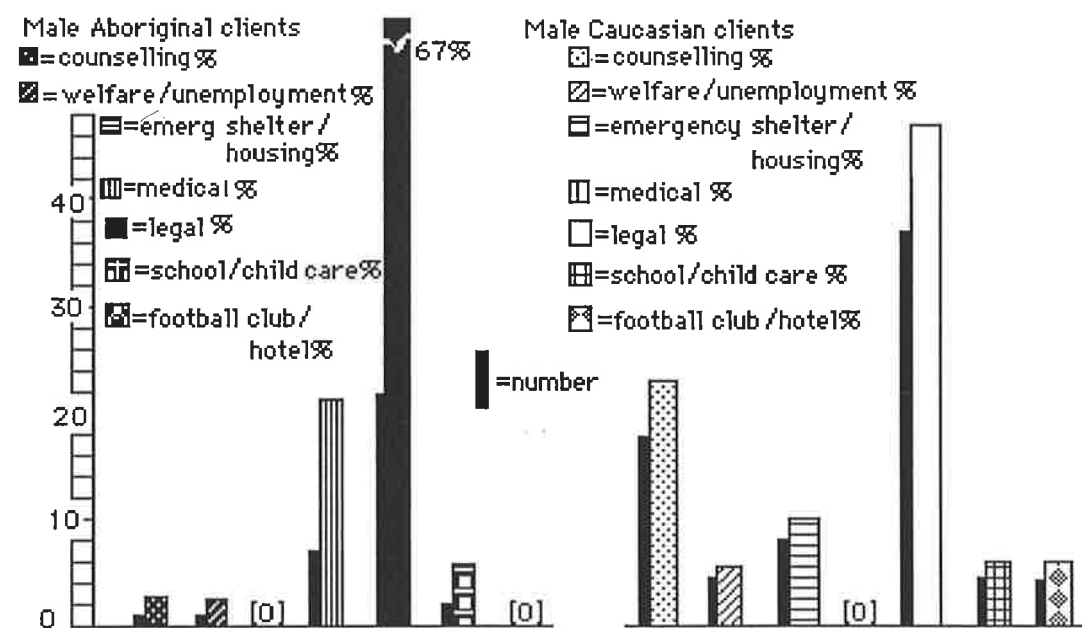
Male Aboriginal clients
- ⬛ = counselling%
- ▨ = welfare/unemployment%
- ▤ = emerg shelter/housing%
- ▥ = medical %
- ■ = legal %
- ▦ = school/child care%
- ▦ = football club/hotel%

67%

▮ = number

Male Caucasian clients
- ▦ = counselling %
- ▨ = welfare/unemployment %
- ▤ = emergency shelter/housing%
- ▥ = medical %
- ☐ = legal %
- ⊞ = school/child care %
- ▨ = football club/hotel%

The difference in the rate of male Aboriginal and non-Aboriginal 'violence' clients seeking a counselling service is significant for chi square at 0.01

C. The 'Violences': Perpetrators and Victims, Severity, Time Span, Associated Factors

C1. Perpetrators and Victims

All violences. Aboriginal and Caucasian female 'violence' clients were mostly victims. For Caucasian women, there were 10 perpetrators, 85 victims, and 4 who were both, meaning that 14 percent Caucasian women clients were perpetrators. For Aboriginal women, there were 43 victims and 2 perpetrators, meaning that 4.4 percent Aboriginal women clients were perpetrators. While men are mostly perpetrators, a significant number of male clients are victims. For Caucasian men there were 48 perpetrators, 19 victims, and 5 who were both perpetrators and victims. For Aboriginal men there were 20 perpetrators, 6 victims, and 4 who were both.[7] So 73.6 percent Caucasian male clients are perpetrators and 33.3 percent are victims. For Aboriginal male clients there are 80 percent perpetrators and 33.3 percent victims. Hence there is no great difference between Aboriginal and non-Aboriginal male 'violence' perpetration/victim ratios among these clients. In sum, Viewtown services come into contact with about 4.8 times more male than female 'violence' perpetrators with about 17.2 percent of perpetrator clients being female. While the figures are low and so reduce statistical significance, data suggests identity differences, with 7.6 percent of Aboriginal, compared to 20.9 percent of Caucasian, 'violence' perpetrators being female.

Services come into contact with about 3.9 times more female than male 'violence' victims. Regarding identity, there are 4.3 times more Aboriginal female 'violence' victims than Aboriginal male victims, and 3.7 times more Caucasian female than male 'violence' victims. Hence, when compared with male rates, there is a higher Aboriginal compared to Caucasian female 'violence' victim rate as well as a lower Aboriginal compared with Caucasian female 'violence' perpetration rate, possibly portraying a picture of greater Aboriginal versus Caucasian female gender vulnerability.

C2. Severity of the Violence

There is little striking difference between 'domestic violences' and 'all violences' severity. There are more 'severe violences' in the domestic violence category, but 'life-threatening/fatal violences' are present in 'all violence' categories only. Also, the rate of sexual violence is higher among 'all violence' compared to the 'domestic violence' category. See charts 6.11a and 6.11b.

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[7]In each identity and gender group, there were clients who were 'observers', or it was not made clear whether they were victims, perpetrators, or 'observers'.

6.11a. Severity of violence, all female 'violence' clients: % distribution and numbers

Female Aboriginal clients
■ =mild physical %
▨ =moderate physical %
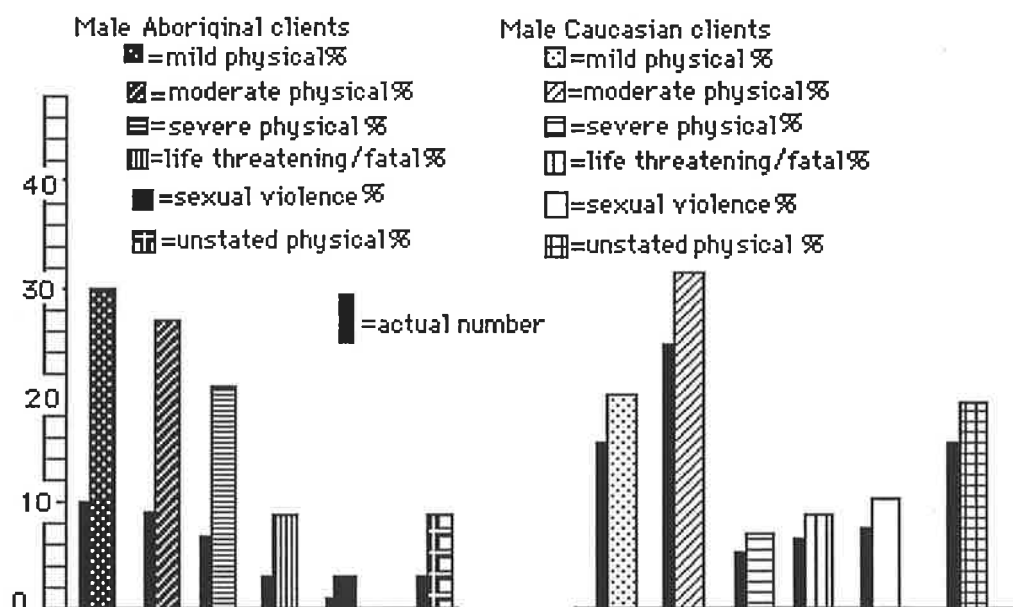☰ =severe physical %
▥ =life threatening/fatal %
■ =sexual violence %
▦ =unstated physical %

Female Caucasian clients
☒ =mild physical %
▨ =moderate physical %
☰ =severe physical %
▦ =life threatening/fatal %
☐ =sexual violence %
▦ =unstated physical %

█ =actual number
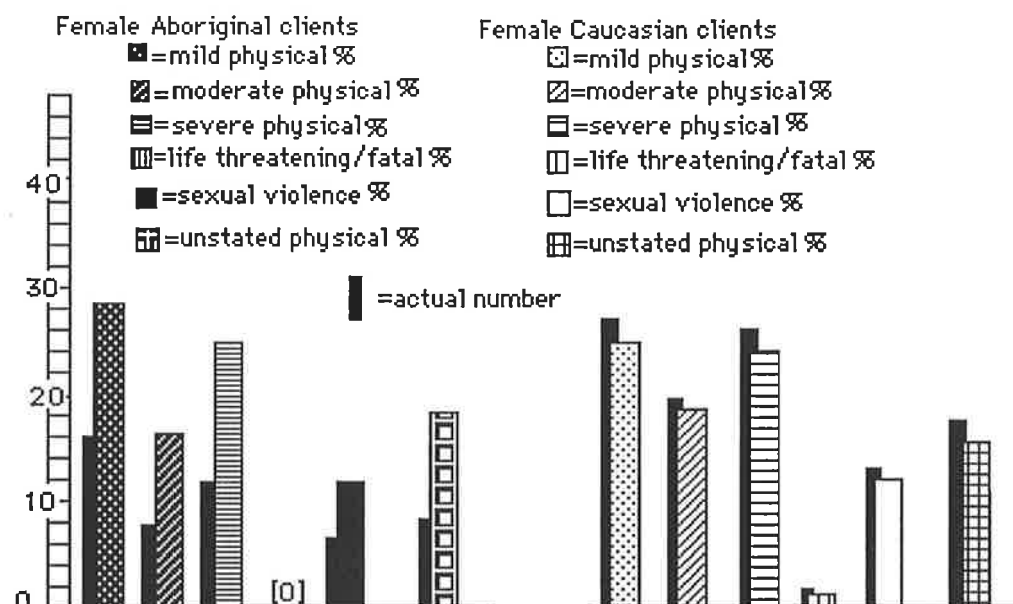
6.11b. Severity of violence, all male 'violence' clients: % distribution and numbers

Male Aboriginal clients
■ =mild physical %
▨ =moderate physical %
☰ =severe physical %
▥ =life threatening/fatal %
■ =sexual violence %
▦ =unstated physical %

Male Caucasian clients
☒ =mild physical %
▨ =moderate physical %
☰ =severe physical %
▦ =life threatening/fatal %
☐ =sexual violence %
▦ =unstated physical %

█ =actual number

C3. Time Span of the Violence

**6.12a. Time span of the violence, all female 'violence' clients:
% distribution and numbers**

Female Aboriginal clients
■=current-one event %
▨=current-several/many events %
⊟=past-one event %
▥=past-several/many events %
■=unstated time scale %

Female Caucasian clients
⊡=current-one event %
▨=current-several/many events %
⊟=past-one event %
⊞=past-several/many events %
☐=unstated time scale %
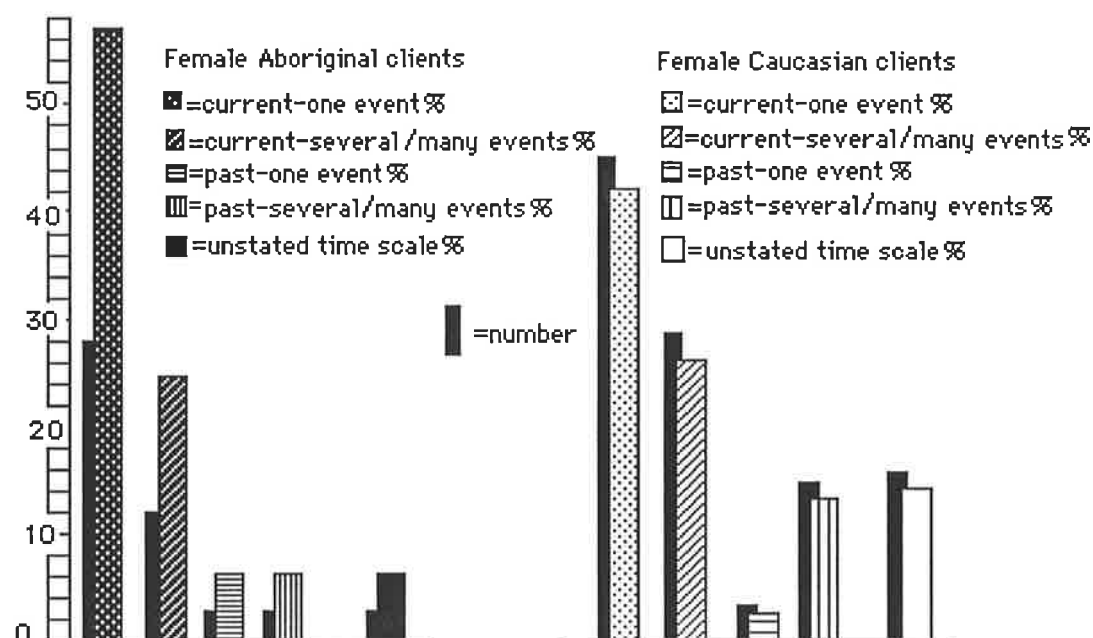
▮=number
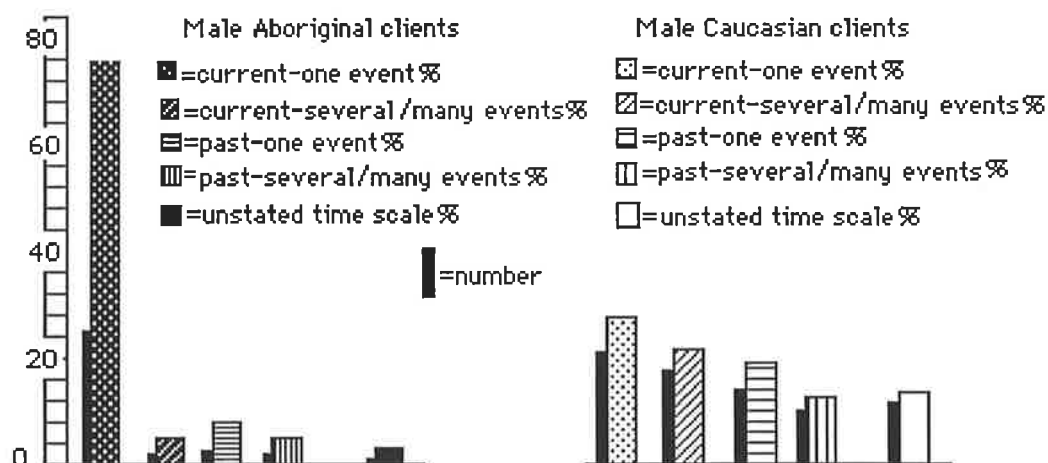
**6.12b. Time span of the violence, all male 'violence' clients:
% distribution and numbers**

Male Aboriginal clients
■=current-one event %
▨=current-several/many events %
⊟=past-one event %
▥=past-several/many events %
■=unstated time scale %

Male Caucasian clients
⊡=current-one event %
▨=current-several/many events %
⊟=past-one event %
⊞=past-several/many events %
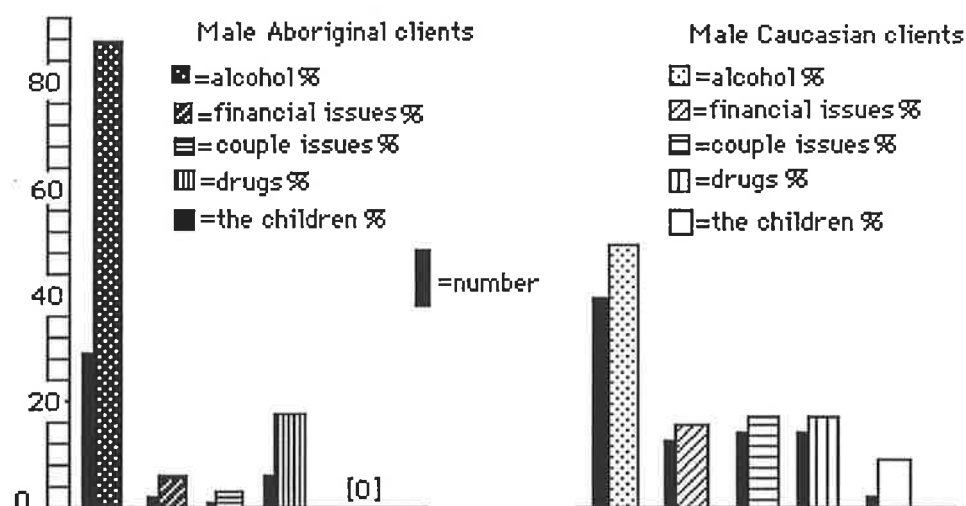☐=unstated time scale %

▮=number

C4. Triggers or Associated Factors

6.13a. Triggers or associated factors, all female 'violence' clients: % distribution and numbers
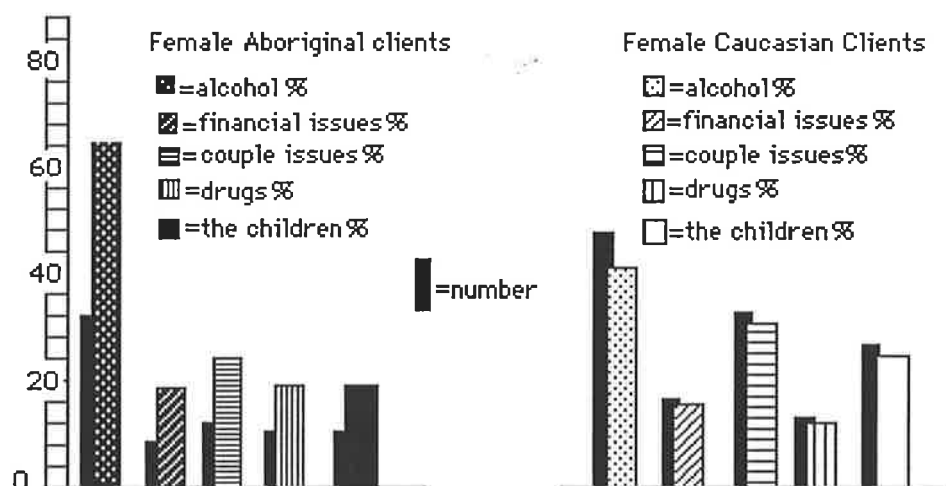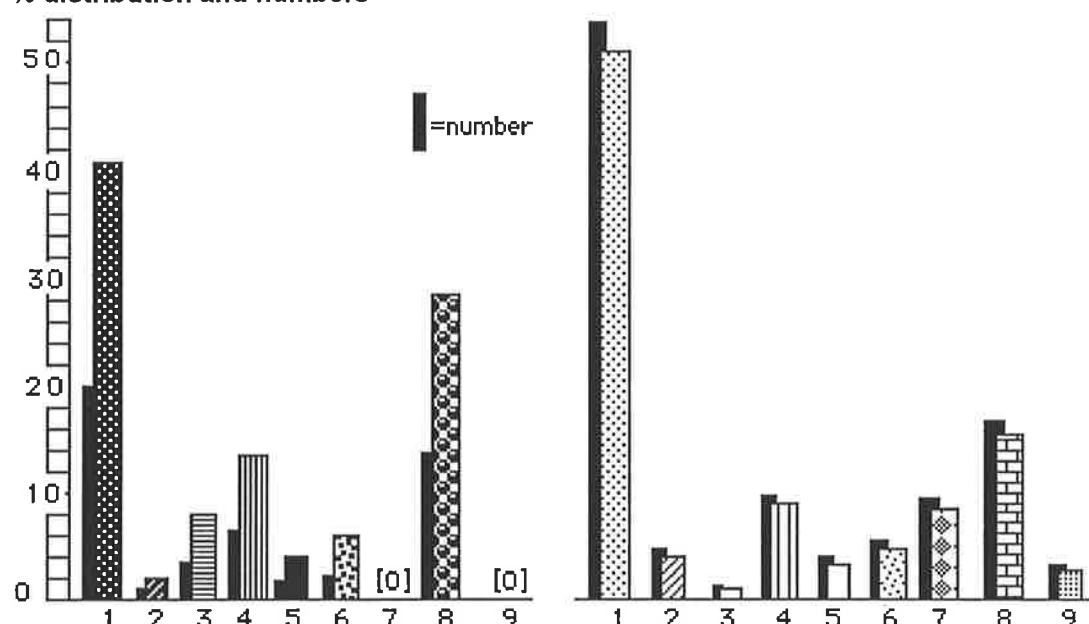

6.13b. Triggers or associated factors, all male 'violence' clients: % distribution and numbers
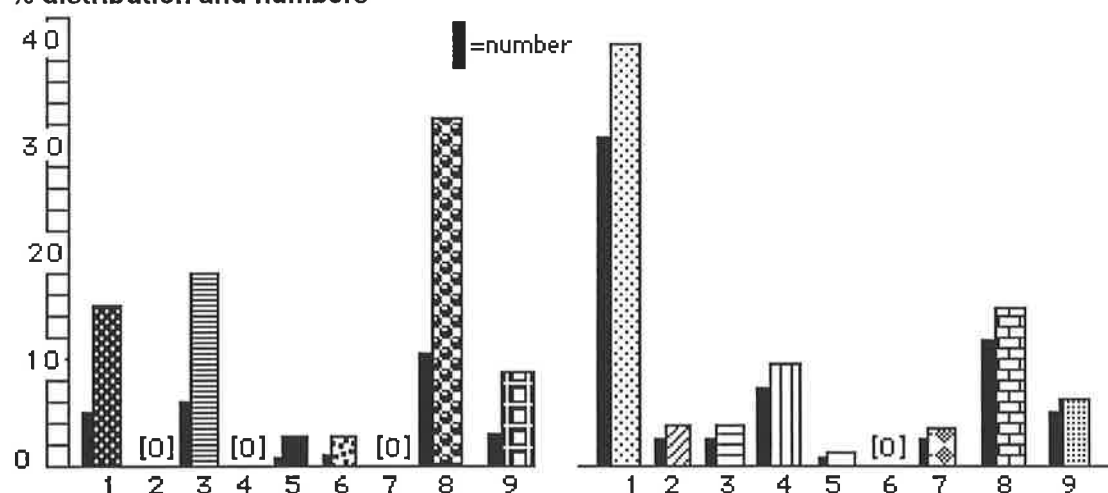
D. Service Responses

6.14a. Service responses, all female 'violence' clients:
% distribution and numbers

6.14b. Service responses, all male 'violence' clients:
% distribution and numbers
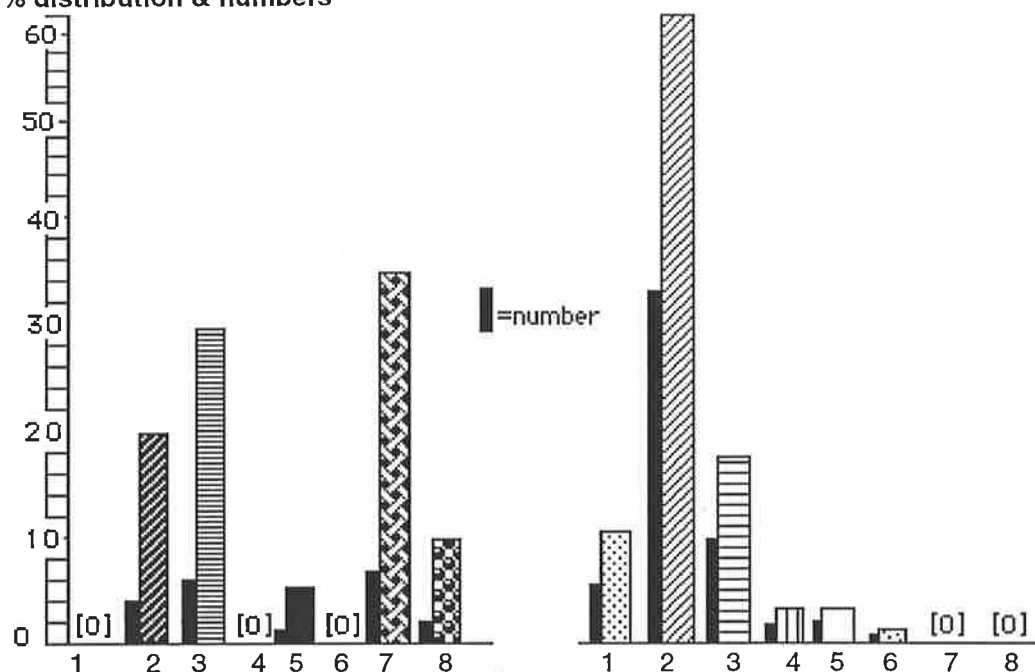

Charts 6.14 a & b Aboriginal clients

1 🎲= poss-definite counselling %
2 ▨ =welfare assistance given %
3 ⊟=medical assistance required %
4 ▥=housing/shelter/transport given %
5 ■=F ACS enquiry/child access/lawyer %
6 🎲=P or V leaves, so NPM %
7 ▨=SPO obtained %
8 🎲=Mild police or court response %
9 🎲=Heavy police or court response %

Charts 6.14 a & b Caucasian clients

1 ⊡= poss-definite counselling %
2 ▨= welfare assistance given %
3 ⊟=medical assistance required %
4 ▢=housing/shelter/transport given %
5 ☐=F ACS enquiry/child access/lawyer %
6 ⊡=P or V leaves, so NPM %
7 ▨=SPO obtained %
8 ⊞=mild police or court response %
9 ⊞=heavy police or court response %

The difference in the rate of female Aboriginal and non-Aboriginal 'violence' clients receiving a counselling response is not significant. The difference in the rate of male Aboriginal and non-Aboriginal 'violence' clients receiving a counselling response is significant for chi square at 0.01.

6.15a. Counselling response by type, all female 'violence' clients: % distribution & numbers

6.15b. Counselling response by type, all male 'violence' clients: % distribution & numbers
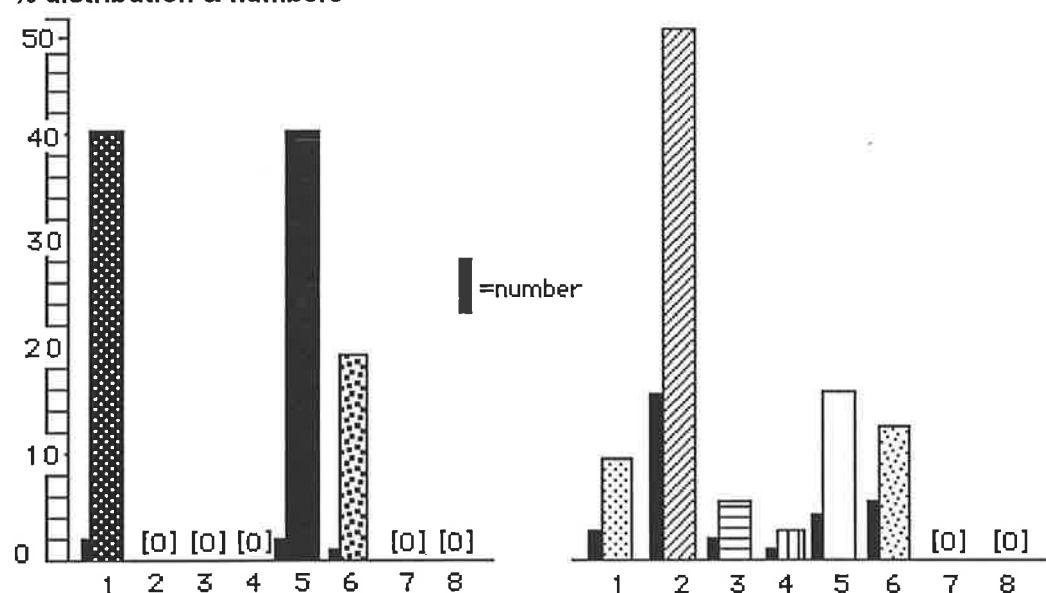
Charts 6.15 a & b Aboriginal clients

1 ▨ = one-off counselling-mainstream %
2 ▧ = ongoing counselling-mainstream %
3 ▤ = couns poss/referred to-mainstream %
4 ▥ = one-off counselling-legal service %
5 ■ = ongoing counselling-legal service %
6 ▦ = couns poss/referred to-legal service %
7 ▨ = white counsellor for Ab'l clients %
8 ▨ = Ab'l counsellor for Ab'l clients %

Charts 6.15 a & b Caucasian clients

1 ▨ = one-off counselling-mainstream %
2 ▧ = ongoing counselling-mainstream %
3 ▤ = couns poss/referred to-mainstream %
4 ▥ = one-off counselling-legal service %
5 □ = ongoing counselling-legal service %
6 ▨ = couns poss/referred to-legal service %
7 ▨ = white counsellor for Ab'l clients %
8 ▨ = Ab'l counsellor for Ab'l clients %

Appendix to Chapter 7

This appendix details more data on police-attended incidents.

A. Numbers of Attended Incidents

A1. Total Number Trends: Factoring for Relationship and Place

Chart 7.1 and the data below illustrate percent changes per head of population, so actual changes have been adjusted to account for total Viewtown population increase, by multiplying the 1994 figures by the factor of 0.885.

Chart 7.1. % change in numbers of incidents attended by police over four years, categorised incidents
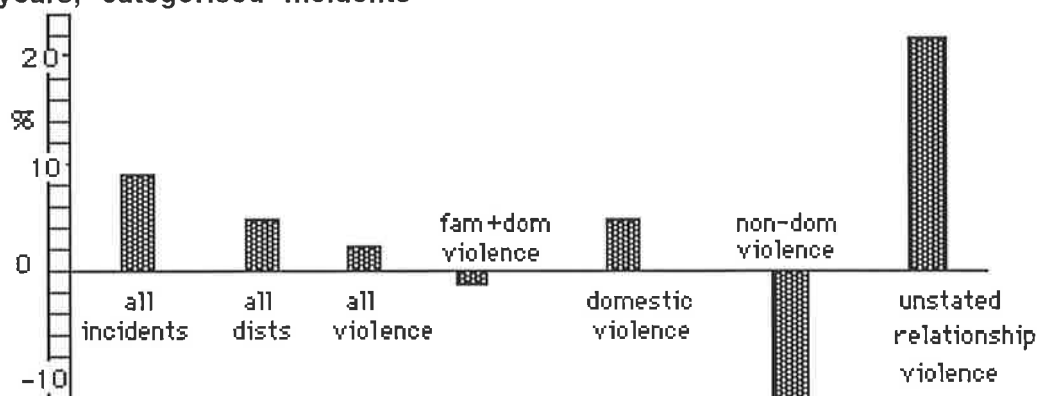
i- The total incidents attended by police for the 8 months 1990-1 research period equalled 2902, and for the 8 months 1994 research period, there were 3817 incidents, = population-adjusted 9 percent increase.

ii- Total attendances to all disturbances including property damage, drunkenness, self-injury, all physical violence, number 663 in 1990-1, and 788 in 1994, = population-adjusted 5 percent increase.

iii- Total attendances to physical violence number 491 in 1990-1991, and 573 in 1994, = population-adjusted 3 percent increase.

iv- Attendances to family (non-couple) plus domestic violence in all places number 137 in 1990-1991, and 153 in 1994, = population-adjusted 1 percent decline.

v- Attendances to family (non-couple) violence in all places number 62 in 1990-1 and 64 in 1994, = population-adjusted 11.5% decline.

vi- Attendances to domestic violence in all places number 75 in 1990-1 and 89 in 1994, = population-adjusted 5 percent increase.

vii- Attendances to non-domestic violence number 178 in 1990-1 and 176 in 1994, = population-adjusted 12 percent decline.

viii- Attendances to unstated relationship violence number 176 in 1990-1 and 244 in 1994, = population-adjusted 22.5 percent increase.

A2. Factoring for Identity, Relationship and Place

Charts 7.2, 7.3 and 7.4, and the data below illustrate percent changes per head, so percent changes are adjusted for population increase. These percent adjustments are made separately for identity, due to differing population growth rates. For Aboriginal data, the 1994 figures are multiplied by 0.750; for non-Aboriginal data, by 0.8934.

i- For all disturbances including property damage, drunkenness, self-injury and all physical violence, police attendance at Aboriginal events numbered 213 in 1990-1, and 329 in 1994, which is a population-adjusted increase of 16 percent over the 4 years. Non-Aboriginal events numbered 459 in 1990-1 and 481 in 1994, a population-adjusted decrease of 6.5 percent over the 4 years.

ii- For all home-place disturbances including property damage, drunkenness, self-injury and all physical violence, police attendance at Aboriginal events numbered 109 for 1990-1, and 186 for 1994, which is a population-adjusted increase of 28 percent over the 4 years. Non-Aboriginal events numbered 244 for 1990-1 and 268 for 1994, a population-adjusted decrease of 2 percent over the 4 years.

iii- For all public place disturbances including property damage, drunkenness, self-injury and all physical violence, police attendance at Aboriginal events numbered 100 for 1990-1, and 143 for 1994, which is a population-adjusted increase of 7 percent over the 4 years. Non-Aboriginal events numbered 204 for 1990-1 and 204 for 1994, a population-adjusted decrease of 10.5 percent over the 4 years.
(note: 'ii +iii' figures total less than 'i' figures, due to incidents occurring in 'unstated' places.)

iv- For total violences, VIAAP incidents numbered 160 in 1990-1 and 244 in 1994, which is a population-adjusted increase of 14.5 percent over the 4 years. VINAAP incidents numbered 331 in 1990-1 and 329 in 1994, a population-adjusted decrease of 11 percent over the 4 years.

v- For family (domestic plus other relationship) violence, VIAAP incidents numbered 31 for 1990-1, and 64 for 1994, which is a population-adjusted increase of 55 percent over the 4 years. VINAAP incidents numbered 106 for 1990-1 and 89 for 1994, a population-adjusted decrease of 25 percent over the 4 years.

vi- For domestic violence in all places, VIAAP incidents numbered 13 for 1990-1 and 29 for 1994, which is a population-adjusted increase of 67.5 percent over the 4 years. VINAAP incidents were 62 for 1990-1 and 60 for 1994, a population-adjusted decrease of 13.5 percent over the 4 years.

vii- For home-place domestic violence, VIAAP incidents numbered 10 for 1990-1 and 22 for 1994, which is a population-adjusted increase of 65 percent over the 4 years. Police-attended 'non-Aboriginal' events were 52 for 1990-1 and 47 for 1994, a population-adjusted decrease of 19 percent over the 4 years.

viii- For non-domestic violence, VIAAP incidents numbered 58 for 1990-1, and 69 for 1994, which is a population-adjusted decrease of 11 percent over the 4 years. VINAAP incidents numbered 120 for 1990-1 and 107 for 1994, a population-adjusted decrease of 20.5 percent over the 4 years.

ix- For 'unstated relationship' violence, VIAAP incidents numbered 71 for 1990-1, and 111 for 1994, which is a population-adjusted increase of 17 percent over the 4 years. VINAAP incidents numbered 105 for 1990-1 and 133 for 1994, a population-adjusted increase of 13 percent over the 4 years.

B. Trends in Arrest-Detention Responses

Factoring for Identity, Relationship, and Place

i- For all disturbances including property damage, drunkenness, self-injury and all physical violence, an arrest-detention response occurred in 36 (17 percent) Aboriginal cases for 1990-1, and 35 (10.5 percent) in 1994. For non-Aboriginal cases, the figures are 52 (11.5 percent) in 1990-1, and 48 (10 percent) in 1994.

ii- For all home-place disturbances including property damage, drunkenness, self-injury and all physical violence, an arrest-detention response occurred in 20 (18.5 percent) Aboriginal cases for 1990-1, and 18 (9.5 percent) cases for 1994. For non-Aboriginal cases, the figures are 24 (10 percent) for 1990-1, and 19 (7 percent) for 1994.

iii- For all public-place disturbances including property damage, drunkenness, self-injury and all physical violence, an arrest-detention response occurred in 14 (14 percent) Aboriginal cases for 1990-1, and 16 (11 percent) cases for 1994. For non-Aboriginal cases, the figures are 28 (13.5 percent) for 1990-1, and 28 (13.5 percent) for 1994.

iv- For all violences, an arrest-detention response occurred in 31 (19.5 percent) VIAAP incidents for 1990-1, and 27 (11 percent) cases for 1994. For VINAAP incidents, the figures are 31 (9.5 percent) for 1990-1, and 33 (10 percent) for 1994.

v- For all family (includes domestic plus other relationship) violence, an arrest-detention response occurred in 4 (13 percent) VIAAP incidents for 1990-1, and 6 (9.5 percent) cases for 1994. For VINAAP incidents, the figures are 12 (11.5 percent) for 1990-1, and 14 (15.5 percent) for 1994.

vi- For domestic violence, an arrest-detention response occurred in 3 (23 percent) VIAAP incidents for 1990-1, and 3 (10 percent) cases for 1994. For VINAAP incidents, the figures are 4 (6.5 percent) for 1990-1, and 5 (8.5 percent) for 1994.

vii- (All of the domestic VIAAP incidents resulting in arrest-detention were home-place cases. For the domestic VINAAP incidents, 5 in 1990-1, and 4 in 1994, were home-based cases.)

viii- For non-domestic violence, an arrest-detention response occurred in 9 (15.5 percent) VIAAP incidents for 1990-1, and 10 (14.5 percent) cases for 1994. For VINAAP incidents, the figures are 13 (11 percent) for 1990-1, and 10 (9.5 percent) for 1994.

ix- For 'unstated relationship' violence, an arrest-detention response occurred in 17(24 percent) VIAAP incidents for 1990-1, and 7(6.5 percent) cases for 1994. For VINAAP incidents, the figures are 11(10.5 percent) for 1990-1, and 10 (7.5 percent) for 1994.

C. Victims and Complainants in Viewtown

C1. Police Response to Victims

The charts below illustrate numerical trends in police responses to victims of violence.
Total 'Aboriginal SPOs' for 1990-1 consisted of 2 'breaches', and 2 'mights';
for 1994, 5 'refusals'.
'Non-Aboriginal SPOs' for 1990-1 consisted of 11 'breaches', 4 'refusals', 4 'mights', 6 'acceptances', and 2 'SPO terms too limited: fails to work';
for 1994, 5 'breaches', 1 'refusal', 5 'mights', 2 'acceptances', and 3 'SPO terms too limited: fails to work'.

Charts 7.10. Numbers of police responses:

7.10 (a) to victims of all disturbances
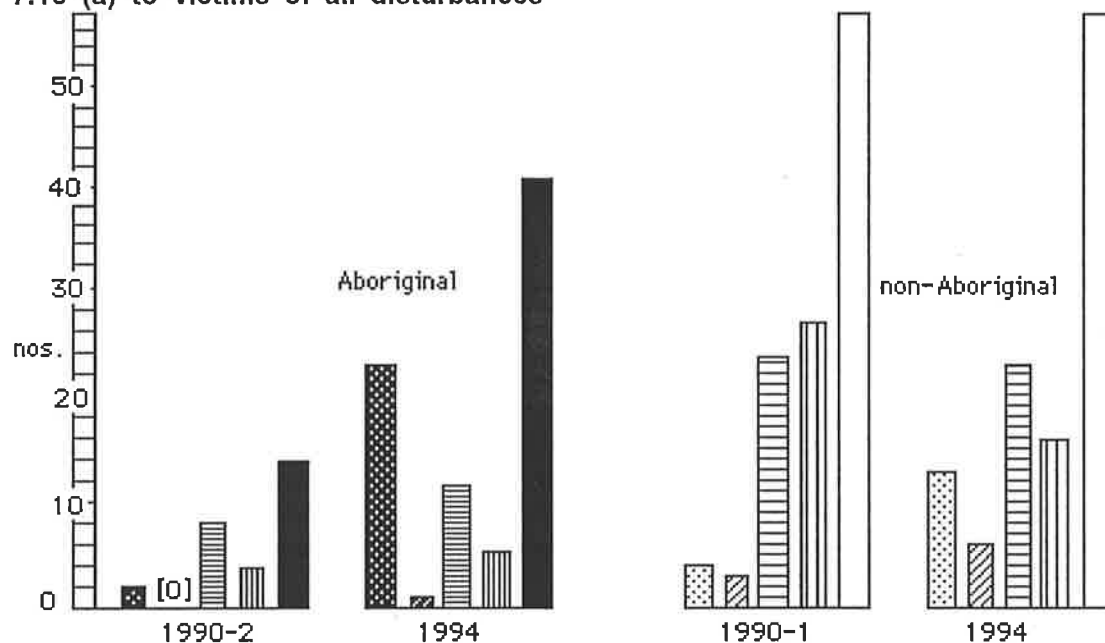
7.10 (b) to victims of family plus domestic violence

Aboriginal victims

■ = to another house
▨ = to women's shelter
▤ = assisted/advised/referred
▥ = SPO offered/exists
■ = total

non-Aboriginal victims

⊡ = to another house
▨ = to women's shelter
▤ = assisted/advised/referred
▥ = SPO offered/exists
☐ = total
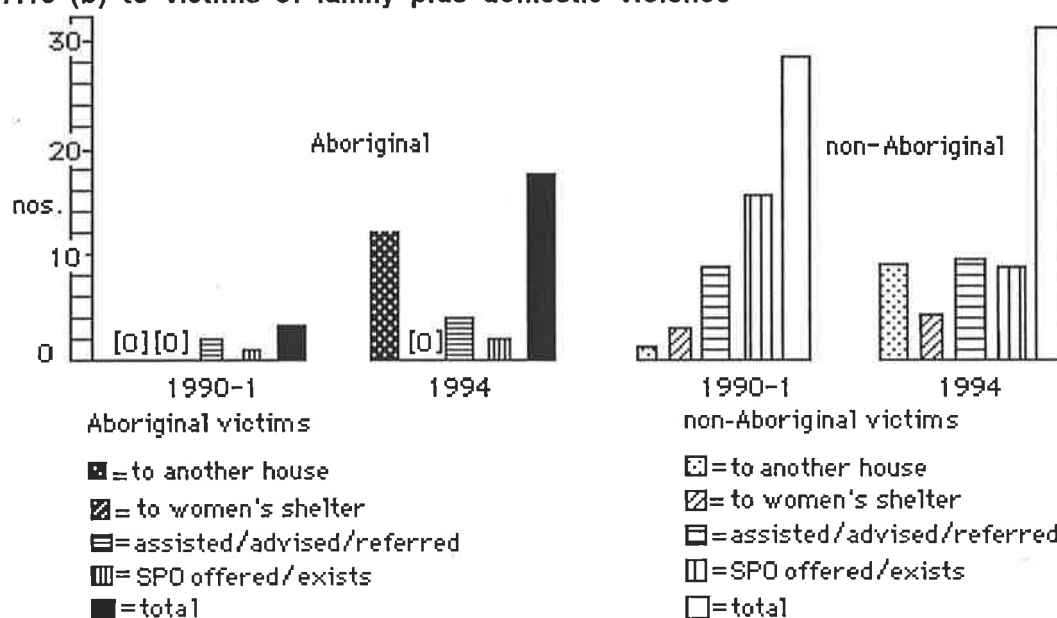
C2. Changes in Complainant Type Between 1990-1 and 1994

Chart 7.11. Relationship of complainant to non-Aboriginal domestic/family incident

Group (a)
⊡=male victim
⊟=female victim
☐=family member
⊞=neighbour for the victim

Group (b)
⊞=neighbour 'reporting'
⊠=welfare/police/security 'reporting'
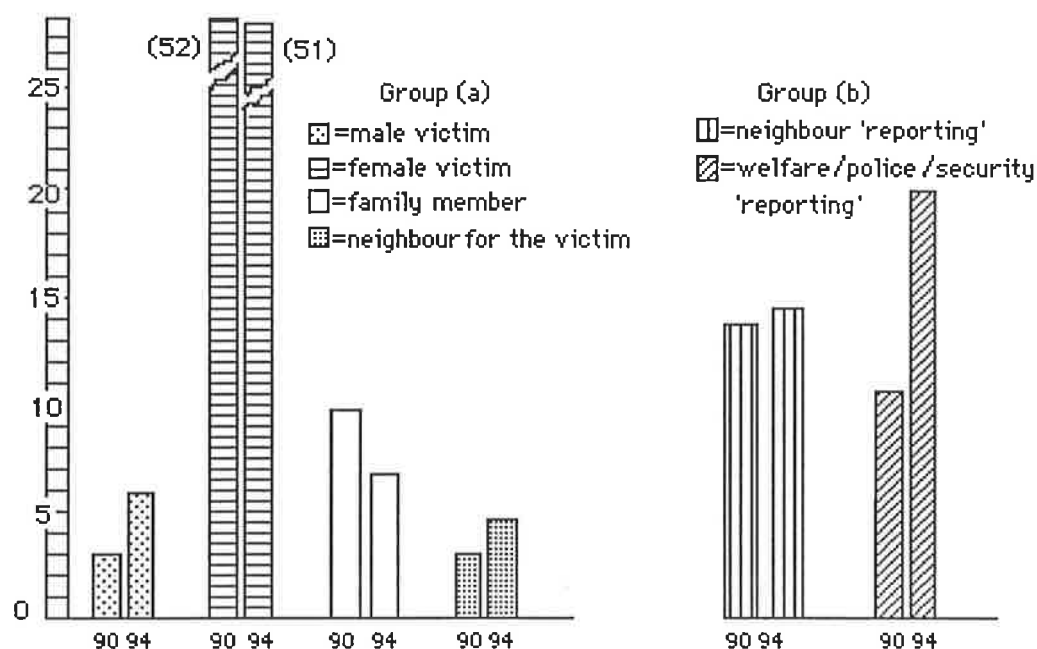
Figures for Chart 7.11

	1990-1	1994
Complainant group (a)		
-Male victim	3	6
-Female victim	52	51
-Family member or friend	10	7
-Neighbour for the victim	3	5
Complainant group (b)		
-Neighbour 'reporting'	14	15
-Welfare/patrol/security	12	21

For Aboriginal domestic plus family incidents, between 1990-1 and 1994 the change in the rate of a complainant being of group type (a), versus group type (b), is significant for chi square at 0.01.

For non-Aboriginal domestic plus family incidents, between 1990-1 and 1994 the change in the rate of a complainant being of group type (a), versus group type (b), is not significant.

Appendix to Chapter 8. Additional Interview Extracts

Group 1. Viewtown Aboriginal Service Provider Attitudes

Female worker:
We believe we have a responsibility to interfere, so we go down to where she and her boyfriend live and tell him that if he bashes our niece, he has all her family to face, and he must stop bashing her or clear out....It's starting to work. He's really settling down and causing far less trouble now and he's probably stopped bashing her altogether, so we find this family interference very effective. Its our way, that's how we feel about each other: we can't sit by and let a member of our family get hurt....We give family obligations a very high priority. Funerals, for instance...if you don't go to their funeral, they'll not be too happy at all with you.

Researcher: What will they do? not talk to you? tell you off?

No, heaps worse than that! They'll crash you, that's for sure! Not relatives here in Viewtown or the other cities, but relatives in the more traditional lands, they will, for sure— you just HAVE to go to funerals.

Male worker:
You Westerners*, you and your family interference is what causes so much family fighting. You're always living in each other's pockets, interfering in family affairs that shouldn't be your affair. Your way is what causes all the trouble. Us locals don't live like that, and we couldn't stand to live that blackfella way....We couldn't stand it, it would drive us all mad. If I see a niece or some other relative of mine being bashed around by a boyfriend, say here on these steps, I'd just walk away and ignore them on the principle that 'she's made the bed, she's got to sleep in it now'. Yes, it's their problem, not mine, and I really believe that this is the right attitude to take.[1]
(*Aboriginal people from Western Australia)

Group 2. 'Ordinary' Aboriginal Viewtowner Attitudes

(The following extracts i-v occurred at the Aboriginal Women's Place.)

i. *Young woman*
Did you see 'May' and 'Paul' fighting about who is the father of her baby? ...And what about the fight at the pub the week before last? The women were pretty silly trying to solve problems when the men were all drunk....How about the barman, he got pretty upset when the fight started didn't he? I saw 'Frank' bash the barman up for that![2]

---

[1]July a.6 1994

[2]April a.5 1994. This conversation was rapid and intense in its interruptions and 'gaffaws'.

ii. *Mature woman*

The whites were in the fights in a big way too on Saturday night weren't they! What about the big argument between the 'Point Steele' and local players! Oooh!! The nungas though were really into it that night weren't they! Plenty of fighting that night outside the pub! We watched it from our car![3]

iii. *Young woman*

'Angela' was in the front seat-she was drunk, arguing, fighting with 'Fred' while he drove the car! Then they crashed the car because of her arguing and fighting! Crashed into some building and now someone's in hospital![4]

iv. *Mature woman*

'Ben' couldn't go out fighting on Saturday night! He had a sore wrist and hand so he had to stay home![5]

v. *Mature woman*

'Tom's done something 'wrong way' to the family. He's got it coming to him from his people! So he's not going back there, he's staying away from 'Sandytown' for sure. Because he knows that when he goes there he faces a beating from his family. But it's not right, he should go to 'Sandytown', because he must take what is due to him.[6]

(The following extracts vi-x occurred at the beach.)

vi. *Young woman*

He's late-where is he? I know what's going to happen, I'll sit here getting real drunk waiting for him and then catch a taxi home 'cause he didn't come. He's probably gone off drinking and he'll come here late and drunk, and then come home angry. Then we'll both be home drunk, and we'll have a big punch-up over it.[7]

vii. *Young woman*

This is my brother-in-law. I'm giving him all the care I can give him, as he's just got out of gaol because of a rape charge. But I don't think this was fair. There were 3 men involved in the act, but the girl, well, she was one of those sluts and you couldn't call what happened to her rape. It's not fair that he got charged with rape.[8]

viii. *Young woman*

I saw 'Polly' knock on 'Sandra's' door to find her 'at it' with some new fella! Sandra's man gonna be mad if he finds out! He's gonna be pretty shirky if that comes out! That other fella's gonna get a punch-up from 'Steve'![9]

---

[3]May c.31 1994. This conversation triggers hearty laughs.

[4]July a.5 1994. General laughter at this tale.

[5]*ibid* She laughs as she gesticulates a 'sore wrist' for all to see.

[6]*ibid.* There are nods and words of approval from some women, while others listen in silence.

[7]June b.10 1994 She demonstrates this with her fists, and chuckles a little.

[8]*Ibid.* (same interviewee).

[9]Feb e.16 1995 Several women laugh at this.

ix. *Young woman*

(Whites) get pretty cheeky here like in WA, yeah just like they do in the west!...Well if blacks flog whites, say, if blacks come out of the pub and start flogging whites, those white fellas go off and get the police! can't understand why they'd do that! why do they do that?[10]

x. *Young woman*

When we got to 'Sandytown', 'Claire' wouldn't even ask us in out of the hot car! So there we were, left in a hot car with a hot baby. Auntie would have punched Claire if she knew how she left us in the car.[11]

Group 3. 'Ordinary' White Viewtowner Observations

i.*Young woman:*

'Terence' is very violent against 'Tilly', she often has bruises on her.* There is lots of child abuse and neglect, filth, drinking— her house is appalling. I'm fond of 'Tilly' and care a lot for her just the same....I tried to talk to 'Tilly', ask her why she puts up with it, but it was no use as she saw no way out, and seemed to just put up with it. I know several Aboriginal men who are violent against 'their women', yes that's how they'd talk: 'my man' and 'my woman'....And I often hear them gossip about the beatings, saying 'she deserved what she got.' You hear this kind of talk frequently among them.[12]
(*'Terence' and 'Tilly' are an Aboriginal couple.)

ii. *Mature-age woman*

I'm very concerned about how racist my daughter has become. She even calls them 'boongs' now....I had to transfer my daughter out of the public high school...because of the behaviour of the Aboriginal students....It got really bad in fourth year when for no apparent reason it was "let's get 'Louise' day", just because she's white and pretty I suppose. So when she was alone in the toilets a group of Aboriginal girls ambushed and bashed her up....Now my daughter hates Aboriginal people.[13]

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[10]*ibid.* Here, it was assumed that 'flog' meant 'fight'. This was conveyed back to the interviewee, who responded as if this were the correct assumption. According to a white professional with field experience in Aboriginal terminology, 'flog' for Aboriginal people usually means to assault with a good deal of force.

[11]*ibid.*

[12]November c.11 1994.

[13]Service 13, 1994.

iii. *Young woman*

Shotguns are needed when it comes to Aboriginal people. I'm very frightened of them. They're often violent in the street, throw rocks at you, jump over our fences...enter your house while you're still home. These things all happen to me. They throw rocks at our heads for almost nothing. I wouldn't give one a cigarette at the pub one night, and he came to my front yard two days later and started throwing rocks at my windows. And the thing is you get no protection from the police...oh no. There's two laws in this town, one for the whites and one for the blacks, and its all in the blacks' favour....The police are shit-scared that they'll be had up for racial discrimination nowadays. So the Aboriginal people are above the law now and we're frightened.[14]

iv.*Mature-age man*

There is a different perception about what is your own and what is theirs...its threatening stuff....Two weeks ago I saw a white man bleeding on the side of the road in our street. I quickly took my daughter home first, then I drove him to hospital...face pulverised...drifting in and out of consciousness. I managed to find out from him that he went to the ATM with two Aboriginal friends and withdrew $100, then went to the pub to have a few beers with them. After spending $50, he said he'd spend no more. But they knew he had another $50, and said he had to spend it so they could keep drinking. He refused so they viciously assaulted him.[15]

v.*Middle-aged man*

There was only one incident that ever affected my family. About 5 or 6 years ago at the local fair a group of Aboriginal young men surrounded my son and bashed him. They broke his jaw and this needed a fair bit of work to get it fixed up too....I was tempted to become a racist when this happened like a lot of whites here but my feelings subsided and I knew it was only one incident.[16]

vi. *Elderly woman*

The Aboriginal family there now is a nice one who never give any trouble. But over the years its been terrible. Lots of fights in the streets, including right here in front of this house, where an Aboriginal man bashed an Aboriginal woman to the ground— awful. Lots of fights you can hear coming from their house too, lots of thieving from our garden....Look I don't want to be racist, I really don't! The church is always teaching us to have good values and to care for others, and I try to, so I hate having all these negative feelings about Aboriginals. But I can't stop feeling wary of them, and resentful.[17]

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[14]June a.6 1994.

[15]October a.15 1994. This interviewee had just sent his son to Adelaide to avoid 'payback' from Aboriginal students due to a fight started by Aboriginal students at the school in which both sides sustained injuries. The police advised him not to push for charges, given that the attackers were Aboriginal.

[16]November c.11 1994.

[17]February a.2 1995.

vii. *Elderly woman*

I was at a hotel for dinner about 2 years ago. There, I saw an Aboriginal man beating an Aboriginal woman. One of us went to intervene and the other went to call the police. But the Aboriginal woman yelled at us, 'mind your own bloody business!' which we did. But he was really hitting her, it was dreadful. I felt in a state of confusion about not intervening, and surprised at her anger towards us for attempting to help her.[18]

viii. *Mature-age man*

Aboriginal violence is more visible. They are just very physical, confidently violent, and this really gets alot of us whites scared of them...I experience this fear personally due to my kids, both my girl and my boy. In my son's footy match, the Aboriginal boys play a lot rougher than the white boys, and say if a white boy happens to kick a goal or successfully block an Aboriginal goal, the Aboriginal boy will threaten him with violence. There's a real chance of being beaten up after the match by these disgruntled Aboriginal players too.[19]

ix. *Young woman*

It is very unsafe in the streets because of the Aboriginal people. NEVER go on the street at night by yourself, just don't do it!
...I've had plenty of friends who have been bashed up on the street at night while goingto the shop, by Aboriginals demanding cigarettes or $5 or whatever off you.[20]

x. *Mature-age woman*

I love Viewtown, but I'm going to Adelaide for three reasons, one of them being potential racial violence.
...One person we know received a serious eye injury last Christmas through an attack by an Aboriginal. We hear about some Aboriginal attack among acquaintances every two months or so I suppose.[21]

xi. *Mature-age woman*

I wish I could move out of Viewtown, because I live in fear of Aboriginals due to their behaviour...A couple of summers ago we— my family— were sitting on the beach not far from a large group of Aboriginals. A fight broke out between a man and a woman in the group. The man was bashing the woman up, really hurting her. This upset and frightened all of us, and so we called the police. The police came, but they just watched the fight, didn't do anything about it, didn't intervene at all, just let the man keep on beating up the woman. It was awful. And all we could do was just sit there in fear, too scared to move, in case the Aboriginals realised it was us who called the police: I didn't think we could rely on the police to help us after this. We don't go to the beach in Viewtown anymore because of this experience.[22]

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[18]February f.16 1995.

[19]Service 57, February 1995.

[20]November c.11 1994.

[21]November d.17 1994.

[22]Service 25, September 1994.

Group 4. Professional White Viewtowner Observations

i. *Male medical professional*
With Aboriginal clients, the violence is more physical, with bodily damage resulting. With white clients, there's physical violence too, but its less severe, and it's more likely to be emotional abuse or threatened violence. We don't fully understand Aboriginal violence. Many Aboriginal people don't see it as violence, and we're making cultural judgements here. They resolve their problems through violence.[23]

ii. *Male medical professional*
Aboriginal victims receive far more serious injuries because the men beat the hell out of the women, using no restraint: broken noses, jaws and so on. Also the law, the police, seem more lenient on Aboriginal perpetrators of domestic violence, possibly out of fear of offending cultural boundaries or of being accused of racism. This may contribute to the greater severity of domestic violence committed by Aboriginal men against their partners. [24]

iii. *Female legal professional*
Aboriginal people here have a traditional culture of violence, rendering them more tolerant of higher levels of violence than whites are. Viewtown Aboriginal people still have roots with (the traditional hinterlands), and there, the men believe that they have the right to beat the hell out of their wives.[25]

iv. *Female shelter/housing professional*
Aboriginal domestic violence is worse, and more repetitive, because the men for tribal reasons believe they have more right to be violent and the women are more passive and accepting of the violence....Aboriginal clients are more likely to return to their partner repeatedly, and expect us and the police to keep driving out to rescue them from the same violent partner over and over again.[26]

v.*Male Aboriginal sector professional*
Aboriginal people in Viewtown live in a deep and freezing fear of one another. They are not really afraid of whites. Rather, the shoe is on the other foot: whites live in fear of Aboriginals....Aboriginal people do not regard domestic violence or violence generally as a problem. Violence is just an everyday part of life, and not something that is aberrant and in need of intervention.[27]

vi.*Female Aboriginal sector professional*
You see them coming here and you wonder whether the police are doing anything at all to stop these Aboriginal men from repeatedly beating their women, from treating them so dreadfully. One was in here only yesterday, and she was in a terrible state with clear bruises on her. I don't think the police are doing anything are they? They seem to beat these women over and over and nothing seems to be stopping them.[28]

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[23]Service 16, 1994.

[24]Service 17, 1994: April a.11 1994.

[25]Service 58, 1994.

[26]Service 65, 1993.

[27]Service 43, 1994.

[28]February g.21 1995.

Group 5. On Alienation

i. *White man, Aboriginal service provider*

The Aboriginal community of Viewtown is at base a very unhealthy one—.they could be achieving so much more. The services are here, but their health, the rate of alcohol consumption, their failure to use the health services available to them optimally all reflect a very unhealthy community, and very unhealthy relationships....'Throwing dirt' causes them all to live in fear of each other, and not to trust each other. It happens this way. On the one hand, people are always on the look-out regarding what everyone is doing, in the hope that they'll find out something bad about the other, and then spread it around the town. On the other, people try to cover their tracks, so that people dont find out what they are doing. Its all a competitive power-seeking game, a seeking of political and economic power, and the attempt to prevent someone else from getting some power that you want for yourself. So their gossip is...a malicious and destructive activity. These battles occur between individuals within and between families: complete fragmentation then.[29]

ii. *White man, mainstream service provider*

Noone seems to want to write about how its black against black that holds Aboriginal people down, not white against black. Aboriginal students themselves tell me how they get bashed up if they start to succeed in the white man's world. One young Aboriginal woman told me that a group of her relatives and friends even went to her place of work to bash her up there....The effect of this black versus black, its effect on keeping each other down, is much greater than white racism, and needs some research attention for sure.[30]

iii.*Aboriginal woman*

I've only just discovered at TAFE that I've the ability to make something of my life. My teachers are impressed with my maths and computer skills. I really want an office job, earn good money, make something of myself, put myself first for a change. But when I talk to my family like this, they say I'm sounding like those whitefellas, all this talk about focussing on my own needs and that. They won't back me up on what I want to do. And I need to give up this stuff (she raises her plastic cup of port) if I'm going to make something of myself. I really want to do this, I really want to try, I really hope I've got what it takes.[31]

iv. *Aboriginal man*

I've never been out of a job. I was promoted to foreman and manager at a local factory for 33 years, where I never encountered racism. In fact, I was once unfairly dismissed over some misunderstanding by an Adelaide officer, but all my workmates, all white, threatened to strike unless I was immediately reinstated, which I was....Viewtown Aboriginal people didn't then and still don't like me though, saying I keep away from them because I think I'm superior to them which isn't true. I just didn't have time to mix with them because of my work.[32]

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[29]Service 43, 1994.

[30]Service 63, 1994.

[31]May a.7 1994.

[32]Feb c.7 1995. This man looks 'full-blood' and could in no way 'pass' for white.

v.*White woman*
Aboriginal people only think they're less materialist and selfish than us, but it's just not true. They sure want all those nice things like a nice house, clothes, cars and so on. The difference is they really believe the government owes them everything: house, car, money: without their working for it, because of the bad things that happened to them in the past through white hands....I hear them talk like this all the time amongst themselves in my presence. For instance the Aboriginal father of my children thoroughly feels this way, and gets very angry because he believes the government owes him a living and he shouldn't have to work. They nearly all think this way ...I don't think anything can be done about it anymore, its all too late now I think. They have too strong a 'you owe it to us' welfare mentality by now.[33]

vi.*Aboriginal woman, service provider*
There's so much apathy among Viewtown's Aboriginal people. This means nothing much gets done, little changes for the better. Look at the terrible statistics for Aboriginal Viewtowners— hardly anyone lives beyond 50! It's because the people don't take responsibility for looking after their own health, expect it to look after itself or someone else will for them....(Also) there's many things that need doing for the people, but its only a few families that get the jobs: it's who you know, not whether you can do the job, that counts here![34]

Group 6. CDEP's Impact on Domestic Violence

i.*Male Aboriginal crisis worker a*
Domestic violence is not as bad as it used to be in Viewtown. It was once rife here. But the CDEP has had a very positive impact on the levels of drinking and therefore domestic violence here. This is because they have something to do each week now, and this is having a positive effect on people's behaviour.[35]

ii. *Male Aboriginal crisis worker b*
I've noticed a decline in the incidence and seriousness of domestic violence since the introduction of the CDEP— perhaps the best thing that's happened for Aboriginal people. The men especially have benefitted. Now, they're occupied two days per week, so their week takes shape, boredom, spare time declines, and self-esteem rises as they're earning their living, and working for the community....I really think that the terrible welfare nexus has been broken.[36]

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[33]Feb b.3 1995.

[34]May c.31 1994.

[35]July a.6 1994.

[36]Service 20, 1994.

Group 7. On Female Housing Independence

i. *Young Aboriginal woman.*

I live on my own, a single mum with 2 children. I really like it my own too, because being single means lots of freedom, peace and quiet, a place to retreat at the end of a study day. But I'm finding it hard to protect my much-needed privacy. Relatives, even more distant 'community' people, particularly the young men, come banging on my door any time day and night demanding I give them a place to stay. I nearly always refuse. But they usually cry out 'who d'you think you are that you won't give us a place?' When I refuse again, they start threatening me by wrecking my place, throw bricks through my window. I find this pretty frightening....Yes I call the police but the culprits usually clear off for just a short time, only to return again after the police have gone.[37]

ii. *Older Aboriginal woman.*

I'm new to Viewtown, I came here to be with my daughter. She has a boyfriend here and we're being looked after by his family at their house, but it's no good. No privacy, and if they argue, if the police come for them, we have to put up with that too: its affecting my health. I'm trying to get priority housing so that me, my daughter and her boyfriend can live on our own. I'll get the phone too, to phone the police if we need. The police are really good here in Viewtown.[38]

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[37]August a.12 1994.

[38]July a.6 1994.

Appendix to Chapter 9. Additional interview extracts

Group 1. Aboriginal Visions of Homeland *Arcadia*

i.*Woman*
I am very much for the Homelands movement. It acknowledges our dispossession, it bridges over the barriers between now and what we have lost. It rebuilds family ties, and gives us a chance of self-determination, control over our lives.[39]

ii.*Woman*
Homelands means family unity. It means that the children will have something to call their own. It also means that we can re-establish the old extended family structures through being together more. We will have a place where we can work on and relax together.[40]

Group 2. White Resentment of Special or Separate Aboriginal Services and Treatment

i. *Single mother, low income*
This separation of services, especially where this involves extra assistance to Aboriginal people that poor, equally needy whites cannot get because they are in the wrong race, is increasing racial tension here....Look, I honestly do care about the Aboriginal people and the awful injustice that they've suffered, their hardships, their need for land. But other poor white mums in the housing trust homes around here, I listen to their complaints about bussing to kindy for Aboriginals only and so on, and they've got a point too.[41]

ii. *Female teacher*
In this poor district, there are white families that are as equally under-resourced as the Aboriginal families, and the resulting special needs and behavioural problems of their children seem little different really. So these low-income whites' feelings of resentment about the extra help that Aboriginal families get seem pretty justified. For instance, last year only the Aboriginal session at the kindy got pick-up and drop-off via the bus, even though many white families had no transport either. It was also resented by the whites that the races were separated. Now, while the Aboriginal bus still takes the Aboriginal kids to other places during the day, all, white and Aboriginal kids, attend the same kindy sessions, and all parents now drop off and pick up their own kids for kindy. This has certainly improved race relations in the area, just this little thing.[42]

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[39]Feb c.8 1995.

[40]Feb b.6 1995.

[41]May b.27 1994.

[42]Service 37, October 1994.

iii. Married mother, middle income

Things are not fair for us whites here. You hear about Aboriginal parents with two wage packets and they're still eligible for the school card, just because they're Aboriginal. This year at the high school, they had separate Aboriginal and non-Aboriginal teacher nights: not good in itself. But worse, for the Aboriginal night, they put on a dinner for them, to entice them to come along. For the white parents, all they got was tea and coffee, and when they left the meeting, they found that they had their tyres slashed by Aboriginal students! How was any of this supposed to achieve anything but contribute to poor race relations! They seem to be just plain stupid at that high school to put on separate meetings and special treatment just for the Aboriginal parents. I just don't understand what they are thinking.[43]

iv. Female high school student

Teachers bribe them to go to school by saying that they'll give them lunches and lifts to school if they will not miss a day for a week. That's not fair, we don't get any of that! One teacher had an Aboriginal kid home for tea to get him to come to school- what if we said we wouldn't come to school unless we got the same goodies! I have Aboriginal friends, and its not the Aboriginal kids that are the trouble. It's the different treatment they get that causes us white kids to resent them. I've told the teachers what I think about this and they are not too happy with me because of this.[44]

v. Unemployed female teenager

It's not fair how they get a lot more things than we do. Aboriginals seem to be able to get what they need from the government, all sorts of things for Aboriginal teenagers for instance, that we can't get. Us poor whites are just the forgotten people. Nobody cares about us, and it's not fair.[45]

vi. Single mother, low income, in chronic ill-health

Aboriginal people get much more than us. It's not their fault, it's the government's fault. But it's not fair. Why should we have to pay huge prices for medicines and other things and they get it all for free? Equality based on need is what it should be, not on what colour you are.[46]

vii. Married mother, mature-age, low-middle income

The effects of better services for Aboriginal people is generating increased racial tension in Viewtown....Take my own case. I would dearly love to obtain (a.particular professional qualification). But I have no hope of gaining this because there is no course available for this to whites in Viewtown: only to Aboriginals. I resent very much that if I were an Aboriginal, my career dream would be realised. It really sticks in my throat.[47]

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[43]September a.12 1994.

[44]December e.19 1994.

[45]November a.17 1994.

[46]December c.13 1994.

[47]February c.7 1994.

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