The Politics of Policing Family Violence in New Zealand: An Overview

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Abstract
In 2012, the New Zealand Police introduced a new Family Violence Policy to guide police response to family violence occurrences including a new tool for assessing situational risk factors. The Ontario Domestic Assault Risk Assessment (ODARA) is a 13 item actuarial measure for intimate partner assault recidivism developed in Canada (Hilton, Harris, Rice, Houghton & Eke, 2008). It is crucial to understand how the changes in police policy and procedures that involve ODARA affect the safety and wellbeing of domestic violence victims. Victim safety and protection are policing priorities. The police response and understanding of family violence has changed over the last 40 years from police viewing the domestic incident as a private relationship matter with minimal police intervention, to a criminal investigation developing from the pro arrest strategy (Ford, 1986; Ford, 1993). This paper traces the history of policing policy changes in family violence that led to the introduction of ODARA in 2012. Four key turning points are identified, with the aim of gathering an understanding of how policy emerges in policing family violence.

Keywords: Policing, Family violence, ODARA, Risk assessment, History

Introduction
How police respond to family violence is crucial to the safety and wellbeing of victims, therefore it is imperative that police policy and procedures are effectively protecting victims from harm and holding offenders accountable. The most recent development in nearly four decades of changes in police policy is the introduction of a new risk assessment tool for frontline officers, the Ontario Assault Risk Assessment (ODARA) (New Zealand Police, 2012). Tracing the history of policing policy changes in family violence that led to the introduction of ODARA in 2012, this paper identifies key turning points that show evidence of connections between policing policy, research and social change.

Traditional Approach
Prior to the 1980s policing domestic violence took a minimalist approach as police only intervened if serious physical harm or death had occurred (Ford, 1986). Regarded as a traditional approach, early non-intervention policy was influenced by the public private divide (Edwards, 1989). This divide develops from societal views of women as subordinate in the marital relationship and assumes that what occurs in the home is private (Dobash & Dobash, 1979). Since policing was about the public good and crime against strangers, intimate violence was not a police concern. This is highlighted by the fact that marital rape was legal in New Zealand until 1985 (Adamo, 1989). This form of violence occurred in the home so state intervention was not considered appropriate (Department of Social Welfare, 1980). The public private divide decriminalised domestic violence, due to police treating intimate violence differently from stranger violence. For example, research conducted by New Zealand Police found that police attend domestic violence cases to keep the peace and protect life (Ford & Marsh, 1980), not to investigate a criminal offence.

The impact of the public private divide on the police response suggests that societal norms influence policing. Therefore, the first turning point in the history of policing domestic violence connected with the social context at the time and changes in society during the 1970s and 1980s. For example, in the early 1980s there was more criticism of a non-interventionist police response due to the feminist movement which encouraged speaking out about the reality of domestic violence (Hann, 2001). By 1983, 25 women’s refuges were established across New Zealand whose main aim was to provide protection and safety for victims and bring domestic violence into the public arena.
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The policy was effective and 94% of complainants supported the arrest approach. From this report Ford (1986) recommended that arrest be the first response, complainants should not be required to make an official complaint and where possible not give evidence at a defended hearing. This differs from other offences as generally police take a complaint from a person that then initiated court action against another (Ford, 1986). Therefore, this recommendation suggests police were considering the complexities of domestic violence by acknowledging the victim and offender were not strangers and how their relationship impacted on the prosecuting process. Consideration around a more coordinated response was identified, with police to provide the link between victims and social service agencies. These recommendations indicated a move towards policing domestic violence as a criminal offence and an attempt to change police practice due to the complexities of domestic violence. This was the second turning point with the introduction of the pro arrest policy.

1987 Pro Arrest Policy

Due to Ford’s (1986) research, New Zealand Police introduced the pro arrest policy which aimed to change their response by holding offenders accountable and ensuring victims received the appropriate support from the police and the community (Commissioners Circular, 1987). The policy stipulated police were to arrest where there was sufficient evidence and where physical force or threats of physical force have occurred. Asking victims to make a complaint or attend court is not required if good investigative techniques are used. The investigative techniques were not defined in this policy, however based on my previous experience as a Police Officer I would interpret this to mean ensuring you have appropriately documented the evidence available. In addition, referral to appropriate services for victims and aggressors is required, acknowledging that support is needed for each party given that their relationship often continues. Even though the policy encouraged arrest, it did allow for officers’ discretion by including the caveat that “Common sense should always prevail where incidents are extremely minor or police intervention is clearly inappropriate” (Commissioners Circular, 1987, pp. 2-3). This affirms the value of dominant common sense understandings of domestic violence. If common sense understands a “push” as minor then it suggests that little harm is done. The idea
is that domestic violence mirrors stranger violence in as much as it involves only physical violence and each violent incident is a discrete act that fits on a continuum from minor to extremely serious or lethal. It also resonates with the common sense view that domestic violence is a private affair unless there is extreme or lethal physical violence involved. Subsequently no one should interfere in an intimate relationship involving ‘minor violence’, as the minor incident is harmless and just between the couple. Therefore, even though this policy was a significant shift for police, in effect the public private divide continued to affect its development, which highlights how policing is not separate from societal norms.

Research on the 1987 policy found that even though police officers supported the policy the implementation was inconsistent (Busch et al., 1992; Ford, 1993; Marsh, 1989). For example, in a one-month study period, 317 assaults resulted in only 52% arrests (Marsh, 1989). In addition, social support agencies and victims reported an inconsistent police response due to some police not taking action and putting the decision of arrest onto the victim (Ford, 1993). Furthermore, there was inconsistency in referring victims to social support agencies (Marsh, 1989) and women’s refuge workers reported some women had stopped ringing the police due to officer’s attitudes (Busch et al., 1992). These inconsistencies were linked to frustrations with the judicial process as well as the public private divide. In relation to the judicial process, officers reported reluctance in arrest as a first response due to victims being unwilling to give evidence in court and having no support from the court process (Marsh, 1989). Busch et al. (1992) found officers were reluctant to arrest due to frustration with low rates of prosecution and the courts leniency towards offenders. Ford (1993) argued that some police, prosecutors and judges were unenthusiastic about accepting cases without the victim giving evidence. In effect, the policy attempts to consider the complexities of domestic violence however, the judicial process does not. Even though the policy stipulates the use of good investigative techniques there can be a mismatch between police policy and the type of evidence needed for a conviction. For example, police may take photographs of the victims injuries however if the victim is not prepared to make a statement then how the injuries’ were received maybe questioned. This may cause tension for police between providing safety for victims and meeting the evidence requirements of the judicial process. It also highlights inconsistencies between policing and the judicial process that has implications for holding the offender accountable.

The public private divide influenced inconsistencies due to minimisation of the abuse. Some officers viewed types of assaults as minor, for example a slap in the face (Marsh, 1989) even when part of a more threatening overall pattern of behaviour. Repeated calls to the house were regarded less serious (Ford, 1993) and officers were unwilling to arrest as they started to view the victim as partly responsible because she did not take any action (Busch et al., 1992). There tended to be a difference between police officers interpretation of the situation and the victims’ experience (Busch et al., 1992). Busch et al. (1992) suggests some police officers had anti women attitudes and felt sorry for the offender. Furthermore, police had an unofficial rule of a minimalist approach and did not view domestic violence cases as “real” police work. These findings resonate with the traditional approach where police did not view violence in the home the same as stranger violence. Due to concerns around the implementation of the pro arrest policy, the early 1990s saw several changes to police policy.

Early 1990s Policies: Taking Domestic Violence Seriously

In 1992, police amended their policy by stressing that domestic violence cases should be policed as a criminal investigation and reemphasised the arrest provision (New Zealand Police, 1992). Restating these two points highlights the importance of the criminal justice system and suggests the outcome of the court is primary, therefore the way police understand success is through rates of conviction. This highlights a tension between providing safety and prosecution outcomes. In addition, the policy stated, “The history of the relationship and alleged provocations are of little relevance” (New Zealand Police, 1992, p.1). Including this in the police policy indicates a shift in how police policy makers understood the complexities of domestic violence and concerns around the police response at the time. For example, there was evidence that some police had anti women attitudes, sympathised with the aggressor (Busch et al., 1992) and treated repeated calls to the house less seriously (Ford, 1993). Therefore, the policy change recognises that the prior call-outs and alleged provocations had
influenced the policing response. This recognition could be due to the collaboration between police and women’s refuge since 1985 as this relationship would have improved police understanding of domestic violence (National Collective of Independent Women’s Refuges, 1986). These two concerns resonate with the common sense understandings of domestic violence of women being the subordinate in the marital relationship, blaming the victim for provocation, considering violence as only being physical and minimising certain types of violence in the home. It highlights how the traditional approach was still prevalent in the early 1990s as the policy explicitly addressed this as a concern.

As with the 1987 policy, good investigative techniques were outlined to reduce the need for the victim to give evidence in court (New Zealand Police, 1992). This policy specified some techniques, which included the complainant stating the allegations in front of the offender and identifying the offender. This highlights the tension between rules of evidence and complexities of domestic violence. Stating the allegations in front of the offender does not consider violence as a means of power and control (Pence & Paymar, 1993) where retaliation might result. It puts the victim in a vulnerable position.

At this time, the Family Violence Prevention Coordinating Committee considered a multi-agency approach to domestic violence (Smith, 1991). This was due to concern around society viewing some acts of violence as more acceptable than others, and marked the beginning of an understanding that this type of violence was not a discrete act but on-going in nature (Smith, 1991). It was a necessary move to take into account the victim’s circumstances. The multi-agency approach was about realising that there needed to be wider change so involving agencies in the community aimed to help sustain this change. To address this shift in the understanding of domestic violence the Hamilton Abuse Intervention Pilot Project (HAIPP) was set up in 1991.

The HAIPP was modelled on the Duluth Abuse Intervention Project approach in Minnesota (Smith, 1991). This approach has three main components, police are to bring domestic violence cases to court, the abusers were to attend structured programmes and victims’ details were to be referred to support agencies. HAIPP was to provide a coordinated response to domestic violence and reduce offending (Dominick, 1995). Research evaluating HAIPP found that police arrests increased by 67% between the first and second year (Robertson & Busch, 1993). Overall, victims reported positively on the police response; however, in the two-year evaluation period there continued to be concerns around certain police personnel being unsympathetic to the victims and viewing the domestic violence case as an isolated incident (Robertson & Busch, 1993). Nonetheless, more women were contacting the police and, in general, received an improved service. Therefore, with a coordinated approach, there appeared to be a more consistent response in policing of domestic violence. Robertson et al. (2007) identified external monitoring as important to ensure criminal justice responses were consistent around victim safety and offender accountability. External monitoring enabled police performance to be scrutinised by community agencies, making police accountable to victims and their advocates. In effect, to have a consistent police response, external monitoring was required to counteract the inconsistencies in policing that were linked to common sense understandings of domestic violence, the public private divide and on-going tensions around the rules of evidence. The HAIPP outcomes influenced the next police policy change in 1993 (New Zealand Police, 1993).

As part of the 1993 police strategic plan, police implemented a new set of guidelines within the existing arrest policy. These guidelines reaffirmed arrest and that protection of victims was paramount (New Zealand Police, 1993). The policy defined family violence as “physical, emotional, psychological and sexual, and in this context will relate equally to de facto relationships and also to violence, intimidation or threats of violence against any members of a family, or other persons connected by relationships” (New Zealand Police, 1993 p.1). Police were starting to shift their understanding of family violence to include psychological abuse. Furthermore including “connected by relationships” explicitly acknowledged that this violence is different to stranger violence. The policy also stated, “Offenders who are in breach of non-violence and non-molestation orders, or who are responsible for family violence offences must, except in exceptional circumstances, be arrested. In the rare cases where action other than arrest is contemplated supervisors must be consulted” (New Zealand Police, 1993, p. 1). In effect, this
introduced monitoring of officers’ discretion in family violence cases. However, even though the policy stipulated consulting a supervisor for family violence offences, officers were still able to use discretion to decide whether an offence is a family violence offence.

Research found the majority of officers supported the policy and the pro-arrest approach; however, implementation by frontline staff appeared to be difficult due to the complexities of the family violence case (Schollum, 1996). For example, 60% of officers surveyed reported they would warn in circumstances where the victim did not want an arrest. This decision was influenced by failure of a conviction without the complaint or concern the victim would not call the police again because of the arrest. The policy stipulated that protection of the victim was paramount so non-conviction would not be a failure if evidence-collecting techniques would put the victim in danger. However, this highlights the tension for police officers between providing safety and protection and the requirement for a conviction. Officers also demonstrated insufficient understanding about the dynamics of family violence and minimised this abuse. For example, describing domestic cases as “one off” isolated incidents and hesitancy in completing full reports when they believed the incidents to be minor and the victim provoked the abuser (Schollum, 1996). As found in earlier research (Busch et al., 1992; Marsh, 1989) officers reported frustration with the courts response to the pro-arrest policy and concern around judges not allowing hearsay evidence from victims even where there was supporting evidence (Schollum, 1996). Therefore, the tension between police policy and the judicial process remained.

In 1993, the Ministry of Justice reviewed the Domestic Protection Act 1982 (Department of Justice, 1993) which led to the introduction of the Domestic Violence Act (DVA, 1995). This Act defined domestic violence to include psychological, sexual abuse and children witnessing domestic violence. It also stated one act or a pattern of behaviours that seem minor in isolation were abuse. The Act showed progression in the understanding of the complexities of family violence however, past tensions between policing and the judicial process may not reflect the intention of the Act. The Act introduced protection orders, which replaced non-violence orders, and police had the power to arrest without warrant any person who breached the order. The new protection orders had several advantages over the non-violence and non-molestation order. For example, the orders applied if the respondent was living with or separated from the applicant (Robertson et al., 2007). This extended protection to victims who had left their relationships but were still under threat. Therefore, the new protection orders were a strategy for providing better safety for victims and inclusive of the different situations and experiences of each victim. Research on women’s experience with protection orders since the implementation of the new Act found inconsistencies in enforcement, especially with breaches involving psychological abuse (Robertson et al., 2007). There were also inconsistencies in officers’ knowledge of the DVA 1995 and some victims were receiving advice that was not correct. Police were failing to investigate breaches of non-contact provisions and the violence was still being minimised. These findings suggest common sense understandings of family violence that blamed the victim for provocation, considered violence as purely physical, and minimised certain acts of violence perpetrated at home, still influenced the police response. After the introduction of this legislation, police launched the 1996 policy, which was the third turning point in policing domestic violence.

**1996 Policy: Broadening the Scope of Intervention**

In 1996, police updated their policy, reemphasising victim protection as paramount and for the first time, acknowledged children who are present or have witnessed abuse as victims of violence (New Zealand Police, 1996). The policy also reemphasised the importance of officers consulting their supervisor if deciding not to arrest where there was sufficient evidence. This policy introduced the position of family coordinator who would be responsible for managing inter-agency communication, family violence training and monitoring police personnel. These changes suggest police were concerned with the inconsistencies in policing family violence and attempted to improve their response by increasing accountability and internal monitoring.

Overall, research found there was an improvement in the police response; however, it did vary among officers (Barwick, Gray & Macky, 2000). Interviews with statutory agencies and community groups suggest this variation could
be due to differences in familiarity with the Act, knowledge of the complexities of family violence, organisational culture of the station and work stress. Some police were not viewing psychological abuse as family violence, would only warn the respondent and did not treat the situation seriously (Barwick et al., 2000; Hann, 2004). This suggests increased accountability and internal monitoring did not counteract inconsistencies linked to common sense understandings of family violence as less serious if it did not involve physical assault. While section 50(2) of the Act provides guidelines for officers to take into account when making an arrest for breach of a protection order (Robertson et al., 2007), this has been differently interpreted by officers (Hann, 2004).

In 2002, the Te Rito strategy was released outlining the major areas of action that government had identified to reduce family violence (Ministry of Social Development (MSD), 2002) In relation to policing, enforcement of the DVA 1995 was highlighted due to concerns with inconsistencies around protection orders. In addition, improvement in risk screening and assessment was required to enhance identification of people most at risk for family violence (MSD, 2002). In 2006, guidelines were produced for screening and risk assessment in family violence (Standards New Zealand, 2006). At this time, the fourth turning point in the history of policing family violence occurred.

**2008 Policy: Assessing Risk**

In 2008, police introduced a risk assessment model, which included three risk assessment tools in the Family Violence Investigation Report (Grant & Rowe, 2011). Frontline staff completes these assessments, which quantify risk and are used to assess and screen family violence cases. Research found that officers supported this new initiative; however, there were again inconsistencies in the implementation (Grant & Rowe, 2011). In 2012, a new risk assessment tool was implemented: the ODARA (New Zealand Police, 2012).

If police are to use this new risk assessment tool in their frontline response to family violence it may shift the focus from protecting victims to managing risk. In the first case, police focus is on the victim whilst risk assessment focuses on the offender. If police are focusing on the offender, they are not necessarily noticing what is going on for the victim, and it is the safety of victims that is paramount. Frontline staff may not be aware of this shift if risk management is reduced to discrete events. The focus on discrete events and their management ignores the complexities of family violence and victim safety.

Police Safety Orders (PSO) were implemented in 2009 with the introduction of the Domestic Violence Amendment Act (DVAA, 2009). PSOs differ from Temporary Protection Orders as police at the scene issue them where there is insufficient evidence to arrest. In deciding to issue a PSO, a Constable must believe the victims’ safety is at risk. As research has shown in the past whilst police policy attempts to consider family violence complexities, there is tension between policy implementation and the judicial process. The introduction of ODARA may be addressing this tension, as this tool is a standardised risk assessment, which may appear more robust than an operational assessment for evidential purposes. However, the concern with utilising the ODARA is it considers family violence as a discrete act and privileges evidence of physical assault and it does not take into account the complexities of family violence and the scope of risk that is involved.

Over the last forty years, four turning points in the police response to family violence have occurred; the traditional approach, pro arrest, broadening the scope of police intervention and the introduction of risk assessment. During this time, policy has evolved amongst tensions around the public private divide, evidence and the judicial process. It is in this context of change that ODARA has emerged as a frontline tool. The history has shown even with policy and legislative change inconsistencies continue which seem influenced by the public private divide and the judicial process. Therefore, the next phase of this research project will explore how the public private divide and judicial tension are influencing current policing of family violence.

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**References**


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