PERSPECTIVES ON SOUTH AFRICAN POLICE SERVICE'S POLICING OF DOMESTIC VIOLENCE IN THE WITBANK POLICING AREA

[1]ROBERT PHAHLAMOHLAKA, [2]JACOB T. MOFOKENG, [3]EMEKA E. OBIOHA

[1,2]Tshwane University of Technology, South Africa, [3]Walter Sisulu University, South Africa
Email: [1]ibphahla@vodamail.co.za, [2]mofokengjt@tut.ac.za, [3]eobioha@wsu.ac.za

Abstract - The criminalisation of domestic violence refers to efforts to address domestic violence through the local law enforcement of criminal and civil laws. Using data from a sample of 30 participants comprising of police officials and victims of domestic violence from the Witbank policing area, this paper sought to: determine how policing has been conducted on domestic violence challenges, determine how domestic violence cases were handled by the police and the challenges faced by the police in domestic violence related cases. Semi-structured interviews and the analysis of case dockets were utilised as a means of collecting information.The findings indicated that the overall police response to victims of domestic abuse was not adequate and the local police needed to take decisive action to rectify the identified challenges.It also emerged from the findings that the domestic violence related cases were registered wrongly on the Case Administration System (CAS) and none of the inspecting managers could identify the fault.Based on the research findings, the recommendations were suggested to guide the police officials at the station on how to respond adequately.

Keywords - Domestic Violence, Intimate Partner, Mining, Police, Victimisation.

I. INTRODUCTION

Research indicates that domestic violence is a problem is not only widely dispersed geographically, but its incidence is also extensive, making it a typical and accepted behavior. Domestic violence is wide spread, deeply ingrained and has serious impacts on women's health and well-being. Its continued existence is morally indefensible. Its cost to individuals, to health systems and to society is enormous. Yet no other major problem of public health has been so widely ignored and so little understood (Modiba, Baliki, Reineke&Nsiki, 2011; Montalvo-Liendo, 2009; Robinson, 2010). Yet, closely interwoven are the words "family" and "violence", even now (Payne &Wermelin, 2009:1-6). Payne and Wermelin (2009:1-6) argue that one of the most fundamental functions of any civilised society is the protection of its citizens from criminal victimisation. During the past twenty two years into the democratic dispensation in South Africa, there has been an explosion of knowledge about domestic violence, its prevalence, and its linkage with other social problems (Bendall, 2010; Mazibuko&Umejesi, 2015; Vetten, 2014). Police officials need an understanding of both the interventions that work best in specific situations, and the skill necessary to work with all relevant stakeholders within respective communities in order to effectively implement such interventions. The increased participation of victims of domestic violence in public life in South Africa will also go a long way to stop victims from criminal victimisation.

II. STATEMENT OF THE PROBLEM

Since the advent of democratic dispensation, the social science and criminal justice fields in South Africa attempted interventions designed to reduce the prevalence of domestic violence, and rehabilitate perpetrators so they will not abuse again (Artz, 2001, 2011; Mazibuko&Umejesi, 2015;Meintjies-Van Der Walt, 1998; Naidoo, 2006; Oosthuizen, 2001; Sonke Gender Justice, 2014). A key element of the new dispensation in South Africa is a formal commitment to gender as well as racial equality. Central to these interventions has been the increasing role of the criminal justice system to enforce laws that regard the use of violence against one's intimate partner as a criminal act (Kruger, 2004:152-173).

Thus, domestic violence has moved from being viewed as only a social problem to also being viewed as a criminal justice mandate (Fleury-Steiner, Bybee, Sullivan, Belknap & Melton, 2006:327-342). What seems to be the problem in the problem of domestic violence is the fact that, given the number of theories developed to explain the possible causes of domestic violence, the trend has been moving upwards instead of down and its effects are felt not only by the spouses but become imprinted on the siblings minds and those of the community at large (Jura &Bukaliya, 2015:62).Sartin, Hansen and Huss (2006:425-440) concur that although a number of criminal and civil justice interventions exist to reduce the prevalence of domestic violence, and hold perpetrators accountable for their behaviour, no one tool has proven effective across all situations. Thus, in the Witbank is a mining area, after a closure of about five big mines which left a lot of families without shelters, no sources of in-come, living under poor conditions and generally a situation which is non-conducive to human life, there has been constant reports registered at the local police on the escalation of domestic violence in the area. Despite national and provincial efforts to restore a human rights culture to prevent

and investigate crimes of domestic violence, through community campaigns, there is a lack of knowledge and understanding on the side of the local police. There is no encouragement and influence in making the local police more observant when dealing with the incidents of domestic violence. The police are not doing enough in policing the domestic violence related crimes. It is no longer a surprise when the public hear about the killings which involved those in intimate relationships.

III. METHODOLOGY

3.1. Research approach and design

A qualitative research approach was used in this study. Interviews were conducted with the police officials, Community Service Centre officials, crime prevention officials, general detectives and the victims of domestic violence who could be traced. Interviews took ten to fifteen minutes per participant. Interviews were conducted in Isizulu and Sepedi and English. The interviews in Isizulu and Sepedi were translated into English for data analysis by the first author. Interviews were conducted separately to make sure that participants expressed themselves freely without feeling threatened. The purpose of analysing dockets by the first author was to ensure the validity of the responses provided by detectives who were also took part in the study.

3.2. Sample size and procedure

The sample population was drawn from the direct victims of domestic violence crimes in the area and from the police population of 439 personnel, 10 were selected to be used in the sampling technique. Similarly, a sample of 20 victims was randomly selected from a population of 269 cases of domestic violence reported in 2012.

3.3. Methods of data analyses

The recorded interview was transcribed verbatim and then analysed according to the descriptive method of Tesch (1992:117), Sepedi and isiZulu interviews were coded in the language in which the interviews are conducted to preserve richness of the interview and only final themes are translated into English.

IV. RESULTS AND DISCUSSION

4.1. Police officers' understanding of their responsibilities in domestic violence cases

When asked to describe how the participants understand the responsibilities of police officials in responding to domestic violence cases, based on the responses, it emerged that the majority of the participants did not know their responsibilities and they did not understand that intimate spouse or partner abuse is a crime. It also emerged that most participants were unable to define domestic violence. The majority of the participants could not differentiate between the family violence and the domestic violence. From the research findings, it was discovered that some victims were sent back home to go and solve their problems with their families. It is clear that the SAPS officials are unable to render good quality service to domestic violence victims in the Witbank policing area. Some of the participants said:

"Keeping of records is one of the challenges at this police station of ours. Records are been kept by secretaries, whilst according to the SAPS National Instruction 7/1999, it is the responsibility of the station commander to ensure that an accurate record is kept of all domestic violence incidents…" **(Participant 1)**.

"The police are having a problem with the knowledge and understanding of the definitions of different crimes. Most cases are being thrown out of court without been officially enrolled because of the wrong charges written on the case dockets by the police. When talking of a possession of suspected stolen property, there must be an exhibit. When talking of an assault with an intention of doing a grievous bodily harm, there must be some visible injuries. The police do not have knowledge and difference between a civil matter and a crime" **(Participants 2)**.

"The police do not understand the law governing domestic violence and its seriousness. Protection orders are not been given a proper attention. Perpetrators of domestic violence are not being disarmed. Arrested offenders of domestic violence are mostly been released on station bail. Domestic violence related cases are not handled properly" **(Participant 3)**.

"According to section 8(1)(a) of the Domestic Violence Act, 1998 (Act No: 116 of 1998), if there is an affidavit by the complainant stating that the respondent has breached a condition of the protection order, then the police are authorized and ordered to forthwith arrest the respondent in terms of the provisions of the Domestic Violence Act, 1998. If there are reasonable grounds to suspect that the complainant may suffer imminent harm as a result of the alleged breach of the protection order by the respondent, then the warrant of arrest must be executed." **(Participant 4)**.

The Station Commander has a responsibility to liaise with local representatives of the Department of Welfare, the Local Community Police Forum and any other relevant local institution, to identify local organisations which are willing and able to provide counselling and other support services including medical services and suitable shelter to complainants of domestic violence. There must also be some station orders regulating steps to be taken by police

members when dealing with issues of domestic violence in the area. On receiving a complaint of domestic violence, the community service centre commander must without any unreasonable delay, ensure that a police vehicle from the appropriate radio control unit or station is dispatched to the complainant to attend to the matter. The commander must ensure that the crew of such vehicle is fully informed whether any violence or threatened violence is allegedly or has allegedly been involved in the incident and who the complainant is. One victim of domestic violence related cases explained her views as follows:

"The police told me to go back and talk to my husband even though I went to them in order to look for a help. I am still going to apply for a protection order which I hope it will stop him from assaulting me…" **(Participant 5)**.

Keeping of records relating to incidents of domestic violence forms part of the responsibilities of the SAPS officials. All domestic violence incidents which are reported to a local police station must be recorded in the Domestic Violence Register (SAPS 508(b)) and it is the responsibility of the Station Commander to ensure that an accurate record is kept of all domestic violence incidents. Complaints regarding non-compliance as highlighted by the comments provided by Participant 5 above, by police officials, the notification of such non-compliance should be registered by the victim to the Independent Police Investigation Directorate for investigation and institution of a disciplinary procedure in the case where those allegations were confirmed. In terms of the Domestic Violence Act, a failure by police officials to comply with an obligation imposed upon them in terms of the Domestic Violence Act of 1998 or the SAPS National Instruction 7/1999 constitutes misconduct. Disciplinary proceedings should therefore, be instituted in accordance with the Disciplinary Regulations against any police official who fails to comply with an obligation imposed in terms of the Domestic Violence Act of 1998 or SAPS National Instruction 7/1999.

4.2. Challenges facing the police in the policing of domestic violence

When asked what factors confronted the SAPS to respond adequately to the victims of domestic violence, the majority of the participants indicated that the policing area consisted of informal settlements, farms, mine area and a bid of the former Kwa-Ndebele homeland area which is made of the former rural villages. It emerged from the findings that the participants highlighted the lack of infrastructure in the form of tar roads. Former homeland villages do not have house numbers and the participants indicated that, the police response had been affected by lack of accessing the victim on time. It also emerged from the responses that even in the formal settlements, some of the houses which were numbered before the democratic dispensation, numbers were removed and some street names were also tempered with and the local municipality is unable to restore the signage due to various factors. Some of the participants, highlighting the challenges confronting the local police to respond to the call for service said:

"We cannot cope well with the cases involving domestic violence because of the bad infra-structure and the place is very dark during the night. Suspects are able to see us when coming and we cannot see them as they hide in the darkness and we are driving motor vehicles" **(Participant 6)**.

"The area of Witbank has some farms and mines which are dark during the night and that makes it impossible for the police to deal with the incidents of domestic violence. Roads are also not good and that made it impossible for the police to do their work" **(Participant 7)**.

"The area in Witbank especially around the mines and the farms is dark during the night and the roads are so bad that the police are unable to reach the crime scene areas at the right time. Victims of domestic violence are being disadvantaged due to bad environmental layout" **(Participant 8)**.

The above responses clearly indicated that, tracing of suspects is a problem due to a lack of proper infrastructure such as roads and adequate lighting during the night. The local police is confronted with the communities that rightly expect adequate service delivery.

4.3. Withdrawal of Cases by the Victims

It also emerged from the findings that the majority of the participants indicated that local detectives are facing a big challenge regarding the withdrawal of cases by the complainants. Research indicates that one of the factors that prevent victims from proceeding with prosecution is the female victim's financial reliance on the perpetrator's resources (Payne &Wermelin, 2009:1-6). It is argued that it is typically not the paramount reason they terminate prosecution (Ford & Burke (1987) as cited in Payne &Wermelin, 2009:1-6); although, the common belief is that battered women withdraw cooperation because of decisions to reconcile with the perpetrator. The victim's challenge is finding financial resources to survive day to day, and it is easier for some victims to value staying in an abusive setting versus sleeping on the streets. For many women, prosecuting the breadwinner may wreak economic ruin on the family. In the end, many female victims must consider the over-bearing expenses they must encounter when the perpetrator is no longer living in the home, or incarcerated for the offense. Thus, to the female victim it makes more sense to terminate prosecution and keep a roof over her head for the sake of herself and her children.

Some of the participants said:
"Domestic violence cases are a big challenge because there are so many of them but at the end of the day the witnesses do not want to attend the court of law. Most cases ended up been withdrawn by the court of law because witnesses evades court proceedings. Detective members are reluctant in investigating these cases due to the fact that most people are using these cases to make an income. They will report the case and demand payment from the assailant and then withdraw the case" **(Participant 9)**.

"Cases of domestic violence are not been given proper attention because most complainants use to come back after some few days to withdraw their cases. We do not have any conviction as far as the domestic violence related cases are concerned" **(Participant 1)**.
"Due to an action of a high withdrawal of domestic violence cases after the victim got paid, the police officials are now feeling as if they are arresting the suspects unlawfully. The allegation was reported to the police legal department but it has not yet been proven. Suspects are being arrested but the amount of the withdrawals of cases of domestic violence is a concern"**(Participant 3)**.

Some of the victims said:
"There is nothing I can say, as I actually don't know what to say. Whether the police arrest him or not, it remains the same. My husband is a bully and he enjoys seeing me crying. I am tired of being assaulted all the times. I want the police to scare him by arrest and I will withdraw the case thereafter…" **(Participant 10)**.

"My husband uses drugs and smokes dagga. When he didn't smoke, he is cool, calm and collected but after smoking dagga he turns to become a very big problem. He will insult everyone and kick everything he comes across. He will break and damage everything he touches. I do not want him arrested because he is the only bread-winner in the family. There is no other source of income in the house. I want the police to scare him" **(Participant 11)**.

"I do not know what to do because he is so good but only after he used alcohol, he will start to assault me and the children. I do not want the police to arrest him but they must just warn him by taking him to jail for a night only" **(Participant 12)**.

The above responses indicated that once the case of the intimate partner violence or domestic violence has been registered and perpetrators arrested, complainants would go back and withdraw their cases. The implications for the high withdrawal of domestic violence related cases are that; the SAPS should embark on an extensive programme to train the officials on how to handle domestic related complaints. Subsequently, awareness campaigns should be introduced targeting the local community empowering them about their rights and the implications of withdrawal of complaints registered at the local police station. Empowering battered women interpersonally includes giving women choices (Busch & Valentine (2002) as cited in Erez, 2003:163). Giving women choices, however, also involves respecting her choices (Erez, 2003:163).

CONCLUSIONS

The results of the study show (or confirm) that, domestic violence affects the lives of many victims across in the Witbank policing area and remains one of the most prevalent challenges of social injustice in South Africaand major conclusions are as follows:

1. There is a great need for support services dealing with domestic violence from specialisedorganisations such non-governmental orgationsations (NGOs), or units within general services that provide help to the victims of violence, usually women and their children. The support from these units or NGOs, could go a long way to help victims escape from the cycle of violence; seek protection and justice; and recover from traumatic experiences. Such service could include but not limited to: listening; advice; advocacy; shelter and counselling.
2. Although the local police cannot eliminate all domestic violence, with all of the key role players such as community structures and the courts working in collaboration, it is possible that, domestic violence related challenges could be reduced drastically. The provision of training in dealing with domestic violence in formal education (official curriculum) is a crucial step forward to guarantee training continuity and systematic service delivery. It represents a substantial condition for training activities to be effective in the medium and long-term perspective and an indicator of the recognition of its relevance.

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