



An activity of Domestic Violence Resource Centre Inc

**MISTREATED AND MISUNDERSTOOD: YOUNG WOMEN AND
DOMESTIC VIOLENCE, NEGOTIATING THE JUDICIAL
SYSTEM**

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MISTREATED AND MISUNDERSTOOD: YOUNG WOMEN AND DOMESTIC VIOLENCE, NEGOTIATING THE JUDICIAL SYSTEM.

Since its inception in 2002 the Brisbane Domestic Violence Advocacy Service (BDVAS) has worked at length with young women who are experiencing domestic and/or family violence. Young women 25 years and under comprised 16% of all individuals who accessed the service for support between 1st January 2004 to 31st January 2005. This paper will draw upon the experiences of the young women supported by BDVAS. The paper will highlight the excessive barriers, which exist for young women who are attempting to negotiate the judicial system (i.e. Family Court and Domestic Violence Court) in order to access protection from violence for themselves and their children.

This paper will examine the apparent lack of recognition by justice professionals and employees of the judicial system regarding the complexities associated with young women's relationships, especially where there are issues of violence. Through supporting young women to negotiate formal systems it has become evident that socially defined gender roles and conventional perceptions of young women influence how workers in the judicial system interact with young women. Repeatedly it is being witnessed that processes of the judicial system are aiding to systematically maintain and support violence within relationships and in most cases replicate dynamics which are indicative of domestic violence relationships.

BDVAS: SERVICE DELIVERY:

Brisbane Domestic Violence Advocacy Service (BDVAS) is the regional domestic violence service for the Brisbane Metropolitan area. Brisbane Domestic Violence Advocacy Service provides advocacy and outreach services to women, children and individuals in the community affected by domestic and/or family violence. BDVAS assists those affected by domestic and/or family violence by providing information/referral and advocacy/outreach services. BDVAS provides varying degrees of support ranging from crisis support to longer-term case management.

A case study has been provided below as an example of some of the issues that young women accessing BDVAS present with.

PERSON SUBJECTED TO VIOLENCE:

May is 20 years of age. She has a 2-year-old child named Sam. May has been in a spousal relationship for approximately 5 years with Boe who is 29-years-old. May contacted BDVAS following an incidence of violence in which she was physically assaulted. May contacted BDVAS seeking information and support regarding leaving the relationship.

PRESENTING ISSUES:

May was referred to BDVAS from a social worker at Centrelink. On the day May made contact with BDVAS she had been recently physically assaulted by Boe and had sustained serious injuries to her head and face. May's child Sam had witnessed this attack, May stated that her son often cries and screams when she is being assaulted by Boe. May informed an Advocate Worker that there has been ongoing verbal abuse and control throughout the relationship and that since she had given birth to their son the violence had escalated. May stated that the first time she was seriously physically assaulted by Boe was the day she came home from hospital with Sam.

May stated that herself and neighbours have called out the police to her house on numerous occasions; and that they had taken out a cross Domestic Violence Protection Order. May stated that she felt as though the DVPO was useless and she felt powerless and silenced in the process of applying for this order. On the last occasion when May contacted the police following an incident in which she had been physically assaulted, Boe informed the police that he had been assaulted by May. As there were visible scratch marks to Boe's neck the police detained May in the watch house over night. May commented that she could see why the police would do this as at the time she was "going off at Boe and the police". May commented throughout the assessment with the Advocate that she will often verbally abuse Boe and swear at him, as she is tired of feeling as though she is walking on eggs shells and just wants to get the next violent attack from him over and done with. May stated that following the incident in which she was detained; she will no longer contact the police for assistance.

May wanted to plan to leave the relationship but was very fearful about how Boe would react if she left. May was also worried about whether leaving was the right thing to do as Boe was the one form of consistency in her life, which has been effected by homelessness and family violence. May was seeking emotional support from BDVAS and assistance with looking for alternate safe accommodation.

CONCERNS WITH POLICE INTERVENTION:

May experienced significant barriers whilst attempting to obtain safety from police. The police intervened by detaining May over night and naming her as the aggressor (Respondent) on a Domestic Violence Protection Order. Consequently, May was offered no protection by the police or the courts; in fact their actions can be seen as condoning Boe's behaviour as well as putting May at further risk.

In addition, the police failed to make adequate interventions regarding the safety and well being of Sam who was witnessing the physical and verbal abuse towards his mother.

ACTIONS BY ADVOCATE:

The Advocate initially provided emotional support to May, as she was quite distressed and nervous about contacting a service for support. The Advocate validated her experience and confirmed that the violence was not her fault and was not acceptable.

This intervention appeared really important to May, as she believed that she was deserving of the violence and aggravated Boe to the point where he would hit her.

The Advocate then discussed with May her options for leaving the relationship. This involved looking into her housing options as well as safety planning.

The Advocate also discussed with May the severe impact of the domestic violence on her child, and how harmful it is for Sam to witness his mum being assaulted.

The Advocate offered to contact The Domestic Violence Unit within Legal Aid to organise an urgent appointment for May to see a solicitor regarding Family Law. May wanted to follow up with a solicitor following moving to a safe location.

OUTCOMES FOR PERSON SUBJECTED TO VIOLENCE:

The Advocate was able to provide emotional support to May. Likewise the Advocate was able to provide May with information regarding her housing options and safety planning. Not long following the assessment May disengaged from BDVAS.

May's experience of police and the courts intervention is not uncommon for young women who have experienced violence, especially when other factors such as homelessness or previous history with police are involved. This paper will now explore some of the common themes of young women's experience of accessing the judicial system.

MISTREATED AND MISUNDERSTOOD:

Although in March 2003 amendments were made to Qld Domestic Violence Legislation, to include provisions which attempt to encompass the nature of young people's relationships i.e. the additional categories intimate personal and family violence, it is still overwhelmingly apparent that the judicial system and apparatus of the courts are failing to adequately deal with matters in which young women are associated despite the fact they make up nearly a quarter of aggrieved females on Domestic Violence Protection Order (DVPO) applications in Queensland (Statistical Services, Department of Families, 2001).

For BDVAS the experience of working with young people being subjected to domestic violence is that the circumstances surrounding the situation are not always clear-cut and incidences of violence may not be easily interpreted or defined in terms of legislation. It is being seen that courts are still failing to grapple with the concept of enmeshment of young people's relationship whilst making DVPO's. Likewise police are frequently failing to competently identify the dominant aggressor in violent relationships.

It has been observed that young people's relationships are not always easily defined and often involve not just the two people in the intimate relationship but a broader network of friends and family (Healy, 2001:16). These friends and family often will display ownership over the relationship and can support and participate in the violence being perpetrated against the young woman. Many of the young women that

BDVAS has worked with extensively have experienced ongoing violence and harassment from their ex-partners friend's, family members and associates. What may occur is that the person using violence will utilise networks that young people are involved with to further perpetrate violence. The use of technology such as internet and mobile phones has added a whole new dimension to this. One young woman reported that her ex-partner had utilised MSN Messenger to publicise private information about her. This resulted in the young woman then experiencing intimidation and harassment from associates who would not normally have become involved. This use of broad networks of young people by the perpetrator is often not recognised by police or the criminal justice system and at present legislation does not adequately cover this so cannot be acted on appropriately by police.

CRIMINALISATION OF YOUNG FEMALE VICTIMS

A significant concern raised by young female clients of BDVAS is that the lack of understanding by the courts along with justice professionals of young people's relationship has led to young female victims of domestic violence having unwarranted negative contact with the criminal justice system. An example can be drawn from situations within which police are unable to determine whom the dominant aggressor is and intervene by making a cross-application Domestic Violence Protection Order (DVPO). Such interventions can be the first step in a process in which a young woman can come under continual spot light from the police largely due to continued incidences of violence or technical breaches of the DVPO. It then follows from there that the young woman is breached (this may occur if the DVPO includes a non contact clause and if both parties continue to have contact with each other), and if the matter is followed through by police she will then come into contact with a criminal justice process. For some young women how they present when the police arrive or previous dealings with police will direct the outcome of police intervention. BDVAS has supported a number of young female victims of violence who have been forcibly removed from their home and then subsequently detained by police. Such interventions aid to condone the perpetrator's behaviour and may support what is often the young woman's belief that the violence is somehow her fault. In addition, this intervention sees that the young woman is put through another experience of trauma through being arrested and detained in the watch house. Such interventions can be extremely detrimental where there have been instances of sexual violence and the young woman is made to undergo strip-searching (Russo, 2000: 30). Therefore young women's experiences of the police and the criminal justice system are that of further violence being inflicted upon them by these systems.

Likewise, in situations where there is a focus on lifestyle issues police may make interventions based on other criminal activities such as drug possession or other misdemeanours rather than issues of domestic violence. Again young women become criminalised in this process and will often take the blame for other criminal activities to placate to perpetrator and other associates of his.

It is important to comment that a young women's ability to adequately advocate for herself throughout this process of intervention may often be compromised by factors of disadvantage such as age, gender and also the emotional and psychological impacts of experiencing domestic violence. Such factors contribute significantly to outcomes

for young women that are greatly unjust. The early interactions with justice professionals then influence interventions made by the courts.

GENDERED STEREOTYPING AND ITS IMPLICATIONS FOR YOUNG WOMEN ACCESSING THE JUDICIAL SYSTEM.

Much has been written regarding the role of gender stereotyping and how it impacts on young women in the courts and the policing of young female offenders. Such writings suggest that young women who commit offences that are seen to step outside the boundaries of feminine behaviour are treated more punitively and can expect greater disapproval (Youth Justice Coalition, 1990: 26). It has been the experience of BDVAS that social constructs that define female and male gender roles in a hegemonic context influence the decision making of the courts as well as interventions and interactions by justice professionals with young female victims of domestic violence. In short the court acts very succinctly to maintain traditional gender roles where masculinity is constructed upon notions of wealth, power, strength, aggression and status. In such constructs, being a man may involve a range of strategies designed to shape one in accordance with such notions (Cunneen and White, 1999: 171), this is how acts of violence may come to be minimised, normalised or condoned by justice apparatus. In many cases the courts and justice professionals assist to reinforce hegemonic masculinity, which in turn normalises the subordination of young women. When these societal definitions are implemented systemic violence against women is condoned and perpetuated (Klein, 2005: 1).

For young people prescribing to these social constructs significantly impacts on how they are treated in society. In some instances young women who are seen to be outside the 'norm' of socially defined acceptable behaviour, may be perceived by justice professionals as some how contributing to the prevalence of violence. Likewise, such perceptions influence attitudes of justice professionals and determine the levels of service provided. There is an apparent sense that particular groups of young women are some how less deserving of support or appropriate interventions.

The application of these social constructs of gender in the court provide that a young woman's ability to access justice and safety is heavily determined by whether or not she fits into a gender-related criteria.

The experience of inequality within the justice system becomes two fold for young women. Ideologies and social constructs around age and gender become the lens through which the court interprets their situation and will provide interventions in accordance with such stereotypes. Again these factors are compounded when issues of race, class and sexuality exist.

THE REPLICATION OF THE DYNAMICS OF DOMESTIC VIOLENCE WITHIN JUDICIAL SYSTEM.

Courts (court staff, magistrates) and justice professionals (solicitors/police) have been witnessed by BDVAS staff to enact similar characteristics that exist within violent relationships. Clients of BDVAS have reported feeling scared and intimidated by

court staff and Magistrates whilst accessing the court system. In some instances young women complain of being verbally abused and antagonised by court staff. It is particularly important to discuss issues of power and control, which are played out in the court system. Special attention needs to be drawn to the specific social and gender related power imbalances that often eventuate in the experience of disadvantage for young women throughout the court process (Field, 2004: 1). Within society the courts have the intrinsic, coercive authority and power to enforce particular regulations; likewise justice professionals and court staff carry a level of power that is derived from the status of their positions. Similarly, the interactions young women have with the courts and justice professionals are not free from the patriarchal power structures that pervade society, thus significantly impacting on young women's ability to effectively advocate for themselves throughout the justice process. For many young women, interventions which are made by the courts, fail to recognise this power imbalance and often place further restrictions and complications on their lives. In some instances these restrictions equate to the control, which was exerted over the young woman whilst she was in the violent relationship. Such practices of the court can act to enforce further subordination and lead to the continued abuse of young women (White, 1994: 188, cited in Field, 2004: 12).

The dynamics of domestic violence are often replicated in young women's interactions with the solicitors and the police prosecutors who are representing them through the court process. It is BDVAS' experience that young women have an expectation that their legal representative will provide them with not only legal expertise but also a certain level of emotional support. A number of young women have reported to workers at BDVAS that they have felt let down by their solicitor or that the solicitor has been unhelpful or has not understood their needs. Young women often report feeling intimidated or pushed into making decisions which they may not necessarily agree with, but do so due to the power afforded to the justice professionals. This leads young women to experience another violent dynamic in which someone whom she is meant to trust and whom she is reliant upon has abused the established relationship, and exploited the young woman's vulnerabilities.

In addition, activities and interventions of the court often parallel those of the perpetrator of violence and vice versa in that both are constantly policing the behaviour and actions of young women in terms of what is seen to be socially tolerable feminine behaviours. As was discussed earlier in this paper persistent patriarchal constructs impact significantly on how young women are treated by the courts and justice professionals. The fascination of the court with such constructs ensures a level of control is exerted over the young women similar to that experienced in the relationship, thus a new relationship develops in which the court assumes the role of perpetrator and enforcer of the rules.

YOUNG WOMEN'S RESPONSES:

Young women respond to experiences of domestic violence in a number of ways and how they respond can often dictate how they will then interact with formal systems such as the judicial system. One of the most common responses BDVAS has witnessed from young women is a disconnection from supports and formal systems, which often leads to further isolation and a silencing of the young woman. It has been

BDVAS' experience that the judicial system will perceive this disconnection and silencing as the young woman not wanting to improve her situation or wanting to address the violence and therefore not deserving of a service because "she is not prepared to help herself". What needs to be understood is that this disconnection often occurs because of a young woman's current or previous experience of interacting with formal systems. It can also be largely due to learnt behaviours adopted throughout the violent relationship, for example, remaining passive and withdrawing. Such responses should not be viewed as negative or detrimental as they were vital to her survival throughout the relationship.

Young women experience violence at much higher rates than older women. An ABS survey in 1996 found that 7.3% of young women aged 18 to 24 years had experienced violence from a current partner in the previous twelve months compared to 2.1% of women aged 45 to 54 years. For many young women there can sometimes be a level of normalisation of the violence due to the high prevalence of it in their lives. Young women are bombarded daily with violent images and mixed messages on how they are supposed to behave in relationships and in society. It is these mixed messages combined with an over-exposure to violence that can lead to young women normalising the violence they may be experiencing in relationships (Healy & Walsh, 1994:12).

It has also been the experience of BDDVAS that young women will stay in a violent relationship in an attempt to fit into what society perceives as the norm for relationships. Young women and in particular parenting young women have identified that they feel enormous pressure to stay in relationships for the sake of their children and to maintain the family unit (Healy & Walsh, 1994:15). Young women have also identified the stigma of being a single young parent as a contributing factor for staying in a violent relationship. It is this attempt to fit into society's expectation of relationships and families that leads to young women placing themselves and their children at an increased risk of violence. Young women are then judged for their decision to stay in these relationships without any acknowledgement or understanding of the barriers that prevent them from improving their situation.

PROVIDING ADVOCACY AND OUTREACH SERVICES

BDVAS has identified that it is necessary to take a holistic approach when working with young women who have experienced domestic and/or family violence. Young women who present at our service often do so in crisis and with varying degrees of complexity. Outlined below are some of the interventions that BDDVAS utilises when working with young women.

- Practical support

The provision of practical support is essential to young women going through any court process. It has been identified by BDDVAS that breaking down barriers to access allows young women to focus on the issues at hand and work towards the outcome desired. BDDVAS provides some of these practical supports to women such as childcare, transport and emergency relief.

- Emotional support

Although Advocates at BDVAS do not provide counselling for young women who access the service, emotional support is an essential part of the role. This is particularly relevant when going through the court system as this can often be a time when young women are feeling particularly vulnerable and in need of this type of support.

- The importance of being believed and validated not judge or condemned.

As discussed earlier it can often be young women's experience that they are disbelieved or their experience of violence is minimised by the court system. The implication of this is that the woman may start to question her own experience, and therefore is likely to minimise the domestic violence. As advocates it is vital to stand alongside the woman in her current experience, not to criticise or condemn, but to support and confirm. In this support process Advocates need to maintain awareness of their own prejudices and the power that they themselves possess as workers. An Advocate's perception of how a young woman is treated may be very different to her own experience. It is essential that as Advocates we validate her experience and recognise the different lenses through which we view inequality and marginalisation.

- Interpreting the process

Advocate workers aim to minimise the trauma and maximise the young woman's control over the process. Advocates endeavour to assist young women to understand the organisations and systems, which they are required to interact with during the court process. A number of young women BDVAS work with have expressed that this type of advocacy has been a significant component of the support as they are not always in a space where they can retain all of the legal information, which is presented to them. Advocate workers can attend relevant appointments with young women and can ensure that they have all of the relevant info, which can later be clarified with the young woman. Through this type of advocacy it is the intention of Advocates to lay out the bigger picture and attempt to explain young women's place in this with the aim of preventing young women from further internalising blame which may have been imparted from participating in the court process.

- Systemic advocacy

Alongside of the individual advocacy, BDVAS also advocates for young women and children who have experienced domestic or family violence on a systemic level. Opportunities such as this conference allow us to speak out about the issues with the aim of making changes that will improve young women and children's access to services and enhance their experiences in the court system.

As Advocates it is intended to create a safe space for young women to process the impact of the systems that she has engaged with and provide opportunities to speak out about this. BDVAS is always seeking opportunities for young women to be involved in systemic advocacy on issues relating to their lives. By raising awareness of the impacts of domestic and family violence it is hoped that entrenched beliefs and attitudes may be shifted and significant reforms implemented in the area of domestic violence.

Historically young women have not necessarily accessed generic services, particularly domestic violence services. At BDVAS we are constantly reassessing how we engage with young women and what works and what doesn't. Feedback from the young

women who have accessed our service has been varied. For some it has been a very positive experience and the outcome has been that their lives have been enhanced and the violence minimised. For other young women it has been a difficult experience and they have struggled to stay engaged with the service. In drawing attention to some of these issues for young women who have experienced violence we call for a serious examination of young women's engagement with formal systems so as to develop a broader understanding of the issues and to implement more appropriate and affective responses.

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