

INTIMATE PARTNER VIOLENCE: THE CRIMINAL (IN)JUSTICE SYSTEM

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On 12 September 2021, South African President, Cyril Ramaphosa, addressed the nation regarding the COVID-19 vaccination drive. The President placed almost equal weight on the importance of finding a resolution for “violence against women and girls” when he referred to gender-based violence as the other pandemic. The victimisation of men by their partners is also a reality. However, the criminal justice system does not appear to react to men as victims of partner abuse in the same way as it does towards women. This paper addresses the conundrum of men who are victims of intimate partner violence being arrested. The bias sometimes displayed by the police assumes that men are perpetrators and that women perpetrate in self-defence or retaliation. Male victims of abuse are secluded in our society and their human rights are often violated. Their experience of detainment is examined and explored via the lens of a qualitative research approach. The sampling method was purposive and consisted of 29 participants who were arrested for assault and referred by the court to attend a diversion programme. Thematic content analysis was used to analyse the data. The findings reveal a high degree of victim-offender overlap (i.e. individuals reporting both victimisation and offending). Intimate partner violence is profoundly relational and does not take place in a vacuum. Bidirectional violence can easily ensue given the close proximity of two persons in an intimate relationship and especially if a partner participates, for example, in behaviour such as infidelity or excessive alcohol use. Additionally, the results reveal participants’ traumatic and adverse experiences of being arrested and detained while awaiting trial.

Keywords: Victim-offender overlap; male victims; female perpetrators; bidirectional violence; arrests; prison.

INTRODUCTION

Intimate partner violence (IPV) is a scourge in South African society. It sometimes ends in femicide, defined as the killing of one’s wife or female partner, or mariticide, defined as the killing of one’s husband or male partner. According to the National Coalition Against Domestic Violence (NCADV, 2021: np), one in three women and one in four men have experienced some form of physical violence by a partner, which includes a range of behaviours such as slapping, shoving and pushing. Furthermore, one in four women and one in seven men have been victims of severe physical violence by an intimate partner in their lifetime (e.g. beating, burning and strangulation). Khurana, Hines, Johnson, Bates, Graham-Kevan and Loder (2021: 299) comment that the literature often stresses that “sex matters” within discussions of IPV outcomes, partly because women experience injuries to a greater extent. However, their study found that the injuries of male victims were “more severe resulting in more hospitalization” when compared with women (Khurana et al, 2021: 306). Hence, not only is male victimisation a reality, but men may also sustain serious injuries (Allen-Collinson, 2009: 24; Bates, 2020a: 20; Bates, 2020b: 504). IPV impacts the health of male victims which includes many chronic diseases such as cardiovascular problems, as well as posttraumatic stress disorder, depression, anxiety and suicidal thoughts or attempts (Khurana et al, 2021: 299). In the study of Bates (2020a: 18-20), the men reported experiences of gaslighting which is a form of psychological abuse causing self-

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doubt by undermining a partner's reality, manipulation (e.g. through children, use of false allegations, coercion around sex and pregnancy), being isolated from friends and family and experiencing fear in their day to day lives.

The situation in South Africa portrays a similar landscape, namely, that a considerable number of men fall prey to domestic violence related crimes (Crime Statistics, 2021: 24). Moreover, according to the police recorded crime statistics report for April 2020 to June 2021, although there were 44 reported incidents of femicide by an intimate partner between April and June 2021, twelve men were also murdered by their girlfriends (South African Police Service (SAPS), 2021: 8).¹ Yet, these incidents of mariticide are seldom covered by the media. Recent research conducted in the United Kingdom analysed 22 domestic homicide reviews where men were the victim of female-perpetrated partner homicide. Conclusions revealed that multiple missed opportunities for interventions in both the criminal justice system (CJS) and healthcare services were related to gender biases, where men are seen as perpetrators and women are seen as victims (Hope, Bates, Brooks & Taylor, 2021: 384). Furthermore, male victims experienced the criminal justice response as harmful and this was also attributed to the prevailing gender paradigm (Dim & Lysova, 2021: 17; Lysova, Hanson, Dixon, Douglas & Celi, 2020: 1273; Machado, Hines & Matos, 2016: 256). For instance, male victims who reported abuse to the police faced unhelpful and an antagonistic attitude that questioned their victimisation. In addition, reporting abuse put them at risk to be arrested instead of the female perpetrator. The findings of Walker, Lyall, Silva, Craigie, Mayshak, Costa, Hyder and Bentley (2020: 213) coincide where male victims were found to be revictimised by the police, the court system and often met "with ridicule, doubt, indifference, and victim arrest". Dim and Lysova (2021: 1-2) concur.

Male victimisation is prevalent, and the estimates may be under-represented, since most individuals that report IPV are women (Melton & Sillito, 2012: 1092). Reasons include: (a) Due to socialisation men do not freely admit to being victims, as a result of internalised norms of masculinity; (b) stigmatisation, including being laughed at or scorned; (c) the lack of support services; (d) the fear of being disbelieved; (e) the fear of being incorrectly accused as the primary aggressor, which may increase the risk of being arrested; and (f) men often have a natural propensity to protect their partners despite their own victimisation (Allen-Collinson, 2009: 31; Bates, 2020b: 501-503; Dim & Lysova, 2021: 11-13; Gezinski, 2022: 109; Khurana et al, 2021: 299; Lysova et al, 2020: 1274-1275; Machado et al, 2016: 256-257; Shuler, 2010: 165, 167, 170; Walker et al, 2020: 219). The evidence suggests that IPV is often bidirectional, where both partners are abusive towards one another (Straus, 2015: 91; Taylor, Mumford, Liu, Berg & Bohri, 2019: 415). However, the widely used term of gender-based violence (GBV) seems to influence the way in which the CJS responds to this crime. For instance, by imposing limits on the rights of male victims (Shuler, 2010: 163). Everyone should be equal before the law and have the right to equal protection and benefit of the law. Yet, it is apparent that in South Africa, as in many other parts of the world, such as: the United Kingdom; Australia; Canada; the United States; and Portugal; society responds to IPV as a gendered crime that endorses a "Violence against Women and Girls strategy" (Bates, 2020b: 504). This is corroborated by a growing body of evidence (Khurana et al, 2021: 306; Lysova et al, 2020: 1264; Machado et al, 2016:261; Walker et al, 2020). According to Hope et al (2021: 384), there is often a dismissal of women's abusive acts towards men by agencies and services, such as: the police; social; and health services. Also, men are more likely to be arrested than their partners. The voices of South African male victims in the study of Barkhuizen (2015: 59-60) paint a similar scenario.

The current study addresses the conundrum where men who are victims of partner abuse are arrested for assault. These men's experiences of detainment, as provided for in the Criminal Procedure Act 51 of 1977, are examined and explored via the lens of a qualitative research approach. To date, there is a paucity of qualitative studies that have examined the experiences

of individuals who are arrested for assault and detained until their bail application is approved. The study also contributes to the body of research that adds evidence that women sometimes make false allegations against their partners (Avieli, 2021: np), or relay a one-sided version of events. In other words, male offenders who come to the attention of the police may in reality be the victim, or there may be victim-offender overlap.² Narratives that describe the bidirectionality of IPV are presented, because comprehending the interrelatedness of both victimisation and perpetration can provide useful information on how to address preventative measures. It can also assist with avoiding unnecessary arrests.

Although the current study highlights the plight of male victims, it is not intended to minimise the seriousness of IPV by reconstructing it as a crime of equal opportunity. Neither is it disputed that dedicated and protective services, such as: shelters for violence committed against women and children, form an indispensable part in the crusade to succour the safety of victims. The feminist movement has undeniably undertaken the mammoth task of raising public awareness regarding the austerity and intolerability of partner abuse and have initiated manifold measures and directives towards the prevention thereof. Moreover, it is not intended to underestimate the importance of empowering women through the networking of social support and legal advocacy. International directives that counter violence against women and children have invigorated a co-ordinated response to eliminate IPV, as well as having played a role of paramount importance in establishing multiple services in the war against family violence.

RESEARCH METHODOLOGY

A qualitative research approach was adopted, and a collective case study design was used as a strategy to explore the conditions of detainment experienced by court-referred individuals who were arrested for assault, as well as the context of bidirectional abuse (i.e. victim-offender overlap). The sampling method was purposive and consisted of 29 heterosexual men and women who were arrested for assault and given the opportunity to follow a diversion process with the prospect of the case being withdrawn. Purposive sampling facilitated a thorough and trustworthy account of the phenomenon under investigation. In other words, participants were chosen based on violence occurring between intimate partners.

Data was gathered between March 2021 until May 2022. Semi-structured interviews were held with both the participant and the complainant. The victim is referred to as the complainant due to the victim-offender overlap that presented in this study. Personal interviews were conducted to evaluate participants' eligibility for a faith-based intervention aimed at addressing IPV perpetration. These interviews also facilitated an in-depth exploration of the contexts surrounding partner violence and provided an opportunity to uncover the often-concealed aspects of the traumatic experiences related to arrests. Complainants who could not attend the assessment with the participants were interviewed telephonically to confirm the account of events as disclosed by each participant. Additional telephonic interviews were conducted to clarify information which was vague or incomplete. Hence, data collection comprised of a compilation of voice recorded interviews, observations, in-person conversations, WhatsApp messages and written exercises that emanated from the sessions of the diversion programme. A robust literature study was undertaken, and the author also consulted with experts in the field of criminology and magistrates in the legal profession.

The study employed thematic content analysis to interpret the data. Data from the interviews and group sessions were coded and categorised into themes. These themes were then reviewed and subsequently used to report on how the participants' constructed meaning with respect to their experiences of IPV and detainment (Kawulich & Holland, 2012: 231). The following two main themes emerged from the research, namely, (a) bidirectional abuse (i.e. victim-offender overlap); and (b) the adverse experience of arrest and detainment. The sub-themes identified were (a) that some complainants often threatened to report their partners to

the authorities with the intention of generating fear, which can be seen as a form of abuse (Allen-Collinson, 2009: 24); and (b) bias towards male victims. The themes and sub-theme are affirmed with verbatim verbal and written excerpts, as well as presented by paraphrasing some of the participants' storylines.

Data quality included: (a) Unobtrusive measures, where the author submerged herself in the field for several months to understand the phenomena in context or in a real-life setting; (b) triangulation of sources, where the findings are compared to other empirical research outputs (i.e. anchored in the literature); (c) member checking, which incorporated informal follow-up interviews to evaluate whether the content of what was said was understood and to ensure that the participant's input was correctly captured; (d) rich and thick descriptions which, *inter alia*, underscored shared experiences; and (e) peer-reviewing, where the author contacted similar status colleagues (e.g. magistrates) outside the context of the study to review her perceptions, insights and analysis. The research was approved by the Research Ethics Committee (Reference number: HUM043/1010). All the participants signed an informed consent form and were made aware that their involvement in the research was voluntary.

RESULTS AND DISCUSSION

The sample was made up of 29 participants living in Tshwane (26 men and three women). Their ages ranged from 21 to 57 and the level of education varied between Grade 8 to a postgraduate qualification. Nine participants were unemployed. Nine participants were married, twelve participants were living together, five participants were dating, two participants were single and accused of assaulting their ex-partners, and one participant was divorced and arrested for the contravention of a protection order granted to his ex-wife. The length of the intimate relationships varied from one year to 20 years. Ten participants attested to substance abuse. Eight participants endured the childhood trauma of an absent parent at a young age, either through death, divorce or abandonment. Twelve participants experienced child abuse (e.g. physical, psychological and sexual abuse) and/or witnessed IPV. In addition, polyvictimisation, which is the experience of multiple victimisation or cumulative trauma, was reported where participants in this sample had been the victims of other crimes, such as: being hijacked; shot; molested; or having a sibling murdered.³ It may be important to mention that the same participant may have reported, for instance, both alcohol abuse and a hostile childhood environment.

Three couples experienced dual arrests for assault, meaning they had made counterclaims against one another resulting in them both being arrested. Twenty-one of the 29 participants were arrested for common assault, which involved pushing, slapping, hitting, punching, choking and malicious damage to property. Examples of damage to property included breaking a partner's cellular phone or punching and kicking doors. In the study of Wangmann, Laing and Stubbs (2020: 265), most charges laid in domestic violence cases were also for common assault. In the current study, the charges were as follows: Three participants were arrested for assault with the intent to inflict grievous bodily harm, which included a facial lesion and a head injury caused by blows from a hammer; three participants contravened a protection order; one participant was arrested for intimidation; and Participant 10 was charged with common assault, intimidation and kidnapping (to be discussed in more detail in the next section). Detainment varied from a few hours to fourteen days and the conditions while being held in custody are described as atrocious. Eighteen, namely, 16 men and two women of the 29 participants experienced bidirectional abuse.

This is one of a few qualitative studies where the research question examines and probes the context of events leading up to incidents of IPV, as well as experiences of the CJS when arrested (cf. Lysova et al, 2020: 1277). A few exemplars have been drawn from the data collected to illustrate the victim-offender overlap, as well as the adverse experiences of being arrested and detained while awaiting trial. The following narratives demonstrate the bidirectionality of partner abuse, which is described in detail to provide the reader with insight into, in addition to an understanding of the sequence of events (Barkhuizen, 2015: 47). These insights are important given that Straus (2015: 93) asserts that service providers should, but often do not, take cognisance of the fact that victims may also be perpetrators and often are—and that perpetrators may also be victims and often are.

Theme 1: Context of the events leading to the arrests

Participant 10 is 28-years old and walked in on his girlfriend having sex with a “casual dude” at her friend’s house. He remained calm and collected and told her that he was going to leave. She insisted she would go with him to talk things over. The couple decided to go to a local pub, where they got into a fight, and she ripped his clothes. Participant 10 decided to take his girlfriend back to her house and when he wanted to leave, she started assaulting him. A barrage of violence ensued, and she started kicking him and threw a pot plant at him. He proceeded to the bathroom and a heated argument arose, whereupon she pushed him, and his “private parts” hit the cupboard and he “exploded”. Participant 10 grabbed her on her forearms and bashed her against the wall. At this stage, his partner was quite intoxicated and wanted to leave and go clubbing. He decided to lock her inside the bedroom, which was recorded as kidnapping by the police, for her own safety. She tried to push past him, and he knocked her down onto the bed. She got up to get out of the room and he punched her with his fist a few times. He told her that she needed to wait in the bedroom until she had sobered up. This was the first time that he had lifted his hands to a woman. Participant 10 spent two weeks in jail.

Participant 7 is 36-years old. He and his wife dated since high school. His wife is economically abusive, for instance, she had, some time back, siphoned approximately R880 000 out of a joint bank account without his knowledge. Other incidents of compulsive lying, and fraudulent transactions had put substantial stain on their marriage, causing it to be quite tumultuous. A protection order had previously been granted to her and one of the conditions was that Participant 7 was not allowed to visit her business. However, on the day of his arrest she asked him to bring his credit card to her workplace to buy food. An argument ensued and she called the police. He spent seven days in jail for contravening the protection order.

Participant 14 is 24-years old. His girlfriend accused him of disturbing the peace because he was listening to loud music after 22:00. Earlier that evening he had confronted her about her male friend who always comes around when he is not at home. During the personal interview, he mentioned that he was wearing earphones while listening to music and his partner came up to him, pulled out his earphones and they started to exchange words. She vigorously shook her finger in his face and insulted him by telling him that he is “full of sh*t”. Participant 14 got angry and slapped her several times. He immediately regretted his actions and apologised, but she was not interested in accepting his apology. This was a once-off incident. Participant 14 was detained for five to six hours.

Participant 1 is 39-years old. His partner came home late and intoxicated. Upon arriving home she went straight to bed. However, the participant wanted to know where she had been, and she kept on ignoring him. He dragged her out of bed, and she grabbed his genitals. Participant 1 punched her which resulted in a nosebleed. The police called him the following day and requested that he come to the police station, whereupon he was arrested and put in a holding cell. He managed to get a lawyer who arranged bail the same day.

Participant 2 is 50-years old and seems to be economically abused by his wife of 20 years. His wife lent their minibus to her brother, who was unemployed to help him generate an income. This was a temporary arrangement and when the minibus was not returned nine months later, Participant 2 wanted to phone his brother-in-law to find out why this was the case. He asked his wife for her brother's number, and she refused to provide it. He tried to grab her cellular phone to retrieve his brother-in-law's number but was told that if he forcefully took something it would be considered assault. The complainant's version is that she was on the phone, and he wanted to see to whom she was speaking. He then punched her in the stomach to get her to drop the phone. Participant 2 spent three days in a holding cell and three days in jail. At his first court appearance he wanted to put his case forward that he is only guilty of grabbing his wife's phone, but the court did not give him "*a chance to talk anything*". After his release, he was informed that the "*combi*" is not coming back and that he must just accept it. The couple are married in community of property. Up until the date of this interview, a year later, the minibus had still not been returned.

Participant 15 is 30-years old, and his fiancé is jealous because he was unfaithful some time back. While she has a password on her phone, he is not allowed the same privacy. She also checks his phone while he is sleeping. She is verbally abusive and calls him a "*b*tch*". One day he came home from visiting friends, and she "*stabbed*" [assaulted] him with a spoon on his thigh. On the day of the assault, he was drunk and pushed her, as well as punched and kicked the door because he was angry. Participant 15's fiancé was pregnant at the time, and he believes that she might have been worried that things would get out of hand and called the police. He was also abusive towards the police but could not remember the next day. Participant 15 spent two days in police custody. When asked why he reacted in this manner, he answered:

"The way she was talking to me and the things that she said to me. Calling me all those words and I actually did not see respect out of her that this is my future husband. I wish that she can make me feel like a man, make me feel appreciated so that I can make her happy as well".

Participant 16 (male, aged 57) is married to Participant 17 (female, aged 55) and they had counterclaims of assault against each other, and dual arrests were made. They have been married for 15 years and have three children. According to Participant 17, she was submissive for most of her married life. However, about a year ago she started to retaliate. Her husband has had a mistress for the past three years and she reached breaking point. Participant 16 described the altercation that led up to his arrest. He said that he had gone drinking the previous night and got home very late. His wife presumed that he was with his mistress, which was not the case.

"It was early morning or early hours of a fateful Saturday. ... Still under the blankets, the footsteps approached the bed, and the blankets were pulled from my head. I was slapped awake and jumped out of the blankets worried as to what is happening. It was my wife standing at the headboard. I asked her what was wrong and what she was trying to do. She slapped me again on the cheek. I warned her that she must stop what she is doing. I went to the bathroom to relieve myself. She came into the bathroom and slapped me again while I was relieving myself. I lost it and slapped her in the face. She was bleeding. She said that she is going to the police. I went back to sleep. Moments later the police arrived. They came into the bedroom. I was summoned to the dining room. I was under arrest. I was instructed to get into the back of the van. At the police station they took my fingerprints and several photos, and I was placed in a small police cell. It was very cold. I was sitting on the floor. I was very confused. I called my lawyer. I was released on bail. It was a very traumatic feeling".

Sub-theme 1.1: Coercive threats of reporting to authorities

Some complainants often threatened to report their partners to the authorities with the intention to generate fear, which can be seen as victimising the participant. To illustrate, some participants conveyed that their partners abused the legal system, possibly because of the general bias against men, where men are seen as perpetrators and women are seen as victims. Complainants did this by, for instance, misrepresenting their own involvement in the assault (e.g. Participant 16 reacted to multiple slaps and his wife retorted, “*now I got you*”), frequent threats to have a partner arrested to manipulate and coerce, as well as false allegations of assault (Allen-Collinson, 2009: 34; Avieli, 2021: np; Dim & Lysova, 2021: 15).

Participant 4 is 44-years old and has been married for nine years. The couple have two young children and a baby. Participant 4 states that “*the first abuse came from her. She slapped me and pushed me out of the house. And I didn’t report it*”. His wife is verbally abusive and often tells him “*don’t make yourself a stupid*”. She has resorted to malicious damage to property in the past by slashing their car tyre. Moreover, she is spiritually abusive towards him, which is when forms of abuse are justified as religious dogmas or beliefs.⁴ During the in-depth personal interview Participant 4’s wife relayed that according to their religion, she should breastfeed and not have intercourse until the baby is two years old because “*the baby will suck all the dirt that he [husband] got into me*”. At first, Participant 4’s wife let him believe that they could resume with their sexual activity when the baby was six months old. She then postponed it to nine months. When the baby was nine months old, which was also when the confrontation took place, Participant 4 asked her if they can “*try to be a husband and a wife*”. His wife again recanted her original undertaking and postponed it to one year. During this time, Participant 4 was sleeping on the floor while the baby and his wife were sleeping on the marital bed. Realising that this inconvenience could be prolonged, he mentioned to her that he was uncomfortable, and she did not respond. He asked her to move up so that he could sleep on the bed, and she still ignored him. Participant 4 got onto the bed, and she bit him on the stomach. He commented that he never intended to lay a hand on her, but that the bite was painful, and he slapped her. His wife slapped him back and tried to strangle him. Participant 4 thought to leave the matter there. That Sunday he wanted to go home. In South Africa this often entails long distance travel. He wanted to take his son to visit his parents, an excursion which had been arranged a while back. His wife was now fervently against it and threatened to have him arrested if he took their son to visit the grandparents. She asked him to accompany her to the police station to discuss the matter to reach an amicable arrangement. On the way to the holding cell Participant 4 realised that he was being arrested for the event that took place two days ago, which he thought had been settled. He remarked that he should have anticipated her deviousness because earlier that morning she told him “*I’m going to show you*”. He asked the police officer if he could also open a case against his wife for assault. He was told that he could do it later, but this never materialised. Participant 4 was detained in a holding cell for two days.

Participant 8 is 32-years old and an active church member. He described his partner as being very jealous and as having anger issues. He relayed that she often threatened him by saying: “*...beat me so I can call the police to arrest you*”. He explained that: “*...she decided to shout at me, and I kept quiet that night*”. She threw him out of their flat, which was not the first time, with his clothes and a blanket. She demanded that he sleep in the corridor. Participant 8 explained the events leading up to the assault as follows:

“Even in the morning she kept on insulting me. I also kept quiet. I went to work. When I came back from work, I didn’t find her at home. I took my small speaker to play music outside [in the corridor] with one of the people we are staying with [resident in the block of flats]. That’s when she enters and starts shouting again and pushing me. I lost control from then [there]. I punched her in her face, and she

started bleeding [facial lesion]. That's when she ran to the police and then they came to arrest me, and I stayed in jail for eight days".

Participant 13 is 55-years old. He told his partner that he would give her R500 of his R3 000 salary to help her buy stock for her small business at a market. She insisted that he give her a R1 000 and accused him of spending his money on a "girlfriend" at work. The couple started arguing and she threatened to report him to the police, which was not the first time. Participant 13 already had a criminal record, and another arrest would have had severe consequences. He warned her to stop bullying him and pushed her. That evening the couple were intimate. The next day he helped her set up her goods at the market. Two days later, he was arrested at work for assault, even though he had already succumbed and given her the extra R500. Participant 13 was detained in a holding cell for two days.

Participant 18 is 27-years old. He and his girlfriend went out drinking at a club and when they returned home just before midnight, she demanded that he have sexual intercourse with her. The participant told her that he was tired and requested that they be intimate when they wake up in the morning. Participant 18's partner had returned from visiting her parents that day, so they had not seen each other for two weeks. He was accused of being unfaithful and they started to argue. She wanted to leave the apartment "*past twelve, one, around there*". The participant told her that it would be dangerous to go out walking in the street by herself at that hour. She was insistent and, in his desperation, he took her cellular phone and broke it, because he knew that she would not leave without her mobile. She laid a charge of malicious injury to property. Afterwards, he went with her to the police station to let them know that he would replace her cell phone. At the police station "*she just twisted the story and said that I assaulted her. I was surprised and even asked how*"? Subsequently, she tried to withdraw the charges. Needless to say, her mobile was replaced, and she later admitted that she lied to the police about the assault because she was angry. She also acknowledged that she could not remember exactly what happened that evening because she was inebriated. According to Avieli (2021: np), false allegations of IPV are an under-recognised problem which can lead to significant victimisation. Being falsely accused and arrested is traumatic and may cause severe distress and unnecessary suffering, for example, enduring the stigma of being accused of a violent crime. Avieli (2021: np) claims that there is a dearth of studies that have investigated false allegations, which have been recognised as a coercive control tactic of IPV. Participant 18 was studying to be an auxiliary nurse. Repercussions for him involved (a) not being able to attend class and missing an examination due to being held in custody for eleven days; (b) travelling costs, for instance, to attend diversion and court proceedings were incurred; (c) his uncle and aunt eventually paid the bail, which created an uncomfortable and embarrassing situation. His mother died when he was eleven months old, and he is not close to his father; and (d) he was mandated to attend an eight-week intervention programme. This is a travesty of justice. Participant 18 made the following comment: "*The system is messed up ... Actually [I] am getting angry ... I will continue and place this in order someday ... Am really getting very emotional about how the state took me*". Brooks and Greenberg (2021: 47-50) concur and identified eight negative consequences of wrongful accusations and/or convictions of criminal offences: A change in self-identity (e.g. a loss of confidence, dignity and credibility); stigmatisation (e.g. feeling labelled and vilified); psychological and health problems which included experiencing symptoms of depression, anxiety, sleep problems, high blood pressure, unusual weight loss or gain and somatic complaints; a breakdown in relationships, such as: social withdrawal and strained intimate and family interactions; significant financial burdens and loss of income; traumatic experiences while held in custody; adjustment difficulties after being released; and a loss of faith in the CJS, bitterness, resentment and anger towards the judiciary and state as was expressed by Participant 18.

Sub-theme 1.2: Perpetuation of stereotypes towards male victims

Several participants reported bias, wherein the police were not interested in their side of the story, a phenomenon that can contribute to the criminalisation of survivors (Gezinski, 2022: 106), as depicted by Participant 17 who mentioned that she had reached breaking point and retaliated. In Participant 10's case, he confined his girlfriend to the bedroom by locking it. His motive was to ensure she sobered up and refrained from drinking and driving. It was therefore an action that he thought would be for her own protection. Likewise, Participant 18 broke his girlfriend's mobile to prevent her from going out on her own, late at night under the influence of alcohol. South Africa is notorious for high rates of violent crime, such as: rape (Gouws, 2022: 1). The criminal law regards assault as a one-time situation involving a perpetrator and a victim. However, the victim-offender overlap was supported by the current set of data and is a consistent observation in the literature (Park & Kim, 2019: 738; Straus, 2015: 91; Taylor et al, 2019: 415). It is also in direct contrast to the "long-held beliefs that IPV is an expression of male domination over women" (Tillyer & Wright, 2014: 30). In fact, the study of Tillyer and Wright (2014: 41) found that a higher percentage of women, relative to men, reported being "perpetrators only", across all definitions of IPV. Their study was based on public-use data from the fourth wave of the National Longitudinal Study of Adolescent Health to examine the prevalence and correlates of IPV victimisation and perpetration (Tillyer & Wright, 2014: 37).⁵ Partner abuse is profoundly relational and does not take place in a vacuum. Bidirectional violence can easily ensue given the close proximity of two persons in an intimate relationship and especially if a partner participates, for example, in potentially self-damaging behaviour (Tillyer & Wright, 2014: 35). Self-damaging behaviour includes infidelity, as was revealed in the case of Participant 10 and Participant 16, as well as excessive alcohol use, as was demonstrated in the storyline of Participant 15.

Law enforcement needs to adopt a context-driven approach as opposed to an incident-driven approach when it comes to partner abuse. Over two decades ago, Johnson and Ferraro (2000: 949-950) delineated four types of violence against partners. First, there is common couple violence (CCV), which is not connected to a general pattern of control. It can arise from an argument (i.e. to solve disputes or disagreements), where both partners are abusive towards one another. CCV is also referred to as 'situational couple violence' (Melton & Silliti, 2012: 1095). It is not likely to escalate over time, nor likely to involve severe violence. Secondly, there is intimate terrorism, which is a distinct pattern of repetitive abuse to coerce and control a partner. Thirdly, there is violent resistance, where a partner retaliates. Lastly, there is mutual violent control, where both parties are controlling and violent. Wangmann et al (2020: 273) highlights the limitations of focusing on an incident when examining a patterned form of behaviour, such as: IPV. Laycock (2001: 67) concurs and refers to IPV in its true sense as the "quintessential repeat crime". The distinction between a once-off bout of aggression, CCV and an established pattern of abuse is important to take into consideration when arrests are made and for policy development.

To reiterate, a sizeable number of individuals (i.e. 18 of the 29 participants) who were arrested for assault in this study experienced bidirectional abuse. Some male participants indicated that they should have reported abuse in the past but did not, for reasons, such as the fear of being ridiculed. Some men felt that it was their duty to protect their partners, who were also mothers of their children, rather than to expose them (Walker et al, 2020: 219). Similar to the findings of Bates (2020b: 504), this study highlights the perpetuation of the stereotype that IPV is a gendered crime perpetrated mainly by men. Many participants in this cohort of arrests were not given the opportunity to put their case forward. For example, Participant 18 recollects how the police "*didn't want to hear my side of the story*". Participant 2 stated that he was not given "*a chance to talk anything*". Participant 4's request to file a counterclaim against his wife, who had bitten, slapped and attempted to strangle him, was disregarded. She was also

manipulative and coercive around sex and pregnancy for months prior to the confrontation that took place (Bates, 2020a: 19). Thus, the question can correctly be asked whether government directives to eliminate violence against women and girls per se is not instituting limits to the rights and protection of male victims of IPV (Shuler, 2010: 164). Stereotypes and victim-blaming is problematic (Gezinski, 2022: 108), provides unhelpful responses and limits support networks for male victims of IPV (Walker et al, 2020: 220).

Melton and Sillito (2012: 1096) uphold that examining “individual violent acts will not give a comprehensive understanding of the dynamics of power and control in the couple” and that it is critical to examine the violence contextually. Otherwise, it will be difficult for police officers to differentiate between CCV and intimate terrorism. Incident-driven arrests may also discourage a thorough investigations of each case. In addition, by ignoring the exploration of the contextual framework surrounding the actual incident, women who are arrested may be revictimised if their use of force is in self-defence, or because of a history of ongoing abuse at the hand of an intimate partner (Miller, 2005: 1-2). Participant 17 disclosed that she had learned to be submissive during her childhood to avoid abuse from stepmother. She remained submissive for most of her married life but eventually began to retaliate. Moreover, addressing IPV perpetrated by women is essential for both the safety of their partners and their own safety, because female-perpetrated violence may elicit reciprocal abuse from a partner (Holmes, Johnson, Zlotnick, Sullivan & Johnson, 2020: 33). As pointed out, Participant 10 punched his girlfriend in retaliation to extreme provocation and abuse when he communicated that he exploded when she pushed him, and his genitals hit the cupboard. Tillyer and Wright (2014: 34) verify that studies examining the victim-offender overlap indicate that offending increases the likelihood of victimisation, and that victimisation increases the likelihood of offending (i.e. a repetitive cycle ensues).

It is important to bear in mind that since both parties may have a history of perpetration and victimisation, it could be difficult for police officers to discern victimhood in any single incident. Thus, incident focused arrests may lead to wrongful arrests. The problem with victims being wrongly identified as perpetrators has also been documented in other countries, such as: Australia (Wangmann et al, 2020: 256). Although the CJS does have a responsibility towards complainants,⁶ proactive policies may encourage pro-arrest protocols which can result in unjust law enforcement and court action, such as: “over-enforcement” (Miller, 2005: 131). An illustration is when Participant 18 was falsely accused⁷ and detained for eleven days for breaking a cellular phone, as well as in the case of Participant 10, where even though the abuse was bidirectional and instigated by his girlfriend, he spent 14 days in jail.

The research data demonstrated that 26 of the 29 participants were arrested on the grounds of a GBV complaint. Only three participants contravened a protection order. The incidents were mostly minor in nature and as mentioned 18 of the 29 participants conveyed mutual abuse, which suggests that female-perpetrated violence, at least in the present study, cannot fully be explained as self-defence. Similarly, Tillyer and Wright (2014: 45) found less overlap for more serious forms of IPV, while the overlap was greatest when more minor forms of IPV were reported. The amendment to the Criminal Procedure Act 51 of 1977 in terms of the Criminal and Related Matters Amendment Act 12 of 2021, which commenced on 05 August 2022, in conjunction with the new Domestic Violence Amendment Act, No.14 of 2021, which was implemented on 14 April 2023, deals more stringently with perpetrators of domestic violence in terms of mandatory arrests. However, pro-arrest policies could reduce police discretion when responding to partner abuse (Wangmann et al, 2020: 255). In addition, proactive policies necessitate thorough investigations to support an informed prosecution response (Govender, 2015: 41). Notwithstanding the fact that unprofessional and unhelpful police interactions regarding IPV seem to be a global problem (Gezinski, 2022: 99-100), Govender (2015: 38) observed that proper policing and the effective investigation of domestic violence complaints in South Africa is questionable. Of concern is that individuals who are

arrested for offences committed in a domestic relationship are at a high risk for poly-victimisation, which “may have a severe and potentially lifelong biopsychosocial impact, over and above the effects of exposure to specific types of traumatic stressors and interpersonal adversity” (Ford & Delker, 2018: 275-276). Hence, steps should be taken to prevent and minimise cumulative trauma, which heightens psychological distress and a presumed vulnerability to further victimisation (Finkelhor, Ormrod & Turner, 2009: 410). Although the safety of victims of IPV is of paramount importance, participants painted a grim and painful picture of being arrested and detained. They spoke of hostile correctional officers, overcrowding,⁸ as well as unsanitary (Du Preez, Steyn & Booyens, 2015: 129) and dilapidated detention facilities, which is the second theme that was gleaned from the research data.

Theme 2: Experience of arrest and detainment

The same traumatic and adverse experience of prison ran like a golden thread throughout the interviews and data collection process. The words “*survival of the fittest*” echoed as participants reflected on being arrested and detained. Participant 23 is 27-years old and expressed it as follows:

“There's a lot of things happening in prison. You learn a lot there, like life is all about the survival of the fittest. If you don't have cash today in prison, it's a ball game because everything evolves around money. Eish [colloquial exclamation of disbelief, disapproval or regret], even when you sleep you cannot sleep nicely. Five o'clock they wake you up, you have to be counted. When one person is missing, they have to recount again. It's a helluva [hell of a] place, it's not a nice place to be in. I wouldn't advise someone to go there. It's hell. You are face to face with the devil. ... I was there for two weeks ... and those 14 days felt like 14 years”.

Due to his inability to afford bail, Participant 18 was kept for five days in a holding cell and incarcerated for six days for breaking a cellular phone. He dismally recalls “*I was forced to cut my long dreadlocks that I have been growing since 2016*” by one of the wardens. His verbatim experience is presented below.

“Around 12 [mid]night me and my girlfriend got into an argument I broke her phone we went to police station I only thought we were just gonna write an agreement when I am gonna buy her [another] phone. When we got there the police arrested me. Same time they didn't want to hear my side of the story. Then Monday I went to court the court sent me to prison that's where dark days begin when I got there they place us in line that line was for old offenders I tried talking to the officer trying to explain that I am new then he came to me slapped [me] five times and even kicked me I kept quiet stayed on the line. ... I got into the cell some guy came to me told me to remove my clothes to go and take a cold shower I did that after they gave me one blanket I had no 'matras' [mattress] I slept with that one blanket on the floor in the morning around 5 I got told to go take a shower again now the water was super cold there is no hot water there. The toilet is not working also in order to flush u need to use the bucket ... Even a slave I don't think can be treated like that in prison.

In this collective study, many of the male participants were also victims and can be seen as being revictimised by a justice system that fails to understand their circumstances. It is simply the opposite perspective, as presented by Miller (2005: 2) regarding the unfairness of female victim arrests. Miller states that “some of these arrests seem inappropriate, particularly when battered women act in self-defense or when women are falsely charged by their savvy (male) batterers who have learnt to manipulate the system”. However, women can also be guilty of misusing the system, in all probability knowing that the law is on their side (cf. Allen-

Collinson, 2009: 34). This was confirmed in the data where false allegations were made by Participant 18's girlfriend. Moreover, a recurring pattern as outlined in the sub-theme were threats made to get participants arrested, possibly knowing that the police were unlikely to believe that a man could be the victim of abuse. For example, Participant 4's wife told him "I'm going to show you", Participant 8's partner intimidated him by telling him "beat me so I can call the police to arrest you". Participant 13's partner bullied him by often threatening to report him to the police knowing that he has a criminal record. These findings support Lysova et al (2020: 1274). The narratives of many of the participants confirmed a double standard in the CJS leading to revictimisation through "a loss of voice", where female victims are heard, and male victims are ignored.

Participant 2 is 50-years old. He described his experience of being arrested and jailed as extremely traumatic. He was detained for two days because of a push. Even though his partner had no injuries or marks on her body, the police showed no interest in hearing his side of events. He notes:

"I was sleeping with boys that are smoking nyaope⁹ and those boys were irritating me because I couldn't sleep for three nights. They were screaming the whole night ... and the other thing was the big rats that we slept with. I don't want to see myself there again because that place is hell". Moreover, his partner came with the police to his workplace and he conveys *"I was so embarrassed in front of my work mates and traumatised as to what effect this may have on my employment"*.

Participant 22 (male, aged 40) states:

"I slept in a holding cell for one day and in jail for three days. That place is very bad, I have never experienced anything like it since I was born [despite having experienced a hijacking previously]. That place is very bad, even to breathe is very difficult because we are too many [detainees/offenders in one space] and people are smoking and smoking and the smoke is not going out because the window is very, like small [also, clothes are left to dry in front of the little ventilation that there is]. ... When we are called to go outside we have to put on our masks, but when we go back inside we are not putting them on. ... There are too many cockroaches and animals [lice] biting, too many. Jail is not a good place at all. For me I don't plan to ever go there again, it is best to avoid it".

Most of South Africa's prisoners are housed in communal cells, which is an architectural design from the apartheid era (Muntingh, 2009: 14). The prisons are under-resourced and overcrowding is a major problem (Sibisi & Olofinbiyi, 2021: 211). A reason posed for overcrowding is escalating levels of crime in the country, "as new inmates swell the numbers of those already serving sentences or awaiting trial" (Sibisi & Olofinbiyi, 2021: 209). Prison was described as lice infected, where the "rats are as big as cats" and run around unabated, where the chilling screams of those who are addicted to nyaope are heard throughout the night. At the time of this research project social distancing was implemented. Hence, no more than 50 percent of the capacity of a venue could be used, due to the Delta variant being more transmissible than earlier variants. Yet, amidst the COVID-19 pandemic, Participant 10 expressed that the prison housed 80 detainees in a 20-bed facility with one toilet, which included the men who were arrested for assault while awaiting trial. Detainees referred to as "stokkies" in South African prisons are supposed to be kept separate from the sentenced offenders, which does not seem to be the case according to the participants in this study. Everyone should have the democratic right to safety. What's more, is that it is the duty of the state to provide safe custody (Muntingh, 2009: 30; Sibisi & Olofinbiyi, 2021: 211). Being confined with hardened criminals, such as: murderers, can evoke fear. Also, Muntingh (2009: 15) comments that newcomers or the "weaker prisoner" can be more vulnerable to violence, since they are least able to defend themselves.

Victimisation can be both direct and/or indirect. Direct victimisation includes the use of force, threats, intimidation, the removal or threatened removal of material and emotional support. Indirect victimisation involves witnessing others being victimised and living in fear (Listwan et al, 2010: 1143). Both forms of violence were attested to in this study. For instance, Participant 18 experienced gross injustice and brutality from the prison wardens. Participant 19 (male, aged 41) had his valuables stolen in front of officials who merely turned a blind eye. He recalls the following:

“The arrest was not nice. I spent four days in the holding cell from Friday to Monday and three days in jail. Even the lawyer went there, and the wardens told him that I was in quarantine for two weeks which I wasn’t. So nobody could see me. I was okay but food and stuff, ja [yes] is not nice. The first night you sleep head, feet, head, like sardines with 50 people on one bed [the bunker beds are placed next to each other]. There is one toilet that’s not working, and you must use a bucket to shower. If you want hot water, you must trade your bread for hot water and all that kind of stuff. You trade your bread for cigarettes, there’s a whole trading game going on in there. [He explains how the inmates stole his cell phone and his watch]. ... You hand your phone in when you go into jail and get a slip. When you come out you give that slip in and when you get into the truck to go back to court, then there’s a lot of gangs in the truck. Then they hold you down and pocket search everybody and take whatever you have on you. The wardens are aware of this, even the police down in the court by the cells. The old offenders are all mixed up in one cell. From murderers to, everybody is in one cell, ja [yes]. ... There’s a lot of lice on the bedding, you must buy your way out to get a mattress, okay you give your bread for a mattress”.

There is mounting evidence that poor prison management is correlated with prison violence and at times even promotes individual and collective violence (Muntingh, 2009: 12). Additionally, Boxer, Middlemass and Delorenzo (2009: 803) are of the opinion that violence encountered while incarcerated might be more damaging psychologically in comparison with violence encountered in other settings, such as: community; school; or family violence. They also point out that victimisation in prison impacts on both externalising behaviours (e.g. aggression and antisocial behaviour) and internalising symptoms, such as: distress; depression; and anxiety. Listwan et al (2010: 1142) agree that prison violence creates significant stress and trauma and has a detrimental effect on an individual’s psychological well-being. The negative emotional repercussions were confirmed by Participant 27 (female, aged 21). Of the three female participants who were arrested, she was the only one who was detained and spent one night in a holding cell. One possible reason could be the potential for biased treatment by criminal justice agents regarding an individual’s sex (Lysova et al, 2020: 1273), particularly in the context of arresting women. She is of the opinion that one will never be the same again after such an experience when she remarked:

“They [the police] came to collect me at res [student accommodation] in a private vehicle. I went to X police station, and they took my statement, taking pictures and then. Yes, then later on that day a van came to fetch me, and I went to XX police station and was put in a holding cell for one night. Joh [colloquial word expressing strong feelings]! It is very bad there. Just being there. It is not a place where one can go and come back fine. ... We were five in the holding cell with one toilet. The cells are very dirty, and we slept on a mattress which was placed on the floor. It’s like a place that has been left for years and has never been cleaned. It’s dark, it’s dirty”.

Participant 28 is 33-years old and when he was arrested the police were callous and disinterested in his side of the story. *“They never listened to one word that I said. I wasn’t fighting with them. They can’t handcuff me in front of the, in front of my son. I think that was very cruel of them [he shows the author the bruises on both his wrists that were still there from being handcuffed. He was arrested on 22 March 2022 and interviewed on 07 April 2022]. I told them that the handcuffs were very tight. And they said, ja [yes], it’s like that”*. Participant 28 was very concerned that this incident was going to *“mess-up my career”*. He had just started working on the day of the interview after being unemployed since December 2020.

Participant 26 (male, aged 31) states:

“The way they treat people there [in prison] it’s unhuman like [inhumane]. They think they feeding you by giving a person dry bread. They give you accommodation to sleep by forcing 24 people on four single beds. It’s unhuman like. So obviously, in some way it must show you that it’s better to live your own life on the outside than on the inside. Then, also there was an incident that a person was stabbed there inside. The wardens try to stop it, but even the wardens are the ones that are giving you the bad treatment. They treat you like you are less than nothing. In my personal opinion I think people will rather die quicker in jail from hunger than outside on the street. That’s how bad it is inside there. ... They smoke next to you, drugs and stuff inside the cells. That’s how bad [poorly] they are being searched. Cell phones, drugs, injections, needles, everything is inside there.¹⁰ ... I was one evening at XX police station in a holding cell and then they transferred me to prison for three days. Some people are there for seven days, 14 days. There inside it’s a bad place. That’s why I say, if the government can do anything in this country, they can start investigating the prison. I was badly traumatised. I had like eight slices of brown bread in four days”.

The findings indicate, without exception, that being arrested and detained is traumatic. Life in prison is expected to be uncomfortable with the deprivations associated with doing time (Muntingh, 2009: 27). However, not as Participant 26 describes it, namely, inhumane and stripping citizens of their rights and dignity. The rate of violence and victimisation in prison is alarming and it is believed to be under-reported (Muntingh, 2009: 10; Sibisi & Olofinbiyi, 2021: 221). Inmates often experience a combination of being victimised, witnessing victimisation and living in fear in a threatening and coercive penal environment. Within prison walls, death by suicide or homicide, sexual victimisation by staff or other inmates (Du Preez et al, 2015: 127; Listwan et al, 2010: 1140; Muntingh, 2009: 5; Sibisi & Olofinbiyi, 2021: 221), drug abuse and gang activity are common issues. It is of concern that although the participants in this study were detained for a relatively short time, they could relate to this hostile environment. Participant 10 was able to relay that he witnessed the aftermath of a rape and Participant 26 witnessed a stabbing. To fully understand the adverse detainment and prison experiences, one needs to consider the arrested person’s subjective evaluation of these experiences. As stated, the data suggests that it was traumatic to be arrested and detained, even if it was only for a few hours as expressed by Participant 16. He had the financial means to appoint a lawyer and was granted bail while still at the police station.¹¹ Participant 26 expressed that time in prison will dissuade anyone from committing an offence again when he made the following comment:

“If you do something and you end up there, and you come out and do that same thing or a different thing and end up there again, there must be something wrong with your mind. Like really. Because for me it was a terrible experience. It was something that I never want to do again”.

Ironically this participant was rearrested for IPV and also did not comply with the requirements of the diversion programme that he was attending. There is an ongoing debate as to whether the experience of prison is an effective deterrence mechanism. However, increasing evidence confirms that incarceration may increase subsequent levels of offending or recidivism (Listwan, Sullivan, Agnew, Cullen & Colvin, 2013: 146). In fact, the findings of Listwan et al (2013: 162) emphasise that inmates do not have to be personally victimised for prison to have a criminogenic effect. The common-sense perspective that the deterrent effect of prisons will be stronger if inmates are not placed in so-called “country club institutions” has long been questioned by criminologists. Sykes’s seminal work: *The society of captives: A study of a maximum security prison*, captured basic truths about penal confinement and his research regarding the pains of imprisonment (a term coined by Sykes), or penal harm is still relevant today. He states that “the modern prison corrodes the inmate’s person and sense of moral worth” (Sykes, 2007: xi). Even short-term detainment can cause defiance, especially if the arrest is seen as unfair, or if a person has been victimised by other inmates and/or has had harmful interactions with police and correctional officers (Listwan et al, 2013: 150). This is exemplified in the resentment and concluding remark of Participant 18, namely, *“I will continue and place this in order someday”*. The state has a duty to protect the legal interests of its citizens and their fundamental rights. Jurisprudence demands that the law be equally and correctly applied to ensure the rights of those who are arrested and detained, as enshrined in the South African Constitution and international human rights policies.

To restate, polyvictimisation surfaced where participants were not only coping with abusive relationships, but were also victims of other conventional crimes (e.g. property crime, injury during a random shooting, sexual assault by a known adult and murder of a family member), as well as non-intimate crimes, such as: child abuse; and/or exposure to IPV (cf. Finkelhor et al, 2009: 406-407). Thus, many participants may already have traumatised nervous systems, a deflated sense of self, stripped of dignity and feelings of shame. For example, Participant 13 conveyed feelings of shame, since he endured tremendous cruelty at the hands of his mother and was molested by the vice principal in high school. Shame is at its core one of the deepest negative emotions and these feelings can be exacerbated by being unfairly arrested and revictimised by the CJS. Participant 18 underscored this point by revealing a miscarriage of justice in which he was wrongfully arrested due to false allegations. During his time in custody, he endured physical assault at the hands of correctional officers, and a warden forcibly cut off his dreadlocks that he had spent over five years growing. Research reveals that violence and victimisation within prison settings are substantial stressors and traumatic events that could have adverse effects on psychological well-being (Listwan, Colvin, Hanley & Flannery, 2010: 1142). These effects can manifest as heightened levels of stress, anxiety, emotional distress and a variety of health-related concerns.

Male victims of IPV experience similar coercion and control from their abusers as do female victims (Allen-Collinson, 2009: 35). Barkhuizen (2015: 48-60) gives a harrowing account of male victims who often endure longstanding and severe forms of abuse, which instils fear. These men often narrowly escape arrest due to false allegations and where the police officers are disinterested in hearing both sides of the story (Barkhuizen, 2015: 59), possibly because of the stereotype that women resort to violence either in self-defence, retaliation or vengeance against their own victimisation (Barkhuizen, 2015: 47). The current study emphasises the problem when men who are also victims of IPV are arrested and highlights their revictimisation by the CJS.

Trauma is a universal concept and can be experienced throughout the lifespan. Moreover, South Africa is a country that carries historical and collective trauma brought about in particular by the British and the previous apartheid government's discriminatory policies (Madonsela & Bubenzer, 2022: np). When childhood adversity is thrown into the mix, there can be deleterious consequences that can translate into maladaptive behaviour. Trauma can shape the way we live, the way we love, the way we make sense of the world and how we relate to ourselves and to one another. In the spirit of ubuntu or humanness, society needs to see what happened to its fellow citizens and not merely what is wrong with them. In other words, to focus on pathology rather than just criminality. Situational factors, such as: unemployment, often play a role in IPV and merely having the dignity of work and financial security can preempt abuse. As mentioned, nine of the 29 participants in this sample were unemployed. It is not the intention of the author to minimise the seriousness of partner abuse, nor male-perpetrated violence. Some perpetrators are dangerous, may exhibit antisocial traits and do pose a grave threat to victims. In these cases if caught offending, they should be imprisoned, assessed whether they can be helped and if not, bear the brunt of harsh penalties.

IMPLICATIONS AND FUTURE DIRECTIONS

Better judgement should be exercised when effecting arrests, especially given our already overloaded court system. The backlog in cases was exacerbated by the COVID-19 pandemic. A call is made to the Detention Justice Forum, which is a national and international civil society organisation concerned with the rights of detainees (Just Detention International South Africa, 2015), to collaborate with the National Prosecuting Authority, the Department of Justice, the Department of Correctional Services and the South African Police Service regarding the precarious situation that many detainees for intimate partner assault find themselves in. The author's recommendations are as follows: (a) Prison wardens should be held accountable for injustices and brutality towards inmates; (b) correctional officers need to uphold prison facility regulations, which may be easier said than done because of overcrowding; and (c) male victims of IPV should be empowered through advocacy and policy development. An effective initiative might involve providing comprehensive training to equip police officers with the necessary skills to respond to IPV impartially.

Ambiguity exists in the literature as to whether penal harm has unintended consequences, such as: increasing or preventing future offending. The research results of Cook and Haynes (2021: 28) is more in keeping with deterrence arguments, which suggest that negative prison experiences will decrease the likelihood of reoffending. Several participants, such as: Participant 2, substantiated this notion when he declared "*I don't want to see myself there again because that place is hell*". On the other hand, the evidence also verifies the criminogenic impact of incarceration, suggesting heightened levels of involvement in criminal activities (Boxer et al, 2009: 804; Listwan et al, 2010: 1142-1143; Listwan et al, 2013: 162). Further areas of investigation could include: (a) The psychological impact of detainment while awaiting trial; (b) the ramifications of dual arrests, such as: intensifying strain within the relationship, since both parties may face legal consequences and potential protection orders that may affect family dynamics and future interactions; (c) whether it would be efficacious to mandate both parties to attend the same intervention where the abuse is bidirectional; and (d) the impact of the new Domestic Violence Amendment Act 14 (2021), specifically regarding mandatory arrests and the tightening of bail applications.

LIMITATIONS

A limitation of the study is that response bias may exist in data collection measures, such as: self-reports. Abusive partners typically minimise, deny and justify abusive behaviour. Although the complainants were contacted to corroborate the narratives, it is possible that not all the information was verified. Retrospective accounts of events can also hold some

inaccuracies where a participant may improvise. The sampling was purposive and therefore generalisations must be made with caution.

CONCLUSION

There is a scarcity of empirical data that describes the paradox of men's violence in relationships and their experience of being arrested and detained. This research urges the opening of a policy-relevant line of inquiry to evaluate the success of domestic violence arrest policies, especially for once-off minor incidences of common assault. While mandatory arrests send out the message that IPV will not be tolerated, these arrests may not always be the answer in every case (Melton & Sillito, 2012: 1096). Criminal litigation, prosecution and incarceration is carried out at great public expense, in terms of police costs in responding to assault or domestic disputes and court costs to prosecute. These costs need not be escalated by arrests for minor incidents, such as: a push; a slap; or breaking a partner's cellular phone; that in some cases, according to the NCADV (2021), may not even constitute domestic violence.

As demonstrated in this study, many of the accused experienced victimisation directly and/or indirectly within the CJS, leading to demoralisation and contributing to psychological distress. To reiterate, according to Listwan et al (2013: 162) penal harm can also lead to higher levels of criminal involvement or recidivism. Furthermore, this "heightened likelihood of reoffending may be a hidden cost of failing to ensure that inmates reside in safe environments" (Listwan et al, 2013: 163). A plethora of evidence challenges painful prison experiences as playing a factor in deterrence. Prison is described as "hell" where you "are face to face with the devil". A coercive prison environment is associated with a higher probability of rearrest and reincarceration (Listwan et al, 2013: 162). Conversely, minimising repeat victimisation has been shown to lead to a reduction in criminality (Laycock, 2001: 59). Participant 28 profoundly remarked that "if the government can do anything in this country, they can start investigating the prison". Thus, as a crime prevention strategy, the legal system should be mindful of avoiding secondary victimisation, particularly regarding male victims of IPV who are vulnerable to stereotyping.

The inherent bias in the widely used term GBV, which assumes that men are perpetrators and that women resort to violence either in self-defence or retaliation cannot be ignored (Barkhuizen, 2015: 47; Khurana et al, 2021: 306). The current study is in accordance with Lysova et al (2020), who state:

"The men's descriptions of the negative behaviours they experienced within the court systems are consistent with the potential presence of gender-based biases, such as treating men as the primary perpetrators or dismissing the male victim experience" (Lysova et al, 2020: 1278).

The CJS cannot continue to overlook the issues that are arising from this steadily growing problem of prejudgment and discrimination towards male victims. Male victims of IPV are secluded in our society and their human rights are being violated. Male victims need a voice because all persons have intrinsic dignity and the right to have their dignity respected and protected. An appeal is made for improved government directives to eradicate violence against women and girls—and men and boys.

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ENDNOTES

1. Compare Abrahams, Mhlongo, Dekel, Chirwa, Ketelo, Lombard, Mathews, Labuschagne, Martin, Manganyi, Gounden, Majola, Mabhida, Variava, Ramsoomar, Shai, Matzopoulos, Prinsloo, Vellema, Ntsele, Saayman & Jewkes (2022: np) indicating that the reported incidences of femicide are deflated in comparison to the actual incidences where three women are murdered by an intimate partner every day in South Africa according to their 2009 and 2017 survey. However, this national study did not include incidences of mariticide and therefore it is not possible to draw a comparison between the rates of femicide and mariticide.
2. Compare Melton and Sillito (2012: 1104) whose findings suggest that female offenders who come to the attention of the police may be more likely to be the true victims in the relationship.
3. See Park and Kim (2019: 738) who comment on the growing body of evidence regarding the victim-perpetrator overlap and the association between intimate partner violence perpetration with previous or concurrent victimisation experiences, regardless of sex.
4. It may be noteworthy to mention that spiritual abuse and exposing a child to domestic violence is now included in the new Domestic Violence Amendment Act, No.14 (2021: 8).
5. The National Longitudinal Study of Adolescent Health, also known as Add Health, is a comprehensive, ongoing study in the United States that began in the mid-1990s and examines the health and well-being of adolescents and young adults. It is organised into multiple waves of data collection.
6. See Carmichele v Minister of Safety and Security (CCT 48/00) [2001] ZACC 22; 2001 (4) SA 938 (CC); 2001 (10) BCLR 995 (CC) (16 August 2001) in a landmark court decision where the court upheld an application by a woman to have the Minister of Justice and the Minister of Safety and Security held liable for her brutal attack, by a man who had been released on the recommendation of the investigation officer and prosecutor (without bail), despite his history of sexual violence (South African Constitutional Court, 2001).
7. See De Kock v Pedzisai (287/2021) [2022] ZASCA 109 (15 July 2022) where the court dismissed the applicant's appeal with costs for abusing the court processes via the domestic violence court (South African Supreme Court, 2022).
8. The findings of Du Preez, Steyn and Booyens (2015: 140) identify overcrowding as a risk factor for suicide in correctional centres.
9. Nyaope is a street drug that has come into widespread use across South Africa, especially in the poorer communities and informal settlements.
10. See Sibisi and Olofinbiyi (2021: 217-219) regarding the smuggling of unauthorised items.
11. See Cook and Haynes (2021: 28) who contend that the pains of imprisonment may be particularly severe for first-time prisoners, or for those who have served less time in prison.

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