ABSTRACT

The paper examines some contrasts between the efforts and rhetoric used to attract women to the police service and the practical realities of day to day service.

Two key approaches are used - the human resources management perspective canvasses the application of such functions as attraction (e.g. recruitment, selection), retention (e.g. induction, socialisation, cultural management, career development), allocation (e.g. job analysis, human resource planning); utilisation (e.g. training and development, job design), and participation (e.g. industrial relations); and this perspective provides a context in which to view the legal perspective with the focus on specific workplace complaints of discrimination which have entered the public domain (e.g. Hollingsworth v NSW Police Service 1997; McKenna v State of Victoria (Victoria Police)1998).

The paper also draws, in passing, some relevant comparisons with the experience and example of the armed forces and legal profession.

The question is posed as to the workability of a law enforcement culture that is often perceived to actively discourage women from exercising their own legal fights to challenge injustice and discrimination.

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May, 1999.
All women are little balls of fluff in the eyes of the Creator.  
>Donald Pomerleau, Baltimore Police Commissioner, testifying in a sex discrimination case. 

The 1990s have seen major developments in the discipline of human resource management. They have also witnessed, particularly in the latter part of the decade, an increasing public scrutiny of the place and the role of women and minority groups in the uniformed professions.

This paper examines the circumstances of women within the modern Australian police force in the context of some recent, and high profile, workplace and discrimination complaints and contrasts some of the examples and incidents from the reported cases - the ‘reality’ - with current human resource management best practice - the ‘rhetoric’.

A paper of this size is necessarily limited in its scope, nor is it intended to suggest that the experience of women police officers in the cases that are examined is a reflection of the experience of all women officers. However, these cases do pose questions and expose workplace scenarios which a modern organisation operating in a diverse and challenging environment ignores at its peril.

Human Resource Management (HRM) has come a long way from the traditional administrative ‘personnel’ function, where a single staff member made up the pays, deducted Union fees, and kept the first aid kit stocked. It is a growing multi-faceted discipline encompassing a complex and inter-related range of activities from recruitment to retirement. Moreover, "contemporary thinking on HRM tends to see it more as a broadly distributed organisational competence, including line managers, rather than just a group of specialists in the HR department .... the totality of people management systems in the organisation ..."1  
This approach mirrors that of Australia's various anti-discrimination tribunals to the issue of vicarious liability for acts of workplace discrimination and harassment whereby "[a]n employer must demonstrate that a real commitment to a discrimination-free workplace is embraced and implemented within the organisation and the corporate culture."2

Numerous academic and management commentators have adopted different frameworks of HRM functions and activities. Some key functions and practices were captured by Prenzler in his useful analogy of a police career "negotiating a series of gates" such as recruitment, training, deployment, retention, promotion. A detailed typology, synthesised from a review of the literature and adopted as a basis for postgraduate study of functional HRM issues in the Faculty of Business and Law at Central Queensland University, provides a helpful context for this paper:

<table>
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Table 1: A generic typology of HRM functions and an operational typology of HRM practices

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One of the ongoing issues in Australian police recruitment practices has been the imposition of physical testing. Prenzler conducted a 1996 evaluation of physical ability tests and concluded they "lack task validity and are probably illegal under EEO legislation." As the Australian anti-discrimination jurisdiction develops and its practitioners become more sophisticated in their understanding of the legislation, it is clear that these tests are being scrutinised in accordance with inherent job requirements. The question that must be asked is that if the ability to perform some physical test is essential in terms of the ability to perform the job, what tests or controls are imposed by the police service to ensure that that level of fitness and/or physical skill is maintained after a recruit joins the police service?

If the inherent job requirements involve offender management (e.g. moving noncompliant offenders, using handcuffs or batons, applying pressure-point control tactics and breaking up fights), then a 1998 Queensland Criminal Justice Commission study reported little difference between the physical activities male and female officers performed. Miller, Blackler and Alexandra quote a 26 year old Woman Police Constable from the London Metropolitan Police with four years service in a racially mixed area: "I calm down pub disputes a darn sight quicker than the blokes can, because they go in there with fists flying; as macho as they are, they're not going to solve it that way"; and they point out there is an "obligation on police services to develop best practice to secure more effectively the ends of policing."

In her paper for the first Women Police Conference, Niland described the 1977 New South Wales recruitment practice of allocating points for relationships with existing police officers: "The small female quota filled quickly with women whose male relations had presumably ensured they understood the appropriate role of women in supporting male police and freeing them from so called 'trivial duties'." While, 20 years later, the point system may have disappeared, the legacy remains in the stereotypical views still found throughout the uniformed professions in Australia as to the limited purposes for which women are recruited to the services. This is seen in the heated debate in the last 12 months over the ability of women to access combat roles within the Australian Defence Forces and the trivialisation of the issues in terms of the lack of toilet facilities on the front line.

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6 Prenzler, Tim, op. cit., p.2
9 ibid. p 161.
11 This issue was widely reported in the media. See also Retreating Forces in Sit Down Girlie - Legal issues from a feminist perspective. Alternative Law Journal, vol 24, no 1, February, 1998. p 45
In the 1970s when women sought entry to the FBI in the United States, it was necessary for two women to file a discrimination claim with the support of the American Civil Liberties Union. The FBI countered by arguing the Bureau should "be exempt from the ordinary standards prohibiting employment discrimination on the basis of sex."12 It was felt women could not cope with the dangerous 'combat' activities. The issue was seen as an 'emotional' one. Women were admitted, but were subject to 'different' rules - they were not permitted to smoke at their desks, an unmarried woman was not to be asked to type 'obscene' material, and women were issued with smaller revolvers! 13 The then head of the FBI was supportive of women's entry to the organisation, but is described as having already decided to "lower the barrier" 14 - implying that the entry of women would result in some 'lesser standard'. Many women in today's police forces believe they are still viewed as 'less' than their male counterparts.

In the case of New South Wales police recruit, Kim Hollingsworth15, the Hearing Commissioner at first instance stated:

_I do not believe that Ms Hollingsworth should be denied access to a career in the Police service according to an imaginary standard which, on the basis of the evidence before me in this hearing, just does not have application to other recruits .... Indeed, this case still appears to centre chiefly on what I perceive are double standards._

The first appellate tribunal said there was "room for sympathy" for Ms Hollingsworth, and that a basis had also been established "for criticism of the Police Service and its approach to recruitment". On a second, recent appeal, Ms Hollingsworth was reinstated.

While there is a natural human tendency for people to choose other people like themselves - what some theorists refer to as 'homosocial reproduction' 16 - there can be no place for this approach to recruitment and selection in a modern organisation required to serve an increasingly diverse community that itself has expectations of equity and equality of opportunity.

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**RETENTION**

Sexual harassment became illegal [in the U.K.] in 1986. Women in male dominated jobs were more prepared to speak out. A former policewoman complained ... in 1983, 'You get chipped away. You have to take all the insults, all the wind-ups. I resented being called a "fucking cunt"'.


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13 ibid. p512, p346.
14 ibid. p 508.
15 Commissioner of Police -v- Hollingsworth[1997] NSWIRC 163, 22 December 1997; at first instance No 2827 of

The role of modern human resource management is essential in the creation and maintenance of a positive and productive organisational culture as reward/compensation practices, methods of performance appraisal, forms of induction and socialisation and career development activities will all shape behaviours and attitudes in organisations and affect employee commitment.\(^{17}\)

In 1998, the Victorian Anti-Discrimination Tribunal handed down a detailed 77 page judgment in respect of complaints of discrimination on the basis of sex and marital status, and complaints of sexual harassment and victimisation, brought by serving police officer Narell McKenna against the Victorian Police and various individual police officers.\(^{18}\) While this case may also be subject to appeal, the careful recitation of the evidence presented to the Tribunal and its findings on that evidence are instructive:

\[\ldots\text{from the moment of her arrival} \ldots\text{she noticed that the}\]
\[\text{atmosphere was quite different from any other place she had been}\]
\[\text{at in her career. She found the treatment of women very different.}\]
\[\text{Men would constantly tell demeaning sexual jokes in her presence}\]
\[\text{and would make \textquoteleft snide comments all over the place on a day to}\]
\[\text{day basis about women and their role', saying that a woman's}\]
\[\text{place was in the home, the bedroom or the kitchen.}\]

\[\ldots\text{The complainant said that she was so shocked that she didn't}\]
\[\text{know what to do. She tried to tell the men that she didn't}\]
\[\text{appreciate the remarks; she tried walking out and ignoring the}\]
\[\text{remarks but nothing seemed to work.}\]

\[\ldots\text{it was everything, it was the whole culture down there that} \ldots\]
\[\text{the boss allowed to exist and encourage[d] \ldots\text{how I was being}\]
\[\text{treated wasn't right, was unfair, and less favourable to women,}\]
\[\text{definitely.'}\]

\[\ldots\text{I've been at police stations and} \ldots\text{a lot of different places where}\]
\[\text{jokes get told and they're not those sort of jokes. They're not funny}\]
\[\text{jokes, they're demeaning and cruel. They're jokes about women's}\]
\[\text{place \ldots\text{and what women are good for, and they're very vile and}\]
\[\text{disgusting, and they're not meant to be funny. Particularly when}\]
\[\text{they're said all the time, they're not funny.'}\]

Many police services now have progressive training programs, but the positive features of these programs will be quickly forgotten if young officers do not see these features receive support from colleagues and superiors in the 'real' world. Johnstone argues "the real 'acculturation' process does not take place until after the recruit has left 'bullshit castle' "; and cites Brogden, Jefferson and Walkgate's view that "[l]earning how policework is done ... involves the probationer in acquiring

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\(^{17}\text{see generally Robbins,S.P., \textit{Organisational Behaviour Concepts, controversies, and applications}. 4th ed.}\]

\(^{18}\text{McKenna -v- State of Victoria (Victoria Police) & Ors. Victorian Anti-Discrimination Tribunal 1 June. 1998.}\]
not only a formal knowledge of the law and so on, but crucially an understanding of the informal norms and values of the subculture."²⁹

But, what messages did Narell Mckenna (and Kim Hollingsworth) receive from management and peers about prevailing police culture? In finding the Victorian Police vicariously liable for the actions of individual officers in those instances where specific complaints by McKenna were upheld, the Anti-Discrimination Tribunal said:

... leaving aside a one page folder distributed to all members with their payslips in 1993, the general availability from about 1995 of an EEO manual, and the inclusion of EEO material in promotional study course material made available for a fee, there was no general effort to imbue individuals in the force - whether senior officers, sub officers or ordinary members - with the need for greater awareness of discrimination issues.

Those training courses that were held were one day affairs that were not subject to compulsory or recommended attendance, for members of the force who had no formal EEO functions and it would appear [were] attended generally by only EEO contact officers. None of [the individual Respondents] had participated in such a course. Nor did it appear they had ever been requested or even encouraged to do so. This is all the more surprising for an organisation that until the mid 1970's was almost totally segregated with regard to sex ... and that had inherited a historic imbalance between the sexes with regard to both numbers and attitude and as a result still had to overcome associated hurdles.

The Tribunal finds on the evidence before it that there was no conscious effort by the force, other than by the gradual establishment of a network of contact officers, the holding of voluntary seminars and the distribution of what amounts in its view to scant material that had no history of being updated regularly, to ensure that from the highest levels downwards members were made aware of the importance of being discrimination conscious and of ridding the formerly all male organisation of any vestiges of a male oriented culture.

The Tribunal finds further that on the evidence before it the force appears to have done little to instil in its leaders and senior members a sense of commitment to a culture and management standards for the organisation that brought with it an expectation that every member conform to non-discriminatory standards in their work, professional behaviour and attitude ....

The New South Wales Industrial Relations Commission was asked to consider the case of Kim Hollingsworth, who sought reinstatement to her employment as a student police officer. She was dismissed
in July 1995 after completing her first ten weeks of training at the Police Academy in Goulburn.


In her application and entry interview, Ms Hollingsworth had not revealed her past employment as a stripper or as a prostitute. On appeal, there was considerable legal argument about Ms Hollingsworth's obligations to disclose such information about her past, the status of her employment during a period of traineeship, and her ability to command the respect of the public and her peers in order to function effectively as a police officer.

The hearing took place against the backdrop of the New South Wales Royal Commission into police corruption. It was common ground that Ms Hollingsworth provided evidence and assistance to the Royal Commission. It was also a matter of evidence that when details of Ms Hollingsworth's past became known at the Academy, she was subjected to an approach from a corrupt police officer. The Hearing Commissioner pointed out that the findings of the Royal Commission had established the Police Service was "rotten" and that "perjury [was] endemic"; and asked "why [must] Ms Hollingsworth alone ... be a 'paragon of virtue' in that climate"? In relation to the perceived 'double standards' operating in the force, he highlighted the following evidence:

A female student police officer who took a substance believing it to be a prohibited drug was counselled and returned to continue her PREP with her training being monitored .... However, Ms Hollingsworth was not treated in that manner .... the dismissal of Ms Hollingsworth was over the objection of three other senior members of the Police Service who proposed [she] be counselled. But that did not happen.

... the treatment of Ms Hollingsworth is in contrast with the treatment by the Police Service of a male police officer who 'moonlighted' as a stripper, arriving at a function for women aboard a boat in his police uniform and stripping off and also posing for a women's magazine: he was counselled for such activities but has not been dismissed ... Also, ... the position with the police officers who hired Ms Hollingsworth as a stripper and/or as a prostitute is still under review since the middle of 1995, they have to date [April 1997] neither been counselled or dismissed ...

Thus, modern police forces attempt to retain women officers by processes of socialisation, and within a culture, that is still reminiscent of Summers' categorisation of nearly a quarter a century ago of 'damned whores and God's police'.20 The debate must not be whether Ms Hollingsworth's past made her a 'fit and proper' person to serve as a police officer; or whether Ms McKenna was particularly 'thin skinned' for the 'good humoured rough and tumble' of the country police station, but whether all women officers are given credit for equal commitment to their careers and have their performance judged on the same merit based terms as do their male counterparts.
ALLOCATION

In the relevant period male members did get opportunities to do upgraded work. [McKenna] raised this issue with one of the senior sergeants … but she was told that she ‘was a girl’. She told the Tribunal that she then ‘begun to understand that that was their excuse for a lot of things’.

> McKenna-a-State Of Victoria (Victoria Police) & Ors

If management operates from the standpoint of old stereotypes about the kinds of jobs women can do, or are ‘good at’, there can be no attempt, let alone meaningful commitment, to understanding, creating and describing jobs from a skills standpoint. A proper detailing of the knowledge, skills and abilities (KSAs) an officer needs to perform a particular task can be accomplished without any presumptions as to the gender required. Gender does not perform a job well or badly, it is the level of KSAs acquired by any officer that will be the determinant of a successful outcome.

Narell McKenna gave evidence to the Victorian Tribunal about being denied access to a four-wheel drive course and about being denied or having limited access to a range of special duties. The officer-in-charge of the station gave evidence that he "agreed with the tradition of using men for these duties" -

'A lot of it is on a physical strength basis. They have to work in mountainous terrain, remote from the systems. It is the same with the four-wheel drive course. They might find themselves bogged out in the back of nowhere and have to get themselves out, so a lot of it is physical strength, a lot of it is probably how the town would react to it. I don't know that they are quite ready for that yet."

While the Tribunal found there was insufficient evidence to establish that the refusal to allow Ms McKenna access to a four-wheel drive course was based on her sex or marital status, the evidence presented to the Tribunal from a modern human resource management standpoint shows a complete lack of understanding of basic job analysis skills and the ways they might be used to identify the key factors necessary to perform the given task with competence. Stereotyped arguments about the 'need' to protect women, or their potential clients, can no longer pass as a substitute for rigorous job analysis in a modern police force.

Similarly, if Australian police services are to adopt best practice into the 21st century their human resource planning techniques and processes cannot remain static and tied to past assumptions about the role of 'women's work' within the organisation. If there is not meaningful change, human resource planning practices will remain, at best, in the "regulatory" phase where they are utilised merely to ensure some basic and superficial level of compliance with existing policies and legal requirements, rather than as a key "partnership" tool to provide modern and proactive human resource input into the organisation's strategic planning.23

22 see generally Niland, op. cit. pp 2-3.
23 see useful summary of contemporary issues in human resource allocation in Li & Winterfield, op. cit. pp 6-3 to 6-15
UTILISATION
Police services are developing high level management training programs (such as the Queensland Police Service Management Development Program), and in some cases are forging strong links with undergraduate and postgraduate University courses (e.g. Deakin University's postgraduate course in Police and Gender due to commence in 1999). But the organisations must demonstrate an unswerving commitment to matching the rhetoric with reality in order to create workplaces that project positive corporate images, that foster diverse work forces that reflect the diversity of the communities they serve, that are free of the hazards and the stress of discrimination and harassment, and that are able to develop confident and productive employees.

One of the key issues raised by Const. McKenna was denial of access to training, while Recruit Hollingsworth was fighting for her right to be readmitted to basic police training. Would their paths have been smoother if they adopted the prevailing culture - if they had gone along with 'the joke' in all its sinister manifestations? Austin describes women adapting their behaviour to 'fit in' and be accepted - an attempt to be 'good' which "can result in women officers adopting a more masculine manner of speech (swearing), mannerisms, behaviour, drinking patterns, etc." How far does a woman police officer have to go to 'fit in'? The type of training and development, how it is delivered, and the apparent commitment of management to the stated outcomes will be crucial. Johnstone states that while "training of and by itself may not necessarily form the 'police personality', ... it is a powerful contributor."25

Ms McKenna was a senior constable with the Victorian Police - joining in 1987 and graduating in 1988. She did training at city traffic and in two suburban stations (6 months each), then spent 12 months at Russell Street HQ and 3 years at Brighton. She received "glowing reports" from senior officers at Brighton. She was then transferred as senior constable to Bairnsdale. Narell McKenna was not prepared to 'fit in' with a series of incidents that might have meant 'acceptance' to a range of sought after benefits such as training and special duties. Her eventual complaint of sexual harassment encompassed - unwanted touching ("he immediately grabbed me around the waist and pulled me on to his lap"); unsolicited remarks of a sexual nature ("Come on, Narell, how about a head job?"); an assault "[He] grabbed me from behind and grabbed me around the shoulders and started dragging me towards the holding cell area ... I was very scared ....petrified of what was going to happen if I did get locked in the cell.").

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25 Johnstone, Peter, *op.cit.*
The male officer involved denied the specific allegations and stated he had a "strange sense of humour". The Tribunal dismissed his evidence as not credible and accepted the broad version of events detailed by Ms McKenna. The Tribunal was of the view that Ms McKenna was "someone who had gone through a genuine series of traumatic events." This impression was supported by the evidence of a psychotherapist who treated her in 1997 after she was admitted to hospital following a suicide attempt.

What is happening in cases such as this is a shift away from simple breaches of discrimination and/or sexual harassment laws, to the existence of workplaces that are patently 'unsafe' for all workers. Where workplace stress and violence can lead to illness and accident, where workers (usually women) sustain permanent injury, be it physical or mental, and the loss of career and livelihood. Already legal practitioners have initiated common law actions for damages for clients in such circumstances, citing breaches of an employer's common law obligations to provide a safe system of work, and breaches of statutory duties under the relevant workplace health and safety legislation. Police services will not be immune from such actions.

While the Victorian Police comes to terms with a compensation order in McKenna's case of $125,000; and the New South Wales force grapples with a recent order to pay Hollingsworth $30,000 plus reinstate the controversial recruit, the Queensland Supreme Court in late 1998 made an award of over half a million dollars in damages to a female employee of a provincial newspaper. Ms Arnold successfully argued at trial that the extreme and persistent bullying in her workplace breached the employer's common law obligations to her and also breached the Queensld Workplace Health and Safety Act. As a consequence of those breaches, she suffered serious and ongoing mental trauma. While this decision was reversed some months later by the Appeal Court, that reversal was not unanimous, and the case is certain to be a forerunner of other similar workplace cases where women's rights to enjoyment of safe and healthy workplaces free of bullying (whether linked to specific issues of discrimination or not) are upheld.

While Ms McKenna was working as a police officer, she had been suspended from playing competition basketball for a 4 week period on a charge 'playing with undue roughness'. Her basketball team consisted of policewomen and wives or partners of male officers. The details about the off duty incident were delivered to her workplace. Ms McKenna subsequently removed them from the desk of the officer-in-charge. She was then charged under police disciplinary procedures in respect of the basketball game and the taking of the document from the desk of the officer-in-charge. The AntiDiscrimination Tribunal found that between 1990 and 1996 in a 10,000 strong Victorian police force, there had only been 3 occasions when a member of the force was disciplined for an incident in the sporting arena.

The Tribunal was satisfied that the disciplinary action (following the off duty basketball game) "constitutes very serious discrimination on the basis of her sex in the area of employment .... that the complainant received less favourable treatment than would have been accorded to a person of a different sex and that the treatment was on the grounds of the difference .... a male would not have been treated in the same way." The Tribunal found that the incidents of victimisation complained

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26 Midwest Radio Ltd. -v-Arnold. [1999] QCA 20,
about by Ms McKenna occurred after she had lodged her initial complaints of discrimination and harassment. The Tribunal upheld the victimisation complaint, being unable to find "a more innocent explanation" for the various circumstances viz. the unprecedented upgrading of a disciplinary notice; by officers who were aware of the recent complaint; who knew the Complainant's health was affected by events leading to that complaint; and who knew the Complainant had shown signs of stress in the workplace.

PARTICIPATION

Unions certainly are not at the cutting edge of equity policy, and ... this would seem to be an area where they should be using their influence for good.

> Prenzler, Tim


Prenzler describes the "highly unstable" relationship between women police and unions, and points out that women's networks "have been of necessity created outside unions." While unions have been the traditional rallying point in the push for improved conditions, they have been all but absent in the recent moves by women police for flexible and family friendly work practices. Prenzler's observations that women officers have been more likely to turn to their EEO unit than their union are certainly supported by recent developments in Victoria where the Chief Commissioner has announced initiatives such as integration of the EEO Unit into his own office; flexible arrangements for women with children; and the establishment of a carer's room at the Victorian Police Centre for the use of parents when other care arrangements have fallen through. In making these, and other announcements, Chief Commissioner Comrie vowed the experience of former officer Sgt. Sandra Makepeace (who left the service when she could not combine mothering with rosters, shift work, long nights) was part of "another era."

CONCLUSION

It is clear that management (at all levels of the organisation) has a critical role to play in establishing truly productive, non-discriminatory and equitable workplaces where individual diversity and skills are properly valued, and where every member of the organisation can have confidence that the workplace will protect and promote their health and safety.

Austin describes an article she wrote in 1994 ('Role Overload and Women Police') and the polarised reaction to it - men publicly hostile and critical; women privately supportive - "but at that time there were no women officers who felt confident enough to support

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27 Prenzler, Tim, op. cit. p 5.
28 Ibid.
me publicly in a patriarchal culture..."  

30 Despite the rhetoric, this has been the (very recent) reality for many women police officers in Australia. An experience mirrored by women in the armed services and the emergency services. An experience shared by many women in the legal profession, who have no unions and who have only comparatively recently started to work within workplace equity units, professional body equity committees and other networks. A Brisbane barrister and anti-discrimination specialist recently cited the "worst discrimination offenders" as "solicitors' firms ... [p]articularly of young female staff."

For many such women, the realisation they are part of a legal network of law enforcement agencies, that they work within the justice system, that they are perceived as upholders of the law, is a particularly cruel irony in circumstances where they themselves are trapped in a culture of silence while prey to often persistent and blatant breaches of the law. Where are their legal rights and protections in such circumstances? And where is modern management best practice?

30 Austin, Wendy, op. cit. p 1.
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