WOMEN AND DISCRIMINATION - A POLICING PERSPECTIVE

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Victoria Police
Introduction

A fundamental characteristic of western police forces is male domination. A simple preliminary analysis of raw data in Australia and overseas supports the proposition that women are significantly under represented within western police forces. In 1995, of the total 42,517 sworn police employed within Australian police forces, only 13.5% were women. In June 2001, this figure had risen to just 18.9% out of a total of 44,922 sworn police members in Australia. The number of women represented at higher ranks, that is sworn management positions, is only 2.4%. While the matter of equal numbers is not the only means of creating equity within police forces, it is one of the major factors which contribute to discrimination and inequitable practices in the workforce:

Whilst women are still a minority, each individual is very visible. Her performance is extremely public and her acceptance by males is often conditional. Greater numbers will help overcome this. As well, they will provide support networks for women and help to establish role models.

This paper was originally prepared as an academic paper in 2000. At that time it provided a short historical perspective of the role of women in policing and detailed progress with equal opportunity in employment legislation enacted in Australia. A review of literature relevant to the topic, particularly from the feminist perspective, was used to identify problems faced by sworn women in policing, specifically in regard to recruitment and career development.

As this year (2002) represents 85 years of women in policing in Victoria, and with the timing of this Women and Policing Globally Conference, it is appropriate to revisit this paper to determine what progress, if any, has occurred in the last two years. Where possible, the paper will identify further areas and strategies for improvement.

Historical Perspective

In 1915, South Australia appointed the first women to any Australian police force with arrest powers. This was closely followed by New South Wales in the same year and by Victoria in 1917. However, neither of these states gave women the powers of arrest. In Victoria, the women employed by police were called ‘police agents’ and did not wear a uniform (and wouldn’t until 1947). By 1923, all states except Queensland had appointed women as sworn officers. It wasn’t until November 1924 that women in Victoria were sworn in as fully-fledged members of the Victoria Police. Until the 1970’s, the duties performed by the women’s sections of Victoria Police engaged in community policing roles. This role included the care of young women and children at risk, and the custody of female prisoners.

Conditions for policewomen were considerably different to those of their male counterparts. In many jurisdictions, women received lower pay, no pension entitlement, and age and height restrictions on recruitment disqualified many prospective applicants. In addition to these limiting factors on the careers of women, married women were disqualified from joining and those who married while employed as policewomen were forced to resign.

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1 Australian Institute of Criminology, Police in Australia – Statistics, June 2001
4 Wooley, C (1997), Arresting Women, Victoria Press, p.34
5 Prenzler, op cit., p.259
6 Ibid. p.258
7 Ibid.
Impact of Equal Employment Opportunity Legislation

While slow to take up the impact of equal opportunity legislative reform, police forces across Australia began to open the way for women in policing in the early 1980’s. However, it was not until 1990 that Queensland removed the quota system that kept the number of women static within that police force. In Victoria, in 1982, Police Women Divisions were replaced with Community Policing Squads and women were assigned to general duties positions.

In 1990, the Victoria Police conducted an internal review of the impact of equal opportunity on policing in Victoria. This review indicated a number of startling statistics in regard to the integration of women in the Force.

In regard to recruiting, the review found that women represented only 20% of applicants. All applicants were required to complete a physical agility test. This agility test required applicants, amongst other things, to run two laps of an athletic track while performing a number of agility and strength tests. These tests included scaling a vertical wall of 1.80 metre in height and carrying a weighted dummy (75kg) for a considerable distance. As a result of this test being introduced in 1989, it was found that the proportion of all women applicants able to successfully pass the physical testing phase to gain employment dropped from 57% to 33%. The proportion of males who passed the same test remained constant at 88%. Notably, 44% of female respondents surveyed indicated that they were subject to some kind of gender discrimination during the interview phase.

It was also found that the majority of males achieving the rank of sergeant were married while the majority of females attaining the same rank were unmarried. Women were found to be proportionately under represented in applicants for promotional exams. Women were found under represented in specialist areas such as criminal investigation and a high majority of women respondents believed that they had been unsuccessful in their applications for such positions because of the paternalistic approach of the all male selection panels. There were a higher proportion of women with tertiary degrees than their male counterparts. Women represented in excess of 14% of the sworn workforce but it was suggested by the report that that was anticipated to increase to more than 17% by 1993 (this did not happen).

1993 Review

In 1993, the Police Issues Group of the Federation of Community Legal Centres (Vic) Inc, released a report calling for affirmative action in the Victoria Police to overcome the apparent imbalance of the representation of women in policing, (Brute Force). This report, in addition to criticising the 1990 Victoria Police Report, detailed further statistics in regard to the demographics of women. It showed that in 1990, whilst women made up 14.6% of the sworn workforce, they represented only 1.9% of employees of and above the rank of Inspector. This representation at rank decreased to 1.8% in 1991 and 1992. The overall representation of women in 1992 had dropped to 14.4%, considerably less than the 17% which the 1990 police report had claimed would be reached by 1993.
1998 Review

In 1998, following considerable criticism of the Victoria Police by the Victorian Anti-Discrimination Tribunal in the McKenna Case\textsuperscript{13}, a further review of equal opportunity issues was conducted in 1998 - the ‘Latta report’.\textsuperscript{14} Like the 1990 report it provides valuable statistical analysis of the demographics of the Victoria Police.

In 1996/97 the percentage of sworn women in the Victoria Police was approximately 14\%, slightly lower than the 1990 statistics. In regard to women who had achieved the rank of Inspector or above, it was found that, apart from one woman who had reached the rank of Assistant Commissioner in the early 1990’s, there had not been a woman at a higher rank than Chief Inspector since 1989. The percentage of women represented at the rank of Inspector or above had remained at less than 2\%. National figures were also provided which indicate that Victoria, while performing poorly, was on par with other state police forces with only the Northern Territory and the A.C.T. having a greater representation of women at just over 20\%. It was apparent that in the face of presumed good intentions, the management of Victoria Police had not been able to improve the representation of women during the 1990’s.

Since the release of the Latta report in 1998, Victoria Police has attempted to improve the representation of women in the Force. During 2000/2001, Victoria Police achieved a 1\% increase in the number of women police/recruits for the second consecutive year.\textsuperscript{15}

In February 2001, Victoria Police launched a $2.5 million multi-media recruit advertising campaign designed to attract more people to the Force, including more women and people from diverse backgrounds. This campaign, entitled ‘A New Century. A New Force’, has attracted an unprecedented response from the community. Currently, 37\% of new recruits are women.

In addition to this recruitment campaign, Victoria Police commenced work on a major initiative that has the potential to reshape the police workforce in the future. The project, commenced in December 2000, is focused on defining the inherent requirements of a general duties constable through determining what tasks are performed and identifying the attributes required for those tasks to be performed competently. This information will then be used as a template to comprehensively review all minimum standards for recruitment as a constable, including physical, medical, skills and personal qualities.\textsuperscript{16}

Women now represent 16.4\% of total sworn members in Victoria Police. While this is still less than the projected 17\% of the 1990 report, it is a significant increase since the publication of the Latta report in 1998. However, Victoria Police still represent the second lowest percentage of women in sworn ranks throughout Australia (the lowest being Western Australia who have only 13.2\%).

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\textsuperscript{13} McKenna v Victoria 1998 EOC 92-927

\textsuperscript{14} Victoria Police, Review of Victoria Police Equity Policies and Practices, Ken Latta, Executive Director


\textsuperscript{15} Victoria Police Annual Report, 2001, p.12

\textsuperscript{16} Victoria Police Annual Report 2000/2001, p.12. The project, being overseen by the Human Resource Development Department has been put on hold temporarily due to other priority projects. However, it is still on the agenda for implementation.
Problems Faced

Agility Testing

The agility test requirement has had considerable impact on the success of female applicants to join the Victoria Police. There has been considerable criticism of the use of physical agility tests to screen prospective recruits from entering police forces. Wimshurst is critical of the perception that police work involves some type of physicality.\(^{17}\) She suggests that the reliance on the need to prove physical prowess was purely a male issue whereas women were more concerned with proving themselves academically. Prenzler questions the relationship between the agility test and actual policing requirements. He suggests that the agility test does not take into account the fact that officers usually work in teams and have access to communications and equipment, which does away for the need for such rigorous agility testing.\(^{18}\)

Research in the United States indicates that physical strength and agility is less important for effective policing, whereas there is a greater need for general fitness with emphasis on negotiation techniques and physical restraint techniques.\(^{19}\) Policemen are more likely to be subjected to insults and attempts to assault them than their female counterparts and women are less likely to be subject to community complaints.\(^{20}\) The perception of the physicality of police work is also present in the United Kingdom where this philosophy has been used to keep the number of women recruited to below 10% and has restricted their duties to safer non operational positions.\(^{21}\)

The agility test, as described, could clearly be considered an example of indirect discrimination. The law in regard to indirect discrimination has developed as a result of action taken in the USA in the leading case of *Griggs v Duke Power Company*.\(^{22}\) In that case it was held that employment criteria that disproportionately excluded minorities were illegal, regardless of the intention of the employer unless the employer could prove that the criteria was job related. The Australian legislation requires that the criteria be reasonable, in that it must have an objective and rational basis. The Equal Opportunity Act requires four elements to be met in order to prove indirect discrimination. There must be a requirement, condition or practice; it must be one with which the complainant cannot comply; compliance of the group which the complainant belongs must be proportionately lower than those outside the group and; finally, the requirement must be unreasonable.\(^{23}\)

On the statistics provided it is obvious that women, as a group, cannot comply with the agility test requirement as readily as their male counterparts. In order for the requirement to be considered reasonable, all the circumstances of the particular case must be taken into account.\(^{24}\) There is some disagreement in the authorities as to how the comparative proportion should be determined. It is acknowledged, however, that this is a matter of fact for the court to determine.\(^{25}\) In any event, if the narrow view were taken, that is relying only on those women who have applied against those men who have applied, the agility test would be found proportionately discriminatory against women.


\(^{18}\) Prenzler. (n 3), p.265

\(^{19}\) I.d.

\(^{20}\) I.d.

\(^{21}\) I.d.

\(^{22}\) *Griggs v Duke Power Company* 401 US 424 (1971) (US Supreme Court)

\(^{23}\) Equal Opportunity Act 1995 (Vic), Section 9.

\(^{24}\) Secretary, Department of Foreign Affairs v Styles (1989) 88 ALR 621 at 625.

\(^{25}\) *Australian Iron and Steel Pty Ltd v Bonovic and Others* (1990) 89 ALR 1 at 7.
The *Latta Report* did not particularly address the issue of the agility test. A claim, however, was made that initiatives introduced since 1988, “have been successful in removing both formal and informal gender discriminating barriers in the recruitment process.” This was an issue that was picked up by the Federation of Community Legal Centres of Victoria in *Brute Force II* which called on the Victoria Police to drop the test as part of the recruitment process.

In June 1999, the Victoria Police made two slight changes to the agility test. These changes involved increasing the time to complete the agility test from six minutes to six and one half minutes and lowering of a vertical wall from 1.8 metres to 1.6 metres. These changes were not widely published by the Victoria Police and no announcement has been made as to whether the changes were made in the face of criticism that the agility test is discriminatory.

Since then, further changes have been made to the agility test to try and eliminate bias against female applicants. These changes include the elimination of the vertical wall altogether, as well as eliminating the ‘dummy drag’ test. The ‘dummy drag’ test was one of the elements of the agility test which was criticised by the *Brute Force II* report. In the financial year 2001/2002, the proportion of women applicants who successfully complete the agility test is over 80%, compared with approximately 30% in the 1990’s before such changes were made.

Whilst the improvement in the proportion of women applicants who are accepted into the Force is comforting, at least 20% of females can still not comply with the test. This may be considered reasonable if 20% of males also could not comply. The research of Wimshurst and Prenzler indicates that the test is not reasonable. While females are better placed to be successful in the test, proportionately they are still disadvantaged. One in five women will be eliminated from the recruitment process compared to none of their male counterparts based on an agility test that is, at the least, suspect in its necessity.

Other Recruitment Issues

The proportionate representation of women in regard to all applicants does not reflect the general community. In 1997/1998, only 24% of applicants to join the Victoria Police were women. Whilst this has improved somewhat (37% in 2001/2002), this still indicates a disparity considering the percentage of women making up the total labour force, as at August 2002 is 44.25%. The *Latta Report* was unable to provide any advice as to why this situation exists, as the Victoria Police has conducted no research into the cause of this disparity. It is obvious that the agility test, as conducted during the 1990’s, would have had a significant influence on the intake of females into the Victoria Police. Feminist writers, such as Clare Burton, suggest that a disparity such as this could be the result of a lack of part time work, sex segregation of the workforce and possibly sex discrimination. All of these factors are evident within the Victoria Police and will be discussed later in this paper.

26 *The Latta Report* (n 13) p.17.
28 This figure, from Victoria Police Recruitment, includes applicants who may have undertaken the agility test more than once in the financial year 2001/2002. (eg. may have failed the first time).
29 *The Latta Report* (n 13) p.18.
Career Development, Retention and Promotion

Police Culture

Reiner describes a number of elements that make up 'cop culture', which are universal. These include, suspicion, isolation, and solidarity. Fitzgerald found that an unwritten police code was an integral element of police culture. Similar to the conclusions of Reiner, Fitzgerald found that this code includes elements of mutual loyalty and support.

Prenzler proffers the view that the militaristic approach to policing, as demonstrated in the Queensland Police Force in the early 1990’s, leads to a more masculine police culture which is hostile to women. This war on crime approach, he suggests, “allowed men to justify an exclusive domain for themselves based on the argument of physical ability.” There is no evidence to suggest that the culture within the Victoria Police is any different to that of Queensland.

Wimshurst suggests that women entering policing in Australia and other western countries, “over the course of this century have usually met with hostility, discrimination and harassment.” In order to overcome this hostility, women have often had to become ‘one of the boys’ in order to be accepted by their male colleagues. Difficulties arise when women strive for professional competence and at the same time attempt to maintain a distance from the male police culture.

Sexual Harassment

Cop culture can be a hostile environment to women. An example of this hostility is evidenced by the prevalence of sexual harassment within the workplace. There is sufficient evidence to suggest that sexual harassment is commonplace in every police force in Australia and the western world. A survey of policewomen in the United States indicated that of the women surveyed, two thirds had suffered some type of sexual harassment from a co-worker or supervisor. The 1990 Victoria Police report found that sexual harassment was common.

While there is evidence of consistent sexual harassment in the police environment, there is apparent reticence on behalf of women to report these instances. Of the women surveyed in the United States, referred to above, 21% took no action at all and few took strong measures to deal with the problem. This could partly be because of fear of further victimisation from colleagues if it is reported, and also fear that the claims would not be supported or acted upon by supervisors.

34 Id.
36 Id.
37 Wimshurst (n 14) p.280.
38 Wimshurst (n 14) p.292.
39 Id.
40 Id.
41 Wimshurst (n 14) p.292. 
42 The 1990 report (n 9) p.(vii)
The 1998 case of *McKenna v Victoria Police*\(^{43}\) may very well be indicative of the type of sexual harassment faced by women in the policing environment. McKenna claimed she had been subject to sexist attitudes, discrimination and harassment when she was stationed at a large country police station. She was subjected to constant sexist jokes about a woman’s ‘rightful place’, intrusively fondled, asked for oral sex and was dragged into a police cell. The Anti-Discrimination Tribunal awarded her an unprecedented amount of $125 000. Although Victoria Police appealed this decision, the appeal was not upheld\(^{44}\).

The development of the law in this area has seen a shift from acceptance of such behaviour being the result of misguided and ignorant individuals to recognition of a “systemic and pervasive manifestation of gender relations in the workplace”\(^{45}\). When seen in this light it is reasonable to infer that in some way the reticence of women to apply for, or remain in employment in the Victoria Police is due to the culture that permits such prevalent sexual harassment.

**Systemic Discrimination**

The *Latta Report* suggested that there was anecdotal evidence that informal barriers prevent women from entering different parts of the force and senior ranks. There is proportionately higher representation of women within the Community Policing Squad, Mounted Branch and the Rape Squad.\(^{46}\) *Brute Force II* suggests that women are steered towards traditional feminine areas involving juveniles, family violence and administration.\(^{47}\) The phenomenon of streaming women into specific areas within an organization is not limited to the Victoria Police. Burton, suggests that the central question is whether women are in these positions because they choose to or because there are allocative procedures which place them there.\(^{48}\)

Burton states that there are a number of organisational processes that indicate systemic discrimination. These processes include initial job assignment, training development, study leave, job design and the politics of skill.\(^{49}\) The perceived nature of policing, be that of a dangerous occupation, may result in female officers being shielded by their male colleagues from mainstream duty. Another view may be the result of residual bias felt by men towards women.\(^{50}\) Wimshurst found that in the United States and Britain, a degree of tension and antagonism towards women has developed as a result of women invading the male dominated world of policing. The threatening of men could result in biased decisions being made against women who apply for promotion or selection to specialist squads. Research in the United States indicates that males are unwilling to share power unless threatened by legislation.\(^{51}\) Hunter states that structural discrimination arises from, “the face that organisational norms, rules and procedures, used to determine the allocation of positions and benefits, have generally been designed, whether deliberately or unreflectively, around the behavioural patterns and attributes of the historically dominant group in public life; i.e. Anglo-Australian able-bodied heterosexual males”.\(^{52}\)

\(^{43}\) *McKenna v Victoria* (1998) EOC 92-927  

\(^{44}\) cited in *Brute Force II*, opcit.  


\(^{46}\) Ibid. p.19.  

\(^{47}\) *Brute Force II* (n 24) p. 21.  


\(^{49}\) Ibid. p.427.  

\(^{50}\) Wimshurst (n 14) p.280.  

\(^{51}\) Prenzler. (n 3), p.270.  

McKenna claimed that she was denied access to training courses and temporary assignments that would enhance her skills.\textsuperscript{53} Certainly while discrimination in this aspect of McKenna’s case could not be proved, it cannot be denied that McKenna was denied access to these developmental opportunities.

Job design is a critical issue that impacts on women during their careers within the Victoria Police. Police services are provided 24 hours a day, 365 days a year. Rostering is ad hoc and the opportunity to obtain a position with permanent hours is limited to administrative and training duties. However, even with the advent of part-time policing, it is still difficult for women (and some men) who are the primary caregiver of their family and wish to continue working in their desired profession. Statistically it is unlikely that the woman will obtain assistance at home from her partner as the majority of childcare and work within the home is conducted by women.\textsuperscript{54} Policing, based on the male accepted norm that care of children and maintenance of the household is not an issue that should concern the worker, is generally restrictive to women with children.

**Part-time Policing**

What real options are then available to women who wish to commence a family and continue their careers? Victoria Police introduced part-time policing in early 1996. However, the policy placed restrictions on eligibility such as rank and job description (ie. it did not apply to ranks above senior constable, and, after an application by a female detective, it was determined by senior management that the policy could not apply to detectives). However, after the female detective took her case to the Equal Opportunity Commission in 1998 (and was successful), the policy was changed in 1999 to eliminate any such restrictions\textsuperscript{55}.

Still, part time positions are extremely limited within the Victoria Police and although the restrictions have been lifted, there is still a requirement that the regional manager has to approve the conversion of any full time position to part time.

**Flexible Working Options**

Flexible working arrangements and other leave arrangements have been introduced by Victoria Police in an attempt to attract and retain women in the Force. These include carer’s leave, a Revision of Management of Pregnancy Policy to ensure flexible arrangements for alternative duties during pregnancy and return to work processes and a planned extension of unpaid parental leave to the child’s 5\textsuperscript{th} birthday.\textsuperscript{57}

Other initiatives being developed by Victoria Police include the development of a home-based work policy for appropriate positions in the organisation, to introduce further flexibility into work places and practices.\textsuperscript{58} Whilst this may not necessarily benefit operational police women, it can offer an alternative for women who are already in, or have no opposition to, working in an area which is seen as ‘suitable’ for this type of work.

\textsuperscript{53} McKenna v Victoria (1998) EOC 92-927
\textsuperscript{55} Interview with Sergeant Janet Mitchell, Victoria Police Equity and Diversity Office, Melbourne, 17 March 2000.
\textsuperscript{56} Victoria Police, Part Time Employment Policy (1998)
\textsuperscript{57} Initiatives listed in the Victoria Police nomination for ‘Best Police Service employer for Women’ in the 2002 Australian Council of Women and Policing, Excellence in Policing Awards
\textsuperscript{58} Ibid
Non-Operational Positions

Another option for women who wish to combine care of a young family and full time employment, is to find a position that involves working regular hours. These types of positions have, in the 1990’s, progressively been converted to (unsworn) public servant positions. As identified in the Latta report, the Victoria Police has converted these positions for reasons, which include, “the recovery of significant up front costs of preparing a police officer for police work” and “frequently lower salary costs”. In fact, the Victoria Police Workforce Restructuring and Mobility Agreement between the Victoria Police and Police Association Victoria, the Union, requires that position will only be classified as sworn if one or more of the following criteria are met:

(i) Requires that the incumbent has status under local State and Federal statute;
(ii) Requires that the incumbent exercise the full police powers and authority normally exercised by a sworn police officer;
(iii) Requires that the incumbent possess expertise which can be acquired only through actual field experience as a sworn police officer;
(iv) In the opinion of the Chief Commissioner contributes significantly to the professional development of sworn personnel;
(v) In the opinion of the Chief Commissioner it is appropriate to maintain a sworn employee in the position for a specified period.  

The agreement was aggressively used during the 1990’s, resulting in the number of administrative type positions within the Victoria Police being all but eliminated. The impact on women from such a policy is obvious. With fewer positions available to women police that provide permanency of hours, there is less opportunity for women to pursue a career within the Victoria Police and maintain a family. Exception (iv) of the agreement, as detailed above, could be utilised by the Chief Commissioner to maintain suitable positions for women within the sworn workforce but there is no record of this clause being utilised for this purpose. The lack of alternative options available to women with families may very well be a significant contributing factor to the failure of the Victoria Police to retain women within its ranks.

There are currently no childcare facilities provided by the Victoria Police for employees. A feasibility study conducted in 1998 determined that such a facility could not be introduced within the current headquarters because of certain criteria required for childcare centres (such as an outdoor play area). The Equity & Diversity Unit, in conjunction with a student from University of Melbourne, are currently conducting a project looking at other options for childcare for members within Victoria Police.

A carers room has however been established at police headquarters which allows employees to take their children into an office / crèche suite and allow the employee to complete some office type work if the child is sick, or where their other child care arrangements may have fallen through. However, only one member can occupy the room at any one time, and it is subject to availability. Also for parents with young children or toddlers, the environment is not particularly conducive to productive work.

59 The Latta report (n 13) p. 6.
60 Victoria Police, Workforce Restructuring and Mobility Agreement, Part Two, Organisational Restructuring Procedures, Paragraph 5.
62 VPC Child care Facility Feasibility study – Force File 007664/97
63 Equity & Diversity Unit, Victoria Police and Ms Sarah Henry, University of Melbourne, 2002
64 ‘Carers Room Open’, The Victoria Police Gazette, Number 10, 22 May 2000, page 3.
Impact of Career Breaks

Research indicates that 73% of women will remain at the same level or slide downwards in their careers after taking a career break. 65 Research has not been conducted within the Victoria Police as to the impact of career breaks so it is not possible to accurately determine the impact of such breaks. However, in 1998, there was anecdotal evidence that managers within the Victoria Police are so concerned with the loss of staff due to maternity leave that they are not selecting women for positions based purely on the possibility of them becoming pregnant. 66 In order to overcome this bias, Victoria Police considered implementing a reserve staff bank that could be utilised to back fill these positions while women are away on maternity leave. 67 This initiative did not eventuate.

Currently, women who are unable to find an appropriate part time or full time non-operational position are forced to resign after the initial twelve months maternity leave is complete. If they wish to return after resignation, they are required to again comply with the physical entry requirements. Anecdotally, many are not prepared, or capable, of again qualifying for the physical agility test.68

The planned extension to unpaid paternal leave (as mentioned above) would overcome this difficulty as members would not be forced to resign if they decided not, or were unable, to return to work after the initial twelve months maternity leave.

In addition, Victoria Police is revising their reappointment policy and has introduced the policy of Recognition of Prior Learning to provide an avenue for women who may have left the Force for family related reasons to return and have their experience and skills recognised 69.

Promotion

In the past Victoria Police has placed an emphasis on sworn employees being able to perform ad hoc shift work on a rotating basis. It is suggested that there is an informal requirement that to be considered for promotion employees must be full time. 70 Women who have taken part time positions are therefore unable to gain access to promotional opportunities, further discriminating against women.

In addition to the bias against part time employees for promotion, there is, within the Victoria Police, a bias against promotion and advancement of those who are not involved in mainstream operational duties. In a statement regarding the challenge to future leaders of the Victoria Police, the former Chief Commissioner, Mr Neil Comrie made the following comment;

…every member seeking advancement to a management position must be able to demonstrate their competency to effectively undertake the demands of that position. 71

Police employed in a non operational position faces extreme difficulty demonstrating their ability to perform effectively in operational positions against their counterparts who have not left mainstream positions. During the 1990’s only one woman was promoted past the rank of Chief Inspector. In late 1999, the Victoria Police promoted a woman to the rank of Superintendent. In an interview

66 Interview with Sergeant Janet Mitchell (n 54)
67 Id.
68 Id.
69 Initiatives listed in the Victoria Police nomination for ‘Best Police Service employer for Women’ in the 2002 Australian Council of Women and Policing, Excellence in Policing Awards
70 Brute Force II (n 24) p.24.
with Police Life, Superintendent Sandra Nicholson sent a message to other women within the organization that it was possible to remain operational and achieve promotion. It is difficult to determine exactly what Nicholson meant by this comment. However, a review of Nicholson’s career, as detailed in the interview, indicates that she had only been non operational for two of the twenty-five years she has been employed by the Victoria Police. Nicholson advises in the interview of a woman she mentored who studied and passed her sergeant promotional exams while working part time and then took promotion, “once the children were old enough for her to resume full time”. Nicholson claims this as a victory for women in that woman did not resign. However the story is further evidence that the taking of non-operational or part time positions is the equivalent of taking a career break. Taking a career break can have a devastating effect on a woman’s career development.

Promotion and Retention

Since 2000, Victoria Police has come some way in promoting women into more senior positions. When this paper was first written in 2000, the proportion of women at the rank of Inspector or above within the Victoria Police was less than 2%. Since then, we have appointed our (and Australia’s) first woman Chief Commissioner, Ms Christine Nixon, who was formerly an Assistant Commissioner within New South Wales Police. The proportion of women above the rank of Inspector is now just above 2%. The representation of women at sergeant and senior sergeant rank has improved somewhat since 2000, currently standing at just over 6%, where previously it had not even reached 5%.

Whilst the proportion of women within the Victoria Police remained static for a number of years, it seems that in recent times more women are being attracted to the Force, and perhaps staying longer. Whilst the increase in figures is not substantial (Victoria Police still have the second lowest figures for women representation in Australia), nor has there been significant increase of women being promoted to senior positions, the increase does indicate a step forward, albeit a small and relatively slow one. There are however, still many reasons why many women, once in the Force, are not retained or promoted.

Affirmative Action

One of the objectives of the Equal Opportunity Act is to promote recognition and acceptance of every person’s right to equality of opportunity. In order to achieve this aim it is necessary to consider the difference between equal treatment and treatment as an equal. O’Donovan and Syzszczak explain this concept as requiring an understanding that as people’s needs are different then it follows that equality does not mean treating people in the same way. A strict equal treatment model does not question the dominant norms of the organization. When policies and practices appear neutral then an outsider can only compete by discarding their differences and behaving like the dominant group. The example of Sandra Nicholson may be evidence of one woman remaining operational and achieving by behaving like the dominant group. In order to overcome substantive inequality, there is a need to take remedial action to overcome the disparity between the dominant and minority groups.
Both *Brute Force* and *Brute Force II* called on the management of the Victoria Police to take affirmative action to rectify the imbalance of representation of women within policing. It is appropriate at this time to consider what is meant by the term ‘affirmative action’ within the parameters of the law within Victoria.

In laymen’s terms, ‘affirmative action’ is the promotion of the rights of minorities over other groups. In the USA this issue is resolved by the use of quotas to ensure minorities are appropriately represented within the workforce. To treat a male person less favourably than a woman in circumstances of employment would be direct discrimination and in breach of the Equal Opportunity Act. 79 “A special measure is, ex hypothesis, discriminatory in character; it denies formal equality before the law in order to achieve effective and genuine equality”. 80 Within the Victorian legislative context, affirmative action can only be effective if it conforms to the special measures exemption. 81 It is possible to have a temporary exemption granted under the Equal Opportunity Act (Vic), however due to the restrictions of this paper that issue will not be discussed.

In order for a special measure to withstand a challenge there must be a legitimate basis for suggesting that substantive inequality is present within the organization. The Municipal Officers’ case questioned the quota of women on the executive of a union. It was held that determining the precise reasons why under-representation has occurred is not necessary once it could be proved that a particular group is under-represented. 82 The issue is whether the action taken or proposed is designed to meet the special needs of the disadvantaged group or to prevent or reduce the disadvantage suffered by that group in regard to education, accommodation, training or welfare. 83

The *Latta Report* acknowledged the disadvantage suffered by women and conceded that there was a need to establish an affirmative action policy in regard to recruitment. The context in which affirmative action was considered was to conduct research into what barriers exist and develop strategies to overcome these barriers. 84 No action apart from again identifying barriers in regard to career development was suggested by the report. In answer, *Brute Force II*, made a number of sweeping recommendations for affirmative action, specifically seeking the Victoria Police to set quotas to ensure the imbalance is remedied. 85

**Recruitment Agility Test**

As previously mentioned, Victoria Police has taken steps in recent years to overcome discrimination in its recruitment practices. Whilst accurate figures are not available regarding pass and fail rates of recruits, 86 the agility test has been changed to increase the time allowed for the test, and eliminating the vertical wall and the ‘dummy drag’ from the test altogether. 87 In addition, entry requirements such as the height to weight ratio have been replaced with a Body Mass Index (BMI) measurement, which is the same for men and women.

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80 Municipal Officers’ Association of Australia and Anor; Approval of Submission of Amalgamation of Ballot (1991) EOC 92-344
81 Equal Opportunity Act, (Vic) 1995, section 82.
82 Municipal Officers’ Association of Australia and Anor; Approval of Submission of Amalgamation of Ballot (1991) EOC 92-344 at 78,404
83 Equal Opportunity Act (Vic) 1995, Section 82(1)
84 The Latta Report (n 13) p.17.
85 Brute Force II (n 24) p.18.
86 Given that, in a 12 month period, some members who fail attempt the agility test again in that year, and may pass, which affects the total number reflected in the available figures.
87 The wall now forms part of the recruitment course, once an applicant has been accepted.
There are, however, still critics of the agility test and the need for such a test at all. The Australian Federal Police do not have an agility test requirement and statistics show that their recruitment favours women by 3.5%.\(^8^8\)  Prenzler, being critical of what he refers to as the ‘backyard chases’ test, suggests that the maintenance of general fitness is more important than passing a rigid entry test.\(^8^9\) Research in Queensland indicates that police members suffer from chronic physical problems, which indicates that ongoing physical training would be more beneficial. In the United States the need to perform an entrance agility test as imposed by the Los Angeles Police Department was ruled unnecessary for safe and efficient job performance.\(^9^0\) The Victoria Police agility test should be seen in the same way and replaced with some other acceptable form of fitness assessment that acknowledges the differences between women and men.

**Representation in Recruitment**

The *Latta report* recommended that in order to increase the number of women recruits there is a need to develop a short familiarisation and assessment course aimed at under-represented communities.\(^9^1\) In addition, in regard to women, it is suggested that research be undertaken to determine why a low proportion of women are applying to join the police and then target marketing and recruiting campaigns based on this information.\(^9^2\) *Brute Force II* recommends that a female recruitment target of 42% be set. The rationale for setting a quota is to ensure the performance of the Victoria Police in overcoming the gender imbalance problem can be properly measured.

The percentage of women who applied and were recruited into Victoria Police in the last financial year was 37.5%. In comparison, only 29% of men who applied were successful. Despite this, however, there is no doubt that women are under-represented in the Victoria Police. The setting of a quota for recruitment is quite proper and is defensible pursuant to the special measures provisions of the Equal Opportunity Act (Vic). A quota will put pressure on police management to ensure that any marketing and familiarisation courses are effective and do not merely provide lip service to addressing the problem. It should be noted that neither the NSW nor the Queensland Police Services, where a 50% target for women recruits is maintained, have been troubled that such a special measure is not reasonable.\(^9^3\)

**Representation at Higher Ranks**

It is difficult to determine a quota for the representation of women within the various ranks of the Victoria Police, primarily because women are so under-represented in the higher ranks. In order to ensure that this situation does not continue indefinitely, it is appropriate to set pro-rata targets for specific ranks within the organization. If women represented 19% of all senior constables in 1998,\(^9^4\) then it would be reasonable that approximately 19% of all persons promoted to sergeant rank in 1999 should be women. The development of short-term targets for promotion for each of the lower ranks should be introduced to overcome the residual bias held by senior males in the police and break through the barriers that have held women back. As the representation of women in the lower ranks increases so too should these targets. As the representation of women increases throughout the ranks, target figures should proliferate in the same manner.

\(^8^8\) Prenzler (n 3), p.267.
\(^8^9\) Prenzler (n 32), p.320.
\(^9^0\) Ibid. p.319.
\(^9^1\) *The Latta report* (n 13) p.18.
\(^9^2\) I.d.
\(^9^4\) *The Latta report* (n 13) p.19.
The systemic problems faced by women will not easily be overcome. In February 1999 the Victoria Police launched an equity and diversity strategy under the previous Chief Commissioner. Acknowledging the imbalance in the representation of women, the Chief Commissioner reported that a series of pro-active recruitment and workplace initiatives would be aimed at redressing the problem. Until recently, apart from establishing an Equity and Diversity Office, few initiatives had been achieved. However, since 2001, coincidentally with the appointment of Chief Commissioner Nixon, Victoria Police has introduced, or is planning to introduce several initiatives to make it one of the Best Police Service Employers for Women in Australia. Some of those initiatives have already been mentioned, such as flexible leave and work options. In addition, Victoria Police is again reviewing its part-time policy to ensure equity in relation to the application of the policy. Victoria Police have also introduced a policy which allows sworn women on unpaid maternity or adoption leave or in part-time employment to be able to participate in voluntary duties at Special or Sporting events.

In regards to the retention of women, Victoria Police have increased flexibility in the delivery of training courses where, for many of the courses there is no longer a requirements for course participants to live in for the duration of the course. This flexibility can assist all police members who have to balance work and family priorities.

**Conclusion**

*Looking at the numbers, we need progressing. I am not interested in the arguments whether or not there is a good reason to have more women or not. It is about the fact we should reflect the diversity of the whole state. It is about the fact that women can do the job, no matter what people want to say. There is no doubt we can do anything. We can be a constable and a chief commissioner. That is the path you shouldn’t let people divert you from. We need to work out what the barriers are and get rid of them.*

This paper has not been able to explore all the issues relevant to the problems faced by women within policing. The last century saw significant change in the role of women in the community generally and within the Victoria Police. It is apparent from the issues covered in this paper that in the 1990’s Victoria Police managed to fall behind accepted standards in the treatment, selection, promotion and utilisation of women within its workforce.

With the new century, and the appointment of the first female Chief Commissioner in Victoria, attempts are being made to address the problems identified by reports such as *Brute Force, Brute Force II* and the *Latta Review*. Since this paper was originally written, the percentage of women in Victoria Police has improved by almost 2% over the last two years. In addition, the representation of women at senior ranks has also improved slightly, not only with the appointment of the first female Chief Commissioner, but also at the ranks of Senior Sergeant and Inspector level.

Recruitment of more women and other minority groups has also been a focus for police in the last two years. The statewide recruiting campaign has been successful in its first year at targeting more women to join Victoria Police, and the elimination of discriminatory practices against female applicants in the agility tests conducted during recruitment has allowed for more women to be inducted into Victoria Police.

However, Victoria Police, and all police forces worldwide, still have some way to go before true parity between men and women is achieved. Systemic barriers and discrimination still needs to be addressed so that women who do utilise more flexible work practices, such as part-time employment are not seen to be ‘part-abled’ or part-committed’. Women should not have to feel compelled to become ‘one of the boys’ in order to be accepted or succeed in the organisation. And women who choose to have a family should be able to stay, and succeed, as valuable police members. Only when these, and other barriers, are addressed, will police forces around Australia be able to truly state that they are an ‘equal opportunity employer’.