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# **Police Discourses on Policing Domestic Violence**

A thesis presented in partial fulfilment  
of the requirements for the degree of

Masters of Arts

In

Psychology

at Massey University, Palmerston North,  
New Zealand

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**2001**

## **Abstract**

Explicit statements regarding the unacceptable use of violence against intimate partners have been advanced within New Zealand society in recent years. The adoption of an arrest policy in 1987 by the New Zealand Police, the Domestic Violence Act 1995 and an extensive media campaign all unequivocally asseverate such violence is a crime and will not be tolerated. However, domestic violence continues to be a serious problem in New Zealand. This research forms part of a larger, ongoing research project, which addresses domestic violence from the perspective of its victims, offenders and other service and intervention providers. This project explores police officers' experience of policing domestic violence using discourse analysis. The methodological approach stems from a social constructionist paradigm, which postulates that language is active and constructive in maintaining, contesting and transforming social reality. To this end, 12 front line officers were interviewed to discuss domestic violence, the Family Violence Policy, and some of the controversial issues that have arisen from previous research in this area that have plagued the policing of domestic violence. The interviews were transcribed and a discourse analysis was used to identify shared social resources or discourses used by police officers in their understanding of domestic violence, the people encountered in its policing and the problems experienced in relation to the pro-arrest policy. Officers made use of a variety of, often contradictory, discourses in their understanding of domestic violence, the people involved in it and their role in policing it. While the analysis suggests officers continue to draw on discourses that blame victims and exonerate offenders, it also points to a discursive shift in police discourses on policing domestic violence, particularly with regard to its seriousness and dangerousness, the importance of policing it and the utility of arrest.

### **Acknowledgements**

I am indebted to a number of people without whose advice and experience this research would not have been possible. I would like to thank the 12 police officers who gave generously of their time, the Police Family Violence Co-ordinator, who was an invaluable source of information, and my supervisor, Mandy Morgan, whose expeditious and insightful comments were greatly appreciated. I would also like to thank my husband, Luke Rose, whose support, patience and encouragement were always at hand, as well as my children, Dylan and Connor, whose tolerance of my preoccupation was both grounding and enabling.

## Table of Contents

<b>Abstract</b>	ii
<b>Acknowledgements</b>	iii
<b>CHAPTER ONE</b>	<b>1</b>
<b>Introduction</b>	
<b>PART I</b>	
<b>CHAPTER TWO</b>	<b>4</b>
<b>Theoretical Framework</b>	
Social constructionism	4
Discourse analysis	7
Social construction, discourse and feminist perspective	11
<b>CHAPTER THREE</b>	<b>15</b>
<b>Theories of Abuse</b>	
Discourses of intimate partner violence	15
Feminist perspective on wife abuse	17
<b>CHAPTER FOUR</b>	<b>22</b>
<b>Literature Review and Prevailing Discourses in Policing Domestic Violence</b>	
Discourses of Privacy	26
<i>Leniency thesis</i>	27
<i>Arrest correlates</i>	29
Discourses that Minimise and Trivialise	30
<i>Down-criming</i>	34
Discourses that mitigate offender accountability blame the victim	37
Current developments	44
<b>PART II</b>	
<b>CHAPTER FIVE</b>	<b>50</b>
<b>Methods</b>	
Participants	50
Procedure	52
Analysis	54
<b>PART III</b>	
<b>CHAPTER SIX</b>	<b>59</b>
<b>Police</b>	
The Transgenerational discourse	59
Creates future criminals	61
Cycle getting wider	62
Not just about violence	63
Escalation of violence	64
<i>Discourses of arrest</i>	66
Breaking the cycle	67
<i>Privacy</i>	69
Constructions of Evidence	73

<b>CHAPTER SEVEN</b>	<b>80</b>
<b>Constructions of Women</b>	
Dilemma discourse	80
Gain victim confidence discourse	83
<i>Discourses of arrest</i>	84
<i>Actively uncooperative victims</i>	86
Victim blaming discourses	92
Protection orders	99
<b>CHAPTER EIGHT</b>	<b>105</b>
<b>Constructions of offenders</b>	
Male privilege	105
Expression of inner tension	107
Instrumental power	109
Offenders as 'Manipulative'	111
Normative Social System	117
<b>CHAPTER NINE</b>	<b>128</b>
<b>Constructions of couples</b>	
Immaturity discourse	128
Pathology discourse	132
Mutual violence discourse	136
<b>CHAPTER TEN</b>	<b>144</b>
<b>Conclusion</b>	
<b>Appendix A - Power and Control Model</b>	156
<b>Appendix B - Information Sheet</b>	157
<b>Appendix C - Consent Form</b>	159
<b>Appendix D - Interview Schedule</b>	160
<b>Appendix E - Transcription Key</b>	162
<b>Appendix F - Categories of first coding</b>	163
<b>Appendix G - Second coding</b>	165
<b>References</b>	167

## CHAPTER ONE

### Introduction

Intimate partner violence<sup>1</sup> is a formidable and persistent social concern with a polymorphous history. Women's and allied interest groups' active and vociferous attempts to have men held accountable and penalised for their violence towards their wives have waxed and waned across the centuries (see for example Pleck, 1987). Despite these efforts, which transversed national and cultural boundaries, a husband's prerogative to 'discipline' his wife with physical force has received widespread legal sanction. For example the English common law 'rule of thumb', wherein a husband may beat his wife with an implement provided it is no thicker than the width of his thumb, was referred to in a London Police Magistrates' ruling as late as 1915 (Dobash & Dobash, 1979). The fallout from such legal sanction has been an ambivalent criminal justice response to domestic violence that has served to minimise its prevalence and obscure its existence by treating it as a private affair. The plethora of social values coalescing around domestic violence and the patriarchal social system in which these are embedded facilitated this ambivalent response which continued relatively uncontested until the latter half of the 20<sup>th</sup> Century. It was at this time that the women's movement gained momentum and feminist research enabled an understanding of domestic violence from the abused women's perspective. Three further factors are associated with procuring a change in the criminal justice response to domestic violence: the establishment of women's refuges in the 1960's, with their appeals for funding, brought the issue of domestic violence into the public arena; legal liability for police non-intervention in domestic assault was established in the United States; and research providing evidence of the deterrent benefits of arresting perpetrators of domestic violence emerged from the United States.

Although no longer formally endorsed, the acceptance of domestic violence as a criminal offence has been an inexorable (and some might say unattained) transition. Despite most western nations, including New Zealand in 1987, having adopted a

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<sup>1</sup> This thesis is predominantly concerned with men's violence towards their intimate partner. While terminology issues are addressed in Chapter two, it should be noted that, unless otherwise stated, intimate partner violence and domestic violence refer to men's violence against their intimate partner.

police policy that advocated the arrest of domestic violence offenders, the persistence of an inconsistent and haphazard criminal justice response lead to widespread criticism – namely, that the low priority ‘domestic incidents’ received and the underenforcement of policy and legislation, meant that women were being revictimised when moved to request the delivery of justice (Dobash & Dobash, 1979; Edwards, 1989; Hanmer & Saunders, 1993). While the police bore the brunt of such criticism, other criminal justice agents were not exempt. However, given the special societal position the police occupy as gatekeepers to the criminal justice system and as a major service resource for victims of domestic violence, individual officer’s experience of policing domestic violence is something that warrants continued research. Furthermore, that the cost of domestic violence to New Zealand has been conservatively estimated at 1.2 billion dollars per annum (Snively, 1994); women’s refuges continue to provide services for approximately 17,000 women and children annually (Pouwhare, 2001); 40% of all homicides are domestic related (Department of Social Welfare, 1996); and 9, 427 domestic related assaults and 4449 protection order breaches were recorded from January to December 2000 (New Zealand Police, 2001) attests to the intractable nature of, and emphasises the grave importance of, this formidable social concern.

Police officers’ understandings of domestic violence may influence their experience of policy implementation. This research uses discourse analysis, which assumes as a theoretical premise, that language is active and constructive in maintaining, contesting and transforming social reality. That is, discourses actively make things mean and simultaneously make possible certain social practices that regulate our lives. For example, the object of domestic violence is constructed in variable and contradictory ways, with each construction enabling and constraining various solutions and interventions. Identifying shared social resources or discourses that the police use to construct both domestic violence and policy implementation is, therefore, pertinent to capturing their experience of policing domestic violence. To this end a semi-structured interview was conducted with 12 front line police officers from a provincial New Zealand area. The interviews were taped and transcribed. A discourse analysis of the transcription data was performed with regard to the following research questions: how do police understand domestic violence; what do



the police use to construct both domestic violence and policy implementation is, therefore, pertinent to capturing their experience of policing domestic violence. To this end a semi-structured interview was conducted with 12 front line police officers from a provincial New Zealand area. The interviews were taped and transcribed. A discourse analysis of the transcription data was performed with regard to the following research questions: how do police understand domestic violence; what do police understand their role to be in relation to domestic violence; what concerns do police have in implementing the pro-arrest policy; and how do police understand the act of arrest?

As this thesis falls under the realm of qualitative research, its structure may diverge from a more traditional research format. A brief outline of its presentation is, therefore, warranted. Part I serves as the introduction. Within this section Chapter two outlines the theoretical framework with regard to key methodological concepts inherent to social constructionism and discourse analysis, as well as addressing definitional issues. How the multifarious theories of abuse are dealt with within the research is discussed in Chapter three. Chapter four comprises the literature review, which is presented within a discursive framework that addresses the main discourses prevailing within the policing of domestic violence. Part II comprises the methods section. As the theoretical aspects of the methodology are covered in Part I, Chapter five is more concerned with the pragmatic details of data collection and the decisional aspects regarding how the analysis should proceed. The discourse analysis itself is then presented and discussed in Part III.

## CHAPTER TWO

### Theoretical Framework

#### Social constructionism

Social constructionism provides the theoretical framework from which this thesis is written. Insofar as the central epistemological assumptions of social constructionism differ fundamentally from traditional psychology, some discussion of these assumptions is warranted here.

Social constructionism is a broad term, encompassing myriad definitions, which has developed over time from a variety of sources and disciplines. Gergen (1985), however, coalesces the perspective with four common assumptions. Firstly, social constructionism challenges the central epistemological tenet of empiricism that a world exists 'out there', that there are naturally occurring objects and processes in the world which exist and operate independently from human agency and which have an independent existence prior to their discovery (Woolgar, 1996). The assumption here is that we do not gain an understanding of our world through observation and inductive reasoning (Gergen, 1985). This assumption negates the possibility of understanding phenomena by reducing it to component parts, as if these parts are stable, consistent and coherent, as the ontological status of all things is a constant interaction of complex composites (Parker, 1992).

Instead, social constructionism assumes we gain an understanding of the world through social processes. The second assumption then is that knowledge is a social artifact. Knowledge does not exist independently of human agency, it is created communally, through active interchanges among people. Language is central to this dynamic social process of negotiating meaning. Language is not regarded as a neutral means of reflecting or describing the world. Language is active, in that it performs certain functions. Language is constructed, insofar as there are pre-existing linguistic resources that have a shared meaning. Language is also constructive, in that there are a number of ways it can be put together to present alternative versions of events, objects or persons (Potter & Wetherell, 1987). Language here refers to more than the actual words but how meaning emerges as words are put together to produce 'discourse'. Discourse has also been liberally

defined in the literature. Two widely accepted and useful definitions come from Parker (1992) and Potter and Wetherell (1987). Parker's (1992) working definition of discourse is "a system of statements that constructs an object" (p.5). Although Potter and Wetherell (1987) refer to interpretative repertoires and not discourses (and the distinction between the two has been argued elsewhere; see Parker, 1992) their definition of "recurrently used systems of terms used for characterizing and evaluating actions, events and other phenomena" (p.149) constructs something similar. What can be extracted from both these definitions is that a discourse has coherency in that it is inclusive and exclusive. That is, there are appropriate ways of saying things which are consistent with that discourse (i.e. an exorcism would not be part of a medical discourse). Variation is intrinsic to discourse and highlights its rhetorical aspect. There are many competing versions of the world and people are flexible in their use of discourses to establish the veracity of their version in the face of competing versions (Gill, 1996). Our ability to understand each other and the requisite of shared meanings for communication, however, prohibits discourses from being infinitely flexible. That is, although there is extensive variation between and within accounts the discursive resources we use are circumscribed.

Access to discourse is not limited to language. Nonverbal communication is integral to what is said and has meaning in itself, albeit some behaviour must be made meaningful before it enters into social life. Indeed, a further assumption of social constructionism is that taken for granted meanings or "forms of negotiated understanding" (Gergen's, 1985, p.268) are embedded in everyday activity. Discourses are supported by discursive practices (Parker, 1992). For example, the division of labour within a household wherein responsibility for internal and external domestic chores is divided along gender lines embodies a patriarchal discourse.

The fourth assumption of social constructionism is that the persistence of extant knowledge and taken for granted meanings is "not fundamentally dependent on the empirical validity of the perspectives in question, but on the vicissitudes of social processes" (Gergen, 1985, p. 268). Simply put, in a world that is in a constant state of inter-relational flux, what is known to be true, right or self-evident will also be mutable and evolve through dynamic social processes. For example, the meaning of

domestic violence varies across context, culture and history (i.e. obviously domestic violence has no meaning if it is a man's duty to discipline his wife and children using physical force). More pertinently, our knowledge about causes, consequences and interventions of domestic violence have changed while the physical or psychological acts of abuse might have remained more or less constant. That is, whether we take domestic violence to be a common sense consequence of men's rights or an obvious crime will depend on social processes, not empirical acts of violence and abuse.

Discourses, therefore, have a role to play in the reproduction and transformation of meaning. They are simultaneously enabling and constraining in that they bring particular aspects of phenomena or the social world into perspective, while ignoring others. For example the terms wife abuse and battered woman only emerged in the 1970's (Mehrota, 1999). The long silence on domestic violence illustrates how the absence of words and definitions is equally potent, as it excluded the reality of some women's experience (Kelly, 1988). The terms battered wife and domestic violence themselves illustrate how words and definitions are powerful means of constructing reality and often fail to reflect the complexity of women's experience. 'Battered wife' affords the woman no identity beyond that of being attached to a male person who commits acts of aggression against her (Alexander, 1993). 'Domestic violence' obscures the fact that most interpersonal violence towards intimates is perpetrated by men against women (Edwards, 1989).

Given the importance of language within this theoretical framework, some discussion of the terminology used within this thesis is warranted here. As the research concerns police officers' understandings of intimate partner violence, the terms victim and offender, are used to remain consistent with police terminology. These terms refer to abused women and abusive men respectively to reflect the greater preponderance of men's violence towards women. This is not to deny the existence of abusive women, or the experience of men who suffer abuse. However, it has been repeatedly verified that men constitute the majority of offenders (Roper, Guest, Tia, McGeorge, Diamond & Perry, 1987). The terms wife abuse and battered

women are endemic to the topic area and, although their shortcomings as outlined above are acknowledged, their use is difficult to avoid and appropriate at times.

Although the official police policy refers to 'family violence', I refer instead to domestic violence. The term family violence has been favoured as it acknowledges family life may not always be the safe haven prescriptive Christian values would have us believe. However, I suggest that family violence, insofar as it refers to specific individuals, is more concealing of the fact that, in the main such violence is perpetrated by men, than domestic violence, which can mean a place as well as a type of relationship. There are, of course, additional forms of abuse designated as domestic violence which are excluded from its meaning within this thesis – the research topic being restricted to intimate partner violence. Again, while I acknowledge the inadequacies of the term domestic violence, insofar as police more commonly refer to domestic violence, a reference to 'men's violence against their intimate partner' would not capture police constructions. Although the terms victim, offender and domestic violence are generally adopted within this thesis, their use at times is inappropriate, thus abused women, abusive men and intimate partner violence are not exclusively referred to in this way.

To summarise then, social constructionism is intrinsically relativistic and thus provides an umbrella for a host of activities to be defined as social constructionist. What these approaches have in common is an emphasis on the contextual, cultural and historical embeddedness of human action and a focus on discourse as the central organising component of action and ideology. Discourse analysis then, is geared towards identifying how language, as it occurs in its natural context, functions (i.e. blames, denies, justifies, describes, accuses, excuses and legitimates) to put together accounts.

### Discourse analysis

The type of discourse analysis applied to data in this thesis parallels that of Parker (1992). My preference for Parker's approach was influenced in part by this approach being employed within related theses on domestic violence currently and previously undertaken at Massey which together form the Domestic Violence

Intervention Services Research Programme (DVISRP). While maintaining continuity within this project was a concern, Parker's approach more appropriately addresses my research question than other forms of discourse analysis. I will return to this point after a brief discussion of the particulars of this approach.

Although convention dictates that the methodological approach be discussed in the methods section, some discussion of discourse analysis is necessary to provide a framework for the direction the thesis is taking. Indeed, within Parker's (1992) approach to discourse analysis, the literature review fulfils one of the analytical criteria – it provides an historical context within which research on policing domestic violence in New Zealand can be located.

Parker (1992) outlines six other main criteria and three auxiliary criteria for identifying discourses. That a discourse has a history and may have undergone many evolutions constitutes Parker's seventh criteria. Two 'steps' or suggestions designed to guide the analysis accompany each criterion. The first criterion is that discourses are "realised in texts" (p.6). As previously stated discourses emerge wherever there is meaning. Text, therefore, is not restricted to language but can take the form of actions, art, music or anything which is produced by human agency. The first and second steps in the analysis do, however, involve a verbal description of the text and an exploration of the "connotations, allusions and implications which the text evokes" (p.7). Notable within these preliminary steps is that the frame of reference for the analysis is the researchers, whose translation of the text disassociates it from its original author. Members of a discursive community have access to a common pool of discursive resources, however, the use of one over another may or may not reflect an intentional choice of the author. The point being that it is the meaning of the *discourse* that is being analysed, not the individual author's meaning. This is an important distinction that is more fully addressed in the methods section.

That discourses are about objects and contain subjects form the second and third criteria. Objectification within discourse occurs on two levels. Firstly, a discourse constructs something real, so a further step in the analysis is to attend to what objects are discussed and how they are described. Secondly, for the purposes of the

analysis, the discourse itself is an object. Parker (1992) describes this step as “talking about the talk as if it were an object, a discourse” (p.9).

Subjectification also occurs at more than one level: various types of people are referred to, described and allotted certain characteristics; subjects are afforded specific speaking rights according their position as individuals or members of a group; and the ‘self’ (both that of the speaker and the audience whom the speaker is addressing) is located within the discourse.

This ‘positioning’ of the subjects within the discourse is fundamental to the analysis because the various restrictions or opportunities one’s position affords are intimately connected with power. Positioning has also been discussed in terms of stake and accountability (Potter & Wetherell, 1995). That is, do the subjects have a stake in the discourse as individuals or members of a group? Aligning oneself and others in this way can be a means of discounting the significance of an action or reworking its nature by changing the emphasis of accountability. This is particularly important in domestic violence as specific constructions of men and women’s roles may be used to diffuse men’s culpability for their violence.

Parker’s (1992) fourth criteria that “a discourse is a coherent system of meanings” (p.10) has already undergone some discussion. This criteria pays homage to the variable and competing representations of the world, some of which have more legitimacy than others. The analysis is developed with regard to this criteria by “mapping a picture of the world this discourse presents [and] working out how a text using this discourse would deal with objections to the terminology” (p.12).

That a discourse “refers to other discourses” and “reflects on its own way of speaking” form the fifth and sixth criteria of identifying discourses (Parker, 1992, p.12, 14). Discourses do not exist in isolation, nor are there discrete parameters that bind them. Other discourses referred to may support or challenge the representation of the world the discourse immolates. The analysis, with regard to these criteria, focuses on the inevitable emergence of contradictions and consistencies within discourse. Contradictions are often negotiated by speaking directly to the inadequacies inherent to the discourse or reflecting on the moral choices the

discourse entails (i.e. "I hate to say it, but"). Interrelationships are also found between discourses as they co-articulate to support institutions, reproduce power relations and have ideological effects. These latter three components comprise Parker's auxiliary criteria which, while not essential to all analytic projects, are relevant to those related to domestic violence. For example, the institutions of marriage, the family, the police and the criminal justice system draw variable support from discourses that emerge within domestic violence research. The analysis proceeds with regard to this criterion by determining which institutions are supported or undermined by the discourse.

Power relations are also pivotal to understanding domestic violence and are integral to feminist research, which contribution to resolving problematic concerns of domestic violence is unsurpassed. The 'power' under discussion here is not intentional power. Parker (1992), draws on the works of Foucault (1972) for whom meaning, knowledge and power are intimately connected. The epistemological assumptions underlying social constructionism, wherein knowledge is created, reproduced and transformed through social interaction, illustrate this connection. That is, everything we know, we know only through discourse, which enables and constrains us according to our position within it. Knowledge is powerful insofar as it directs the progress of society. Knowledge which is guarded and exclusive to the few, even more so. Knowledge in the hands of a few who dictate laws to the many, without an understanding of their circumstances, is oppressive. Knowledge and power are not interchangeable, however, as discourses can be resisted. Discourses also organise social relations and establish hierarchical relationships between individuals. For example a Christian discourse constructs a heterosexual family wherein the husband is positioned as the spiritual leader and as responsible for his wife and children. The analysis proceeds here then, by identifying which groups or individuals benefit, and which are deprived, by the discourse, with the assumption that the former category of people would want to promote the discourse, while the latter may want to invalidate it.

Finally, ideological effects emerge as the relationships among discourses effect to sustain the position of dominant groups. The final two steps of the analysis are to



show “how a discourse connects with other discourses which sanction oppression; and show how the discourses allow dominant groups to tell their narratives about the past in order to justify the present, and prevent those who use subjugated discourses from making history.” (Parker, 1992, p.20).

Obviously these three auxiliary criteria bring a political dimension to the research. However, insofar as psychological research has a practical application in policy development, political agendas are already operating within psychology (Parker, 1992). Moreover, the social constructionist perspective presupposes meanings are multiple, dynamic and changing, thus enabling different and conflicting meanings, truths and knowledge to co-exist. As each meaning has implications in terms of the strategies and practices it affords in dealing with the world, that is, in shaping social relations, institutions and personal identities, how particular constructions and common sense meanings or claims to knowledge come to be legitimated is inherently political. While I don't presume my thesis is able to provide specific policy advice, the sociopolitical backdrop against which domestic violence occurs must be addressed and Parker's methodology is better suited than others to do so.

#### Social construction, discourse and feminist perspective

Not surprisingly feminist researchers were the vanguards of social constructionist enquiry as the two perspectives are united on many fronts. They share an opposition to hegemony and argue against the existence of any natural order of social relations. A recognition of the social construction of dominant ideologies and their relationship to women's oppression constitutes an early manifesto within feminist theory (Edwards, 1987). Reciprocally social constructionism evolved through challenges to the natural order of masculine and feminine distinctions (Kelly & Radford, 1996). Furthermore, as social constructionist inquiry is directed at identifying the discursive practices people apply to account for their world and their position in it, it can give voice to minority perspectives and issues. Investigating discourses provides a means of understanding how those using the discourses understand the phenomenon of interest. The issues salient to groups and individuals emerge in the research and it is possible to identify how some oppressive or destructive discourses may be used to reinforce the status quo. These considerations

are all imperative to the feminist perspective on wife abuse, which starts from the premise that women's position in society is one of oppression.

The aim of the above discussion was not to prioritise the status of discourse analytic research over empirical investigation. Indeed, such a position would be contrary to the principles of social constructionism. More importantly, both approaches are prevalent within domestic violence research and each has been successful in broadening the knowledge base within that field. The fundamental ontological and epistemological differences between the two regimes do, however, need to be recognised as they dictate how research questions are formulated. Empirical investigation serves to establish support for hypotheses by quantifying variables and relationships between variables. Abuse prevalence rates, arrest and prosecution rates and how these impact on victims and offenders, or how they are affected by variables intrinsic to offenders, victims, the police or the situational context, are profoundly important in ascertaining optimum interventions for domestic violence. Such studies, however, can never capture the meaning of the experience for the individual. When these experiences are given voice, the issues and complexities of domestic violence and the relationships between variables take on new meaning.

For example it is one thing to conclude, based on the relationship between two likhert scaled measures ('Attitudes toward women' and 'Belief in victim causation of violence') and arrest rates, that traditional views of women are associated with holding them responsible for abuse and decreased officers' tendency to arrest (Saunders & Size, 1986). It is quite another thing to read qualitative data evidencing this relationship: "I had one lady sit here in the office a number of years ago and she had bruises all over the place and I still didn't charge in that situation [] it was an oriental couple – I kinda had the sneaky feeling things would be alright. If they would sort this out, get back together and go on from there, they would do quite well. And it turned out that that's what happened and I didn't charge them." (Rigakos, 1995, p.237). So while the empirical data identified the relationship between officers attitudes and nonarrest of offenders, the impact of these variables on the victim is obscured. The complexities regarding the impossible situation the officer's actions put the woman in and how the officer's nonprotection of the woman

may be more the cause of things turning out as he predicted than his 'sneaky feeling' (yet how the turn of events nevertheless confirm the officer's interpretation), are able to be unpacked with a reading of the discursive data.

Research projects applying an empirical paradigm are concerned to identify the specifics of the methods and methodologies of research cited (i.e. how were extraneous variables controlled? was the sample representative?). In reviewing this literature I have endeavoured to provide some of these details. It is, however, the research questions and conclusions that I am concerned with. The questions asked presuppose not only an ideological framework, but a cultural perspective as well, as Bograd (1988) saliently demonstrated by reframing the question "why do women stay?" (framed within a male cultural perspective) with "why do men beat their wives?" (p. 13). There is also the problem that for every study evidencing one fact, there is another to challenge it. Irrespective of these challenges, research conclusions are used to direct other research and it is within the rhetoric espoused by these conclusions wherein meaning is negotiated and claims to knowledge made. Discourse analytic research is, of course, also rhetorical and ultimately presents yet another construction or account of the phenomena of interest. Having identifying some parallels between the two paradigms and argued their mutual importance, I propose to use a discursive framework to include empirical research reports in my literature review. While there is a preponderance of North American literature on domestic violence, particularly with regard to empirical reports, policing policies in New Zealand, and elsewhere, have been influenced by the findings emanating from this literature and other overseas research. Where overseas research applies different terminology, I have translated it to remain consistent with New Zealand terms (i.e. substituting protection orders for restraining orders). In presenting empirical findings I have elaborated on the methodological details and outlined the variations in policing practices across nations insofar as they relate to the four discourses under discussion in the literature review.

This is my first attempt at discourse analysis and, as I have been trained in empirical research methods, my natural predilection is to think along quantitative not discursive lines. This has, at times, proven a tremendous barrier. However, I feel

discourse analysis is the best method to research policing domestic violence. Domestic violence is a tremendously dilemmatic and complex problem. The phenomena itself is fraught with contradictions as the adulteration of love with violence exemplifies. The police response to domestic violence has been found to be influenced by the beliefs police hold of gender roles, family and marriage (Ferraro, 1989; Saunders, 1995; Stith, 1990). These concepts themselves are enshrined in deeply rooted and often contentious doctrines. A viable means of extrapolating what these beliefs are, while simultaneously enabling the emergence of the contradictions inevitable to such a complex issue, is discourse analysis. As discourses cohere with everyday common sense understandings and knowledge, discourse analysis permits a broad view of how this knowledge is at work in the practice of policing domestic violence.

## CHAPTER THREE

### Theories of Abuse

#### Discourses of intimate partner violence

In a review of the literature, O'Neill (1998) identified five discourses that inform social scientific knowledge of domestic violence: pathology; expression of inner tension; instrumental power; normative social system; and learned behaviour.

In the pathology discourse, the victim, offender or both are regarded as abnormal. A variety of theories account for the offender pathology: a biological predisposition towards aggression; psychodynamic explanations; cognitive, affective or behavioural deficits; and alcohol or drug addiction. Victim pathology is derived from internal characteristics that facilitate their victimisation. A variety of masochistic theories emerged in the 1970's postulating that women somehow enjoy being beaten or gain something from their abuse. Such theories propose that women feel the need to be punished or they deliberately seek out violent men whose behaviour falls within the bounds of their experience. For example, Prizzey and Shapiro's (1981, cited in Dobash & Dobash, 1988) theory that "violence prone women [are] hooked on an adrenaline high associated with violence and simply cannot leave it alone." (p. 64). It is interesting that such theories continue to be recognised if only in order to dispute them (Alexander, 1993; Glover, 1995; Johnson, 1992). Within a pathology discourse, domestic violence is also attributed to a dysfunctional relationship. Responsibility and ownership of the violence lies outside the individual within a pathology discourse and therapies that focus on issues other than the violence emerge as solutions.

The expression of inner tension discourse encompasses a romantic worldview, historically rooted in the pre-enlightenment era, wherein humans were perceived to be slaves to their passions and inner drives. Explanations of offenders' 'loss of control' subsequent to a build up of tension or external stressors, predominate within this discourse. This constructs a temporary state that is 'out of character'. Agents of violence are only partially responsible for their violence. Solutions are directed at

the individual, in terms of anger management, and at social structures which generate stress (i.e. unemployment, poverty, and poor education).

The instrumental power discourse is derived from the liberal humanist tradition wherein people are rational, intentional beings who choose violence as a means to an end. As free agents, this is the only discourse that holds offenders wholly responsible for their behaviour. Legal interventions and changing sexist attitudes are advocated as solutions within this discourse.

The normative social system discourse stems from a structuralist tradition that constructs individuals as passive agents whose behaviour is bound by cultural and social system constraints. Theories that refer to a subculture of violence or to socialisation processes that normalise violence are found within this discourse. Responsibility for the violence again lies outside the individual and is attributed to socialisation processes. Strategies aimed at changing these processes are warranted as solutions by this discourse.

The behavioural tradition informs the final discourse and also constructs individuals as passive agents whose behaviour is conditioned by prior experiences. Theories that are consistent with this discourse, for example social learning theory, may construct both victims and/or offenders as contributing to, or responsible for, the violence. A theory that presents as a co-articulation of pathology and behaviour discourses – Walker's (1979) cycle of violence model – does this. As this theory is referred to in police domestic violence training, some discussion of it is warranted here.

Walker (1979) developed the cycle of violence model to illustrate her concept of battered women's syndrome, which is characterised by learned helplessness. Within the first phase of the cycle, tension builds within the relationship. What are initially minor verbal and physical assaults soon escalate in severity and frequency and culminate in the second phase of the cycle – the acute battering incident. It is within the first phase of the cycle that women learn helplessness as they are unable to ward off assaults by altering their own behaviour. It is postulated that abusive men's remorsefulness, promises to change and kind behaviour exhibited in the third phase

entice women into giving their partner another chance and persisting with the relationship. Although battered women's syndrome has gained notoriety, particularly as a defence to homicide, Walker's theory has been criticised on two accounts. Firstly, when verbal assaults and threatening behaviour are considered, there is no third phase 'honeymoon period' or abatement of violence for many women (Glover, 1995; Wileman & Wileman, 1995). Secondly, it has been suggested that the tremendous courage displayed by women's numerous attempts to resist men's violence could be more aptly characterised as learned hopefulness (Glover, 1995; Scutt, 1997).

As should be apparent, these five discourses do not exist in isolation. Their parameters are flexible and it is likely that any theory would draw on more than one of them. Certainly the cognitive and behavioural interventions afforded by the learned behaviour discourse would constitute some aspect of most interventions aimed at abating domestic violence. Nonetheless, the allocations of blame and responsibility each afford are relevant to my analysis.

#### Feminist perspective on wife abuse

The women's movement forced the problem of domestic violence into the public arena and feminism has subsequently informed much of the research on the issue. Irrespective of one's methodological approach, a feminist perspective provides a context from which domestic violence must be considered. Although feminism is multifarious, Bograd (1988) outlines some principles common to a feminist perspective on wife abuse. Firstly, it is imperative that the frame of reference for understanding domestic violence validates women's experience. Feminist theory acknowledges that in valuing the norms, ideology and systemic dynamics that encompass the dominant cultural perspective - that is white, western and male - all other perspectives are muted and the experiences of the minority are subordinated, less valued and less legitimate.

Secondly, gender and power analyses are fundamental to feminist research. With regard to the latter, the patriarchal relations that define most societies advantage men over women. Control over economic and social resources rests predominantly in

male hands, and male understandings provide the terms of reference for constructing the values and attitudes that support these social positions. The injustice inherent to such inequality is obscured by the social construction of the rightful domination of one group over another. That is, as these societal positions permeate all values, institutions and social systems, they appear to be the natural order of things.

Focusing the analysis on gendered classes, as opposed to isolated individuals, constructs the problem as 'men's violence against women' wherein all such violence is viewed as a unitary phenomenon. There are a number of reasons for presenting the problem in this way. Firstly, a definition of violence which includes all threatening behaviour is more representative of women's experience (Kelly, 1988). Secondly, intimate partner violence, rape, incest, pornography and sexual harassment, etc., are each implicated in maintaining men's power and control over women. Thirdly, similar discourses operate within representations of all forms of men's violence against women to covertly condone men's abusive behaviour. Fourthly, it is argued that the omnipresent threat, posed by men's preparedness to use physical force against women, functions to serve the interests of the dominant class by keeping women in a position of submission and dependence. Many feminist researchers have shown how discourses cohering with a preventative approach to crime, place restrictions on women's freedom and behaviour. For example discourses of 'staying safe' (Radford, 1987) and 'street savvy' (Stanko, 1987) insinuate women should refrain from *putting themselves in a position* that places them at risk of victimisation (i.e. don't go out alone, don't go out at night, dress conservatively, don't make eye contact or talk to strangers).

Furthermore, women are deemed appropriately protected when conjoined with a male partner. This leads to a third principle common to feminism; that patriarchal power relations within wider society are re-enacted within the family. It is in their role as men's wives that women are most vulnerable to abuse as men assert the rights afforded them under patriarchy (Dobash & Dobash, 1988). It is under male privilege that women's self-determination is most tenuous as male understandings of the role of 'wife' and 'husband' dictate what constitutes appropriate behaviour and



marital relations. The power and control theory, therefore, best addresses the question “why do men beat their wives?” (Bograd, 1988, p.13).

The power and control model was developed for a co-ordinated interagency approach to domestic violence that began as the Duluth Abuse Intervention Project (DAIP) in 1981 (Robertson & Busch, 1993). Input for the model came from discussions with women who had been abused (Glover, 1995). The model is depicted as a wheel (see Appendix A), with 8 spokes representing the coercive strategies employed by abusive men to maintain control over their partners. These are intimidation, isolation, threats, emotional abuse, economic abuse, using male privilege, using children, and minimising, denying and blaming. The placement of physical and sexual violence on the wheel’s rim reflects firstly how the actual use of, or threat of, such violence envelops the eight strategies by its omnipresence. It also reflects the fact that while physical violence rests at the extreme end of the continuum, other types of abuse are traumatic and effective in asserting control over women. The presentation of the figure itself illustrates how acts of violence are not isolated events, rather these strategies are applied in concert by abusive men to systematically maintain power and control over their partner.

Although much of this thesis is informed by feminist research, the broad based generalisations inherent in this perspective may lead many, myself included, to resist feminist interpretations. Firstly, the social control theory of abuse positions women as vulnerable and men as potential abusers (Howe, 1997; Radford, 1987; Stanko, 1988). As both these positions are unpalatable, men and women will find it equally difficult to identify themselves (and/or their partner) within this narrow definition. Secondly, both the cause and the consequence of women’s vulnerability is their dependence on men. It is a tribute to the consummate effects of four decades of feminism that the constraints of male privilege, namely male domination/female subordination may no longer be part of a growing number of women’s experience. Thirdly, my proclivity toward liberal humanism precludes such a negative view of human nature. Liberal humanist ideology, premised on individualism, is also discordant with such broad generalisations as occur with a perspective that locates the problem within gendered classes.

Feminists acknowledge it is no surprise that the social control theory meets with resistance. Dobash and Dobash (1998) admit it is much easier to believe that wife assault occurs due to deficient relationship dynamics or some abnormality in the offender. It is difficult to comprehend the deliberate, intentional and vicious maltreatment of someone whom you profess to love.

The above caveats notwithstanding, moving beyond individualism and adopting a broader based perspective has merit. Firstly, it is the failure to punish men's violence against women that is endemic to a society structured on patriarchal values. It is the system of male privilege that prioritises men's freedoms over women's rights to live violence free wherein exculpatory practices ensure the nonenforcement of domestic violence legislation. Secondly, while the pervasion of patriarchal ideology within social institutions and values that once manifest in blatant discrimination may have attenuated, many more subtle variations linger. As my research progressed, my resistance to the feminist perspective on wife abuse waned in the face of copious material available to support it. Particularly salient in quelling my initial disquiet of feminist interpretations were the voices of victims (Church & Church, 1981; Glover, 1995; Towsey, 1996) and offenders (Dobash & Dobash, 1998; Hearn, 1998; Iles, 1996; McMaster & Swain, 1989) wherein discourses of male privilege were resonate and served to normalise and justify men's instrumental use of violence to manipulate their female partners.

Cumulative support for the power and control etiology of wife abuse has been found using a variety of data gathering methods (Dobash & Dobash, 1988). Johnson (1998) found support for the theory in her analysis of a victimisation survey of 12,300 Canadian women. In her analysis, isolation variables (employment status of men and women, place of residence, other adults or children living in household, husbands attempts to isolate or limit wives' autonomy), attachment and commitment to conventional society variables (employment, age, income, education), and norms and beliefs which support wife assault (husband or wife having witnessed domestic violence in childhood, husband's sexual jealousy and degrading name calling) were all related in the hypothesised way to wife assault. That is, their presence increased the likelihood and severity of abuse (Johnson, 1998).

Although theories of abuse are prolific, the specific details of prevailing theories are less relevant to this research than the discursive resources utilised within them. The five discourses identified by O'Neill (1998) provide an excellent framework for the pending analysis herein. These discourses, together with the feminist perspective on wife abuse, constitute the theoretical understanding of abuse that has informed this research. They also provide an interpretative framework for the ensuing literature review.

## CHAPTER FOUR

### Literature Review and Prevailing Discourses in Policing Domestic Violence

Last night I heard the screaming  
Loud voices behind the wall  
Another sleepless night for me  
It won't do no good to call  
The police  
Always come late, if they come at all

And when they arrive  
They say they can't interfere with domestic affairs  
Between a man and his wife  
And as they walk out the door the tears well up in her eyes

Last night I heard the screaming  
Then a silence that chilled my soul  
Prayed that I was dreaming  
When I saw the ambulance in the road  
And the policeman said  
"I'm here to keep the peace,  
Would the crowd disperse  
I think we all could use some sleep"

Tracy Chapman - 'Behind the wall'

New Zealand's response to domestic violence has paralleled that of other countries. Historically the police response has been sequestered into three eras. Prior to 1970 a traditional approach was used, then followed a crisis intervention approach, before a policy of arrest was implemented in 1987.

Characteristic to the era of public silence on and ignorance of domestic violence, the traditional approach was essentially one of non-intervention. Appeals to the private nature of family life exempted violence in the home from criminalisation. This effectively removed the legitimacy of any police role, while patriarchal gender role assumptions about what a man was entitled to expect within a marriage ensured culpability, if conceded at all, rested more heavily on the woman. The prevailing police response during this era and its resultant impact on victims are epitomised in the lyrics of Tracey Chapman above. Although the police mandate to keep the peace may have precipitated a 'bit of chat' with the offender, who would be advised to 'cool down', this afforded little protection to women (Edwards, 1989).

The crisis intervention approach emphasised mediation and conflict resolution with arrest to be used as a last resort. Arresting the aggressor was to be avoided because of its possible adverse effects of increasing family stress, financial hardship and exacerbating the violence. The difficulties of obtaining sufficient evidence to support a prosecution, and two assumptions about victims – they will most likely withdraw their complaint and they may use to the police to remove their spouse from the home, provided further rationale for this policy (Ford, 1986). The police role then, was effectively to help the couple negotiate a reconciliation, to talk the complainant out of making a formal complaint and to provide advice regarding victim assistance (Church & Church, 1981; Social Development Council, 1980). Not surprisingly such an approach was ineffectual. From the police perspective it was unavailing because: often alcohol was involved, thus nothing was taken on board; officers' young age rendered them likely to be perceived as unqualified to provide advice; constraints or demands on police time meant that such action was improvident; officers were not particularly cognisant of the services and legal avenues available to abused women; and the potential danger domestic violence posed to the police increased with this type of action (Ford, 1986; Social Development Council, 1980).

From a battered woman's perspective, however, this policy was ineffective because it assumed the problem lay in the relationship and not with the abuser; it trivialised her experience as unimportant, a waste of police time and a misuse of police resources; it essentially condoned the violence and denied her right to protection. The police policy was not the only obstacle abused women faced at this time, as related legislation further impeded her and her children's protection. Non-molestation orders were difficult to obtain, with only about 25% of applications resulting in an order being made, and these did not always carry the power of arrest (Church & Church, 1981). The crisis intervention approach to domestic incidents was applied irrespective of court orders or bail conditions that carried a power of arrest, thus resulting in a policy of nonenforcement. Separation orders could be deferred until completion of conciliation counselling requirements. Not only did this counselling itself put women at risk, but without an order in place, a husband could not be charged with raping his wife, a father could not be charged with

kidnapping his children, benefits were difficult to get and matrimonial property could not be divided (Church & Church, 1981)

The Family Protection Act 1982 rectified many of these impediments. However, it is important to illustrate how discourses which legitimate men's power and control over women, namely male privilege and privacy, were so firmly entrenched in existing social norms and structures that their infiltration throughout the entire legislative system, which in retrospect reads virtually like a conspiracy, was, at the time, considered 'valid' (Church & Church, 1981; Ford, 1986; Social Development Council, 1980).

Despite the growing concern that the police rationale for avoiding arrest misrepresented the experience of many women, acceptance of its legitimacy was so widespread that when Ford (1986) pioneered a trial of the arrest policy in 1985, this approach was constructed as "*risking* a major intervention that would affect the behaviour of those most directly involved in the dispute" (p.35, emphasis added). Focusing on the sanctity of the family and the detrimental effects thereto which may ensue from such a major intervention as the offender's arrest, led the arrest policy to be perceived as a 'risk'. Such a construction prioritises the risk to the family over and above the risk to women's safety posed by letting this crime go unpunished.

Moreover, this was a 'risk' that needed to be justified. The justification for trialing a policy promoting the arrest of a man who assaults his intimate partner lay not in the criminal nature of this offence (although indeed visible evidence of a criminal offence need be ascertained to warrant an arrest). Rather, implementing a policy that enforced existing legislation was justified on the basis that previous approaches had not reduced domestic violence and on overseas research that suggested arrest does.

Sherman and Berk's (1984) research evidencing the superior deterrence effect of arrest over mediation and separation, is regarded as pivotal in changing the nature of policing domestic violence. In this study, police responded to domestic incidents which met the research criteria (where there was no immediate, serious threat or danger to the victim and both victim and offender were present when police arrived),

using one of the three randomly assigned approaches of arrest, mediation or separation. Based on police records and victim interviews, offender recidivism was 10% when the offender was arrested compared to 19% when mediation and advice to the victim was practised and 24% when couples were separated.

Although nonexperimental studies corroborated the superior efficacy of arrest on recidivism (Berk & Newton, 1985; Jaffe, Wolfe, Telford & Austin 1986), methodological criticisms of Sherman and Berk's (1984) research questioned the validity of its conclusions that arrest was the best police intervention method (see Elliot, 1989; Straus, 1999). Given the intended impact of Sherman and Berk's (1984) research on police domestic violence policy, the United States Justice Department funded five replication studies with conflicting results. While two of the studies obtained comparable results to the original, another two found no deterrent effect for arrest and the fifth indicated arrest deterred future abusive behaviour selectively among offenders, namely it only deterred those who had vested community interests (Sherman, Schmidt, Rogan, Smith, Gartin, Cohn, Collins & Bacich, 1992).

Domestic violence offenders who were employed, had a social standing or occupation within the community which rested on their good moral character, were postulated to be more amenable to informal social controls. That arrest is a greater deterrent for offenders with such vested community interests has been confirmed by other research (Thistlethwaite, Wooldredge, Gibbs, 1998). However, this construction of offenders who are and are not deterred by arrest also feeds into a stereotype of domestic violence offenders who inhabit a subculture of violence – a stereotype which conflicts with what is known about domestic violence cutting across socioeconomic and cultural boundaries.

Despite the equivocal findings ensuing from the replication studies, Sherman and Berk's (1984) research was a landmark study that was internationally persuasive in changing police policy. Domestic violence, it seems, is an aberration in that validation of arrest as a deterrent was a prerequisite for its application to this crime. Focusing on deterrence explicitly prioritises social control over victim protection. The many social, historical and cultural constructs that enabled men's perpetration

of intimate partner violence (exemplified within the various discourses discussed below) may have necessitated a higher standard of arrest utility than its more common function as a standard response to the contravention of criminal legislation.

### Discourses of Privacy

Edwards (1989) suggested the public/private divide is of central importance to understanding the police response to domestic violence. She described how the police role of maintaining public order and keeping the peace, as mandated in police training manuals, ensures highly visible crimes against the public receive the greatest priority. That the police should be out catching burglars or 'real criminals' instead of investigating crimes which pose no threat to anyone beyond the individual 'participants' in the crime is a common discursive resource among police (Busch, Robertson & Lapsley, 1992; Ferraro, 1989; Pinkus, 1996) and the public (Edwards, 1989).

The low visibility of domestic violence and the perception that a violent husband poses no threat to the larger public has been used to relegate the criminal status of domestic violence. Moreover, the private venue in which most domestic violence occurs – the home – as well as the relationship between its 'participants' – husband and wife – both have sacred status. Everyday expressions such as "what I do in the privacy of my own home is my own business" and "what happens between a man and his wife is a private affair" captures the meaning underlying this special standing given to the domestic arena and marriage. The privacy discourse can also be found in police training manuals where the immunity of violence within the family from criminal investigation has been sanctioned: "officers should never create a police problem when there is only a family problem existing" (Binney, Harkel & Nixon, 1981 cited in Edwards, 1989, p.93). Indeed the crisis intervention approach itself ensured police did not make a crime out of family disputes.

Unfortunately these discursive resources do not appreciate the dynamics of domestic violence. Rarely are husband and wife both 'participants' in domestic violence (Cantos, Neidig & O'Leary, 1993; Dobash, Dobash, Cavanagh & Lewis, 1998; Saunders, 1988) and even if they were, men's greater upper body strength and



privileged social position ensures they would not be equal participants. The concerted efforts of abusive men to minimise the visibility of their abuse (i.e. restricting their physical abuse to within the home, not hitting in the face) have been well documented (Sleutel, 1998). Moreover the power and control tactics of men are geared towards increased isolation (privacy) of their female partners.

### *Leniency thesis*

Empirical evidence of this public/private division of police responsibility emerges from investigations into the leniency thesis. The leniency thesis refers to a differential police response to assaults categorised as domestic related and other forms of interpersonal violence, with the former being treated more leniently.

Black's (1971) study is often cited as support for the leniency thesis. This study, based on observations of police-citizen encounters in three American cities, found that arrest for assaults occurred almost twice as often when nonfamily members were involved. His research, however, was contested on the basis that this discrepancy almost disappears when various factors are controlled for (Elliot, 1989). For example, although Black (1971) found that 26% of violent disputes involving intimates resulted in arrest, this figure increases to 45% for felony assaults and 80% for misdemeanour assaults when victim's preference for an arrest is considered<sup>2</sup>. Oppenlander (1982), using state-wide archival data, argued that differential rates of injury explained the leniency thesis as he found similar rates of arrest for domestic and nondomestic related disputes when injury was controlled for. On the other hand, based on this same data, Smith (1987) found that male on male violence incurred a much higher rate of arrest than male on female assaults. Offenders' presence at the scene upon police arrival was also found to impact on an arrest being made (Black, 1971; Oppenlander, 1982; Smith, 1987). Although offenders having left the scene has been claimed to distort arrest rates, due to such incidents falling into the "no action" category, offenders' absence does not preclude probable cause for an arrest.

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<sup>2</sup> In the United States, assaults are classified as 'felony' or 'misdemeanour' assaults, with the former comprising the more serious assaults.

At the time of these initial investigations into the leniency thesis arrest rates for domestic violence offenders were indisputably low. A review of research using representative sample populations found reported arrest rates ranged between 12-47%, however, this figure was much lower when so called 'nonrepresentative' samples, from battered women's and other domestic violence services, were used (Elliot, 1989). Despite the controversy over the veracity of the leniency thesis, it provided the rationale for Sherman and Berk's (1984) research that ultimately saw 90% of urban police departments adopt mandatory arrest policies by 1988 (Bennett, Goodman & Dutton, 1999).

While data for these earlier findings was gathered before or shortly after arrest policies were effected, more recent studies have also found equivocal support for the leniency thesis. For example, using 376 cases classified as assaults in official police records, that were collected across a 10 month period from a midsize American city, Buzawa, Austin and Buzawa (1995) found differential arrest rates for assaults on strangers (33%), acquaintances (28%) and those in a domestic relationship (13%). Based on 627 calls categorised as assaults or disturbances within a computerised police dispatch service in Florida, Feder (1998) found the reverse – 23% of domestic and 13% of nondomestic calls resulted in arrest. Both studies restricted the domestic category to intimate partners. Both studies, as well, found offender's presence, victim cooperation and severity of injuries each increased the likelihood of an arrest.

Elliot (1989) argued that until such extraneous factors as offender's presence, victim cooperation and severity of injuries are controlled for, the leniency thesis remains inconclusive. Yet in a study analysing police records of felony assaults only, Fyfe, Klinger & Flavin (1997) found 13% of the 82 felony assaults classified as domestic resulted in arrest as opposed to 28% of the 310 records classified as nondomestic. Insofar as the police were actively uncooperative with the research (the data was obtained by court order), the authors suggest this data may be more representative of arrest rates, particularly within similarly composed blue-collar urban area precincts.

What is evident from these studies is that, irrespective of relational status, there is a low rate of arrest for assault. More importantly, however, is that of the factors postulated to affect differential police response rates, only severity of injury is

relevant to determining probable cause. This suggests that decisions to arrest may be based on factors other than legal ones. Furthermore, assaults involving nonfamily members do not carry a mandated arrest policy. More recent investigations into the leniency thesis should, therefore, show greater leniency for nondomestic assaults, however, this has not always been the case. The persisting influence of extralegal variables (i.e. victim preference and offender's presence) in more recent evaluations of the leniency thesis when discretion to arrest domestic violence offenders had been removed, is even more disturbing.

#### *Arrest correlates*

The inability of arrest policies to impact on domestic violence arrest rates led to a plethora of research on situational, demographic and attitudinal variables associated with officers' decisions to make an arrest<sup>3</sup>. As discussed above, situational variables such as offender's presence at the scene, victim's preference for an arrest and severity of injuries have been found to influence the decision to arrest.

The abundance of other variables implicated has led to the suggestion that officers adopt either efficiency or normative reasoning in their arrest decisions (Stalans & Finn, 1995). Officers employing an efficiency frame will be concerned to attain a successful prosecution. Indeed, more severe injuries and the use of weapons (Mignon & Holmes, 1995), the presence of witnesses, and offender's history of violence (Buzawa & Austin, 1993) have been found to increase the likelihood of an arrest being made. Officers employing a normative frame are more concerned to ascertain degrees of responsibility for the dispute and will, or will not, arrest on this basis. That marital status (Dobash & Dobash, 1979; Worden & Pollitz, 1984), alcohol (Hirschel & Hutchinson, 2001; Mignon & Holmes, 1995), as well as demographic variables (Black, 1971; Ferraro, 1989) have been associated with lower arrest rates support this. The greater tendency to arrest defacto partners than husbands is a discursive practice arising from a privacy discourse. The lower tendency to arrest when alcohol is involved or the offence occurs in a lower socioeconomic area, relates to a normative social system discourse. Both offenders

and victims may be perceived to inhabit a subculture of violence wherein an arrest is meaningless. This, of course, coheres with empirical findings of the selective deterrence effect of an arrest. Involvement of alcohol also relates to a number of other discourses (i.e. 'pathology' or 'expression of inner tension', wherein the offender is temporarily out of control), all of which mitigate offender's responsibility.

While more recent research indicates the marital or cohabitational status of victims and offenders on arrest has swung in the other direction (Buzawa & Austin, 1993; Robinson, 2001), suggesting perhaps the waning influence of the privacy discourse, the persistent findings of support for the leniency thesis speak to officers' continued reluctance to intervene in domestic violence. Further factors that correlate to arrest can be understood in terms of other prevailing discourses that minimise and trivialise the violence, blame the victim or exonerate the offender.

#### Discourses that Minimise and Trivialise

Feminist researchers (i.e. Dobash & Dobash, 1979; Edwards, 1989; Stanko, 1988) have illustrated how women's victimisation by men has been marginalised by male understandings of crime. Despite women constituting the minority of offenders and majority of victims of interpersonal violence, this ratio was not reflected in official criminal statistics. Indeed, government surveys of criminal victimisation and police crime statistics were used to illustrate how women's fear of crime was irrational - that insofar as women constitute a low risk population in these official reports, they were obviously overestimating the likelihood of their experiencing interpersonal violence (Stanko, 1988). Absent from this explanation is the fact that criminal justice practices and male constructed understandings of women's victimisation impede the prospect of such offences surfacing in official statistics.

Without making too great a diversion into nondomestic related assaults on women<sup>4</sup>, what emerged from this spurious conclusion about women's irrational fear of

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<sup>3</sup> Given the volume of such research, presenting methodological details would be cumbersome, however, most data sources used come from prospective and retrospective police reports and records or vignettes.

<sup>4</sup> The barriers to gaining a conviction for sexual assault are well documented elsewhere (see Gavey & Gow, 2001; Edwards, 1987a; Lees, 1996).

violence was a number of victimisation surveys governed by feminist research principles, which revealed very different prevalence estimates. Although these findings vary according to definitions of abuse used, collection methods and populations sampled, three consistent findings emerge from such research. Firstly, women are at greater risk of abuse from someone known to them (Bachman, 2000; Johnson, 1998; Young, Morris, Cameron & Haslett, 1996). Secondly, men's abuse of their women partners is disturbingly high. And thirdly, calls to police represent but a small percentage of interpersonal violence that occurs.

With regard to the second finding, two recent New Zealand studies illustrate this point very well. Each found fairly high but comparable 12 month and lifetime prevalence rates of men's abuse of their female partners. Morris' (1997) survey of 500 women, who formed part of a subpopulation from the National Survey of Crime Victims, found one in seven women had been physically or sexually abused by their current partner at least once within the year prior to the study. Lifetime prevalence estimates from women with current partners were 24% for physical abuse and 44% for psychological abuse. Reported rates for women with former partners were 73% and 94% respectively. Reports of abuse found in this study are slightly higher than those found by Leibrich, Paulin and Ranson (1995). This survey was unique in its use of male participants to ascertain prevalence of domestic violence. The research was conducted in two parts. The first queried 2000 men on their views of the role of women, their attitude toward abuse (i.e. approval and apportioning of blame) and their abusive behaviour. The second study queried 200 men from the initial survey on their relative adherence to the 'loss of control of anger' and 'need to control women' explanations of abuse. The reported 12 month and lifetime prevalence rates were 21% and 35% for physically abusive behaviour and 53% and 62% for psychologically abusive behaviour respectively. These rates, while lower than Morris' results, are still quite high. Moreover, men generally report lower rates of abuse than women (Dobash & Dobash, 1998; Sirles, Lipchik & Kowalski, 1993).

Surveys such as these have been criticised for using overly inclusive definitions of physical and psychological abuse (Strauss, 1999). However, ascribing physical, sexual, and psychological assaults different meanings, causes and consequences

creates a false distinction which is more reflective of legal definitions than women's experience (Kelly, 1988). For example, name-calling serves to undermine women's perceptions of their rights, values and capabilities. In Johnson's (1998) analysis of a Canadian victimisation survey, the strongest predictor of wife assault was an affirmative response to the question "He calls you names to put you down or make you feel bad". Leibrich et al's (1995) study disclosed fairly consistent 12 month and lifetime prevalence rates of psychological abuse. It also found that physically abusive men were almost always psychologically abusive.

With regard to the third finding arising from victimisation surveys, a review of five Australian surveys indicates only between 25-40% of domestic violence is reported to the police (Alexander, 1993). Morris' (1997) survey, although based on lifetime prevalence rates, found only 10% of women who had experienced physical assaults from their partner ever contacted the police. Although the trend has been towards increased police reporting in recent years (Cox & Irwin, 1989), women have provided a number of reasons for not calling the police. Assaultants' intimidating behaviour is perhaps the most serious impediment to women contacting the police, whether this be threats of retaliation, preventing women from access to a phone or other isolation tactics. Women who are restricted from gaining police services in this way suffer more frequent and severe abuse (Fleury, Sullivan, Bybee & Davidson, 1998; Johnson, 1998). Assaultants' threats are tangible and, coupled with previous negative police encounters, provide tremendous barriers to women enlisting the criminal justice system as a means of negotiating their safety. Indeed, anticipation of a negative police response is often provided as a reason for nonreporting (Fleury et al, 1998, Smith, 2000) and police have often been ranked as least helpful relative to other service providers (Erez & Belknap, 1998; Horton & Johnson, 1993).

Discourses of privacy have also been prevalent among women's decision not to call the police. Although reasons of privacy have been endorsed less often as public awareness of domestic violence increases (Fleury et al, 1998), domestic violence is invariably embarrassing for women, particularly as it often involves abusive sexual relations which women would not want publicised.

Furthermore, women who grew up in a household where violence and abuse occurred, may learn to maintain silence and keep secret the abusive events in their current home (Woods, 1999). Abused women are not immune to the ideological force of patriarchy and may not see the abuse as criminal. Kelly (1988) suggests that limited definitions of wife abuse afforded under patriarchal relations silence the reality of women's experience and encourage an interpretation of the violence as justified and normal. Whether through a lack of appropriate terminology, the pressure of traditional ideological gender difference assumptions or due to the experience itself, men's violence toward women often takes on ambiguous meaning for women (Kelly, 1988). Subsequent actions of the perpetrator, who minimises, denies or normalises the abuse, further entrench the experience from a position of male dominance and privilege. Indeed, a qualitative study of women's perceptions of their encounters with the police found that, in order to survive, women tended to see life through the eyes of their men (Shoham, 2000). This finding has implications regarding women's ability to resist the rubric of male privilege. That is, the strategy may indicate an attempt to ward off potential violence by, for example, anticipating their partner's needs and eliminating any reason for violent outbursts. While this is a common strategy employed by abused women (Sleutel, 1998), its inherent assumption of provocation facilitates an understanding of men's use of violence as justified.

Indeed, these mechanisms are so well entrenched that often women themselves don't consider their own situation to be abusive. Kelly (1988) found the women she interviewed generally only acknowledged the severity of the violence in retrospect. One of the reasons given for not calling the police by the women in Morris' (1997) survey was that the incident was not serious enough, despite the fact that they subjectively rated the abuse as either serious or very serious. For example one woman who was choked, slapped, pushed, grabbed and threatened thought she had "an average marriage with its ups and downs" (p. 53).

The police as well are prone to adopting offenders' explanation of violence. Violence is further minimised by police when demographic variables are used to construct violence as normative or a way of life among particular populations.

Police have also been found to discount or lower the priority of repeat calls from the same address, as violence in those households is also considered the norm (Edwards, 1989).

Nevertheless, women clearly believe the police have a role to play in protecting them from domestic violence. Even women who did not believe police intervention would be of help still said they would again complain to the police if they were subjected to violence and would advise other battered women to do the same (Coulter, Keuhle, Byers & Alfonso, 1999; Lazarus-Black, 2001; Shoham, 2000).

### *Down-criming*

Also important in understanding the discrepancy between police statistics and findings from victimisation surveys is the process of 'down-criming' women's victimisation (Edwards, 1989). At every stage of the criminal justice response, from the initial dispatch of the call, through to officers' attendance, prosecution and sentencing, practices that minimise men's violence against women can be found.

In her study of the London Metropolitan Police, Edwards (1989) found evidence of police dispatchers dealing with domestic calls over the phone. Although Edwards acknowledged the practice as rare, that police have been slow to attend or not attended domestic disputes has been documented elsewhere (Berk & Loseke, 1980-81; Dutton, 1995; Oppenlander, 1982). Furthermore, the practice of coding calls as a domestic dispute instead of the assault or battery which provide a more accurate account, also serves to minimise the event to 'just another domestic'.

The aforementioned low rate of arrest and extralegal variables that influence attending officers' decisions to warn rather than arrest also impact on how and if an incident appears in official police statistics. So too do reporting practices, wherein offences are recoded, coded as 'attendance sufficient', or offenders are arrested on charges other than assault, such as disorderly behaviour, property damage, or public nuisance charges (Dutton, 1995; Edwards, 1989; Ford, 1986). Not only do these practices obscure or even preclude a recorded history of abusive men's violence against their partners, but they also serve to minimise and invalidate women's experience of the assault.



Perhaps the most extensive screening occurs at the level of prosecution. Only 2% of offenders arrested in the Sherman and Berk (1984) study went to trial. While more recent studies show an increased number of prosecutions and convictions (Hirschel & Hutchinson, 2001; Schollum, 1996), an unexpected outcome of mandated arrest policies was an increase in not guilty pleas (Carlson & Nidey, 1995). The practices of granting diversion (wherein offenders undergo some form of consequence, like counselling or reparation, but receive no criminal record) and reducing charges, already considered epidemic by some standards (Edwards, 1989), paralleled this increase in not guilty pleas (Busch et al, 1992).

A further down-criming practice is the use of civil remedies (i.e. protection orders) for a criminal offence. Ironically, in police districts wherein both criminal and civil court orders of protection are available, officers preference for dealing with and arresting for breaches of criminal court orders is at odds with their recommendations that women obtain civil injunctions (Edwards, 1989; Hanmer, 1989; Rigakos, 1997). Officers' recommendation that women use the civil court to obtain orders implies a reluctance to view a breach of protection order as a criminal offence. However, insofar as officers were more likely to act on a criminal court order, their recommendations constitute an (albeit informal) institutionalised practice of down-criming domestic violence offences. Moreover, if police don't countenance civil orders it is unlikely offenders will.

Protection order violations present a circumstance quite distinct from other domestic violence incidents. Although they require a much lower standard of proof (that is, the order outlines behaviour for which the respondent can be arrested), police have been found to be as, if not more, reluctant to arrest for breaches of protection orders (Edwards, 1989; Rigakos, 1995; Stubbs & Powell, 1989).

A breach of protection order need not involve any 'violence' per se. Given that seriousness of injury is so highly indicative of an arrest being made, without there being a perceived immediate threat to the victim's safety, officers may perceive an arrest to be disproportionate to the offence. Indeed this was what a study commissioned by the New Zealand Victim's Task Force found (Busch et al, 1992). This was an investigation into repetitive breaches of protection orders, which used a

variety of quantitative and qualitative data sources to identify problems women had in getting protection orders and having them enforced. This study illustrates how officers' constructions of respondents' harassing behaviours as innocuous or as 'technical breaches' lead them to prefer an informal warning rather than an arrest. Similar constructions have emerged from other qualitative research into breaches of protection orders (Edwards, 1989; Rigakos, 1997).

In Busch et al's (1992) study, officers also saw women's need for ongoing protection as irrational, arising from her exaggeration of the danger her partner presented to her. This was especially so in the face of a remorseful offender who acknowledged his behaviour was 'out of line' and professed to 'just' want to get back together. Such an analysis adopts the perspective of the perpetrator and minimises the impact of the breach on the victim. The ramifications of informal warnings are firstly, that this action generates no record of the respondents' breach and secondly, the protection afforded by an order is at minimum denigrated, if not completely nullified.

Perhaps the most minimising and trivialising practice is the concept of a 'cooling off' period. Edwards' (1989) research found officers followed an informal policy of not officially recording assault charges unless women expressed a desire to persist with their complaint after a certain period of time. Prosecution offices in the United States formalised this practice with a 'three day hold' policy wherein women were asked to wait three days before signing their probable cause affidavit (Ford, 1991). Not only did women have to make the complaint themselves, but no warrant for offenders' arrest would be issued until after the charges were officially filed. In Hanmer and Saunders' (1993) study of the Yorkshire Police response to domestic violence, a suggestion put forward by officers for improving police effectiveness was the creation of a cooling off facility where offenders could be held without being charged.

The concept of a cooling off period epitomises how legal agents construct the problem of domestic violence in ways that minimise and trivialise men's perpetration of and women's experience of abuse. The violence is viewed as an isolated incident emblematic of a relationship problem, instead of another spoke in

the wheel of the power and control tactics abusive men use to dominate their partners. The preponderance of this type of construction is exemplified by its appearance in Section 10(2)(d) of New Zealand's Domestic Protection Act (1982): In assessing whether the respondent's arrest is "reasonably necessary for the protection of the person for whose protection the order was made [police must consider] the need for a cooling off period."

The process of down-criming intimate partner violence is of course evident in police policies emerging during the traditional and crisis intervention era of policing domestic violence, which effectively directed officers not to make a crime out of a 'family issue'. Constructing the problem in this way is obviously related to the privacy discourse. Another related and rather high profile discourse is that policing domestic violence is 'not real police work' (Busch et al, 1992; Edwards, 1989; Ferraro, 1989). Given the former directive to use arrest as a last resort and the emphasis on mediation and counselling, it is not surprising that 'domestics' were constructed as 'not real police work'. That these discourses persisted in the face of policy changes is testimony to social constructionist principles. The discursive resources and practices supporting patriarchal power relations within legal institutions would not be overturned by mere policy change.

#### Discourses that mitigate offender accountability blame the victim

Court judgments and sentences further diminish the already attenuated account of domestic assault charges, the nature of which is the subject of another DVISRP study in progress. For the purpose of my discussion, however, evidentiary requirements necessary to gain a conviction may influence officers' response to domestic violence. This was noted in the earlier discussion on officers' employment of an efficiency frame to decide the merits of an arrest. That police frequently report being discouraged by court outcomes of domestic violence offences has been postulated to contribute to their reluctance to arrest (Busch et al, 1992, Edwards, 1989). Wife abuse generally occurs in the home, often without witnesses. Even if women's injuries are sufficiently serious for officers and prosecutors to be satisfied they meet the criteria of legal definitions, the justice system dictates that a defendant is innocent until proven guilty. Victims' behaviour is then called into question and

the search for mitigating circumstances in the form of her contributory role commences. Although a provocation-retaliation account of domestic violence contains an intuitive logic, it is a simplified explanation more reminiscent of schoolyard brawls or sibling rivalry. Criminal justice agents, however, have been slow to acknowledge the power imbalances, which enable this distinction.

The 'expression of inner tension' discourse (O'Neill, 1998), wherein offenders are understood to lose control often coarticulates with a victim blaming discourse wherein women are perceived to have provoked their partners' violence. Women's attempts to resist traditional gender roles ascribed under male privilege have characterised them as nagging wives, slovenly or neglectful of their domestic duties, verbally aggressive and provocative (Ewing & Aubrey, 1987; Howe, 1997). The parameters of appropriate masculine behaviour being decidedly more flexible, terms of opprobrium for men are in short supply. Men's violence or abusive response to inappropriate behaviour in women is then, at minimum understandable, if not exculpatory.

Empirical investigations provide evidence of police use of victim blaming discourses. Officers who hold traditional views of women have been found to be predisposed to attribute blame to the victim, to believe women can control provoking behaviours (Stalans & Finn, 1995), to perceive violence as justifiable and to be less likely to arrest (Lavoie, Jacob, Hardy & Martin, 1989). Arrests are also less likely to be effected when victims are quarrelsome or demand their partner be arrested (Ferraro, 1989; Lavoie et al, 1989). Conversely, arrests are more likely to be made when victims are rational and deferential (Ford, 1983; Shoham, 2000), perhaps because this also enhances their credibility as a witness (Stalans & Finn, 1995). Higher ratings of offender blame have also been associated with their arrest (Stewart & Maddren, 1997).

Alcohol may also serve to mitigate blame. Indeed it is difficult to find a piece of research which does not espouse alcohol as a cause of or to account for domestic violence. Paradoxically, while alcohol deflects from offenders' responsibility for their behaviour, women are often deemed the cause of their partners' drinking (Hanmer, 1983; Howe, 1997). Interestingly, Stewart & Maddren's (1997) study

manipulating a number of variables in vignettes of men's aggression towards their female partners found women received higher ratings of blame when both parties were sober.

This proclivity towards victim blaming is not restricted to legal agents. Public attitudes toward abuse ascertained from national survey data indicate that zero tolerance is a long way off. While only a small percentage of people will actually approve of men hitting women (Howe, 1997; Leibrich et al, 1995; Moore, 1995), and there is some evidence to suggest this is a decreasing minority (Stalans, 1996; Strauss, Kantor & Moore, 1997), men's violence towards women has always been deemed acceptable by some people, in some circumstances, with many women believing violence is part of normal marital relations (Alexander, 1993). The context most likely to incur approval or justification is women's infidelity (Saunders & Size, 1986; Moore, 1995) when assignation of blame is placed solely with the woman (Leibrich et al, 1995).

Masculinist subculture, wherein values of masculinity dominate and are normalised, are conducive to victim blaming discourses. It is postulated that police operate within a culture that is predisposed towards masculine ethos. Smith and Gray's (1983) investigation of police subculture concluded that sexist attitudes were the norm within the police force. There has certainly been evidence of institutionalised discriminatory practices which prevent women from entering or ensure their lower rank within the police force (Edwards, 1989), many of which have recently been rectified (i.e. height and physical strength requirements). Although police officers are still disproportionately male, the assumption that an increased number of female police officers would change prevalent discourses remains unsubstantiated to date. Indeed, there seems to be more evidence of men and women being equally influenced by the discourses which marginalise domestic violence (Ferraro, 1989; Rigakos, 1995). Nonetheless, evidence abounds of officers' proclivity toward victim blaming when they employ a moral assessment of the appropriateness of women's behaviour (Erez & Belknap, 1998; Ford, 1983; Saunders & Size, 1986).

A further victim blaming discourse constructs abused women as masochistic. Contributing to a masochism discourse is a belief that women who do not leave their

abuser are collaborating in the violence. Indeed, officers reporting higher ratings of blame to the victim tend to view women's leaving their abusive partner as an unproblematic and viable option (Hirschel & Hutchinson, 2001). An understanding of domestic violence devoid of a gender and power analysis may position women's 'choosing' to stay in a violent relationship in conflict with the liberal humanist tradition of rational decision making. The prevailing assumption is that women are unable to effect change in their violent partner's behaviour and should instead pursue legal remedies. Indeed a dominant policing script for abused women emerging from the literature has been for victims to leave their abuser, get a protection order and cooperate with the police (Baker, 1997; Shoham, 2000). Police consistently report their frustration with victims who fail to cooperate with the police (Busch et al, 1992; Rigakos, 1995). Women who repeatedly present to police as victims of domestic violence (and are, therefore, not adhering to the policing script) are often considered undeserving of police attention (Edwards, 1989; Ferraro, 1989; Pinkus, 1996).

However, the goals of the police may at times be at odds with those of abused women, many of whom profess to just want the violence to stop but do not want their partners to go to jail (Sirles et al, 1993). Yet, inferences of the likelihood that women will follow the policing script are derived from their preference for an arrest (Baker, 1997) which in turn suggests their willingness to testify, thus enhancing the probability of a successful prosecution. Indeed early research on arrest correlates found victims' willingness to sign a complaint was the most often cited factor in the decision to arrest (Berk & Loseke, 1980-81). Similarly, differential dismissal rates for domestic versus nondomestic assault prosecutions also attenuate when victims' expressed willingness to prosecute is taken into account (Davis & Smith, 1995).

While police and/or prosecutors may officially cite a victim's wish to withdraw the complaint as the reason not to proceed with an arrest or prosecution, empirical verification of women's reluctance to cooperate is equivocal. For example while a United States national survey found that a third of prosecutors' offices experienced a 50% victim withdrawal rate (Rebovich, 1996, cited in Bennett et al, 1999), there is good reason to suggest that policing and prosecution practices that enable and

constrain victim cooperation may go some way to accounting for this variability. Indeed, a coordinated or interagency response to domestic violence derives higher rates of victim cooperation (Buzawa, Hotaling & Klein, 1998; Ford, 1986). Furthermore, a review of domestic violence prosecutions found that: there were fewer nonattendances at court by domestic violence victims than nonintimate victims; that many women who requested their case be withdrawn proceeded to be a witness for the prosecution; that 65% of cases where women wished to withdraw their complaint resulted in guilty pleas and 16% of cases where victims fully cooperated resulted in dismissals (Ferraro, 1993). The latter two findings signify that factors other than victim cooperation are involved in gaining a conviction.

What has also been found in the literature is some evidence indicating officers overestimate the likelihood of women's refusal to cooperate with the prosecution of their abuser (Busch et al, 1992; Rigakos, 1995) as well as numerous examples of women wanting an arrest, prosecution and conviction that were never forthcoming (Coulter et al, 1999; Erez & Belknap, 1998; Ferraro, 1989; Fischer & Rose, 1995).

Interestingly, with regard to breach of protection orders, the applicant's intentions to have the breach dealt with by the criminal justice system are implied in her having called the police, rendering the issue of victim cooperation irrelevant. Yet, still arrests are not effected. This is particularly vexing for breaches where the respondent enters the applicant's place of residence. Officers account for their inaction by pointing to respondents' claims to ignorance of the orders or to having been invited in (Busch et al, 1992; Rigakos, 1997). In one study, some officers would only arrest for breach of protection order when there were signs of a forced entry or signs of a struggle (Rigakos, 1997). This practice prioritises the applicant's actions of letting the respondent in (if indeed he didn't have a key) or not trying to bar his entry in some way, over the respondent's behaviour.

Whatever the ontological status of women's 'inevitable' withdrawal of complaints, their noncooperation with the prosecution process lead to the implementation of 'no-drop' policies which prohibit women from withdrawing their complaint. However, 'no-drop' policies have not always had the intended effect. To determine women's risk of further violence in relation to their control over their involvement with the

prosecution, Ford and Regoli (1992) found that women who were not permitted to drop the charges were at greater risk of re-abuse. The lowest rates of re-abuse were for women who were permitted to drop charges but did not.

Women also have good reason to be sceptical of the benefits of following through with a prosecution. Studies investigating prosecution efficacy on deterring subsequent abuse have generally found no difference between the various prosecutorial tracks of counselling, fines, probation and jail sentences (Davis, Smith and Nickles, 1998; Ford and Rigoli, 1992; Tolman & Weisz, 1995). Similarly the percentage of women reporting further abuse subsequent to obtaining a protection order does not differ between those women who obtain permanent orders and those who let temporary orders lapse (Carlson, Harris & Holden, 1999). What these studies do show, however, is that arrest at the target incident has a greater deterrent effect than prosecution (Tolman & Weisz, 1995) and offenders with the greatest rate of recidivism were those who had previously come to police attention for assault without being arrested (Davis et al, 1998).

Unfortunately, by focusing on subsequent police reports and arrests as outcome measures of deterrence, these studies fail to account for 'down-criming' or 'no-criming' police practices. They also ignore women's willingness to make subsequent calls to the police. This may be particularly negligible if their previous experience with the criminal justice system was negative. As should be apparent by now there are myriad ways a negative experience is likely to occur.

By enlisting police assistance, women also lose control over the process that follows. The dictates of the criminal justice system narrowly define 'assistance'. Officers' good intentions to help the victim are frustrated by what is construed as her noncooperation which often leads officers to believe that her complaint was made vindictively, retributively or to gain the upper hand (Shoham, 2000). The effects of these beliefs are apparent in one study where a victim's having called the police was associated with less likelihood of an arrest being made than when someone else called on her behalf (Berk & Loseke, 1980-81).



Ford (1991) suggests women often dispense with the legal system when they have finished using it to their advantage. He argues that women use the prosecution process as a means of negotiating power within the relationship. Contrary to popular belief, they have an instrumental motive rather than a vindictive motive to pressing and then dropping charges. In his study, the reasons women gave for pressing charges in first place, coincided with their reasons for eventually dropping the charges – they had extracted an agreement from their batterer who had, for his part, fulfilled the agreement by completing negotiations on property settlements, divorce, separation or by leaving her alone. Obviously, there are a number of reasons why a court-mandated outcome may not be in women's best interests, not least of which that it may deleteriously affect her and her children's financial position. Insofar as dropping charges may more appropriately and expediently meet victims' needs and do so in an empowering and self-efficacious manner, this decision appears extremely rational.

Not only does the dominant police script for abused women ignore women's goals, it presumes the effectiveness of the criminal justice system and that leaving is the most effective strategy for terminating the violence in their lives. Less than a third of women in Morris' (1997) study who left their partner experienced no further abuse. Separation is often a time of greatest danger for many women (Wilson & Daly, 1998). This is a time when men's intimidating and harassing behaviour accelerates. They employ coercive strategies such as promising to change, apologising, denying responsibility, keeping children from their partner, giving or promising gifts or privileges, mentioning difficulties of independent living, threatening to harm someone and mentioning family responsibilities (Schutte, Malouff & Doyle, 1987). Women often return to abusive partners specifically to cease this harassing behaviour (Baker, 1997). While many women persist with the legal process in the face of threats to themselves, threats to their children have coerced them into ceasing to pursue legal solutions to their problem (Zoellner, Feeney, Alvarez, Watlington, O'Neill, Zager & Foa, 2000).

While for many women obtaining a protection order demarcates the first step in the leaving process (Erez & Belknap, 1998), as previously noted, this too may not

protect them from further abuse. Based on interviews with 350 women, twelve months after obtaining a restraining order, Harrell, Smith and Neward (1993, cited in Davis & Smith, 1995) found that 60% of the orders had been violated. Police responded to 290 calls from this group but made only 59 arrests. Other studies have reported similarly low rates of arrest (Edwards, 1989; Horton, Simonidis & Simonidis, 1987) and high rates of re-abuse (Baker, 1997; Zoellner et al, 2000).

In a study aimed at ascertaining the meaning a protection order held for women Fischer & Rose (1995) interviewed 287 women outside court who had just filed for orders. They found that while the women expected their partner would violate the order, they were confident the order would be enforced, thus enabling them to leave their partner without being hurt. Based on the research available, many of these women would not have their expectations met.

Insofar as police generally do not enforce bail conditions, conviction rates are low with or without victim testimony, and sentences upon conviction rarely increase women's safety, it is not surprising that women often change their mind and withdraw complaints. These factors, however, are rarely taken into consideration in deterrence research. In drawing conclusions researchers have not paid due homage to the numerous barriers to women's effective and safe participation in the prosecution of their abusive partners. Not least of which are minimising and victim blaming discourses prevailing within the criminal justice system that more consistently collude with, than confront, men's violence.

#### Current developments

Ford's (1986) initial trial of the arrest policy in New Zealand was judged successful in a number of ways. The arrest rate almost doubled over the six-month research period. Seventy six percent of these arrests were made for assaults. Over 80% of offenders were convicted with the majority pleading guilty. In terms of victim satisfaction, 94% thought arrest was an appropriate response, 72% felt they were better off after the arrest, 91% were satisfied or very satisfied and 84% said they would call the police again. However, only 33 women participated in this

evaluation. Police officers also evaluated the policy positively with 84% stating arrest was better or much better than previous approaches (Ford, 1986).

This policy was implemented nationally in November 1987. The specifics of the arrest policy were that where evidence of an offence exists, be that an assault, a breach of court orders or a dangerous threat to the victim, offenders were to be arrested and charged. Victims were not required to make a formal complaint and police were to investigate sufficiently to sustain a prosecution without victim testimony. Police were to familiarise themselves with support agencies available and make appropriate referrals for both victims and offenders, however, such advice was not an alternative to arrest. All incidents attended were to be documented on specialised Pol400 forms.

The policy was introduced by way of Commissioner's Circular (1987/11, cited in Schollum, 1996) with the proviso that: "Common sense should prevail where incidents are extremely minor or police intervention is clearly inappropriate." (p.12). Given the ambiguity of this statement and that policy implementation and training was left to the individual districts, it is not surprising that an early evaluation of the policy found officer awareness, comprehension and compliance with the policy change wanting (Marsh, 1989, cited in Schollum, 1996) with arrest rates and police response virtually unchanged (Schollum, 1996).

It is important to note that the initial policy trial was implemented with training and rationale provided and coordinated with an interagency response. Indeed, the majority of evaluation research has been undertaken where the policy has been properly implemented (Buzawa et al, 1998). However, research using representative police samples often indicates officers' understanding of the policy is negligible (Eigenberg & Moriarty, 1991). Certainly officers participating in a Busch et al's (1992) study found the policy mandate ambiguous. As previously noted this study was critical in effecting domestic violence legislative change. Although not solely focused on the police, the study confirmed the persistence of discursive resources and practices, which serve to perpetuate the nonenforcement of domestic violence legislation and policy. The authors presented 101 recommendations to close the gap

between the criminal justice system and women's experience of domestic violence, many of which were adopted in the Domestic Violence Act 1995.

Following from this report, and encouraged by the positive results of the Hamilton Abuse Intervention Pilot Project (HAIPP; a study which continued the interagency approach to domestic violence initiated in Ford's (1986) study), the police restated their commitment to policing domestic violence by making it a priority focus of their five year strategic plan introduced in 1993. In February 1994 the family violence database was set up to record information documented on Pol400's. A year later, the police embarked on a public awareness campaign aimed to raise awareness, increase reporting and deter offenders (Taylor, 1997). The campaign, which subsequently won one international and two national awards, achieved public awareness ratings of 92% and was followed by a 100% increase in domestic violence prosecutions and a 50% increase in self referrals for offender counselling. While the campaign also boasts a 30% reduction in annual female domestic related homicides, this latter statistic testifies to the persistent seriousness of the problem. (Taylor, 1997).

Nevertheless, a study similar to the one herein suggests discourses that minimise, trivialise and blame the victim persisted in police talk, enabling officers to resist applying the arrest policy indiscriminately, preferring to use their discretion instead (Pinkus, 1996). On the other hand, a national survey using likhert scales and open-ended questions queried 534 officers and found a high standard of awareness and support of the policy, with over 70% believing the policy dealt effectively with both victims and offenders (Schollum, 1996).

Schollum (1996) also reports on the clearance rates (prosecution, caution/warning, or no offence disclosed) for four categories of offences (male assaults female (MAF), Crimes Act common assault, Summary Offences Act common assault, and breach of protection order) for the years 1985-1994. The assault offences carry maximum penalties of two years, one year and six months imprisonment respectively. While the New Zealand arrest policy has always dictated that MAF will be used in most circumstances, the two other offence categories allow some leeway to reflect the seriousness of the offence (or maintain the integrity of the more

serious charge, depending on your perspective). Domestic violence offenders can also be charged with various other offences (i.e. assault with a weapon), however, these are not necessarily categorised as domestic offences in police reports. The above offence and clearance categories continue to be those used by police today.

The statistics in Schollum's (1996) report show a massive increase in reported offences during this period with a 636% increase for MAF and an increase in common assault of 346% and 61% for Crimes Act and Summary Offences Act assaults respectively. There was also 327% increase in 'documented' domestic dispute incidents. The term 'domestic disputes' is applied to non-offence situations only and the policy mandate that they be documented is an acknowledgement of the ongoing nature of domestic violence. While this increase is commendable, over a quarter of these disputes were still recorded as 'attendance sufficient' for the year 1994.

Schollum (1996) also identified a number of problematic areas of policing domestic violence. The overall results of the survey indicate there is some confusion over the amount of discretion officers have in relation to arresting in a domestic violence incident. Firstly, there was a higher proportion of 'no offence disclosed' clearances for offences other than the more serious male assaults female. Secondly, every item of the 13 situations asking whether officers would warn rather than arrest was endorsed as 'always' by at least someone. The reasons causing the most indecision were: victim doesn't want offender charged; conflicting stories from parties; insufficient evidence; and both parties seem at fault. Thirdly, the discrepancy between districts regarding the ratio of protection order breaches to MAF charges, suggests that many breaches may not have made it into the official reports at all. For example, Schollum reports a national average of 1:5.6, however, one district had one protection order breach to 24 MAF charges. A further concern was that only 54% of officers felt the court supported the policy and the most frequent additional comment made was regarding the court's lack of support for the policy. Finally, the wide variation in clearance rates between districts indicates an overall inconsistent police response to domestic violence, particularly breaches of protection orders.

The initiatives of the New Zealand government as well as other domestic violence service providers have paralleled those of the police. Many strategies have been adopted in the past decade attesting to a concerted commitment to extirpate domestic violence (see Department of Social Welfare, 1996). Two developments particularly relevant to policing domestic violence transpired in 1996. The Police Family Violence Policy was revamped and the Domestic Violence Act 1995 came into effect. While the three principles on which the 1987 policy was founded – victim protection, offender accountability and consistent practices across agencies and groups – remain paramount within the 1996 policy, a comprehensive rationale was provided with its implementation to circumvent any ambiguous interpretations. Monitoring strategies were also put in place with Family Violence Co-ordinators appointed within the police to oversee police observance of the policy.

The Domestic Violence Act (1995) is groundbreaking in its incorporation of a power and control analysis of domestic violence and its recognition of the on-going nature of domestic violence (Busch, 2000). The new Act contains a number of major changes aimed at curtailing victim blaming, trivialisation and minimisation, including mandatory referrals to men's programmes upon conviction of a domestic related assault charge. The new Act also includes a broader definition of domestic violence that incorporates psychological abuse (under the previous Act 'domestic violence' and 'molestation' were not defined) and allows judges to consider the cumulative effect of multiple acts that may appear trivial in isolation. With regard to protection orders, the Act mandates the automatic revocation of weapons held by respondents of protection orders and, where applicable, associated respondents. Protection orders remain operative despite resumption of cohabitation. Children and, if necessary, new partners are protected under PO's. Temporary protection orders made without notice, which remain unchallenged after three months, automatically convert to final orders. Finally, incremental penalties can be issued for repeated breaches of *any* protection order, thus recognising that an offender may be a respondent of more than one order.

Commendable as this legislation is, without appropriate enforcement its impact on ameliorating past difficulties associated with policing domestic violence will be

negligible. A discrete application of the policy assumes an ability to correctly interpret the situation. Yet there are powerful ideological forces at work in officers' constructions of offenders and victims of domestic violence and of the problem itself which, in the past at least, have not cohered with the dynamics of intimate partner violence. Given front line officers continued use of discretion following previous legislative and policy changes, an analysis of police discourses on policing domestic violence is timely.

## CHAPTER FIVE

### Methods

Having already discussed the theoretical underpinnings of my methodology, this chapter will focus more on the procedural details of my research method.

#### Participants

Participants in qualitative research do not constitute a 'sample' in the way it is understood within empirical research. The results of this research are not intended to be generalised, therefore, I did not aspire to obtain a representative sample of the police population. There is an assumption among discourse analytic researchers that, as there are a limited number of discursive resources, increasing the number of interviewees would not elicit new discourses, but would merely provide further examples of those already identified in the analysis (Gill, 1996). Nonetheless, the technique of maximising the contrast of the sample in order to obtain a more expansive array of discourses has been proposed as a means of addressing the issue of representation (Gill, 1996).

Twelve front line officers were recruited to participate in this research. In order to maximise the contrast of the sample, I wanted to interview officers from different sections and community or outstations.<sup>5</sup> Upon undertaking this research project I approached the Police Family Violence Co-ordinator (FVC) for the district. The FVC is responsible for monitoring family violence policy implementation. As part of this monitoring process, the FVC collates Pol400 (the forms on which all domestic incidents are required to be documented) and enters the information in to the family violence database. The FVC was, therefore, privy to which officers had recently attended a domestic incident, as well having details of the section or station from which officers worked. The criteria for participant eligibility was that officers had attended a domestic incident within the past six months. This timeframe was chosen because of the rotating work schedule of the sectional staff. A six-month time frame ensured each section had at minimum a three-month period of working

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<sup>5</sup> There are four community stations and three outstations in the district. The difference between community and outstations are the number of hours the stations are staffed, with the latter having more extensive hours of operation.



evenings or nights, the hours in which police most often attend domestic violence incidents. As the FVC received an average of 52 Pol400's per month in the six months preceding recruitment, a three month period would allow at least some members from each section to meet this criteria. The FVC volunteered to supply me with the names of suitable candidates whom I could invite to participate.

I was originally given the names of 25 officers. Each of these officers received an information sheet (see Appendix B) addressed to them at the police station. The information sheet invited officers to express their willingness to participate by replying in the self-addressed stamped envelope provided. Only the three female officers interviewed volunteered in this way. To obtain a further nine participants, on the advice of the FVC, I contacted the remaining officers on the list by telephone at the police station to ask them directly if they were willing to participate. I obtained seven participants in this way. The FVC provided the names of five more officers who were also sent information sheets by way of the police station. This contact was followed-up with a telephone call a few days later and the final two participants were procured. Although the FVC was instrumental in recruiting participants, at no stage was she advised of the specific content of the interview, nor did she have access to the names of officers who agreed or declined to participate.

Officers who declined to participate were queried on the factors influencing this decision. It is commonly assumed that people who volunteer to participate in research may systematically differ from those who decline (Coolican, 1994). I thought it good protocol to query officers, not as a means of identifying these differences, but in case their decision was based on some misunderstanding of the research and/or its objectives. While my queries did uncover some misunderstandings about the nature of the research and participant eligibility, officers nonetheless cited two reasons for their decision not to participate. They were too busy or they had only recently participated in a different piece of research and were disinclined to participate in another one so soon. I cannot draw any conclusions from these two reasons and it may well be that those who refused differ systematically in their policing style or views on policing domestic violence from the officers who participated. Be that as it may, in terms of police participation in

research, the FVC indicated the recruitment of 12 officers from a list of 30 names was a good result. Furthermore, discourse analysis makes no claims to objectivity or sample representation and no demographic details of officers who declined to participate were sought. Indeed, because sample representation does not form part of the criteria of discursive research, demographic information on participating officers was also kept to a minimum.

Of the 12 officers who participated, eight were sectional staff working from the main police station, two worked out of community police stations and two officers were based at outstations. Such other personal details as were elicited are listed in Table 1. This information, however, was not applied to the analysis, but rather is provided as contextual information for the reader.

Table 1

Officers' details at the time of interview (May 2001)

Officer	Sex	Age	Rank	Years experience
A	Male	30	Constable	5
B	Male	30	Constable	4
C	Male	38	Sergeant	17
D	Female	27	Constable	4
E	Male	39	Constable	8
F	Female	28	Constable	5
G	Female	28	Constable	5
H	Male	33	Constable	11
I	Male	34	Sergeant	11
J	Male	27	Constable	5
K	Male	40	Sergeant	10
L	Male	43	Constable	6

Procedure

The 12 officers participated in an interview that was audiotaped and subsequently transcribed. Officers were authorised to participate in this research during work hours. Interview length ranged from 40-90 minutes. To ensure confidentiality, a neutral venue was available for the interviews. However, officers predominantly opted to have the interview at the police station they worked from, with some

interviews occurring in the researcher's home. Participants' informed consent was obtained in writing (see Appendix C) before the interview commenced.

Within discursive research, an approach to the researcher-participant relationship is adopted wherein the participant is regarded as the expert. Prior to the interview, participants were advised that the research was quite personal in that I was interested in their subjective experience of policing domestic violence and that their views expressed would not be considered representative of the police in general.

With regard to interview structure, as the purpose of discursive research is to allow the discourses to unfold from participants, less structure permits more variation (Potter, 1996). While the researcher's role is to listen and facilitate the interview, inevitably the research cannot be separated from how the researcher challenges and guides it. Indeed, insofar as the interview schedule (see Appendix D) was derived from the issues which, from *my* reading of the literature appeared to be salient to policing domestic violence, the terms of understanding were implicitly dictated by the constructions of domestic violence this imposed. However, given my novice status as a qualitative researcher and the predisposition of a policing organisation to imposed structure, a semi-structured interview was chosen as the most appropriate format.

With regard to transcription, the audiotapes were transcribed verbatim, including the recording of pauses and inflection. While officers' use of intonation and pauses were not in and of themselves analysed, and while this style of transcription requires some acclimatisation, the many stops, starts and self-interruptions transcribed provide the reader with a sense of the rhythm of officers' everyday language use. A transcription key is available in Appendix E.

All officers' were advised the transcription of their interview would be available for them to edit or comment on. While none availed themselves of this opportunity, most expressed an interest in reviewing research conclusions.

### Analysis

Prior to detailing the decision making process of my analysis, a comment on reflexivity is warranted. Returning to the assumptions of social constructionism discussed in Chapter two, reflexivity relates to the assumption that all discourse, including research, is both constructed and constructing. How this transpired with regard to the literature review and interview schedule has already been discussed. My analysis is also constructing another social representation of domestic violence and the policing of it. This is an important point, because it is imperative the reader understand that there is no one to one representation between my analysis and officers' intended meanings. Discourse analysis decontextualises participants' meanings and words. Extracts are vulnerable to manipulation so that myriad viewpoints could be supported. The decision to focus on one discourse over another is also a subjective one. Within discursive research, however, researchers are not presumed to partake in research from a position of neutrality and objectivity. The researcher's own values and epistemological perspective are intrinsic to the research process and are explicitly acknowledged in the research report. That this discourse analysis has been informed by feminist research was discussed in Chapter two, together with my position regarding feminist theory on domestic violence. My personal qualifications for researching the policing of domestic violence, entail my having worked as a counsellor at a women's refuge and having undertaken all requirements for acceptance into the NZ Police. This included some practical experience, however, I withdrew my name from the recruits list prior to commencing training.

As previously stated, my analytic methodology is based on Parker's (1992) approach to discourse analysis as outlined in Chapter two. The analytic process itself involved numerous readings of the interview transcripts. As noted in Chapter two, discourse is inherently variable and contradictory (Potter & Wetherell, 1987). In reading the transcripts, therefore, I was looking for consistencies and contradictions. The use of metaphor and comparisons are also important linguistic tools for constructing accounts, thus were attended to as well.

These initial readings of the transcripts rendered their first coding. This focused on identifying the 'objects' contained in the text and resulted in 42 categorisations (see Appendix F). The second coding focused on the subjects contained in the text (see appendix G). As is evident from the chapter titles in Part III, the analysis is structured around these 'subjects'. The decision to focus the analysis thus was twofold. Firstly, psychology is about people, and victims, offenders, couples and police are the people concerned in the policing of domestic violence. They are also the people likely to be affected by any practical effects materialising from the research<sup>6</sup>.

Secondly, structuring the analysis to make each of these 'subjects' the focus of one chapter was conducive to addressing the research questions. Again these questions emerged from my reading of the literature and a subjective understanding of the issues salient to policing domestic violence. To reiterate, these questions are, firstly, how do police understand domestic violence? Secondly, what do police understand their role to be in relation to domestic violence? Thirdly, what concerns do police have in implementing the pro-arrest policy? Fourthly, how do police understand the act of arrest?

Research questions one and two are addressed in the 'Police' chapter by identifying the discursive resources police used in their constructions of domestic violence and their role in its policing. However, given the power dynamics of domestic violence as identified in feminist theory, how police understand domestic violence would not be fully addressed without identifying the shared social resources officers used in their constructions of women, offenders and couples.

With regard to the third question, it was reasoned that, insofar as discourses enable and constrain solutions, the problematic areas of policing domestic violence and implementing the arrest policy would surface as the variable and contradictory representations of men and women found within officers' discourse were identified.

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<sup>6</sup> Although feedback to the FVC was part of the research mandate, this may or may not have any direct material outcome. Nevertheless, given that research invariably has political, institutional or ideological effects (Parker, 1992), remaining cognisant of who will be affected by the research is an important criteria of discourse analytic research.

Sources of contradiction were particularly salient to my analysis of the problematic areas of policing domestic violence.

With regard to the fourth research question, the analysis indicates officers' discourses of arrest functioned differently for their various constructions of police, victims, offenders and couples. While this supports my decision to structure the analysis on these four 'subjects', it meant discourses of arrest were unsuited to the more common presentation of evidencing each discourse with all excerpts that support it in one cluster. Discourses of arrest are instead interspersed among the chapters and are pointed out as they emerge. I have tried to do this with minimal disruption to the 'construction' focus of the respective subjects, and I highlight this anomaly for the purpose of reader clarification.

A word regarding the chapter titles of the analysis is also warranted here. The decision to focus the chapters on 'constructions' as opposed to 'discourses' coheres with the subject focus of the analysis' structure. Clarification of the distinction between discourses and constructions is perhaps called for. While a discourse is a "coherent system of meanings" (Parker, 1992, p. 10), constructions are more specific to the particular use of discourse in a given text. For example, a discourse of pathology would encompass an etiological account of domestic violence that would be inclusive and exclusive of various solutions. Within this discourse people may be constructed as addicts, abnormal or mentally ill. The point to be made here is that many of the discourses identified in the analysis are woven through the chapters as the various constructions of women, men and couples officers made use of cohered with them.

A second point to be made with regard to chapter titles concerns the gendering issue arising from the discrepant designations of 'constructions of *women*' and 'constructions of *offenders*' in Chapters seven and eight respectively. My resistance to a feminist interpretation of domestic violence that positions women as potential victims and men as potential offenders was outlined in Chapter three. As argued in Chapter four, women are not simply victims. Furthermore, within the police discourse analysed, sometimes the men sound like victims even though they are offenders and the women sound like offenders even when they are victims. The

problematics of gendering emerges because the split is never so straightforward as women-victims/men-offenders anyway. To call the chapters 'constructions of women' and 'constructions of offenders' was a means of drawing attention to the gendering issue without making a commitment to a simple rendering of the relationships.

To summarise the analytic process in relation to Parker's (1992) criteria for discourse analysis then, the transcription of the interviews literally enables discourses to be 'realised in text', thus observing the first criteria. The first and second coding address his second and third criteria. Discourses relating to the four 'subjects' were then identified, in accordance with the fourth criteria. Consonant with Parker's fifth criteria, the variability and contrariety of discourse were attended to by identifying consistencies, contradictions, metaphors and comparisons. In accordance with the sixth criteria, legitimating and rhetorical linguistic tools, such as utterances that legitimate the speaker's viewpoint or refute objections to it are pointed out as they occur. As stated earlier, the literature review actualised the seventh criteria and discourses' historical locations will be re-introduced in the analysis as appropriate. Finally, with regard to Parker's auxiliary criteria, the analysis was concerned with discursive practices found within policing and related legal institutions, patriarchal power relations and such other ideological effects which advantage men over women or the antithesis. Although auxiliary criteria are discussed as appropriate throughout the analysis, the brief summary that concludes each analysis chapter focuses on the first three research questions. Officers' understanding of arrest, as well as how officers' discourse relates to auxiliary criteria are addressed in the conclusion, where a more informed discussion is practicable.

While discourse analysis is inherently subjective, the preceding explication of my position and discussion of my analytic process are a means of addressing validity issues. The argument being that the reader's knowledge of these things enables an informed reading of the research (Gill, 1996).





## CHAPTER SIX

### Police

Central to officers' understanding of domestic violence was a concept of the 'cycle of violence' which held dual meanings for the officers. The 'cycle' encompasses social learning theory, wherein interfamilial transgeneration ensures the perpetuation of violence, as well as referring to how domestic violence progresses in severity. That officers made use of this discourse is none too surprising as it supports the training material on domestic violence provided to police, wherein both constructions of the cycle of violence are emphasised. Lending further support to this discourse was officers' understanding of their role as police officers, which they constructed as 'breaking the cycle' of violence.

The following analyses lead toward the function of this discourse as extending the problem beyond the immediate victim, offender and acts of violence themselves to provide a social warrant for intervention. That is, the need for intervention appears to arise from the intractability of the cycle, the consequences ensuing from domestic violence, not only for victims and offenders but for all family members, and the subsequent implications of these consequences for police business.

#### The Transgenerational discourse

The transgenerational discourse suggests there is a cyclical transmission from generation to generation of violent behaviour. The discourse is relevant to two of the discourses from O'Neill's (1998) framework - learned behaviour and normative social system. The social learning aspect, where children model their parents' behaviour and parents set the standard of what is normal, fosters a norm of violence in perpetuity or a 'continual cycle' of violence which 'extends down the ranks' into 'second and third generations'.

1. You know if, if (.) dad's abused mum all their life and you know it extends on and on and on down the ranks and the kid grows up thinking 'well this is just normal, you know it's what I see it's what I'm going to do and it's how I'm going to' (.) and it's just (.) it's a continual cycle. [A, 3(2)]
2. A lot of people haven't- that's why I, sort of harp on about the family thing a bit because a lot of people that are growing up today and you're looking at second

and third generations now haven't really had any good role models in their life? Or someone to teach them that that's bad that you do that, they just and everybody knows that they just carry on from the way they've been brought up that mum and dad used to fight so they fight. [E, 13(2)]

3. The cycle carries on yeah (.) that's what we're getting a lot of now sort of the 60's (.) 60's children where it was (.) quite you know prevalent and family violence it's (.) and they've grown up with it and now it's what we're getting. [K, 13(3,4)]

With no one to 'teach' the next generation that domestic violence is 'bad', children grow up thinking it is 'normal', therefore the way they behave. Constructing the cyclical nature of domestic violence as something 'everybody knows' is a legitimating discursive tool (Potter & Wetherell, 1987), which appeals to the commonality of this version of social reality as evidence of its validity. However, while intrafamilial transmission of violence makes intuitive sense and is buttressed by theory, it provides only a fractional account for domestic violence. As there are many child witnesses of violence who are not violent as adults and, conversely, there are many perpetrators of intimate partner violence whose childhood was without violence (see Alexander, 1993), there is no direct one to one etiological relationship.

It is noteworthy that while in passage 1 the abuse is attributed to the male party, passage 2 constructs the violence as dispensed equally by 'mum and dad'. As discussed in Chapter four, assignments of blame have been found to correlate with arrest (Lavoie et al, 1989) and both public and police penalty recommendations for offenders are more lenient when responsibility for the violence appears to be shared (Stalans, 1996).

The discursive flexibility in officers' constructions of domestic violence as being mutually inflicted and/or something men did to women is not, however, a phenomenon exclusive to police talk. Lamb (1991) illustrated how journal authors obscure accountability for violence, despite their purportedly discussing men's violence against women. She identified four linguistic means of doing so: the use of the passive instead of active voice (i.e. 'she was beaten' instead of 'he beat her'); describing the couple as agents of violence as opposed to the male party; not specifically naming the violence or nominalisation; and the use of gender neutral terms or gender obfuscation.

Although the officers interviewed employed these linguistic devices, police officers obviously form part of a legal system wherein gender neutral terms (i.e. offender and victim) are the norm and terminology is specifically constructed to avoid assignments of blame until proof of guilt. Whether officers' obfuscation of gender and violence is more reflective of legal terminology than assignments of blame cannot be determined from a discourse analysis. Nonetheless, all officers conceded that men constitute the majority of offenders. The preceding caveats notwithstanding, officers' gender obfuscation and oscillation in ascribing responsibility for the violence were consistent features of the data and will be commented on as they emerge in the analysis.

#### Creates future criminals

The transgenerational discourse is embedded in everyday understandings of the importance of the family unit and parents as 'good role models' to nurture children into respectable and law abiding citizens. The poor family environment fostered by domestic violence poses a threat to this process, thus creating further problems for the police. As noted in passage 3, what the police are 'now getting' is the fallout from a cycle that has carried on from the 60's when domestic violence was 'prevalent' (and, although not referred to in this excerpt, a time when domestic violence received minimal police intervention). The following passages are more specific in terms of domestic violence 'manifesting' in children in ways that cause 'trouble' for the police.

4. Yeah, I honestly think it's just (.) um (1) you know like if you lock a puppy up in a room and don't pay it any attention at all, when you let it out it's going to misbehave. [J, 2(1)]
5. It has far reaching consequences it can turn into (.) you know that can be the catalyst for little burglars and those sorts of things so I don't think it's just a (.) flash in the pan or anything like that you know I think it's quite a (.) important part of policing. [A, 18(4)]
6. It's ah (.) it might be a domestic situation which has been going on for a long time and all of a sudden it's manifested it out in the children of those people in the relationship so they (.) we might be having a lot of trouble with their kids. [E, 2(1)]

As noted in Chapter five, use of metaphor is important. However, I can only speculate at the possible implications of a ‘puppy’-child metaphor. Passage 4 can, however, be located within a learned behaviour discourse, with the suggestion being that abusive parents ignore their children whose subsequent misbehaviour is common knowledge. Such problem behaviour attests to the ‘far reaching consequences’ of domestic violence which is not ‘just a flash in the pan’. The problem of domestic violence is constructed as extending beyond the immediate incident. The fact that the police will ultimately be the ones dealing with the ‘little burglars and those sorts of things’, for which domestic violence is a ‘catalyst’, contributes to domestic violence being an ‘important’ aspect of policing.

While previous research found discourses that functioned to relegate the importance of domestic violence (see Chapter four), officers participating in this research made use of discourses that accentuated its importance by referring to its commensurate consequences. The ‘cycle getting wider’ discourse functions similarly by discussing the magnitude of domestic violence.

#### Cycle getting wider

7. You can just see that it’s like this disease, I mean it’s just everywhere (.) you know even in really, really well off families. [D, 2(4)]
8. Society is going in a way that domestic violence is escalating and I don’t know (.) people will say that’s because (.) they’re reporting it more or they’re standing up more? And I think it’s because it’s just getting worse and worse (.) and ah (.) the cycle is getting wider and wider [] You know it’s everywhere (mmhm) you know cause your going to nice peoples’ houses, your going to awful peoples’ houses and it’s just everywhere. [F, 12(5)]
9. Um (1) well I definitely have a greater understanding of it and ah (.) more of an appreciation of it and realise how vast it is, how huge it is. [E, 1(3)]

Domestic violence appears to take on a life of its own in the above passages. The construction of domestic violence as a ‘disease’ that is ‘escalating’, ‘vast’ and ‘huge’ gives it an organic quality and connotes an epidemic. Although both passages 7 and 8 qualify domestic violence being ‘everywhere’ as including ‘well off’ or ‘nice’ families, the recognition that it cuts across racial and cultural, as well as socioeconomic, boundaries may be implied here.

The cycle getting wider discourse also constructs domestic violence as a force to be reckoned with. That is, like a disease, it escapes containment, it is getting 'worse and worse', and the 'cycle is getting wider and wider'. This invasive expansion of domestic violence, together with its cyclical perpetuation and the incidental effects of augmenting the criminal population, may function to prioritise the significance of policing domestic violence by the sheer volume of people involved. While there is nothing out of the ordinary about prioritising issues that affect a greater number of people, in concert these discourses extend domestic violence beyond the immediate victim, offender and incident. The following discourse lends further support to this reading as, although it is the criminality of the assault which authorises police intervention, domestic violence is not just about the violence.

#### Not just about violence

10. It's not just about (.) physical violence it's um, you know, psychological (.) meddling of people, you know those sorts of things um (.) and it can extend right through (.) to (.) um to having an influence on what people, like what kids are going to grow up like. [A, 3(2)]
11. So it's a wide spread, it's not just yeah, it's not just about someone having a bit of an argument and getting (.) assaulted, it takes in the whole family thing and how the family works and functions and (.) yeah so it's a pretty big area. [A, 3(3)]
12. It is fairly wide spread and it's not just (.) pretty much (.) not just domestics either it's all the related things that go along with it? [E, 2(1)]
13. Now that I've been around for a while and that you sort of know there's a lot more to it than just (.) giving someone a smack around the ears. [J, 1(2)]
14. It's serious criminal behaviour because it has such long term um (.) effects as well, you know (.) just purely if all these young kiddies are seeing what's happening at home this is how generally they're going to behave when they grow up so it does have um (.) long term effects as well. [H, 1(1)]

Psychological abuse entered the legal definition of domestic violence with the Domestic Violence Act 1995, which recognised psychological abuse as being as detrimental as, and generally conjoined with, physical assaults. Passages 10 and 11 show an appreciation of this, as the 'psychological meddling of people' and the systemic operation of the 'whole family thing' and how it 'works and functions' clearly comprise part of what domestic violence is about. It is possible that these

passages provide an alternative construction of the cycle getting wider discourse as psychological factors increase how 'wide spread' domestic violence is. The transgenerational discourse is also evident in the above passages as 'it can extend right through' to what kids 'grow up like', as 'kiddies' behave 'when they grow up' based on what they see 'happening at home'. Passage 14 particularly may better correspond to a 'creates future criminals' than a 'not just about the violence' discourse. However, passage 14 locates the crime in the 'long term effects' which is cited as the *reason* domestic violence is 'serious criminal behaviour'. Passages 10-13 also locate the criminality of domestic violence outside the immediate physical act of violence: 'it's not just about physical violence'; 'it's not just about someone having a bit of an argument'; 'it's not just domestics'; and it is more than 'just giving someone a smack around the ears'. The essence of the crime lies in the lingering aftermath of domestic violence, the wake of 'long term consequences' and 'all the related things'. I suggest from my reading, that the four discourses thus far identified in concert construct a social warrant for taking action against domestic violence to abate its expansion and malignant infestation of society.

#### Escalation of violence

The concept of a three phase battering cycle is a prevalent explanation of why men and women remain in a relationship where violence occurs (Walker, 1979). The initial tension building phase, characterised by increasingly severe violence which 'just totally escalates', represents the other construction of the cycle of violence officers used. As previously stated, the battering cycle constitutes one aspect of police training on domestic violence. It is interesting, however, how the 'escalation' discourse functions to reinforce the imperative that legal action be enforced against domestic violence offenders.

15. You know, people might say 'ah, it's only a one off thing' but (.) um if there's not positive action taken at the time I think things may just get worse and worse and [] then further down the track that (.) assault, where he's slapped her, (.) becomes a punch, next minute she's got a broken nose (mmhm) okay and she's too scared to do something about it. (.) And then next time it happens, she ends up with a broken leg or something like that and it just totally escalates. [A, 11(3)]
16. If you have a domestic, it's got to be dealt with straight away because there's always that fear that something (.) huge or it's going to escalate further in the

night or somebody's going to end up getting seriously assaulted or something worse so you know. [E, 9(3)]

17. If it's just pushing and shoving um (.) it seems um (.) that arresting a person and taking him away is a drastic step but (.) but again that might be just a precursor to something else that's going to happen (.) or it might be (.) that's what's happened today but a week ago he was actually bashing her sort of thing or (.) if you don't do something now in a week he's going to be bashing her. [Yeah but as I said before it's (.) it might be just indicative of how the behaviours deteriorate as well. Once they were just arguing now they're pushing and shoving, next week they're going to be (.) bashing the crap out of each other. [H, 1(3)]

In passage 15 'that assault where he's slapped her' is not viewed as an isolated incident and the officer rejects people's descriptions of it as 'only a one off thing'. The problem is extended beyond 'that assault where he's slapped her' to portending a potential 'punch', 'broken nose' or 'broken leg', all of which can happen in the 'next minute' or 'further in the night'. In passage 17 the 'just pushing and shoving' is viewed both retrospectively and prospectively so that 'a week ago he was actually bashing her' or 'in a week he's going to be bashing her'. The escalation discourse functions to keep the real, impending and potentially fatal danger offenders pose to their victims foremost in officers' assessment of 'a domestic' so that 'there's always that fear' that 'somebody's going to end up getting seriously assaulted' or even 'something worse' than a serious assault.

The 'something huge' and 'somebody's' going to get assaulted in passage 16 and the 'one of them's seriously injured' in passage 18 below are cases of nominalisation and gender obfuscation. The wording suggests that the man and the woman have an equal chance of ending up seriously injured. Yet what is known about domestic violence is that women suffer more severe injuries than men (Johnson & Bunge, 2001). Furthermore, male homicide is less likely to occur in the context of escalating violence than female homicide, with women more likely to kill their abusive male partners during a period of calm or when men are unable to fight back (Scutt, 1997). Similarly, in passage 17 the discursive flexibility with which the officer constructs gender responsibility can be noted. The passage commences with a clear construction of a man's violence against his female partner, then concludes with a construction of a couple engaged in mutual violence.

Nevertheless, the escalation discourse provides the impetus for taking ‘positive action’ and ensuring the incident is ‘dealt with straight away’, both of which euphemistically refer to an arrest being made. As illustrated in passage 17, even when an arrest seems like a ‘drastic step’ in relation to the offence of ‘just pushing and shoving’, the escalation discourse warrants such action.

### *Discourses of arrest*

The construction of arrest as ‘positive action’ in passages 15 above and 25 below forms part of a ‘morality’ discourse of arrest, wherein arrest is also constructed as how things ‘should be’ (see excerpt 50, Chapter seven). Passage 18 makes use of a morality discourse as well, insofar as it constructs arrest as the ‘right thing’ to do. Additionally cohering with a morality discourse is the reference in this passage, and passage 22 below, to officers doing the job ‘properly’, again constructing arrest as the right course of action. However, passage 18 also illustrates how the escalation discourse coarticulates with a further discourse of arrest – arrest as the ‘path of least resistance’. Within a path of least resistance discourse, arrest is constructed as a means of ‘covering your ass’ in passages 18-20 and as a means of avoiding being ‘called back’ in passages 21 and 22.

18. Yeah, you’ve got to do the right thing, cause if you don’t do the right thing, and something happens (.), you know later on and you didn’t (.) ah (.) do your job properly and she ends up dead or he (.) he ends up dead or something like that (.), that’s (.) it’s on your head, so you’ve really got to (.) you can’t go in there all ‘oh, yeah, just another domestic’ and all that cause it probably won’t turn out that way. [D, 3(4)]
19. Yeah if we see evidence of it we can take it to court without the female party. Um (.) yeah it’s (.) it’s our safety aspect for us as well as the victim really we’ve been (.) seen to do our job then if (.) if anything happens later on down the line well (.) we took this action at the time and (.) you know the um (.) the other party chose not to (.) run with it. [K, 7(1)]
20. I think every domestic or any situation we deal with then it comes down to (.) the ‘what if’ scenario and what if we let them stay together, it gets worse (.) and then all of a sudden (.) one of them’s seriously injured and then that gets to the media then (.) then we look like (.) we look hopeless (.) so really (.) I think a lot of decisions are based on what if or covering your ass at the end of the day. [B, 5(6)]



In passage 20 the 'what if scenario', connoting potential escalation of violence, compels the officer to consider how the police would then 'look hopeless' to the media, leading to a 'covering your ass' (CYA) based decision. A similarly based decision appears to be made in passages 18 and 19 wherein arrest is constructed as ensuring officers' 'safety'. That is, officers want to be 'seen to be doing their job properly' because it would be 'on their head' if 'later on down the line', 'he or she ended up dead'. Passages 21 and 22 provide an alternate account of the 'path of least resistance' discourse of arrest.

21. If there's evidence there we make the arrest. (.) because it's certainly my experience and I think (.) as an organisation the experience has been that if you don't (.) if you don't arrest now, you'll be back in 10 minutes time. [C, 8(1)]
22. And it's always important just to deal with that incident properly (.) so that- because the worst thing that can happen is that you (.) you leave things as they are and then police get called back there an hour or two later. (.) You have got to take some firm action or it's just going to keep going. [L, 7(4)]

In passages 21 and 22, arrest is constructed as a means of avoiding getting 'called back', whether this be in 10 minutes or two hours' time. Getting 'called back' is also constructed as 'the worst thing that can happen' in passage 22. Whether this is worse for the victim, as the violence is 'just going to keep going', or an inconvenience for the police who will be 'back in 10 minutes time', is difficult to ascertain. Nevertheless, the discursive resources of 'CYA' and getting 'called back' both suggest that immediate action will be less troublesome. While a path of least resistance discourse of arrest may be of dubious ethical quality (particularly in relation to the 'morality' discourse), it nonetheless achieves the same end as it coarticulates with the escalation discourse to produce arrest as the best option. Furthermore, with regard to the escalation discourse, it is noteworthy that officers' proclivity to view violence as ongoing reflects a departure from discourses police previously made use of which minimised domestic violence by viewing it as isolated acts (Busch, et al, 1992).

### Breaking the cycle

The cycle of violence concept also figured prominently in officers' understanding of their role in relation to domestic violence. The police portfolio includes protecting

'whoever needs protection' (and passage 23 contains one of the many admissions that those in need of protection are generally women and children), as well as locking up and charging offenders. However, commensurate with officers' constructions of domestic violence which broaden the scope of the problem beyond the immediate victim, offender and incident, the police role also extends beyond merely effecting arrests to having some impact upon the 'cycle of violence' which has 'got to be broken'.

23. Ah, (.) well we're there (.) well to break the cycle of violence (.) at the start (.) um the role of the police officer (.) I mean is to protect whoever needs protection (.) and generally it's the female, the kids (.) and if there's any evidence of an offence, then yeah, lock up the offender (.) and we'll deal with the offender and charge him appropriately. [B, 2(2)]

24. I've always known that it's a problem and that it's a cycle thing, that it's got to be broken, but when I first joined it was considered too hard and ah (.) yeah it was ignored really, whereas now it's certainly my experience that it's (.) it's always dealt with. [C, 1(2)]

25. You need to have some positive action on a domestic assault, because it's only positive action that's going to (.) that might break that cycle (mmhm) sometimes. If we go in there and waffle around and go away without doing much then everybody's got away with whatever they (.) did. [L, 5(2)]

While 'breaking the cycle' is a discursive resource employed by a variety of legal and other agents providing domestic violence services and, as previously stipulated, comprises part of police training, the discourse explicitly prescribes some action be taken. Passage 25 outlines the hazards of inaction, which not only has no effect on the cycle – because it is 'only positive action' that enables the cycle to be broken – but also provides no consequences for offenders who 'get away with' their behaviour.

Passages 24 and 25 appear to provide a commentary on the old policy where domestic violence was considered 'too hard' and essentially 'ignored' as police would 'waffle around' and leave 'without doing much'. Passage 24 then compares these old policy practices with the current police response wherein domestic violence is 'always dealt with'. Indeed, the transcripts contained a number of reflections on how the police role had moved on from old school practices of policing domestic violence. Officers' accounts of moving on centred around the

ineffectiveness of previous police practices, as well as the barrier provided by the construction of domestic violence as a private concern.

### *Ineffective*

26. So um (.) you achieve nothing by doing nothing, if you're just going to get (.) and talking to people you just- if you think you can talk to people and make a, make a difference well get real (.) it won't make any difference people couldn't care less. [I, 11(2)]
27. Quite often if it's a minor breach you'll get guys who are just warning the guy for it (.) which has a um (.) a comeback as well because warnings, in my opinion, generally don't work (.) warnings for anything. You can warn a person for not wearing their seat belt but (.) or for speeding but generally they still don't do it. Same with breaches of protection order um (.) very rarely I think does a warning work. [H, 8(3)]

In passage 26, police responses of 'doing nothing' and 'talking to people' are considered unrealistic. Police now need to 'get real' as these passive approaches 'achieve nothing' and 'won't make any difference'.

The reference to a category of officers 'who are just warning' in passage 27 attests to the persistence of this practice. However, the speaker does not appear to be part of this group of 'guys'. He dissociates himself from this category of officers by criticising the use of warnings which not only 'don't work', but also have a 'comeback', thus suggesting that there may be some negative consequences to their application. Nevertheless, as will be argued further on in the analysis, the existence of this category of officers such 'guys' represent, may compromise the more proactive response of other officers.

### *Privacy*

Discourses of privacy are easily identified in the following passages where things that 'happen in the home' remain 'between the husband and the wife' or 'stay behind closed doors'.

28. I used to work in the courts in the late 70's and early 80's and (.) but that was at a time when domestic violence never even got to court. Ah (.) the police attended (.) and tried to smooth things over or (.) didn't attend, (mmhm) refused to attend (.) ah because it was all (.) it's just a domestic (.) and it happened in the home

and it's between the husband and the wife. (mmhm) So things have changed significantly since then. [L, 2(4)]

29. The way they dealt with domestics in the past um (.) I don't think helped. [] I think the hardening of the policy is (.) people are recognising that sort of behaviour is not acceptable (.) I think there was a general acceptance that domestic violence is in the home and what happens in the home stays behind closed doors (.) and we used to accept that whereas that new policy shows that it's not acceptable anymore (.) and it's good (.) yeah I don't see any other way of dealing with it. [G, 5(2)]

As noted in Chapter four, discourses of privacy supported the nonenforcement of domestic violence policy and legislation. In passages 28 and 29, the construction of domestic violence as a private concern is similarly provided as the reason for previous police nonintervention. The police 'didn't attend, refused to attend *because* it was just a domestic and it happened in the home'. There was a 'general acceptance' of people's right to privacy within the home and the police 'used to accept that' as well. Furthermore, the accounts of having moved on from 'the way they dealt with domestics in the past' so that 'things have changed significantly' stems from a rejection of the privacy argument which is 'not acceptable anymore'. It is noteworthy that implicating the privacy discourse as barring the arrest of offenders circumvents the need for any gendered analysis. That is, there is no need to examine the power relations underlying the privacy discourse when domestic violence is no longer a private affair.

The idea that a 'general' acceptance of the privacy discourse legitimated the police acceptance of it also emerges in the following passages.

30. I think it was a general society thing, where people considered what happened in the home was private (.) and they didn't interfere, (.) and there wasn't the community support to do anything about it. Whereas that's changed.(mmhm) and now there is [C, 1(5)]
31. Certainly in the past (.) there was a (.) there was that attitude that if it happened in the home it wasn't the public's business and ah (.) the police are to a certain extent part of the public and (.) so we didn't get involved unless it was really serious, but that's changed. [C, 2(4)]

The construction of the privacy discourse as 'a general society thing' negotiates responsibility for its licit use as emanating from society in general. The subsequent alignment of the police with the larger community, in turn functions to negotiate

responsibility for previous police inaction. In the above passages, the police are positioned as 'part of the public' where 'they didn't interfere' when it 'wasn't the public's business' as there 'wasn't the community support' available to do so. This suggests that the police are driven by society's values, thus diffusing responsibility for police nonintervention in domestic violence.

Individual officers also form part of a larger legal system whose support is likewise required to sanction any arrest of domestic violence offenders. My reading of the following passages suggests a further diffusion of responsibility for the past nonarrest of offenders.

32. Well [the policy] gave us a defining line of what we could do you know if we (.) once upon a time we'd probably try to negotiate the ah (.) the domestic between two parties um (.) but now if there were the evidence of an offence we were to arrest (mmhm) and (.) that helped in that respect (.) and we had the support- well hopefully the support of the courts and the judges at that stage. (.) That any domestic violence was dealt with in that way (.) a prosecution would take place. [K, 2(2)]

33. [The policy] gives us some guidelines (.) and um (.) and it gives us some protection as well (.) at (.) at the sort of the front line constable level (.) um you can't get dicked around or no one can jump on you for following policy, (.) but then they will jump on you if you break the policy (mmhm) so yeah I think it does give us some protection at the front line level as well. [B, 9(3)]

Passage 32 appears to suggest that that 'once upon a time' police would 'try to negotiate' instead of arrest due to the lack of judicial support. Indeed, police frustration over lenient, nonexistent or ineffective judicial outcomes of domestic violence prosecutions has been (Busch et al, 1992) and remains (see Chapter eight) a salient issue in policing domestic violence. Nevertheless, the current policy has 'helped in that respect' and 'hopefully' such support is now available.

There also appears to be a 'permission to arrest' discourse emerging from passages 32 and 33. The 'defining line' of the policy is constructed as enabling arrests that will receive court support and provide some 'protection' for the 'front line constable' who won't get 'dicked around' or 'jumped on' for following policy. Insofar as previous domestic violence policies advocated arrest as a last resort, it is not surprising that officers construct this as their being *unable* to make arrests. This is an analysis of former policies that can be found in the literature as well (Bourg &

Stock, 1994). Critics, however, have constructed this as police being *unwilling* to effect legislation that would enable women's safety (Hamner & Saunders, 1983). Whatever officers' understandings of previous policies, the officers interviewed for this research provided favourable descriptions of the current policy, particularly with respect to its provision of guidelines as indicated in passages 32 and 33.

In common with officers' constructions of domestic violence, their accounts of having moved on from the old school of policing domestic violence are notable for their absence of reference to the inherent criminality of domestic violence. Their accounts appeal instead to the ineffectiveness of previous responses, to society having rescinded its acceptance of domestic violence as a private concern and to a policy that now enables arrest. These accounts not only diffuse responsibility for previous police inaction, but fail to address the patriarchal ideology and power relations that supported such institutionalised practices as warning or arresting as a last resort. Furthermore, any exploration of the unequal positions of power afforded men and women by previous police practices becomes as obsolete as previous policies and society's acceptance of the privacy discourse.

Nevertheless, the barriers to policing domestic violence presented by previous discourses that minimise and trivialise the violence appear to have been replaced by those that construct domestic violence as infectious, dangerous and in need of positive action. In concert the discursive resources emerging from this analysis extend prospectively to provide a social warrant for taking domestic violence seriously and holding offenders accountable. Locating the problem beyond the immediate victim, offender and violent act, however, obviates the need to examine the broader sociopolitical context and prevailing power relations within which domestic violence occurs.

Irrespective of the variable discourses that motivate officers to 'break the cycle', as can be noted from passages 21, 23 and 32, there must first be evidence of an offence. How officers talk about evidence comprises the final component of the analysis for this chapter.

### Constructions of Evidence

34. Domestic assault, it's generally one person's word against another, and so the only forum for that is a defended hearing. And neither side's going to budge and they (.) they all really believe that what they think now is how (.) the way that it happened [L, 6(1)]

That the isolated situation in which domestic violence occurs often results in the evidence of an offence being confined to 'one person's word against another' highlights one of the difficulties of policing domestic violence. At the heart of feminist critique of the criminal justice response to men's violence against women is that legal evidentiary requirements have conspired to condone men's violence. Rules of evidence emanated from within a male orientated dominant cultural understanding of how justice is best served to protect the innocent from an erroneous guilty verdict. Innocent until proven guilty, insofar as it requires a higher standard of proof than one person's (often disputed) word, has left men free to inflict violence upon women knowing the difficulties of proving such an offence.

Moreover, previous research having found that officers tend to employ an efficiency frame, that is, arrest on the basis of whether or not a prosecution is likely to ensue (Stalans & Finn, 1995), has had the effect of according men's word more weight in such situations as described in passage 34. How this effects to undermine women's account of the violent event and the barrier this imposes on her ability to protect herself from the violence by leaving the relationship or otherwise, has already been discussed. However, the issue is exemplified in passage 34 as, if both sides 'really believe' their own accounts are 'the way that it happened', whose account is acted upon (whether the final arbitrator be the attending officer or the court) ultimately defines reality.

The merit of a victim's voice was given some consideration in devising the current Family Violence Policy, which delineates eight investigative practices officers must follow to ensure a diligent response to complaints. As illustrated in passage 38, in the absence of corroborating evidence the victim's word, at least if undisputed, is sufficient to effect an arrest. However, as discussed in Chapter four, the barrier to successful prosecution of domestic violence offences given the most attention in research is women's reluctance to testify. In an effort to obviate the need for victim

testimony, one investigative practice is to get the victim to outline her complaint in front of the offender and note down the offender's response. Officers can then present this as evidence in court, this being an exception to the hearsay rule. That all officers mentioned the hearsay exception suggests this practice is familiar.

Nevertheless, the following passages illustrate how 'hard' evidence, such as injuries or witnesses, constitutes 'real' evidence, while the status of either party's word continues to be problematic.

35. Um and then from there (.) yeah you're just dealing with what evidence, what hard evidence you've got there. (.) Um if people saying 'yeah' (.) you know, um witnesses and things like um (.) injuries, those sorts of things, yeah. [A, 7(1)]
36. Where there's maybe only verbals or pushes where we don't get any (.) real evidence, if we've got a protection order then we lock them up on it. [B, 7(3)]
37. Finding someone that's impartial, if there is someone there that's sort of seen it can help as well. [A, 7(4)]
38. He's not going to say anything, so we can only go by what the victim has told us (mmhm) and so we take that as being what happened and then (.) and take action accordingly and arrest him normally. If there are independent witnesses it's always helpful. (.) But ah (.) to help give you some idea of exactly what's happened but if you (.) we're still (.) if we still don't know (.) and we're unsure of what's actually happened then, it's best still to separate them and then (.) keep on trying to gather more evidence over the next day or two. Re-interview the victim, maybe a day later she's calmed down a bit and is a bit (.) the story might be slightly different or something um (.) because we can still summons [L, 6(2)]

Passage 36 emphasises the benefits of a protection order when 'only verbals and pushes', neither of which leave any physically visible signs, provide no 'real' evidence. That 'witnesses' fall under the realm of 'hard' evidence suggests they are able to provide a more real, truthful or factual account of 'exactly what's happened'. Indeed both passages 37 and 38 refer to 'impartial' or 'independent' witnesses. While this may denote a higher standard of witness such as neighbours, neighbours are less likely to have 'seen' 'exactly what's happened' than friends or relatives already present in the house. This begs the question, who has no stake in the outcome of a domestic incident?

A conglomerate of witness accounts may also bolster the evidence in terms of a consensus version of reality, reflecting a legal principle wherein the greatest number



of similar accounts represents the veritable one. Certainly from a legal perspective, evidence that is mutually corroborative is the most convincing. This also provides an element of logic and coherence. As illustrated in passages 39 and 40 below, being able to attain ‘some sort of order’ or ‘a good picture’ of events was important to officers. That logic may not ensue in the aftermath of a violent assault from one’s loved one, does not appear to be given much consideration in this evidentiary requirement. Indeed, constructions of women’s ‘hysteria’ emerging from police discourse have been found to mitigate against offenders’ arrest (Rigakos, 1995; Pinkus, 1996). However, as illustrated in passage 38, the inability of a victim to provide an immediate account to satisfy an arrest, did not discount the legitimacy of a coherent account provided at a later date, when she had ‘calmed down a bit’. Given that ‘the story might be slightly different’ ‘a day later’, this passage may be more reminiscent of the claim that a cooling down period is required.

Despite the incongruity of exacting logic from a domestic assault, it was a discursive resource officers’ employed in their constructions of evidence.

39. And the lucky thing about here is that if we go to a domestic, normally it’s not two of you that go [] you can have four of you there, three or four (.) and that helps, that makes things you know (.) you can separate get some sort of order into what’s going on. [A, 17(2)]

40. And as long as you’re consistent with asking both parties the same questions you’re going to get a good picture of what’s happened. And um (.) I think a lot of people (.) police just rush in there (.) try and identify the (.) an easily identifiable offence (mmhm) and then act on that (mmhm) which (.) which is fine, but sometimes, especially in those cases of psychological abuse that it’s quite hard to identify (.) any (.) anything like that. [J, 4(1)]

Two further points are noteworthy in passage 40. Firstly, it suggests that evidence for psychological abuse can be subtle and requires some extra investigative effort beyond identifying the ‘easily identifiable offence’. Secondly, this passage provides another reference to a category of officers whose response is inconsistent with the speaker’s. Interestingly, the speaker negotiates any condemnation of police who ‘just rush in’ by stipulating their actions are ‘fine, but’ sometimes domestic violence offences are hard to identify, before dissociating himself from this lot of police.

Intuition and offender history (available to officers through the family violence database) provide the final components of evidence as described by officers. Police officers' ability to correctly interpret an incident of domestic violence has been repeatedly disputed. Feminists have argued that, as officers work within a male orientated environment, they are likely to apply a male frame of reference to assess the situation. Insofar as male understandings of domestic violence have been found to trivialise violence and blame the victim for it, officers' use of intuition has been criticised. The counter-argument is, of course, that it would be unrealistic to expect officers to disregard their experience on which their instincts are based. Be that as it may, 'instinct following' and getting 'a vibe off a person' formed part of officers' constructions of evidence.

41. And there's a lot of instinct following (.) but you get to know women's behaviour and you know when they're not being open and you know when they're being intimidated. [G, 6(1)]
42. You know you can (.) you get a vibe off the person (.) if they're telling you porkies. (mmhm) And you get a feeling off a person if they're telling you the truth (.) and I mean it takes a real good liar (.) to sort of put one across (.) and (.) and I think at the end of the day a leopard doesn't change its spots. If you're aware of what a person's done in the past- not that it influences your decision at all (.) but it just sort of makes you aware of what they're capable of I think. And it makes it easier to put the jigsaw puzzle together. [J,12(6)]
43. You want to find out if there's any previous history there? (mmhm) before (.) um if the people we know (.) if the people we're dealing with- you're not making any preconceived ideas but (.) you've got to look at other peoples safety when they turn up, you know whether they've got any history for (.) um assaulting police, or other people, or weapons, those types of things. [A, 7(1)]

Passages 41 and 42 represent intuition as applied to understanding women's and the offender's (who remains genderless) behaviour respectively. It is noteworthy that the construction of women 'not being open' because they are intimidated and men trying to lie or 'put one across' are less contradictory in relation to current research findings of domestic violence dynamics, than those that have emerged from previous analyses of police discourse.

Passage 42 also provides a further commentary on the logic requirement, where being aware of what a person has done in the past helps 'put the jigsaw together'.

The implications of this metaphor are interesting, as domestic violence is indeed puzzling and the pieces don't always fit or immediately fall into place.

The issue of offender history incurs its own concern for officers. Both passages 42 and 43 contain qualifiers to ward off any arguments that having information on offenders' history would 'influence their decision' or give them 'preconceived ideas'. It is interesting that knowledge of offenders' history would expose officers to accusations of acting unjustly. Obviously, neither offender history nor intuition hold any currency within the courtroom, yet the latter was valued while the former warranted a negotiation of its use. Possibly this is because of the disparate ways intuition and history function regarding arrest. In line with the escalation discourse, arresting an offender with a history for violence, even if there is no 'hard' evidence for the current offence, would be consistent with the current policy mandate of ensuring victim safety, particularly as 'a leopard doesn't change its spots'. However, as illustrated by the 'hands tied' discourse found in passages 44-46, evidence based solely on officers' intuition does not warrant an arrest.

44. Yeah it's pretty straightforward to recognise that an offence has been committed, but being able to charge or being able to actually do anything is a completely different story. [G, 4/5]
45. It's like all things you've still got to have the evidence you know you can not just miraculously click your fingers and he's ah (.) going to be convicted and (.) the Domestic Violence Act- the new Domestic Violence Act is fine on paper um (.) but is like any other (.) it's just like any other day it's still (.) um (.) you know you've still got to be able to (.) you know put the right stuff in front of them. [H, 13(3)]
46. Sometimes you're tied a little bit with what you've got but, (.) as I said it boils down to the evidence that you've got as well and what you can prove and what you can't (.) so (.) And you can't just lock people up because (.) you know you believe they've done something (.) you've got to be able to prove it. [A, 6(3)]

Although recognising domestic violence is 'pretty straight forward' and officers may 'believe' an offence has occurred, being able to lock someone up or get a conviction requires something tangible. Officers are 'tied a little bit' by having to 'put the right stuff' in front of the court. Proof of the offence lies in 'real', 'hard' evidence not miracles, magical clicks of the fingers or intuition. It seems that, despite numerous

legislative and policy innovations, legal impediments to arrest and prosecution continue to plague policing domestic violence.

47. It's mainly the legal side that makes it really difficult to deal with. [] The main problems we have is being bound by legal rules (.) what the court wants, standards of evidence, things like that that's the problems that we have (.) not so much, the policy is fine, it's trying to operate within the rules you need for court. [G, 11(5)]

As illustrated above, although 'the policy is fine' and 'the Domestic Violence Act is fine on paper', 'being bound by legal rules' makes policing domestic violence 'really difficult'. Legal evidentiary requirements have always been problematic for holding men accountable for the violence they inflict on women. With only hard evidence, corroborated by impartial witnesses to form a logical account, assuring consequences for violent offences are incurred, feminist have contented that this standard of evidence is incompatible with men's assaults on women. Such 'proof' is rarely available when a man assaults his intimate partner. Unfortunately, when evidence is subtle or based more on intuition and history than 'real' evidence, officers are left with their hands tied. Although the discourses emerging from this analysis suggest these officers are extremely motivated to uphold the arrest policy precept of holding assailants accountable, the persistence of problems inherent to the 'hands tied' discourse may offset some of the progress ensuing from these changing discourses.

Within this chapter the objects of domestic violence, arrest and evidence are analysed in relation to the research questions. The analysis suggests officers understand domestic violence, and their role in relation to it, in terms of the cycle of violence. The prospective nature of the transgenerational and escalation discourses officers drew on in their understanding of this cycle functioned to accentuate the importance of policing domestic violence. The breaking the cycle discourse officers employed in their understanding of the police role in relation to domestic violence, operated to construct arrest as the preferred response. The retrospective nature of officers' discourse on policing domestic violence supported the efficacy of arrest. Officers drew on comparisons with past policies, which they constructed as ineffective or reliant on a discourse of privacy that is no longer sanctioned. Officers'

evidentiary discourse, however, disclosed some prohibitive concerns in effecting policy objectives.

## CHAPTER SEVEN

### Constructions of Women

As discussed in Chapter four, there has been a traditional perception of abused women as noncooperative with the pursuit of criminal sanction against their abuser. Women who fail to cooperate with police to gain an arrest or conviction, are often assumed to be part of the problem, predisposing police to regard them as symbolic complainants, undeserving of police attention and wasting police time (Bush et al, 1992; Pinkus, 1996; Rigakos, 1995). Indeed the construction of women's withdrawal of complaints or refusal to testify as inevitable and generalisable to all victims of domestic violence procured the rationalisation for the 'arrest as a last resort' policy and this construction of women persisted to uphold the nonarrest of offenders despite the change in policy.

The constructions of women emerging from this research reflect a discursive shift. Officers understood that the arrival of the police and the expected victim cooperation created a 'dilemma' for abused women, who were constructed as scared of their abuser but also wanting to protect him and the integrity of their family.

#### Dilemma discourse

48. They're in this dilemma of 'should I make a statement or shouldn't I' and a lot of them don't, 50% of them probably don't. I'd say it's half and half (.) half of them don't want us there and haven't called us and the neighbours have called us and they are now (.) probably a hundred times more scared now that the police are there, that they're going to ah (.) cop it in the end. [F 2/3]
49. It's not always (.) the victim that will ring up all the time. Quite often you'll find that some of the more serious things (.) um if they've um (.) been seriously assaulted, sometimes they don't want to talk to police (.) when we first get there (.) um because they're scared of (.) that it's (.) and it's this breaking the cycle thing. They're scared that if they talk to us then they're going to get a, a (.) um more severe hiding (.) when we go. [A, 4(5)]
50. But as far as if you're at the house and there's been an assault but she doesn't want him locked up, well then [the policy] doesn't take that into account at all because if there's been an assault, there's an allegation, there's evidence well then he just gets locked up anyway. Which is probably the way it should be cause there's a vast array of reasons why (.) she may not want him locked up and probably the biggest one is (.) she's scared of him. [E, 11(1)]

The above passages construct women as perceiving themselves to be in a position where cooperating with the police may not be in their best interests. Women are 'scared' and, because of this fear, sometimes don't want to talk to police, don't even call the police and don't want their abuser locked up. There is a suggestion here not only of a woman's possible preference for dealing with the situation on her own, despite the danger this may present to her, but that an abused woman may regard the police presence as posing more of a threat to her safety than her violent partner. With the arrival of the police, women are 'a hundred times more scared' that they will 'cop it in the end' or that their talking to the police will result in a 'more severe' hiding.

There are two further points with regard to the above passages. Firstly, that neighbours are often the ones to call the police suggests a shift in public perception of domestic violence as a private affair. Secondly, in passage 50 the policy's disregard for women's preference when there is evidence of an offence is constructed as 'the way it should be', supporting a morality discourse of arrest.

The dilemma that women are in is not only derived from their fear of their partner's violent reaction to the police, but due to their role as protector of the family.

51. A lot of the time the woman (.) ah (.) 'well I don't want you to lock him up I just wanted you to come here and stop it'. And I can actually understand why they would think that, they sort of feel (.) 'well I wanted you here to save me, but I don't want you here to break up my family'. And ah (.) I can actually empathise with that I think that's a sort of fair enough call, (.) but they sort of think um 'well, if I ring the police he's going to get dragged away, but if I don't he might (.) you know do me over or kill me or something like that'. [D,3(3)]

52. You learn that even in a domestic where people are fighting black and blue, where there's a couple, their loyalties are still to each other and you don't get between them (.) cause that's just, you're going to endanger yourself. [G, 2(2)]

In passage 51, the woman's desire to keep her family intact is incorporated into the dilemma domestic violence creates for her. While she wants to be 'saved' from being 'done over' or 'killed', she doesn't want to see the break up of her family by her partner being 'dragged away'. Passage 52 contains a recurrence of the 'couple as agent' motif where 'people' are 'fighting'. More salient here, however, is the suggestion that the couple's 'loyalties to each other' surmount 'even' domestics that

result in ‘black and blue’ injuries. The speaker here refers to the endangerment to her own physical safety ‘coming between them’ presents. Insofar as an arrest would also ‘come between them’, the difficulties this creates for women, who must then overcome these ‘loyalties’ in order to cooperate with their partner’s prosecution, may be implied.

Whereas women’s allegiance to her abuser has been pathologised in the past, the above passages normalise women’s noncooperation as a rational choice for the circumstances. Indeed women’s objective for enlisting police assistance is entirely intelligible – they ‘just’ want the police to ‘stop it’. The following passages provide further constructions of women who ‘just want it to stop’ as well as evincing officers’ appreciation of the difficult position women are in.

53. I’ve found (.) often they just want it to stop and (.) I think (.) quite a lot of the time (.) ah an arrest is not what they want (.) ah when the police actually arrive (.) and, and arrest starts being made, they can quite often change sides and, and try and stop the police or at least (.) sometimes I wonder if they (.) if they are just doing that to start to put things right with their partner, so ‘look I phoned the police to get this to stop, now they’re going to arrest you if I turn over and change on to your side now, then you’re not going to hit me later’. (mmhm) or something like that. (.) and that’s possibly what happens. [L, 4(2)]
54. And when you do make an arrest, they are caught out a little bit, they are caught very much by surprise. They’ll say ‘oh hang on, I only wanted you to talk to him’ or ‘I only wanted ah (.) I only wanted you to tell him to stop doing it’. And ah of course we’ve been down that track before and it wasn’t overly successful. Um (.) and so we do make arrests if there’s a prima face case to make arrests and then as often as not we lose the um (.) the confidence of the person who we’re supposed to be helping (.) if in fact we had that in the first place. [I, 2(6)]

Women needing to be ‘saved’ and wanting police to talk to their abuser and ‘tell him to stop doing it’ speaks to their own powerlessness over the violence. Women’s powerlessness is further exemplified in passage 54 wherein the arrest, purportedly effected to assist victims of domestic violence, may entail losing the confidence of the very person it was ‘supposed to be helping’. Indeed, as noted in Chapter four, once a criminal justice intervention is initiated, women can lose control over the process.

Another construction of abused women relevant to the dilemma discourse is their having to choose between two ‘sides’. With the arrival of police, women ‘often



change sides' and 'turn over' onto their partner's side to avoid getting 'hit' later on. The suggestion that women may be initially distrustful of police emerges in passage 54, wherein the speaker notes that the police may not even have women's confidence 'in the first place'. It is noteworthy that this passage provides a further commentary on the inefficiency of previous police practices, which were not 'overly successful'.

Women's distrust of police, their being caught in a dilemma between safety, family loyalties and threats of further violence, and uncertain whether to take the side of their partner or that of the police were prevalent constructions in the data and have implications for police response. As noted in passage 50, 'it's this breaking the cycle thing', police needed to overcome women's distrust and their fear that further abuse will ensue from their cooperation with police. With regard to the police role for abused women, a 'gain victim confidence' discourse coarticulated with the dilemma discourse to facilitate women's cooperation.

#### Gain victim confidence discourse

55. Generally if you can get someone to speak with them usually they'll come round (.) and it's more of (.) more of a (.) um (.) it's just spending a bit of time you know (.) um I think sometimes people can go rushed in and they don't want to speak with them so 'ah well, we'll leave' and they just (.) they're out the door straight away and it's just, it's not good, you've got to spend time (.) and, and try and get a little bit of trust in people before they'll do anything. [A, 5(2,3)]
56. It's easy to prove a charge if you've got a good victim, if you're good with the victim, no matter how minor it is if you've done a good job, good job in investigating and if you're a good police officer as far as that goes then- and getting on with the victim and making sure you ring her all the time and make sure that she's on our side, then no (.) I don't think there'll be any problems with the prosecution. [F, 7(3)]
57. The thing is you're keeping them on side as well (.) for a (.) if you've got any hearings coming up or (.) and it gives them a good (.) um (1) when we're finished if you leave them with a good sort of feeling they'll be quite happy to call us again, rather than thinking twice, 'oh bugger that I'm not going to do it again (.) it's just a waste of time'. [A, 10(4)]

The above passages provide further representations of women taking 'sides'. The police want to get women to 'come round' or 'make sure that she's on (their) side'. The implication here is that being 'on' the police side necessitates her not being on

her partner's side. It is possible that this construction provides a further commentary on abused women's rationality insofar as the 'sides' between which she must choose, may each hold advantages and disadvantages for women.

With regard to the police, however, passage 56 constructs being on the 'police side' as being a 'good victim'. Passage 55 again establishes women's distrust of the police as the norm, therefore women need time spent with them to 'get a little bit of trust in people'. Passage 56 also indicates that some police effort is required to mould women into 'good' victims. 'Getting on with the victim' and ringing her up is further constructed as doing a 'good job' and being a 'good police officer', suggesting gaining victim confidence is an integral component of police work. In passage 57, an understanding of domestic violence as ongoing co-articulates with the gain victim confidence discourse so that 'keeping women on side' and 'leaving them with a good sort of feeling' will assure they are 'happy' to call police again.

The gain victim confidence discourse makes use of constructions of women that support the dilemma discourse so that women are constructed as needing to be convinced to cooperate. Insofar as procuring women's cooperation necessitates 'spending time', and this was construed as part of the police role, it appears that these discursive resources represent a departure from previous police discourses which constructed domestic violence as a waste of time. Indeed passage 57 constructs calling the police as a 'waste of time' for victims of domestic violence and not the officers policing it. Although, as illustrated in passage 55, this category of police who 'rush in' and are 'out the door straight away' when women don't immediately cooperate, suggests the 'waste of time' discourse, as applied to police, is extant.

### *Discourses of arrest*

Officers' discourses of arrest drew on discursive resources from the dilemma and gain victim confidence discourses to suggest a further departure from past discourses insofar as they countenance, as oppose to repudiate, an arrest that a woman does not want.

58. And like say the victim will say 'no I don't want him taken away', but when you actually take him and she has time to sit down and think about things and talk to women's refuge and get some support, she thinks 'well hang on I don't need to put up with this crap' and get something done about it. [C, 8(1)]
59. The legislation is was (.) yeah (.) quite a lot easier and most (.) well a lot of cases it made our job easier because we saw what had happened and we could get (.) the person out of there (.) by the arrest powers. (.) And it gave the other member an opportunity to sort out what they wanted to do. (.) Whether it was stay in the relationship or get orders or whatever. (K, 7(3))

The above passages illustrate a 'time to reflect' discourse of arrest wherein women are constructed as needing 'time' to 'think about things' and 'sort out what they want'. This discourse is relevant to the dilemma abused women may have regarding loyalty to their partners. It suggests that with time, (and the space afforded women when their partners are 'taken away'), as well as the support from women's refuge an arrest facilitates, women will come to see they don't 'need to put up with this crap'. It is noteworthy that staying in the relationship is presented as a legitimate option in passage 59, as this represents a shift from previous police discourses that it is pathologised women who stay with their abuser. It is also noteworthy that the above construction of current legislation as making the police job 'easier', supports an understanding of the policy as now permitting an arrest.

The following passages provide two further accounts of arrest as it functions for women. Passages 60 and 61 were delivered in response to the question regarding the deterrent effect of arrest and, while they contain no context of noncooperation, the 'ensuring women's immediate safety' and 'empowering women' discourses of arrest also cohere with the dilemma and gain victim confidence discourses.

60. Putting them in front of the court is at least making them see that they're not going to be able to get away with it and um (.) it's giving the woman a little bit more um (.) power? (mmhm) you know that 'the police are going to back me up'. [F, 4(6)]
61. And what the arrest does is it prevents the initial, (.) what's happening now (.) and gives time for those other agencies to kick in, (.) and things like bail conditions so the offender is not going to the victim's house and that sort of drama. (1) It doesn't deter it. [C, 5(3)]

In passage 60, women are constructed as getting a 'little bit more power' through an understanding that the 'police are going to back them up'. Insofar as this entails

having the police on their side it relates to a gain victim confidence discourse. However, it also speaks to women's powerlessness to stop the violence. That is, without the backing of the criminal justice system, offenders do 'get away with it'.

In passage 61, the construction of arrest as 'preventing what's happening now' suggests it functions to ensure women's immediate safety. An 'agencies kick in' discourse of arrest can also be found in this passage, wherein an arrest is constructed as a means of connecting women to support services. Of additional interest here is the construction of bail conditions as protecting women from the 'drama' of the offender going to her home. While this discursive resource may cohere with a dilemma discourse in terms of women being enticed back to their partner's side, it is also a source of dual contradiction. Firstly, while the 'drama' construction, wherein women are harassed by abusive men they have left, incorporates an understanding of domestic violence dynamics that coheres with current research findings, this was not the only account of this 'drama' officers drew on. Secondly, officers employed binary constructions of bail conditions with regard to their ability to protect women. These contradictions will be explored further as the analysis progresses. A further point with regard to passage 61, is the construction of arrest as '*not* a deterrent'. This is particularly interesting in light of the expanse of research on the deterrent effect of arrest discussed in Chapter four.

While officers made use of the dilemma discourse and the constructions of women that support it to account for women's noncooperation, they did not understand all women's failure to cooperate in this way. As illustrated in the following passages police frustration with women's noncooperation is extant.

*Actively uncooperative victims*

62. The woman screaming and yelling at you (.) when your doing something (.) that she called you to help (mmhm). That's only you know only a couple of times that's happened and it, you know that probably has made me pretty angry. [D, 3(1)]
63. I mean I've been to a couple domestics where (.) the husband's or the partner's snotted the female (.) and she'll have like injuries like a cut lip and a black eye and stuff like that and we come along and arrest the offender and it's like we're the biggest assholes on the face of the planet. [J, 11(2)]

The above passages are reminiscent of the ‘loyalties are still to each other’ discursive resource in passage 52. A woman ‘screaming and yelling’ at police or treating them as the ‘biggest assholes on the face of the planet’ also suggests that she may not consider the offender’s arrest ‘help’. There appears to be some ‘exceptional case’ rhetoric at work in these passages, insofar as there is a frequency qualification of ‘only a couple of times that’s happened’. Nonetheless, the incongruity between the provision of ‘help’ and the woman’s response makes police ‘pretty angry’. As illustrated in the following passage, the discursive resources officers made use of to understand domestic violence and their role in policing it fuel officers’ frustration over women’s noncooperation.

64. That probably annoys me the most is that she wants us there to stop him from doing what he’s doing but she’s not going to take any positive action and yet she’s got kids there that are um (.) that are witnessing this and probably going to grow up and think it’s okay. And so we can never ever break that cycle. So that annoys me (.) with woman (.) that they don’t want us to arrest, that they don’t want us to take positive action. Yeah, that probably annoys me out of anything and (.) I will openly say that to a woman (.) at the scene I’ll say ‘look (.) you’re not going to sign my statement, you’re not going to sign my notebook saying you’ve made a statement so we can take any positive action’ you know and she’ll say ‘well, you know I (.) things are okay now that you guys are here and (.) oh that (.) that (.) oh it infuriates me.[ F, 10(3)]

Police are most annoyed by women who want police to stop their partner from ‘doing what he’s doing’<sup>7</sup> but refuse to cooperate, that is, they don’t facilitate ‘positive action’ by making a statement or signing the officer’s notebook. This passage also makes an interesting use of the transgenerational account to warrant police frustration. Police are infuriated because there are children witnessing the abuse who will grow up thinking domestic violence is okay, so that police ‘can never ever break that cycle’. The above passage contradicts the earlier construction of women as protectors of their family and suggests that abused mothers who won’t take positive action are negligent parents.

As noted in Chapter four, previous research has found victims’ noncooperation may mitigate against arrest or further police action. However, the construction of women’s refusal to cooperate as an impediment to the police role of breaking the

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<sup>7</sup> The description of domestic violence as ‘doing what he’s doing’ provides another case of nominalisation.

cycle, together with its implications regarding the transgenerational discourse, led to an alternative discursive practice. In concert these discourses function to motivate police to find 'other avenues' of evidence gathering. Passage 64 continues as follows:

65. It's really annoying, it's really annoying (.) and (.) there's nothing you can do about it though (.) but there's ways around it, I mean I find (.) I know there's ways around it. There's ways of (.) getting a woman to make a statement (.) you know and it's the way you talk to people (.) it's probably female on female and (.) yeah there's lots of things (.) and explaining things to her a bit better and being nicer to her and you know not coming and saying 'right, you're not going to make a statement, right we're out of here'. [Y]eah, bringing her on board a bit and ah making her see that ah 'yep you can call us here and you can tell us yep you don't want us here anymore and that things are fine but we're going to look at other avenues and if you're not going to be a cooperative victim then we're going to look at neighbours or witnesses. We're going to try and ask the kids what they've seen and ah if they're a bit older maybe make them make a statement' you know so there's other avenues to her and I make sure she knows that. She can call us for help and that's fine (.) that is fine I mean the police are there for help. But ah, it's really annoying when you're not taking any positive action. (.) But other cops will see it differently, I mean they'll be happy to go there you know see 'right everything's fine' and 'you're fine and so we've calmed things down' and 'alright, see ya'. [F, 11(1)]

66. If she refuses the you just (.) you use other methods of gathering evidence you know you look at injuries um (.) you know admissions made by him in front of her, there's other ways that you can gather evidence and um (.) you know quite often you'll proceed with cases without the victim you know? [H, 12(3)]

A number of discourses are at work in passage 65. Firstly, it represents a departure from previous discourses as the officer reiterates that it 'is fine' for women to call the police, thus firmly defining the police role as 'being there for help' irrespective of women's cooperation. Secondly, a gain victim confidence discourse is evident together with its inherent discursive practices for convincing women to cooperate. Thirdly, there is another reference to the category of 'other cops' who 'will see it differently', that is, they are 'happy' with a role of having 'calmed things down' and leave without taking positive action. This category has implications for consistency of police response and consequently women's expectations of police. Finally, the 'other avenues' discourse has implications regarding women's self-determination as officers then 'proceed with cases without the victim'.

How much weight to give to victim preference regarding the nonarrest of her abuser is a controversial issue in the literature (see Buzawa & Austin, 1993). Passage 64 touches on one aspect salient to this issue by referring to a discursive resource abused women frequently make use of - that “things are okay now that you guys are here”. While police having ‘calmed things down’ is compatible with women’s goal of just wanting the violence to stop, various discourses appear to be at work to override a victim’s preference and intensify police motivation for positive action.

67. If it’s a touch and go one and I feel that she doesn’t want us there, he doesn’t want us there but I can see an obvious assault, the kids are scared I’d probably go more with my action because there’s kids there, I mean I wouldn’t want to leave them in a situation like that. (mmhm) So (.) that’s a factor that’s definitely um I think about. [F, 5(3)]

68. Um probably, (.) you’re probably thinking in the back of your mind ‘why bother’ if she’s not interested (.) but you’re still doing it for her cause you know that even if she doesn’t want (.) to happen what’s happening (mmhm) what the police are doing (.) then you know that what you’re doing is ultimately probably going to have a better result for her and her kids as well. [H, 12(3)]

In both the above passages the presence of children (and likely the transgeneration discourse their presence supports) predisposes officers toward making an arrest. The ‘why bother if she’s not interested’ in passage 68 may be indicative of a waste of time discourse. The priority of this discourse, however, has receded to the back of the officer’s mind and is transcended by the transgenerational discourse. What is particularly interesting is the presumption that the arrest will ‘ultimately’ have a ‘better result’ for the victim as well as the children. The implication of this gets to what is at the heart of feminist critique regarding victim preference. Others presuming to know what is best for an abused woman is problematic in and of itself, but it is also likely to be a continuation of the type of experience she encountered with her abusive partner, namely, submitting to another’s definition of her experience. Nevertheless, officers’ understanding of domestic violence and their constructions of women found within the dilemma discourse support the assumption that arrest is the best result for all concerned.

Salient to victim preference and abused women’s self-determination is the related issue of their willingness to testify. That women are ‘not prepared to follow through

with court action' has been and, as illustrated in the passages below, remains a consistent discursive resource officers use. Furthermore, this construction appears to apply irrespective of women's preference for arrest, although, while women opposed to arrest will 'definitely' not go to court, women expecting arrest will 'probably' not follow through.

69. Obviously we attend (.) a lot of repeat domestics (.) and (1) 90% of the time I would think that their impression with us to lock it up- to lock them up (.) stop the violence (.) but then they're (.) they're probably not prepared to follow through with the court action. [B, 2(3)]

70. And if she says she doesn't want him arrested, then she's not going to go to court, (.) definitely not. [D, 13(4)]

71. Sometimes you can try and talk them around (.) sometimes you'll get him charged and when it eventually gets to court she'll pull it then (.) but at least then he's had a taste of what it's like, what could happen if she gets up the grunt (.) to carry it through. [G, 5(2)]

The consequences of constructing abused women as unreliable witnesses with regard to this having alternately justified 'arrest as a last resort' then 'no-drop' policies and the problems ensuing from both policies, have already been addressed in Chapter four. While New Zealand does not have a no-drop policy, the unlikelihood of women testifying has been found to mitigate against arrest. However, that women will 'eventually' 'pull it' is constructed in passage 67 as 'at least' giving the offender a 'taste of what it's like' if 'she gets up the grunt' to 'carry it through'. This speaks not only to the utility of arrest irrespective of victim testimony, but also constructs the process of testifying as requiring women's courage. Furthermore, in passage 72 below, the speaker specifically argues against the possibility of a complainant 'rolling over' influencing his 'decision of whether to arrest or not'. The construction of women as unreliable witnesses appears instead to function to support the practice of using other avenues to obtain evidence. Unfortunately, this may have some invalidating consequences for victims' speaking rights.

72. I think a big thing is you've got to make sure that ah (.) that on court day, if it turns into not guilty, you've got to have a reliable enough witness or have enough evidence that at least (.) so if the complainant rolls over you can still continue on with the (.). Not that that influences me if something has happened.



It is always in my mind, but only in the way that you gather the evidence rather than dealing with (.) you know making a decision of whether to arrest or not? [J, 16(1)]

73. For me personally ideally if we (.) I'd like to have enough evidence without her (.)2 like at the end of the day (.) if we can get away without calling her without having her as a witness (.), then that's the preferred option. [B, 3(1)]

74. I mean all those ones where the women change their minds later down the track the policy dictates that you will try and get them to court. So the flip side to that is when we explain it to people it's that we don't know if they're withdrawing it because of pressure put on them by the offending party. So we just say to them you tell it to the judge. (mmhm) And let the judge make that call. I mean we- if we went by their wishes alone we'd probably be pulling over half of the domestics before they got to court (.) so you've got to push on with them. [G, 8(6)]

In both passage 72 and 73, officers were intent on having 'enough evidence' to proceed without victim testimony. Passage 73 further suggests that to 'get away' without calling the victim as a witness is the 'preferred option'. Interestingly, in passage 74 the preponderance of women who 'change their minds later down the track' appears to mitigate against going by victims' 'wishes alone' insofar as this would entail 'pulling over half of the domestics before they get to court'. The speaker here also draws on some constructions of women from the dilemma discourse (that women may be 'pressured' by the 'offending party') to warrant 'pushing on' with trying to 'get them to court'.

Proceeding without victim testimony raises similar concerns regarding women's loss of control over their situation upon enlisting the services of the criminal justice system as does proceeding with an arrest the victim opposes. Women being silenced by their abusers or by the very same criminal justice practices designed to empower them are two accounts of how the speaking rights of victims are thwarted. Obviously, many efforts are made to facilitate the voice of victims being heard (i.e. victim impact statements and victims' court advocates) and the disempowering effects of current policies deserve further research before any conclusions can be reached. However, from the police perspective, ignoring victims' preferences regarding arrest and prosecution obviously coheres with the policy mandate of holding offenders accountable.

### Victim blaming discourses

As should be apparent, victim cooperation is the object of a variety of discursive resources used by officers. While the investigative practices advocated by the gain victim confidence and other avenues discourses suggest that officers were intent on facilitating a prosecution, victim testimony remains influential. When this was not forthcoming, officers constructed this as outside their area of concern.

75. That's her decision if she (.) you know you've gone and done everything you can (.) um (.) but it's her decision not to testify. [D, 7(3)]

76. If it gets withdrawn at court, or she doesn't want to (.) testify, then that's on her bed at the end of the day. [B, 2(3)]

77. Well you'd be a bit dubious about it but then again you deal with each situation as a different one so I suppose you just have to (.) well you just do the same thing again. It comes down it's up to the judge or (.) up to her if she doesn't want to turn up. [E, 15(1)]

The above passages suggest that after the police have 'done everything they can', they can no longer be responsible for the outcome. It is 'her decision not to testify' and, by implication, the consequences of this are 'on her bed at the end of the day'. Passage 77 refers to a situation wherein a woman has repeatedly declined to testify. Although this leaves the officer 'a bit dubious about it' he persists to 'do the same thing' and negotiates any responsibility for the outcome as being 'up to the judge or up to her'. Constructing women as being responsible for the consequences of refusing to testify is relevant to the hands tied discourse discussed in the previous chapter and comprises part of an overall commentary on the constraints of policing domestic violence, arising further on in the analysis. This construction also precipitates a victim blaming discourse.

The following passages were provided in the context of discussing repeat offenders. Insofar as they make use of a police 'doing everything they can' discourse (i.e. the police 'just keep going' with their job), they may represent an attempt to account for the inability of police to stop repeat offending. However, they also function to hold the victim responsible for the violence and indeed, for even her own death.

78. You just keep going (.). Those ones are normally the ones where the woman won't go through with the charges and it just goes on and on. [G, 7(2)]

79. An incident happened and she just ah (1) you know didn't accept any help at all (.) and the police knew that well (.) she's dead because she didn't help herself, not because we didn't help her. [D, 15(1)]
80. Okay no [harsher penalties] are not a deterrent but then (.) but (.) they're not a deterrent because it's in our society do you know what I mean (mmhm) and it's escalating because they've put up with it for so long. [F, 15(2)]

Victim blaming discourse has been of central importance to feminist critique because, by focusing on victims' behaviour, such discourse obscures the acts of the offender. Nowhere in passages 78, 79 or 80 is there an aggressor who caused the violence. Instead the violence occurs because women fail to 'go through with the charges' or 'accept any help at all' and they 'put up with it'. Attributing the cause of recurring violence to women's putting up with it also completely ignores the fact that the offender will most likely seek out another victim.

Interestingly, in passage 78 the violence 'goes on and on' because women 'won't go through with the charges'. However, in passage 80 women are to blame for the failure of court penalties (thus suggesting the woman did go through with the charges) to deter their partner's recidivist offending because 'they've put up with it for so long'.

As illustrated by the following passages, officers drew on a variety of discourses to account for women 'putting up with it'.

81. A lot of women I think as well is they think they can't do any better. You know (.) especially the poorer people and stuff like that (.) and if they've got children to that person (.) they think they have (.) they've got an obligation to be there (.) and they don't try and improve themselves or improve their situation by helping themselves or their children or their family and (.) which is quite sad. [J, 11/10]
82. They say love's a strong thing but I'm (.) you know I think it's rather a fear of being without something that you're used to rather than (.) rather than being lonely and that. (.) I think it's because there must be one thing that they really like about that person more than anything else and it sort of, it's an overriding factor. (.) yeah, (.) but um (.) yeah (.) I (.) I honestly don't know how people put up with it. [J, 8(3)]
83. And that really surprised me, I didn't think that rich people were ah (laughs) had that going on but they do (mmhm) (.) I didn't think they'd put up with it either, you know the woman, (.) but they actually (.) probably tend to more (mmhm) [] maybe if they're not the breadwinner, they just think 'ah well, he keeps me in

this nice home and if my friends found out this was going on, I would lose this and that'. [D, 2(4)]

84. A lot of the time the victim will turn on you when you turn up if it's been ongoing (.) cause that person may be their um (.) their breadwinner the (.) person that brings home (.) whatever money (.) they can and they (.) for them it's a stable relationship (.) and they put up with the (.) the abuse. [K, 4(3)]
85. And then other women keep going back because they, (.) for (.) one reason or another, they actually feel safe (.) in that situation or they um (.) they don't have the confidence to (.) to move on. (mmhm) They sort of need that crutch of somebody (.) holding them up and they don't realise that if they got out they might find somebody else that was better. [C, 2(1)]

A familial discourse can be found in passage 81 where women feel 'an obligation' to keep the family together. Passage 82 relates to a romantic love discourse where 'love's a strong thing' and offenders have one appealing characteristic that acts as an 'overriding factor'. Passages 83 and 84 contain a domesticity discourse where women are reliant on a 'breadwinner'. While familial, romantic love and domesticity discourses have connections with very ordinary gender discourse, some of the above accounts are more pathologising of women's situation. Women feeling they 'can't do any better', having a 'fear of being without' the familiar, lacking 'confidence to move on' and needing a 'crutch of somebody holding them up' relate to 'learned helplessness' and 'codependency' discourses. While all of these accounts contain common explanations for women staying with a violent man, they are embedded in a victim blaming discourse of women 'not improving themselves' and 'putting up with it'. Furthermore, women are positioned as willing to 'put up with' abuse in exchange for 'love', 'family', a 'nice house' and a 'stable relationship'.

It is noteworthy that the victim blaming discourse of women 'putting up with it' fails to account for the fact that, by calling the police, women are in fact not putting up with it. Irrespective of women's subsequent cooperation, they are demonstrating their intolerance of abusive behaviour by taking appropriate action and reporting on their partner's violent offences.

A further victim blaming discourse the officers used puts the onus on women to stop the offending.

86. You know you have to put a little bit back on the women who remain in the violent relationship (.) years ago it was an accepted thing but now it's (.) it's not. [K, 3(4)]
87. Our only hope is that if it's not going to come right the woman (.) leaves before she gets seriously hurt. [C, 6(5)]
88. I always tell people you know (.) it's self-help you can't rely on someone else to fix your problems for you. [J, 8(2)]
89. I think we're an ambulance at the bottom of the cliff [] I don't know what the answer (.) is for people like that (.) unless she actually takes ownership of what's happening and stands up for herself, which can be very difficult (.) if she's been in a situation like that for a number of years. [L, 4(1)]

There appears to be a reference in passage 86 to a social change in the acceptability of domestic violence, with a suggestion that, insofar as society no longer tolerates violence, women should not either. Women who remain in a 'violent relationship' (as opposed to with a violent man) are constructed here as accepting the violence. Following this line of argument, responsibility for ending the violence is 'put a little bit back' on women who need to initiate some 'self-help' to 'fix' their 'problem'.

Probably the greatest failing of all victim blaming discourses is that they disregard the power dynamics and controlling strategies violent men use to stop their partners from leaving. For an assessment of domestic violence that is devoid of any power analysis, women who do not leave, who choose not to testify and who instead choose to put up with their partner's violence are indeed an enigma. Passage 89 provides a good example of the domestic violence paradox. While the 'answer' is that women 'take ownership', this 'can be very difficult'. This passage appears to make use of a discourse of power relations, however, without any elaboration of what these difficulties may be, the passage could also be referring to a 'learned helplessness' or 'co-dependency' discourse, both of which would impair women's capacity to 'take ownership'. Nevertheless, from the police perspective, when officers have fulfilled the obligations their policing role demands and the problem still does not 'come right, their 'only hope' is that 'the woman leaves before she gets seriously injured'.

Analyses of police discourse have previously found that constructions of women who remain in violent relationships have coarticulated with discourses of 'wasting

police time' and women being undeserving of police attention (Busch et al, 1992, Pinkus, 1996, Rigakos, 1995). While a discourse of 'unworthiness' directed at repeat victims emerged from the data, these women were unworthy of sympathy rather than unworthy of police services.

90. I would like to believe you approach it all the same you know in a (.) in a professional environment. [] Sometimes I don't have a lot of sympathy for the victims who (.) who don't get out (.) and the opportunities are there (mmhm) (.) there are a lot I'm not saying that they're successful but a lot of um safety agencies are there for those people to get out and restart. Sometimes you (.) you don't feel (.) ah a lot of sympathy for those people who won't get out or do something (.) for themselves. [K, 8(5)]
91. You know you've given them so much help in the past and (.) I mean obviously you feel (.) you know you sort of feel obligated rather than you feel (.) like you have to help that person, you feel obligated cause it's your job to help them (.) I mean rather than the human side of you (.) wanting to help them it's (.) well you have to do this cause you have to do that paper work for it. [J, 8(4)]
92. You think oh not them again and you think, 'oh you still haven't got out of this' and 'I tried to help you last time and we went through court and it was pulled and you pulled your charge last time so you know why should I take positive action this time?' so yeah it does, it makes you feel different but um (.) it depends what sort of person you are (.) it fully does eh, it just depends what sort of person you are and (.) as I said, I'm really keen on arresting people for domestic violence, I don't care if I'm doing two hours over-time it's (.) it's the way it should be. And because we keep coming back, (.) I mean yeah you think 'oh no not these people again' and you always say it, you always say it to your partner and ah (.) but you've got to put that behind you (.) that's she's gone back and it's the same thing week after week. We might be getting somewhere (.) yeah. [F, 8(2)]

In the above passages, women are constructed as not making use of 'help' that has been offered in the past and not taking up 'opportunities' provided by 'safety agencies' for them to 'get out and restart'. The passages suggest that women who fail to avail themselves of these opportunities warrant no 'sympathy' or 'human compassion' and inspire a 'why should I bother' attitude. Nevertheless, the officers made use of a number of discourses to offset a discourse that these women may be undeserving of or wasting police time.

93. If you go back to them again, you've just got to (.) you've just got to deal with it the same way, you've still got to be professional and you've still got to do your job, you can't waltz in and say 'what the hell are you doing back here'. (.) You know you can't do that, you've still got to do your job properly (mmhm) because eventually, down the track hopefully the cycle will get broken and she may make

a (.) move from it or something so (.) and if you don't do your job properly you'll get criticised. [A, 11(1)]

94. Yeah and you get called out again, so you've just got to get used to it it's your job, you get paid to do it. [] The way I get my mind around it is that it's my job and if she gets killed next week then I would feel (.) how bad would I feel that I've been to a domestic matter and I turned around and walked out. You know and (.) and shook my finger at him and said 'don't do it again' and to her you know 'are you calling us again' or anything negative to her about calling us. You know how would I feel, I'd feel terrible you know (.) so (.) yeah. [F, 10(2)]

Officers feeling 'obliged' to 'do their job' for which they 'get paid' was constructed as one reason women deserved to be treated professionally, irrespective of whether they required the same police services 'week after week'. That police 'might be getting somewhere' or 'eventually, down the track hopefully the cycle will get broken' in passages 92 and 94 illustrates how the 'cycle of violence' discourse also functions to transcend the waste of time and undeserving discourses. The escalation of violence within the cycle is also a discursive resource drawn on in passage 94. That the officer in this passage would 'feel terrible' had she said anything negative about calling the police to a victim who got killed the next week, may relate to a 'CYA' discourse, although the officer appears to be 'covering' her conscience. Passage 93 also appears to cohere with a 'CYA' discourse of arrest as it suggests doing the job 'properly' is a means of avoiding criticism.

While these passages again suggest a discursive shift insofar as women are constructed as entitled to a professional police service irrespective of their cooperation, officers constructed a woman's 'still' not having 'got out' as the problem. That the woman should leave her abuser is presented as the sole solution in each of the above 'victim blaming' passages. There is no suggestion that the offender should do something about his behaviour, rather it is the woman's responsibility to take advantage of the services that have been offered to her by the police and other agencies to assist with her getting out of the relationship.

While officers did not restrict themselves to victim blaming discourse and they made use of a number of other discourses as well, it appears that once engaged in victim blaming discourse, a narrowly defined script flows logically forth. Indeed, one of the problems of victim blaming discourse is that interventions become directed at

women. That is, women should ‘come round’ to the police ‘side’ and see that domestic violence is damaging to themselves and their families. They should take some initiative to improve their situation by cooperating with police and following through with court action. They should stop putting up with the violence and leave their abuser. While interventions directed at women may well be indicated, it is not the women that are violent but the men. Insofar as the culmination of this script is for the woman to leave, it doesn’t stop domestic violence. While it may stop the violence in one woman’s life (and, as discussed in Chapter four even this is debatable), the source of the violence remains intact. That an offender can simply get another victim is not given much consideration in this script. Insofar as the context of repeat offenders appears to prompt a victim blaming discourse, this is particularly concerning.

A further victim blaming discourse to emerge from the data represents an interesting take on the subculture of violence, transgenerational and familial discourses thus far explored. It also provides a good example of the paradoxical nature of domestic violence and communicates the inherent irony of the ‘onus on women to leave’ discourse. It is a discourse that is perhaps the most disparaging of women, insofar as it attributes the cause of domestic violence to single mother families.

95. But yeah in a family where there’s just one mother, where there’s continual drugs and alcohol and violence (.) you watch violence on TV all the time, you can do what you like you know as long as you like, it’s going to have a great effect on the child and he’s going to grow up being screwed up in the head and (.) um (.) being um (.) his values and morals are going to be all askew as well and ah (.) and they grow into these violent young who (.) you know start producing babies (.) and all the rest of it and (.) get into relationships and it all turns to custard. [H, 7(3)]
96. I favour the (.) you know with the alcohol abuse and, um just split marriages (.) you know like (.) dad’s not around (.) you know just (.) domestic violence happening like that. [D, 4(2)]
97. I think the um (.) one of the big problems in New Zealand is the lack of the family sort of (.) environment now? There’s not enough (.) families, there’s too many (.) single parent families, there’s too many people out there just (.) having kids with different partners and (.) I could name probably 10 guys that I could think of pretty much just off hat in town that would have three or four kids to different women and (.) probably had domestics with each of those partners (.) until they split up and found someone else and away they go again. [E, 8(2)]



Women's culpability within this discourse is partially mitigated by either the implicit or explicit liability of irresponsible fathering. That is, men 'having kids with different partners' and 'dad's not around' enable the 'lack of family environment' that is constructed as facilitating domestic violence. However, while males are held partly accountable, the mother appears to be the single parent of the families that are producing 'violent young' men. Passage 95 specifies a particular stereotype of solo mother who inhabits a subculture of 'continual' drugs, alcohol and violence and is overly permissive. It is interesting that the transgenerational discourse found in this passage is discussed in terms of male children only. Nevertheless, 'split marriages' and 'single parent families' where there is 'just one mother' are implicated in how domestic violence happens.

The degeneration of the nuclear family is, of course, a familiar target for many social ails. However, it is what is not said with regard to dad's absence and how that came about that is inherently paradoxical. The discourse appears to contravene the 'onus on women to leave' mandate advocated within victim blaming discourse. It represents a serious catch-22 for an abused woman because, if the family unit remains intact, she will have failed to take responsible action to prevent her partner from being violent to her and the children being witness to, or victims of, his violence.

That single parent families are both the cause and the solution to domestic violence reflects but one of the contradictory social resource inevitable to such an exceedingly complex problem. Police discourse on protection orders represents another.

### Protection orders

Enough data was generated on protection orders to constitute their being the topic of an entire thesis. Despite space constraints making it impossible to go into any great depth, the contradictory discourses produced indicate protection orders are a contentious issue for policing domestic violence.

All officers interviewed, without exception mentioned a scenario wherein the (female) applicant of a protection order invites the respondent over to her house, an

argument ensues and she wants him out. Passages 98-100 provide three variations on this scenario.

98. I've more experience in dealing with people setting would be partners or otherwise up with protection orders than actual assaults. Generally speaking an (.) if they cry assault there'd be (.) generally speaking there'd be something in it. (.) Gen- well (.) generally speaking if they say there's a breach of protection order, there's something in that too (.) but I have experienced a number where (.) of cases where the person who holds the protection order calls the respondent (.) and asks them to come around (.) and as soon as they turn up they call the police and say he's turned up uninvited. [I, 9(1)]
99. But the only thing that I will say is that women can use a protection order for their own benefits, like invite him around and um (.) do whatever they do and then she doesn't want them, want him there anymore and it's like 'well I'm here, you've invited me around' then call us and 'I want him out of here' and they use it like that. [F, 8(5)]
100. Women do tend to play on them a bit too. Like they'll have the guy back (.) they get a bit shitty and they bring up the domestic protection order, they kick him out, he won't go (.) and so they ring the police and we have to arrest for breaching the order and in some cases I don't think it's justified but you've still got to act on it. [G, 7(4)]

As noted in Chapter four, officers were least willing to arrest for breach of protection order when the respondent was invited over by the applicant (Busch et al, 1992; Rigakos, 1997). That this invitation somehow mitigates against any subsequent breach is yet another victim blaming discourse. Moreover, it fails to account for abusive men's persistent harassment of their partners and the inevitable contact people who share children have. Passage 98 goes further and suggests the applicant's initial intention was to 'set up' her partner. In passage 99 it is unclear whether, after they 'do whatever they do', she has actually asked him to leave and he has refused. In passage 100 the respondent has refused to leave, however, it is unclear who gets 'a bit shitty' precipitating her kicking him out. Officers' constructions of the dynamics of domestic violence, evident in the dilemma discourse and other discursive resources they produced in their constructions of offenders, were absent in their descriptions of this scenario.

Protection orders provide a means of protecting women from verbal as well as physical assaults. Police can only intervene in domestic violence if there is evidence of an assault, therefore the only way for a woman to protect herself from all other

threatening behaviour is by way of a protection order. The inclusion of psychological abuse in the Domestic Violence Act 1995 was based on an understanding that violent men control their partners with a broad array of abusive strategies. Yet, that women may be asserting their court sanctioned right not to have to endure any number of behaviours from the respondent, does not form part of this discourse. Instead, women are constructed as 'playing on' protection orders and using them 'for their own benefits' to 'set would be partners or otherwise up'.

Police discourse on protection orders is not completely devoid of a power analysis, however, as women are seen to (inappropriately) use the power and control a protection order gives them.

101. Protection orders have given women a lot of power in some situations and sometimes they do get misused. [L, 8(2)]

102. I'm not getting at the people who take the protection orders out against the respondent and that but a lot of people I don't think have a real good understanding of what they're for. They don't get it explained to them properly by their lawyers or by (.) other people who are issuing the protection orders and stuff and a lot of people use them as maybe a (.) a controlling device in a relationship. [J, 1(6)]

In passage 102 the speaker wards off an accusation that he may be speaking ill of women who use protection orders and lays the blame for any inappropriate use of protection orders on those whose job it is to explain them. Nevertheless, passages 98-102, all contain an underlying assumption that women misuse protection orders.

A further problem created for police by protection order breaches is the absence of violence. In Busch et al's (1992) study, breaches that did not endanger the applicant's immediate safety led officers to construct the offence as a 'technical' breach by a nondangerous person, whose behaviour did not merit such punitive measures as an arrest. The following passages illustrate similar difficulties officers had in discerning the status of a breach.

103. I remember there was one that was hard to deal with and that was he'd sent her flowers. Now is that a breach of protection order or not and ah (.) it obviously is when you look at the protection order yeah, but um (1). [F, 8(5)]

104. He's not actually breaching the protection order, he's been invited there, he hasn't been asked to leave and she just wants us to lock him up cause he's there (.) but she's invited him back, you see he's not actually breaching it. (.) And that happens sort of every three or four weeks (laughs) so it's just a matter of going and telling him 'ah look you've got to leave' and off he leaves he's quite happy to leave, there's no violence involved. So technically speaking she's made a complaint, a breach of protection order where there hasn't actually been a breach. [C, 7(2)]

105. One girl that had a protection order, but also had a contact where the guy was allowed to ring (.) ring 17 times a month to speak with the kids. One month he rang 18 times (.) and she complained. I mean, technically it's a breach of protection order and we arrested him we arrested him for it. (.) um there was a lot of discussion at the time (.) whether we should or not (.) probably (.) we shouldn't have but we did arrest him (.) that still went to court (.) and then the judge made the decision 'no this is trivial' and then he withdrew it. But (.) we'd done what we had to do- I feel we did what we had to do (mmhm) we justified what we had to do (.) um we pleased the victim (.) and the court had to come up with the decision. [B, 4(1)]

The construction of a breach as 'technical', to which officers responded variably in the above passages, highlights a persistent concern for policing domestic violence; at what stage does a breach move from being technical and trivial to formal and worthy of consequences? The Domestic Violence Act 1995 provides some basis for making this decision. Section 50 states that police must consider:

- (a) the risk to the safety of any protected person if the arrest is not made;
- (b) the seriousness of the alleged breach of the protection order;
- (c) the length of time since the alleged breach occurred; and
- (d) the restraining effect on the person liable to be arrested.

Obviously a person who is 'quite happy to leave', the giving of flowers, or one extra phone call are seemingly innocuous. Nevertheless, as is noted by officers' constructions of offenders in the next chapter, offenders are not always what they seem. With regard to passage 105 the question must be asked, how many calls over and above the quota dictated by the protection order need the applicant accept? An alternative account here is that she chose to exercise her right to have the order enforced and stopped her abuser short of harassing her with further phone calls.

The above passages suggest a gap between officers' and women's perspectives of policing protection orders. Officers construct some women's use of a protection

order as an abuse of the system, wherein a protection order constitutes a ‘controlling device’ for women who wish to gain an unreasonable advantage. Women, on the other hand, may see this same use as a legitimate means of attaining a position of negotiation which is rightfully theirs, but has been denied them by their partners’ coercion and violence. Given the long and arduous battle to promote men’s use of power and control over women as a police concern, it is interesting that women’s use of a (court ordered) device to attain some power and control over their abusers’ behaviour has become a police concern so soon after the legislation which enabled it was enacted.

As illustrated by the following passages, protection orders were as often as not described favourably by officers, suggesting they were indeed a source of contradiction for police.

106. Like um (.) I recommend (.) to my complainants, in that sort of situation where it’s really hard to prove anything is to keep a list of what’s going on and then they can make an affidavit to what’s been going on. [J, 4(1)]
107. I don’t mind a little bit of misuse of it because overall they do a very good job (.) of protecting the victim. [L, 8(2)]
108. Um (1) they are good things, but I think they’re probably abused a little bit. Um (.) there’s definitely a lot of circumstances where they are very necessary and they are good. But there are other circumstances where people get them too easily and use them to manipulate their partner, especially if there’s children involved. [E, 11(4)]
109. At the end of the day if they have a protection order it’s a bonus from our point of view [] instead of charging him with assault (.) we can charge him with assault and breach of protection order (.) so we can sort of double jeopardy type situation for them. (.) I mean obviously there are repeat domestics, there are also people who are trying to get out of it where the husband keeps following them (.) and the protection orders gives us a few extra powers where they can’t go on to the property and they can’t loiter around the property (mmhm). So we can deal with those people (.) that are trying to get out of it (.) a violent relationship but he or she keeps (.) trying to entice them back into it. [B, 7(3)]

In passage 108 the contradictory constructions of protection orders are presented abreast. Interestingly, passage 107 suggests their ‘overall’ utility compensates for ‘a little bit of misuse’. Protection orders ‘do a very good job of protecting the victim’, are ‘very necessary’ and a ‘bonus’ with regard to repeat offenders (although repeat

offenders may be considered more dangerous, not to mention a nuisance to police, thus possibly influencing their enforcement against such respondents). Protection orders also comprise one of the resources women are meant to avail themselves of to initiate responsibility for their safety and, as noted in passage 109, to facilitate their leaving an abusive man. Furthermore, as suggested in passage 106, protection orders are essential for protection from abuse that leaves no visible physical signs.

Given the polarity of police discourse, protection orders obviously constitute a problematic area of policing domestic violence. As stipulated at the beginning of this thesis, domestic violence is an incredibly complex concern. The variable constructions of women, the flexible ways in which the dynamics of domestic violence were discussed, the obfuscation of gender and the paradoxical discourses on protection orders represent but a few of the intricate discourses to be found on the topic.

The discourses officers drew on in their constructions of women cohere with the construction of domestic violence as dangerous, ongoing and life threatening, found within the previous chapter. With regard to the police role, the analysis suggests officers understood their presence caused a dilemma for women and they constructed their role as gaining victims' confidence. While officers' discourse suggests victim cooperation remains a problematic concern for the arrest policy, officers referred to various discursive practices and drew on a number of discursive resources that enabled their persisting with the policy agenda of ensuring victim safety and offender accountability, irrespective of victim cooperation. Officers' discourse on protection orders and the victim blaming discourse within this chapter were sources of contradiction. However, a more informed discussion of paradoxical discourse will be possible in the conclusion after an entire reading of the analysis.

## CHAPTER EIGHT

### Constructions of offenders

The theories of abuse discussed in Chapter three provide a useful framework for exploring officers' constructions of offenders. The five discourses relating to domestic violence identified by O'Neill (1998), outlined in that chapter, were used by officers in their constructions of offenders. A discourse of male privilege could also be found in officers' talk on offenders. While male privilege is subsumed within the discourses identified by O'Neill (1998), it receives a more extensive focus within feminist theory. Feminist theory proposes that the inequitable power relations supported by patriarchal discourse of male privilege enable domestic violence. As illustrated by the following passages, officers did construct offenders as believing in the 'natural order' of male privilege, however, officers themselves are positioned as rejecting the exculpatory discourse of privacy and male privilege.

#### Male privilege

110. I think they (.) usually claim that there's never been an assault. And most of them genuinely believe that what they've done is within (.) the bounds of what they're allowed to do (mmhm) they don't see that they've done anything wrong. And they usually blame the victim for (.) starting the whole thing (.) (mmhm) ah (.) for getting something wrong (.) on the dinner table or (.) for whatever reason, arguing about something. [L, 5(1)]
111. I think (.) cause in their own mind they (.) think they haven't done anything wrong (.) you know? (mmhm) I think it comes back to this is my house and I can do whatever I want in it (mmhm). (.) And the majority of the time I think they don't think they've done anything wrong you know they've justified in their own mind what they've done (.) and it's very difficult to (.) you know I've had (.) I've sat two people down on video interview (.) 'did you do this?' 'yep' (.) 'did you do that?' 'yep' (.) 'why' (.) 'cause they effin deserved it, you know rah, rah rah' (mmhm) and they go not guilty. You know they fully admit to what they've done and that but they'll go not guilty cause they've justified to themselves what they've done. [J, 9(6)]
112. I think that (.), the men especially just think that you're just being nosey parkers into their personal life, (.) their family life and 'this is the way we do things, and you have no right to come in (.) she had no right to call you (.) get out' you know [] then you say 'yes I can' and you handcuff them and take them away and you know they're like 55 years old, (.) they're- that nearly makes them break down and cry when you can do that to them (.) ah when they fully deserved it you know they're a complete horrible person. [D, 5(5)]

113. No they didn't expect to be arrested they didn't believe they'd (.) done anything wrong or (.) some thought it was their God-given right to um (.) do what they'd done (.) so yeah (1) they certainly learned about it when they were in the cells for the night until they appeared in court (mmhm). [K, 2(6)]
114. There's plenty of guys out there that are of the attitude that I'm the head of the house and I'll do what I like and no one's going to come in here and tell me what to do (.) and you, you get that all the time. And as I said, that's the thing that comes down from generation to generation (.) you know that's obviously how a household is run (.) and that's what happens. [A, 9(2)]

The above passages suggest that offenders continue to make use of discourses of privacy and male privilege as well as illustrating how these discourses facilitate the legitimisation of violence. That is, offenders' belief in their 'God-given right' as 'head of the house' to dictate 'the way things are done' in their own home enabled them to 'justify to themselves' that they had not 'done anything wrong' so their understanding was there had 'never been an assault'. Congenital to a discourse of male privilege, offenders are further constructed as believing their partner had 'no right to call' the police, as producing accounts of provocation to give their partners what they 'deserve' and as blaming the victim for 'starting the whole thing'.

While feminist theory presents male privilege as the sociopolitical backdrop against which domestic violence occurs, the above passages construct the doctrine of male privilege as being an aberrant predilection of domestic violence offenders. For example, passage 112 attributes the offender's abusive behaviour and edict of male privilege to an intrinsic personality deficit – 'a complete horrible person', as opposed to being representative of a broader societal condition. Passage 113 also suggests that the individual needs to change, not society. This passage makes use of a time to reflect discourse of arrest, although this discourse functions differently for offenders than victims. That is, while time spent in the cells overnight constitutes time for contemplation, more salient here is the construction of arrest as a means of teaching the offender something. That is, he will 'learn' that violence towards his partner is not his 'God-given right' and he has done something wrong. Similarly, in passage 112, arrest is presented as a challenge to offenders' perceived 'rights'. The construction of patriarchal values as the 'thing' that 'comes down from generation to generation' (paralleling the intrafamilial transgeneration of domestic violence) in



passage 114, also resists the feminist perspective that male privilege is congenital to society as a whole.

Nevertheless officers' constructions of offenders as needing to learn that the dictates of male privilege and privacy are no defence for a 'not guilty' plea, positions them as rejecting the legitimacy of this 'justification'.

#### Expression of inner tension

The expression of inner tension discourse (see Chapter three) constructs violence as an expression of anger, over which offenders have temporarily lost control. The 'loss of control' theory of domestic violence is prevalent in the literature (O'Neill, 1998) and amongst the public (Leibrich et al, 1995), thus it is not surprising that it can be found in police discourse as well. Feminist research has challenged the validity of this theory on a number of grounds (see Chapter four), however, of principal concern is that offenders' 'loss of control' functions to diminish their accountability. While the expression of inner tension discourse could indeed be located in officers' transcripts, it did not function to mitigate against offenders' arrest or responsibility, rather it served to distinguish 'good people and bad people'.

115. No I've seen- you see good people and bad people (.) very rare for anybody to ah- and you can pick them they just stand out for miles, the guys who have blown it once (.) (mmhm) (.) and it's not (.) I'm not suggesting that they shouldn't necessarily get treated like everyone else cause they probably should (mmhm). Um (.) because the penalty that they'll get in the end is (.) is going to be less anyway, but the treatment should be the same [I, 13(6)]
116. The guy wasn't (.) didn't have a history, a criminal history of any sort, he'd been drinking he lost it and hit his partner (.) and he was um (.) very remorseful about it (.) and (.) I put in a case for him and his wife supported it that he be diverted but with a view to that diversion coming after he'd had anger management and they'd done a little bit of relationship counselling. He was really, really grateful and I'm happy that (.) that wouldn't happen again. It was a one off and the counselling was good (.) um (.) but like I say they were a good couple and he'd lost it on that occasion. [G, 5(3)]
117. I had one recently where a guy held a knife to his wife's throat (.) he just lost it (.) and he's never been in trouble, there's no documentation of him ever being in trouble ever, and he'd lost his job (.) um high paying job, he had (.) one of his family members had just died, (.) there was all these things and (.) he (.) she said that she never felt (.) that he was actually going to do it and (.) she had wound- she said that she'd basically wound him up (.) and he just cracked and he just

said 'Just (.) fuck off and leave me alone' type of thing and you know, and it sort of (.) but they're together now and they're happy as Larry and that's just something that they've worked, he's gone and done things through court (.) you know those (.) and he's as good as gold now, (.) but he had a lot- he and she had a lot of help from their families as well, which I think is a big thing, (.) for those type of incidents it is. And it could have been very nasty (1) but yeah, I mean that's (.) just because someone does something like that, it doesn't necessarily mean that they're (.) a prick or you know that that's what they're going to be like for the rest of their life, I mean everybody's lost the plot (.) one time or another, whether you want to admit it or not I'm sure everyone has. [A, 17(4)]

118. I've actually had a couple last year where um (.) I went through and got diversion for them, they were charge with assault and they got diverted through the big boss in town, which was the fair thing to do (mmhm). Um again it was a situation where people had probably just got themselves in a situation through some sort of stresses in their life or (.) monetary or whatever and um (.) they had a big spat. Somebody ended up getting smacked or whatever, it wasn't (.) they weren't real super serious ones but they were enough to charge someone with assault. And I believe that's a (.) that should be an option too that they get diversion if they're a first time offender and it's not a serious assault and (.) these are genuine people who have just made a mistake, they're not people that (.) are continually in trouble and need to be um (1) you know hassled to death or anything. [E, 7(2)]

Within the above passages a particular category of offenders who have 'blown it once' or 'lost it' on 'one occasion' is constructed. It is interesting that this construction stands in contradiction to the escalation discourse, wherein the construction of a domestic incident as a 'one off thing' is rejected (see passage 15). However, this category of offenders is constructed as easily distinguishable and these offenders are ascribed particular characteristics that make them 'stand out for miles': 'good' offenders have no criminal history; they are 'remorseful', 'genuine' and 'grateful' for a lesser sentence of diversion; and they form part of a 'good couple' who, outside the 'one-off thing' are 'happy as Larry'.

Consistent with an expression of inner tension discourse, this category of offenders is also constructed as having 'lost it' due to a build up of situational factors. In passage 117, the offender had just lost a high paying job and a family member and in passage 118, 'people' had got 'themselves' in a 'situation' through 'stresses in their life'. This latter passage provides a good example of gender obfuscation and nominalisation. With regard to the latter, the construction of the assault as a 'situation' and a 'big spat' obscures any violence. Gender obfuscation diffuses

responsibility for the assault here, as the passage suggests it was the couple who got charged and diversion. Furthermore, given the speaker is recounting an assault he was witness to, the construction of ‘somebody’ getting smacked and ‘someone’ getting charged is particularly interesting.

Nevertheless, the extenuating circumstances in the above accounts support a construction of offenders as being in a temporary and altered state that is not representative of their ‘true nature’. As illustrated by passage 117, wherein these offenders’ assaults are produced as ‘not meaning they’re a prick’ or that they will be ‘like that for the rest of their life’, this construction appears to mitigate against seeing offenders’ violence as ongoing.

However, the expression of inner tension discourse does not appear to mitigate against offenders taking responsibility for their actions, suggesting a change in how this discourse functions. As noted in passage 115, this category of offenders ‘should’ still ‘get treated like everyone else’ and they were arrested and charged in the four cases above. It is noteworthy that in passages 116 and 117, an agencies kick in discourse of arrest also supports holding offenders responsible insofar as the conditions of diversion (i.e. relationship counselling and anger management) are constructed as beneficial for the victim, offender and couple. However, the construction of these offenders as being in a temporary and unusual state, having ‘just made a mistake’ and not needing to be ‘hassled to death’ facilitates a discourse of equity wherein the lesser penalty of diversion constitutes ‘the fair thing to do’.

### Instrumental power

Juxtaposed against the above construction of offenders having ‘lost it’ was a construction of offenders as ‘in control’ of their actions. While this construction is consistent with the liberal humanist tradition from which an instrumental power discourse is derived (see Chapter three), officers stopped short of suggesting offenders used violence instrumentally to control their partner.

119. If once a year he decides to go off the rails, she can say, ‘look you’ you know ‘I’m calling the police, you’re doing this, it’s not appropriate’. And they call us, we go there, lock him up and then he behaves himself for another year. [D, 10(4)]

120. Yep, yep I think um (.) um (.) times where you've (.) particularly when the woman's been (.) either uncooperative or not wanted to take it further (.) but you have (.) for whatever reason. And um (.) the partners gone back later on and taken it out on her I've definitely dealt with cases like that, but it's a (.) it's very much a minority (mmhm). Cause usually they're protected, the person's on bail (.) If he then (.) you know commits offences on bail chances are he's going to get remanded in custody and (.) and (.) yeah if he's foolish enough to do something like that well good on him he's going to pay (.) pay the price. [H, 4(2)]

121. Quite a lot of the repeat offenders that we get have done courses like that in the past (mmhm) and (.) it's very hard to say what good it did them. You can never really say how many assaults that course has avoided. Um (.) when they've ended up back in court anyway. (.) I'm sure it has had some effect and it might have (.) made him hit a little lighter or, (.) not at all on one or two occasions then maybe it's been worth it. [L, 12(1)]

Within the above passages offenders are constructed as making intentional choices regarding their behaviour. That is, they 'decide' to go off the rails and are 'foolish enough' to break bail conditions, thus suggesting their actions are the product of a rational decision making process. The construction of offenders as being able to 'behave themselves', 'avoid assaults' and 'hit a little lighter', further suggests they are capable of controlling their violence. Consistent with the liberal humanist tradition, offenders are held accountable for their behaviour within officers' discourse above as they must 'pay the price' by being 'locked up', 'remanded in custody' or 'back in court'.

Three further points regarding the above passages are relevant here. Firstly, it is noteworthy that passage 119 contradicts a construction of women 'putting up with it'. The woman here defines her partner's behaviour as 'not appropriate' and calls the police. Furthermore, she is constructed as unwilling to 'put up with' her partner 'going off the rails' even intermittently or 'once a year'. Secondly, in passage 120, the construction of bail conditions as securing women's 'protection' from further abuse presumes a consistent police response. As previously noted, the 'other cops' category, particularly their response when women are uncooperative, may put such consistency (and women's protection) in jeopardy. Similarly, the agencies kick in discourse of arrest relies on the efficacy of these agencies. However, the questionable utility of the 'courses' repeat offenders have done, produced in passage 121, has implications in this regard. It would appear from my reading, that

discourses used by the officers relating to police action, construct all systems and agencies associated with the domestic violence response, as effective and working. This possibility is revisited within this Chapter and explored further.

### Offenders as 'Manipulative'

Supporting the construction of offenders as 'in control' and consistent with an instrumental power discourse, were officers' constructions of offenders as 'manipulative'. Officers drew on a variety of accounts to construct offenders as playing the system; intimidating women into not testifying; tampering with evidence; and using their greater verbal acuity or social standing within the community or within the police force to avoid being charged or convicted. Again, assaults that initially brought offenders to police attention were not constructed as an instrumental use of violence. However, offenders' behaviour subsequent to police arrival or arrest was construed as instrumental and manipulative.

122. Um, if they know that the ah (.) if they know the system, they know exactly (laughs) like this guy I was telling you about, he knows exactly what the female needs to do to get him arrested. And that is (.) I mean if she's got a cut to her head, I mean we're going to ask her obviously how she got that. If she says 'oh I fell over' we can't, we can't arrest him, (mmhm) unless we see evidence- like we've stood at the window and seen him hitting her we can't um (.) it's hard, it's hard eh. [F, 3(1)]
123. There was a lot of underhand tactics, there was a lot of (.) um stand over tactics, they were right (.) ringing these people up, sending their boys around you know and saying 'ah you're not going to give evidence' you know (.) and you know just intimidating them all the time, so and the other thing too is I suppose (.) if we (.) if the police put a sign out to these guys that are doing it and saying look we are not prepared to sit here and listen (.) and you stand over these people and intimidate them (.) and get away with this (.) we're not going to put up with it. We are going to take action (.) whether you are doing this or not. And we will still take it right to the very (.) end of the deathbed if we can. [A, 12(2)]
124. He was charged with a serious (.) some very serious offences and (.) was taken to court (.) and because of the way it all panned out is we only had her word for it. He'd gone and burnt the weapon that he'd used, you know there was no weapon left because it had been burnt. There was no independent witnesses, all we had was her word against his. Um he was remanded in custody the whole time up to his trial (.) and on his trial (.) um (.) she got up in the stand and said (.) 'na (.) na that's (.) didn't happen (.) blah, blah, blah'. She got arrested and charged with making a false statement to the police (mmhm) and (.) a couple months later she's dead (.) because he (.) murdered her. [J, 7(3)]

In the above passages offenders are constructed as manipulating the 'system' to their advantage by subverting evidentiary requirements to avoid an arrest or conviction. In passage 122, the offender's knowledge of 'exactly what the female needs to do to get him arrested' allows him to avoid an arrest. In passage 124 the offender having 'gone and burnt the weapon' suggests a deliberate destruction of evidence to avoid conviction. Passage 123 provides the only direct reference to the 'underhand tactic' of intimidation. However, the other two passages construct the offender as intentionally manipulating the situation to 'pan out' so the entire weight of evidence for his arrest or conviction rests on 'her word against his', leaving women vulnerable to intimidation. That this also leaves women vulnerable to further abuse is evident in passages 124 above and 125 below.

It is interesting that the woman's death in passage 124 is presented as 'she's dead because he murdered her' as this contradicts an earlier construction of the same incident wherein this woman was 'dead because she didn't help herself' (see passage 79). However, as previously indicated, officers made use of a variety of discourses other than those that blame the victim.

Two discourses of arrest cohere with the manipulation discourse above. In passage 118, the absence of a victim statement supports a 'hands tied' discourse, wherein the speaker concludes 'it's hard eh'. In passage 123 the victim's continued cooperation in the face of intimidation supports a 'puts out a sign' discourse wherein 'police action' is constructed as 'putting out a sign' to offenders that they can't 'get away' with abusive behaviour. Although police are presented as motivated to take police action 'to the very end of the deathbed' (and the metaphor here is telling in light of passage 124), the above passages speak to how vulnerable victim cooperation is to offenders' manipulative tactics and intimidation.

The following passage provides a further account of offender manipulation. While intimidation is again not explicit here, it is noteworthy that the offender required the support of his partner to avoid a conviction.

125. Um (.) that he managed to avoid a conviction, it was discharged without a conviction, it would have cost them a bomb through the lawyers and there was wads of paper on the file. But he went through anger management courses, he

went through (.) jumped through hoops all over the place to avoid getting a conviction (mmhm) in case it ah (.) it hurt his licence. She supported him all the way through. Ah (.) two days after that was (.) was thrown out, discharged without a conviction he assaulted her again (.) at home. [L, 3(7)]

Passage 125 suggests the offender made all the right moves to convince the court to discharge his case. Insofar as these moves entailed 'jumping through hoops' and spending a 'bomb' on lawyers that generated 'wads of paper on the file', a construction of the offender as playing the system and manipulating it to his advantage emerges. The passage also suggests the offender's moves were not 'genuine' but rather, were motivated by his wish to retain his licence. The above scenario conflicts with the construction of offenders found in the expression of inner tension discourse. That is, offenders may be able to present a 'good people' persona to the court and then assault their partner two days later. This Jeckle and Hyde construction of offenders provides a further account of offender manipulation and is evident in the following passages.

126. It would be good actually if you could arrest somebody and take them to court as they are (.) you know (.) It would be good they'd stand up in court and they'd be in their leathers and they'd still have their bottle of lion red and they'd still be really drunk and obnoxious and (.) but they bail them and they go to court and they're in a suit and they're with really nice people and they're really pleasant and [] they can dress up (.) and go to court and look fine and have people that are (.) that can come forward and are going to say yep they're really a good upstanding citizen yet they'll go home and beat up their wives. [F, 14(1,3)]

127. The guy has threatened to kill his wife and her children. [] He's involved in cricket and rugby and stuff like that so a lot of us know him (.) and like I know him as well (.) I know he can be a real (.) when he gets a bit of beer in him (.) he can be a bit of switch. But, I mean when (.) police deal with him, he's fine he's really good to talk to and he's real palsy with you and stuff like that. We locked him up last night for breaching his bail.[] I think that (.) sways some (.) people's thinking and it's real hard (.) I don't know whether that makes you a bad person or not, it makes you feel a bit stink sometimes but you've got to do the right thing. (.) That's where it comes into consistency. You know like some other cops would have warned him for breaching his bail. (mmhm) But we're under instructions you know. [J, 17(1)]

The construction of a 'drunk and obnoxious' man in his 'leathers' with his bottle of Lion Red is juxtaposed against the 'really pleasant' 'upstanding citizen' in a suit the court gets to see in passage 126. While an assessment of the former man as dangerous and the latter as harmless is merely implied in this passage, abusive

men's ability to convince others of their harmlessness has been an impediment to their penalisation (Busch et al, 1992). The construction of abusive men as having a public and private persona also emerges in passage 127, although the offender's being a 'bit of switch' is attributed to his beer consumption.

Abusive men being 'good to talk to' and 'really pleasant' when dealing with police, the court or the public, presents another domestic violence paradox; how can apparently harmless and engaging men 'go home and beat up their wives'? This Jeckle and Hyde construction possibly contributed to the public's long silence on domestic violence. The manipulation discourse certainly challenges the 'loss of control' discourse. With regard to the analysis, however, the construction of violent offenders as able to 'dress up' has implications for the 'good people and bad people' discursive resource officers used, as it brings into question officers' and other criminal justice system agents' grounds for making this distinction.

Two further points are noteworthy regarding passage 127. Firstly, the speaker makes use of a morality discourse of arrest to 'do the right thing' and arrests for breach of bail. Secondly, there appears to be a suggestion that police in the 'other cops' category may be 'swayed' by the 'palsy' nature of offenders, as well as a reference to how this affects consistency.

Another account officers drew on to construct offenders as manipulative was exclusive to those in a higher socioeconomic strata (SES). The construction in the following passages of higher SES offenders as 'more intelligent', better able to 'talk their way out of it' and as using the 'influence' their social position affords, supports a manipulation discourse.

128. And the other sort of thing that does happen with is (.) people that are in a higher socioeconomic group (.) will try and talk their way out of it (.) and they will try and use the 'I'm the man about town' or this that and the rest of it to try and (.) to try and influence people (.) because they think that they've done it all their lives and they think that they can do it with us. [A, 5(4)]

129. The one I mentioned before of the local businessman would not be one (.) that you would normally believe that that sort of violence would go on in the house and the incident that we went to first he flatly denied that any such thing had ever happened and it's tempting to believe him because it's the easier (.) path to take (.) but then the evidence (.) against that is overwhelming (.) most



often [] and their story (.) holds a lot more water (.) really they can think things out a lot more thoroughly. [L, 6(3)]

130. Usually it's not alcohol involved (mmhm) that's what I find as well (.) you know the (.) wealthier people and that (.) it's a lot (.) with them as well it's a lot more sort of seems to be psychological rather than physical yeah (.) maybe because they're (.) more intelligent and that and (.) yeah my way of thinking is sort of psychological abuse is probably worse than probably physical abuse. [J, 2(3)]

It has been suggested that policing domestic violence has created a new class of offenders (Buzawa et al, 1998) and indeed the above passages constitute some of the problems inherent to policing this class of offenders. For example, passage 128 constructs offenders as believing their 'man about town' status entitles them to a different set of rules. Although the speaker does not appear to concur, the Jeckle and Hyde discourse suggests how offenders present to others is relevant. In passage 129, higher SES offenders are constructed as able to 'think things out more thoroughly'. This construction coheres with the evidentiary requirement of logic and indeed the speaker suggests their 'story holds a lot more water'. This passage also suggests a higher standard of evidence is required for these offenders. That is, unless the evidence against them is 'overwhelming', believing them is the 'easier path to take'. Passage 130 highlights a further evidentiary problem regarding higher SES offenders. They are constructed as using psychological more than physical abuse. While the subsequent absence of physically visible marks may or may not represent an intentional manipulation of evidence, as noted by officers' evidentiary discourse in Chapter six, this absence would have an impact on arrest and conviction.

It is interesting that passage 130 specifically constructs the violence of higher SES offenders as not being alcohol related. Attributing the cause of domestic violence to alcohol has been criticised for denigrating the significance of violence by construing it as a temporary problem. Conversely, it is possible that the absence of alcohol may indicate greater intentionality and accountability. There does appear to be a construction of higher SES offenders as more accountable within officers' discourse, however, this may be founded on a common social resource of higher expectations for people in this socioeconomic group. For example, in passage 129 the lifestyle of

a 'local businessman' was such that 'you would not normally believe that sort of violence would go on'. While the offender's status functioned to constitute his greater credibility, there is also an implication that such offenders should know better. The following passage appears to carry a similar assumption as it constructs highly paid men who have 'arguments' that 'need the police' as 'pathetic'.

131. Like I would never have an argument in my own household where I would need the police. I just wouldn't go there (.) and I think to myself well (.) like one I went to was (.) some guy who's paid seven or eight times as much as I get paid, he's 40 odd years old and he's married, he has been for 20 odd years, they've got a couple of kids and he was absolutely pathetic. [G, 12(3)]

It would appear that officers do construct higher SES offenders as a different class of people who adhere to a different value system. A further indication of this is officers' construction of higher SES offenders as responsive to legal consequences.

132. A perfectly respectable family um (.) the level of the assault was one slap but he still got arrested, spent the night in the cells (.) um (.) I know that had a big effect on him (.) I doubt he'll ever slap his wife ever again. But if (.) if- and he at the time he was drunk as skunk and he thought um (.) hey this is just a big joke nothings going to happen and (.) um (.) if I hadn't of done what I'd done then (.) you know (.) who's to say further down the track he was going to maybe take it the next step further. [H, 1(3)]

133. Yeah, and then you get um (.) your first time middle-age men they've actually been caught doing it for the first time (.) um they get their PD or their fine and get to do anger management. They have to do (.) um or alcohol abuse sort of counselling and (.) um I think that works. [D, 8(2)]

The above passages construct the arrest of a 'perfectly respectable' or 'middle-aged' man as having a 'big effect' and as an intervention that 'works'. As noted in Chapter four, Sherman et al (1992) proposed that arrest selectively deterred offenders with stronger community ties. However, passages 132 and 133 make use of the puts out a sign and agencies kick in discourses of arrest to understand its 'big effect'. The above passages also suggest that officers are dubious about offenders' ability to change on their own. That is, an arrest is construed as necessary to show offenders domestic violence is not a 'big joke' or to get them the counselling they need.

### Normative Social System

Juxtaposed against officers' constructions of higher SES offenders were their constructions of offenders who came from a lower SES background. While the analysis points to constructions of offenders that can be divided along class lines, it is important to note that the constructions of offenders as manipulative, in control, believing in male privilege or having lost it were not exclusive to any socioeconomic class. Nevertheless there were important distinctions between the two SES groups.

Although officers were quite clear that it was impossible to generalise about offenders, the construction of a typical offender emerged from the data. As illustrated by the following passages, officers constructed the 'majority' of offenders as belonging to a lower socioeconomic group with alcohol and drug problems.

134. The majority of domestic related incidents that I've been to always seems to be lower socioeconomic groups. Um (.) the majority of the time there's alcohol involved (mmhm). Um the majority of the time the male's the aggressor. [J, 1(5)]
135. I can't say that every domestic I've ever been to has been a um (.) person of a low intellect that's been (.) been drunk or anything (mmhm), but I'd say a vast majority of them are (.) people that um (1) that struggle to cope with little difficulties in life when they come along and it's manifested by way of violence, domestics. [E, 1(5)]
136. Alcohol would be the predominant cause. (.) And ah (.) people's inability to cope (.) and a continuation of (.) the violent cycle. People get trapped into violence and they think it's the only way that ah (.) the ah (.) relationships happen and they carry on and so they stick with it and so it just goes round and round. [I, 1(4)]
137. His history shows he got a propensity for violence against women, he's got a propensity for alcohol related offences (.) you know, he was from a lower socioeconomic group (.) and (.) he had a drug problem (.) he was just (.) a classic asshole. [J, 7(1)]

Two constructions of the problem appear to emerge from the above passages. Within passages 134-136 the problem is positioned in offenders' environment, while in passage 137, the problem can be located in the individual.

Passages 134-136 appear to produce an offender who is a victim of circumstance. For example, references to lower socioeconomic status function to underscore

offenders' exposure to financial and other stresses particular to this socioeconomic group. References to alcohol and drugs also suggest the problem is external to the individual and that offenders' violence is a product of their inebriated state. Further, passage 136 makes use of the transgenerational discourse to construct offenders as 'trapped' into thinking 'violence is the only way relationships happen'. Although the attribution of offenders' violence to their 'inability to cope' in passages 135 and 136 may be an individual factor, there remains an implication that altering situational factors within offenders' environment would abate their violence. That is, if their upbringing had provided them with the skills to cope with the 'little difficulties in life' or if these did not come along, their incapacity would not 'manifest by way of violence'. This latter construction is particularly interesting. A construction of offenders as being of 'low intellect' and 'struggling to cope' supports that of offenders' entrapment by intimating these men lack the fundamental resources to change. The ramifications of this construction contribute to an 'impossible to solve' discourse that was germane to this category of offenders.

The construction of an alcohol and drug-abusing offender from a lower SES group is also used in passage 137. However, the offender's 'propensity for violence against women' is constructed as a personality deficit, intrinsic to this individual who is a 'classic asshole'.

The alternate constructions of the problem above have implications for interventions. Attributing the cause of domestic violence to offenders' alcohol and drug use, their environment, circumstances, or inability to cope, obscures offenders' accountability and mitigates against punitive consequences. Indeed, officers constructed these offenders as in need of help, not punishment, and made use of an agencies kick in discourse to construct arrest as connecting offenders with the appropriate service to assist them.

138. It's not like your trying to pin (.) or get a conviction against someone, but sometimes it can be the (.) you know they might then be ordered to go and do their alcohol and drug counselling all those sorts of things. [A, 8(2)]

139. I've talked to couples where she said 'oh, you know (.) he's done anger management and he's been really good for a couple of years now'. And that may have been the thing that he needed cause he might have been from a

horrible family and (.) didn't know any better and that's great to hear that's like (.) and it's (.) almost like they're thanking you for locking him up, [D, 18(2)]

140. Nothing actively that he's going to be doing to help himself (.) to curb his violence (.) that's terrible. I couldn't believe it (.) what sort of (.) what sort of result is that? 200 hours community service. [F, 13(3)]

141. They might go to jail for a month or two and (.) out they come again (.) well that doesn't (.) how (.) how does that solve the problem? They come straight out of jail, straight back into probably the same relationship, (.) in the same town. [E, 14(1)]

In passage 138 the conviction outcome of arrest is played down in favour of an agencies kick in discourse. The speaker is 'not trying to pin a conviction' on offenders. The problem is constructed as requiring 'alcohol and drug counselling' and 'those sorts of things' that are rehabilitative. In passage 139 the problem is constructed as requiring 'anger management' because the offender's 'horrible family' meant he 'didn't know any better', again locating the problem in situational circumstances beyond offenders' control. While these two passages construct the system as working with regard to the agencies kick in discourse, passages 140 and 141 present scenarios where an arrest does not lead to agencies kicking in.

Passage 140 provides the only reference to 'curbing offenders' violence', however, the community services sentence is construed as 'terrible', again suggesting punitive action is not called for. Similarly, in passage 141, one or two months in jail constitutes an inappropriate intervention, whereas the situational factors of coming 'straight back' to the 'same relationship' and 'same town' are constructed as part of the problem.

Similar to their higher SES counterparts, the above passages produce offenders who are responsive to agency assistance. However, officers also constructed a subcategory of 'typical offenders' who were impervious to rehabilitation and would never change. As illustrated by the following passages, offenders who 'continue to be violent at home' are constructed as permanent constituents who will 'always' be in society.

142. You're always going to get those who no matter what happens um (.) will continue to be violent at home. [H, 6(2)]

143. There's always the ones that will go out there and keep doing it. [F, 7(1)]

144. Like in a really, really bad one, um (.) he's always going to beat her up. [D, 8(2)]

That there will 'always be' offenders explicitly supports an 'impossible to solve' discourse. What is interesting, however, is how the 'always be offenders' discourse functions to absolve offenders of responsibility for their own reform. In passage 145 this responsibility devolves to other agencies, while passage 146 suggests offenders must be accepted in society as they are.

145. So somewhere between that ah (.) arrest and when it's dealt with an agency somewhere (.) the community corrections or something like that has to (.) has to try and (.) talk this offender into wanting to change his ways himself. And if they don't do that (.) um (.) within that space of time or within the supervision afterwards then, then things generally will go back to the way they were before. [L, 7(2)]

146. I don't know what you can do about repeat offenders, they're (1) always going to be there and you could even have legislation that locks them up on a little island by themselves and they'd still manage to create havoc so (laughs) yeah, (.) um (.) there's nothing that's going to overcome that problem, there's always going to be that problem because that's just the way people are. And you've got to accept them in society unless you want a society that doesn't know any sort of freedom and you can lock people up for nothing and stick them in (.) in jail for the rest of their lives, well you're always going to have that problem (.) and nobody wants that sort of society. [C, 10(1)]

Passage 145 suggests offenders must be coaxed into wanting to change themselves and assigns this job to community corrections or some such other agency. This perhaps resembles a gain victim confidence discourse insofar as victims are similarly constructed as needing to be convinced to adopt a different (namely a police) perspective. However, it is interesting how the 'always be offenders' discourse compares with the victim blaming discourse of women not taking advantage of the opportunities their partner's arrest and agency support make available to them. There does not appear to be any offender blaming discourse in either of the above passages. In passage 145 there is no mention of offenders' failure to take advantage of this opportunity to change. Rather, things 'going back to the way they were' is constructed as the agency's failure to 'talk the offender into changing within that space of time'.

Passage 146 appears to construct the presence of violent men in society as commonplace, something that society must 'accept' because 'that's just the way people are'. The speaker makes use of an impossible to solve discourse where 'there's nothing that's going to overcome that problem'. Further, the construction of repeat offenders as able to create havoc even from a deserted island produces their interdiction from society as a restriction on everyone's freedom and as tantamount to having 'a society that doesn't know any sort of freedom'.

While the above passages function to normalise offenders' reluctance to change, officers made use of a variety of other discourses to account for offenders who 'no matter what' are 'always going to beat her up'.

147. I think that people like that are always going to be like that. Especially if they're over the age of 30-35. [] Cause their dad was probably like that. [] if they're still doing it, you know they're doing that to their partners and (.) you know women in their life well (.) um (.) they're not going to change. [D, 9(3)]

148. I've met very few men who (.) who really have genuinely wanted to change (.) one's who continually are violent with their partners, who have genuinely wanted to change (.) you know whether it's just so ingrained in their (.) upbringing or whatever that they (.) you know (.) yeah it's (.) it's (.) it's hard to say how you can stop these sort of things um (.) [H, 6(2)]

A learned behaviour discourse can be identified in both the above passages. Passage 147, however, expounds on this discourse by constructing offenders' ability to change as age related. The construction of offenders as not 'genuinely wanting to change' in passage 148 does hold offenders accountable for their own reform by employing a liberal humanist discourse of free will. However, the subsequent use of the learned behaviour discourse of 'it's just so ingrained in their upbringing', mitigates against this accountability. Both passages make use of the transgenerational cycle of violence discourse to support an impossible to solve discourse of 'it's hard to say how you can stop these sort of things'.

Officers also drew on a normative social system discourse to construct a category of repeat offenders whose subculture membership renders them impervious to legal sanctions. As illustrated by the following passages these offenders 'don't care' about being imprisoned and think penalties are a joke.

149. But, yeah um (.) and then there's other people that've been in the system as I sort of said to you earlier, been in the system so long they just don't care (.) if they get locked up it doesn't bother them (.) not really (.) worried about it. (.) um you know I don't, I don't know what you do, they're the sort of people that have been, (.) spent half their life in jail and (.) jail is a second home to them and you know. [A, 9(1)]

150. Repeat offenders there's nothing, (.) nothing (.) we have people in here on a weekly basis (.3) um (.) and in line with that I mean it's not just (unintelligible) who are the people that (.) do all the courses they're required to under the breach of protection under the protection orders but they're still back here (.) on a weekly basis um (.) but (.) um (.) other people, I mean, (.) there are people who live their life in prison sometimes so (.) an arrest is worthless. [B, 6(1)]

A subculture of domestic violence offenders who have been in the system so long they 'just don't care' if they get locked up, who 'live their life in prison' and for whom 'jail is a second home' is constructed above. That these offenders have 'done all the courses' but are 'still back' on a 'weekly basis' suggests both rehabilitative and punitive purposes of arrest are 'worthless' for these offenders. Indeed, in the following passages officers construct these offenders as 'laughing at' court sanctioned penalties which they 'treat as a joke'.

151. All of their mates are doing [periodic detention]. They just go and have a laugh an dig a few holes and (.) it's not a big issue (.) the only- probably the biggest problem is they have to get out of bed early on a Saturday morning. [E, 16(1)]

152. It's like the old um (.) domestic violence programmes. I've never been through one, I don't know really what they do on them, but I do know a lot of the men treat them as a joke (mmhm) who have to go on them. Because they just go along (.) they do it (.) and they don't want to change so it has no (.) major effect. [H, 6(2)]

153. But people they're just laughing at the judges and I hear them cause I'm in court and I hear them downstairs and they just laugh and go (.) well it's pathetic and they know it and they know it and (.) that way they're going to go back and do it again if they know that they're not going to get very harsh penalties [F, 15(2)]

Within this subculture of repeat offending, doing periodic detention (PD), going on domestic violence programmes and going to court are constructed as the norm. Moreover, it appears that these 'penalties' provide some camaraderie for these offenders who 'have a laugh' on PD and 'joke' about the courses they are ordered to do. The ramification of the 'penalties a joke' discourse regarding offenders is that



they may be further 'trapped' into the subculture as the normalcy of their violence, and any ensuing 'penalty', is reaffirmed. With regard to the police, this discourse indicated a solution of harsher penalties.

154. It's too easy for them to just go to court and just get a (slaps his hand) and 'that's bad, don't breach a protection order, blah, blah blah blah'. There's no consequences to it at all. It's even (.) even if it's an assault, male assaults female, well unless they've got a huge record or they've done a lot in the past, (.) you know (.) not very long ago sort of thing, well they're not going to get a hell of a lot and they've learnt nothing. [E, 14(1)]

155. They go to court they might get supervision they might get some PD they might get a fine and (.) that's might be the effect (.) that might be the stage where they say to themselves 'well hey, nothing's happening so I'll just carry on' or something (.) whereas if they were (.) put behind bars for (.) a couple of years then maybe they might change their tune. [H, 6(2)]

156. Sometimes they'll get a good jail sentence and that's where those people are at, they're past men's programmes they're past any sort of programme (.) and jail's a good result.

Offenders inhabiting this subculture are constructed above as 'past' rehabilitative programmes and in need of 'a good jail sentence' to 'change their tune'. Lenient and 'laughable' penalties also constitute 'no consequences' and 'nothing's happening' for these offenders who have then 'learnt nothing' and 'just carry on'.

It appears that all of the discursive resources officers made use of to construct repeat offenders lend themselves to an impossible to solve discourse. For example, a solution of harsher penalties is problematic for offenders who 'won't change' and 'don't care' if they get sent to jail. Discourses of 'growing up' with domestic violence, continuing to inhabit a subculture as an adult wherein intimate partner violence, jail, PD and domestic violence courses are the norm, and being 'unable' or 'unwilling' to change, function to construct both therapeutic and punitive criminal justice sanctions as 'worthless', and thus also contribute to an impossible to solve discourse. It is perhaps not surprising then, that the natural progression of this discourse connects it to the victim blaming discourse of passage 80 wherein harsher penalties are not a deterrent because women 'put up with it'. However, as previously stated, officers made use of a variety of discourses regarding repeat offenders, including those that indicate interventions for men such as the agencies

kick in and time to reflect discourses of arrest. The following passages present further functions of arrest for repeat offenders.

157. I mean some people never learn, (.) you know. There's some people you can't help and they'll never learn but some people you can. I think that it does tend to slow them down I mean no one likes being arrested (.) so they start thinking twice about it when they start getting arrested (.) start taking a look at themselves. No one likes the police on their doorstep all the time. [G, 7(1,2)]

158. Well, getting them to court (2) with certain offences, for a male assaults female if he gets charged, gets convicted of one and then charged and convicted of another within a 2 year period he'll get sent to prison (mmhm) and a lot of the time with a domestic we're dealing with, the only time they calm down is when (.) one or the other is away (.) so it probably makes our work easier if we've got one of them in prison. [B, 4(2)]

159. Yeah [arrest] is very good as far as repeat (.) um I think it's the only action we can sort of take that's going to have (.) that's going to make people realise that ah police are going to take action, we're not going to come here and slap someone on the hand and they're going to have to do PD if they get convicted. [F, 7(1)]

Contrary to the construction of offenders as 'good people' found in the expressions of inner tension discourse, repeat offenders appear to be constructed above as needing to be 'hassled to death'. Officers made use of a variety of discourses to support a practice of the persistent and consistent arrest of repeat offenders. For example the police being 'on their doorstep all the time' in passage 157 coheres with a time to reflect discourse wherein offenders may 'think twice' and 'start taking a look at themselves'. Passage 158 makes use of a path of least resistance discourse of arrest wherein police work is 'easier if one of them is in prison'. Insofar as getting 'one or the other away' relies on incremental penalties for successive charges of 'male assaults female', this discursive practice contains another assumption of consistency in police response. The passage also presents another example of gender obfuscation as the charge is only relevant to males, not either 'one of them' as the passage suggests.

Passage 159 makes use of a puts out a sign discourse of arrest and suggests offenders need to 'realise' there are legal consequences for domestic violence. It is interesting how this passage contradicts the earlier construction of PD as of 'no consequence'. It is possible that the contradictory ways in which officers exult and

denigrate the legal ‘consequences’ of domestic violence, turns on who issues those outcomes. For example, in passage 159, the officer initiates PD by effecting an arrest, whereas within the ‘penalties a joke’ discourse, sentences were administered by a judge.

A further discourse officers used to account for offenders who ‘won’t change’ was one of ‘pathology’. The pathology discourse has been criticised for obscuring offender accountability by attributing violence to some personality deficit or mental ill-health beyond offenders’ control. However, more salient to officers’ discourse of offender pathology was a construction of these offenders as more dangerous.

160. The guy that (.) beat his girlfriend to death and probably will when (.) well just about beat her to death, I think he got a year away, a year and a half and it was just a terrible beating he did over (.) he did it twice over a couple days (.) um (.) terrible, terrible, beating actually she looked (.) looked like she was dead when I saw her at the counter. Um (.) he only got a year (.) year and a half, he’ll be out in (.) 8 months. And when he gets out he’ll kill her (laughs) I know he will, (.) he will kill her (.) definitely. (.) So he’s not away for long enough cause he’s just mad, he’s just mental (.) absolutely mad [D18(4)]

161. I can see the potential (.) that it could end up (.) um in a position where this guy ends up killing the female because he was so obsessed with her. [] He’s just so obsessed with her that um, you know I mean, what, what can you do? You know I mean a protection order- do you know much about them? (mhmm) Yeah, I mean there are all and good but that still doesn’t physically stop someone going and doing what they are going to do. I mean if that person decides in their mind yeah well I’m going to around or I’m going to do this and that it’s not going to stop them. [A, 1(1, 4)]

Within the above passages offenders’ violence is explained by way of pathology. That is, these men will ‘end up killing’ their partners because they are ‘so obsessed’, ‘absolutely mad’ or ‘just mental’. However, by underscoring women’s need for protection, the construction of pathological offenders as posing an imminently fatal danger to their intimate partner functions to warrant increased restrictions on offenders’ freedom. This construction appears to support a solution of harsher penalties in passage 160, as the offender is ‘not away for long enough’. However, in passage 161, the construction of protection order restrictions as unable to ‘physically stop’ offenders is more relevant to an impossible to solve discourse, as is the speaker’s utterance of “what can you do?”. Indeed the futility of legal sanctions for

repeat offenders was a construction that extended beyond jail, PD and domestic violence courses to include protection orders and, as illustrated in the following passage, bail conditions.

162. The guy's going to be on bail anyway, if he's breaching his protection order so (.) I suppose it doesn't really matter, bail's not going to control him either. So (.) yeah, that probably is a (.) it is a tough one at the end of the day. [] Obviously if someone has a history for domestic violence you could look at opposition to bail and stuff like that opposing their bail and getting them remanded in custody (.) um (.) especially on the domestic if it's domestic violence (.) um (1) (laughs) but at the end of the day they'll be back out sooner or later and they'll just do it again and we just (.) do the same thing again. (B, 6(3,4))

The above passage provides a further account of offenders who 'won't change' and are impervious to legal sanctions. Again the cycle of 'breach-bail/custody-release-breach' supports an impossible to solve discourse. What is interesting, however, is that bail conditions and protection orders, constructed here as unable to 'control' offenders, are the very restrictions that are elsewhere constructed as providing adequate protection for women (see passages 61 and 120).

It is possible that the contradictory ways in which officers construct the repertoire of legal remedies available to police in their response to domestic violence, may be systematically related to repeat offenders. Nevertheless, these contradictions have implications for women, particularly as the discursive resources officers made use of in their constructions of women contained an assumption of the criminal justice response as effective. This makes the various accounts officers drew on to construct the 'system' as not working, or being manipulated by offenders, especially concerning.

While officers' understanding of domestic violence and their role in relation to it presented in this chapter were consistent with those discussed in previous chapters, a number of problems concerning policing domestic violence emerged from the analyses of officers' constructions of offenders. This is not surprising, as one might expect offenders to be a major impediment to curtailing domestic violence. The problems offenders posed to effecting the policy mandate of protecting victims and holding offenders accountable, by their belief in an inherent right to be abusive, afforded them by discourses of male privilege and privacy, by their manipulative

tactics aimed at averting arrest or prosecution and by their imperviousness to legal sanctions, weighted heavily in officers constructions of offenders. Nevertheless, the discourses of arrest relevant to offenders, as analysed in this chapter, provide additional support for an understanding of arrest as the preferred option.

## CHAPTER NINE

### Constructions of couples

Given that, within the context of heterosexual domestic violence, couples are made up of men and women, it is not surprising that some discursive resources used by officers in their constructions of women and offenders were drawn on again in their constructions of couples. As the constructions of couples presented in this chapter generally relate to recidivous domestic violence couples, discursive parallels with repeat offenders are especially evident. In particular, a normative social system discourse wherein violence, drugs, alcohol and financial problems co-exist figured prominently in officers' constructions of domestic violence couples (see passage 174, following). However, officers' constructions of couples drew primarily on three discourses: a discourse of immaturity; a discourse of pathology; and a discourse of mutual violence.

#### Immaturity discourse

Within the immaturity discourse, couples are constructed as childish, unable or unwilling to solve their own problems, as using the police to solve their problems and as having immature relationships. Accounts of domestic violence produced within this discourse were of diminished danger or seriousness. For example, in the following passages an understanding of domestic violence as 'drama' emerges.

163. I mean I honestly think they're just (.) they're bored and (.) they're poorly educated so they don't know (.) you know how to do things, they don't (.) they get frustrated with different things very easily (mmhm) and they (.) because they haven't got anything to take their minds off other things, they seem to (.) make everyone else's business theirs and it (.) it just sort of (.) it's a snowballing thing, yeah. [J, 2(1)]
164. We've had people that just cause they're arguing the woman rings up (.) you know the drama queen and she's probably drunk off her head as well, and he's come home and really done nothing wrong and they've just ended up arguing she rings up 'right, I'm going to get the cops around (.) get rid of you' and you go there and you know who she is and you think 'oh god' (laughs). So you know, their expectations are different (.) to someone that is getting whacked around. [D, 4(3)]

The construction of a 'drama queen' who is 'drunk off her head' in passage 164 produces an understanding of domestic incidents as 'drama', not violence. That the

drama queen is then contrasted with ‘someone that is getting whacked around’, together with the construction of the incident as an ‘argument’, further constructs the incident as not serious or violent. The construction of couples as ‘poorly educated’ and ‘easily frustrated’ in passage 163 parallels officers’ constructions of lower SES offenders. However, it appears that domestic violence is also constructed as drama here. That is, the construction of couples as ‘bored’ and ‘making everyone else’s business theirs’, suggests domestic violence may be a way of ‘taking their minds off things’.

A construction of couples who ‘the next day are back together again’, presented in the following passages, also appears to support a ‘drama’ construction insofar as domestic violence is construed as being of no consequence to couples’ relationships.

165. A lot of cases you’ll charge him and he’ll get convicted of whatever offence or (.) that’s happened and you know (.) the next day they’re back together again. [J, 9(2)]
166. Well I haven’t actually come across any that will withdraw the charge because they’re scared, it’s (.) 99% of the case it’s cause they’ve gone back to them, and they’re happy and they don’t want to go ahead in court because (.) which part of that could be scared, could be they’ve gone back with them and they’re scared they might get a hiding if they do go through with court it (.) but ah (.) you see them all lovey dovey and they’ve got their arms around each other and they’re all happy and (.) ‘I love you’ [F, 9(3)]
167. You’ve probably heard this a lot, them getting back together the next day. Like a woman can be like full on that night if you go at 10 o’clock and they’ve all been drinking and that and they’re like ‘ah he did this and he did that and I wanna lock him up and I don’t want anything else to do with him and (whines)’ huge problems with sorting out their property and you end up taking car loads full of sheets and plates to someone’s place and there’s someone else over there and he’s banged up in [town] and the next day they’re (.) happy families again (.) or next week and you think ‘awhng’. [E, 7(2)]

All of the above passages refer to domestic assaults serious enough to charge the male party. It is possible, however, that the construction of couples as ‘back together the next day’ mitigates against an understanding of the incidents as serious. For example, in passage 166, constructions of victims as ‘scared’ and offenders as endangering victims’ safety, are rejected in favour of a construction of couples as ‘happy’ and ‘in love’. The speaker’s account of the ‘huge problems’ with sorting

out their property in passage 167, also coheres with a construction of domestic violence as drama.

A construction of couples as childish also emerges above. In passage 167, the woman's complaint is presented as a child's argument of 'he did this and he did that and I don't want anything else to do with him' and is complete with whining. The 'next day' construction of couples as 'happy families' and 'lovey dovey' additionally suggests their relationship is insincere and immature. 'Happy families' can have sarcastic connotations as something people are playing at, or an image they wish to project, and 'lovey dovey' is a term customarily applied to a transitory stage of young love.

The following passages provide further accounts of couples as childish. Within this construction, violence is again obscured and belittled.

168. There's times I look at these people and I think 'oh my god don't you ever get sick of this?' you know 'don't you (.) do you just (.) never (.) do people never grow up?' When I look at some of the stuff, like I would never have an argument in my own household where I would need the police. I just wouldn't go there [G, 12(3)]

169. There's some people that are well known to everybody in this station, [] if they rang up we go 'oh no not again' and we would be used probably (.) all the time because they are just so (.) stupid or (.) socially inept that they can't sort their little problems out themselves and they need the police to be involved to go and say 'now this is what you do and this is what you do and (.) you're both adults' sort of bang their heads together and 'go away and play together' sort of thing. [E, 3(1)]

170. I lock them both up if they're both willing to make statements that way, yeah, no um (.) I'm (.) I'm very action orientated when it comes to domestic violence and ah (.) because it's showing to them that we're not going to put up with domestic violence and ah especially if it's pathetic complaints from both of them and um (.) the bottom line is if they're going to call us we're going to take action, we're not going to waste our time trying to sort out their little problems and then leave and they can call us next week because they're having an argument. Yeah, so no I'm very action orientated. [F, 5(4)]

In the above passages the construction of domestic violence incidents as 'arguments', 'little problems' and 'pathetic complaints' again voids them of violence. The metaphors of 'banging their heads together' and telling couples to 'go away and play together' in passage 169, again construct couples as childish. Further



constructions of couples presented above as ‘socially inept’, needing to be told what to do and never having ‘grown up’ also support a discourse of immaturity. The construction of couples as ‘using police’ to referee their arguments similarly constructs couples as immature. The following passages provide further accounts of couples ‘using’ police in this way.

171. A lot of protection orders do go unchallenged because the guy can't be bothered to do anything or the girl can't be bothered to do anything about it, ah and it goes to a full protection order. [] Once they've got that protection order, it dicks us around by putting police in the middle or something and they don't (.) a lot of the time they don't need a protection order. Especially, there are probably other ways (.) that they could get around it. (.) They seem to go for a protection order instead of going to counselling or something like that, (.) they've got a protection order (.) so that will protect them. [B, 9 (2,3)]
172. I don't really agree with that you've got a protection order that you should live together. I think it's a bit silly to be living with them. If that's the way your relationship is like, but I mean if it's, if it's fear (.) a piece of paper that keeps (.) makes them feel safe well that's great but as long as they um (.) you know, know when to use it and not abuse it. (mmhm) Not ring us every time something goes wrong and you know, fabricate something or exaggerate something. [D, 10(3)]

The construction of couples who ‘can't be bothered’ to change their protection order in passage 171 coheres with a discourse of immaturity, as this suggests they are lazy and irresponsible. Couples are also constructed above as preferring to ‘put police in the middle’ or ‘ring the police every time something goes wrong’, instead of taking responsibility for their problems by going to ‘counselling’. Both of these passages make use of a ‘systems abuse’ construction of protection orders to produce couples’ domestics as nonviolent. In passage 171, the couples’ situation ‘doesn't need a protection order’ and passage 172 constructs domestic violence as a possible fabrication or exaggeration.

It would appear that the construction of couples as ‘using’ police to solve their problems coheres with a ‘waste of police time’ discourse. The latter discourse has elsewhere been found to support constructions of domestic violence as nonviolent and inconsequential and has functioned to mitigate against arrest (Busch et al, 1992). However, in passage 170, a waste of time discourse instead coheres with a puts out a sign discourse that functions to effect the couples’ dual arrest. The following

passages provide another account of how the 'waste of time' discourse functions regarding police response to recidivistic couples.

173. If I'm continually going back to a place (.) there's a couple people that spring to mind I (.) I've got absolutely no time for them at all. (mmhm) (.) No (.) I just do what I have to do and (.) 'see ya later' (laughs). [] And you sort of get a bit anti them cause they've given you this extra paper work to do and (.) it's like damn (laughs) you know as if you haven't got enough stuff to do already these bloomin idiots who just can't seem to sort themselves out. (.) um (.) go and wreck your night for you. [J, 8(4)]

174. When you go into these drunken (.) bloody same people all the time (sighs) oh it's just (.) you've got the screaming and the yelling and the alcoholism going on, (.) and the no money thing going on (.) and you go there for the fifth time in a year and you just think 'oh Jesus, these people' so you don't put a lot of effort into it. You do what you have to do (.) um and then you walk away and you don't really care. You think 'oh Jesus they're just mad'. [D, 19(3)]

Passage 173 makes use of the 'immaturity' discourse with the construction of recidivistic domestic violence couples as 'bloomin idiots who just can't seem to sort themselves out'. While this construction coheres with a waste of time discourse wherein the officer has 'no time' for the couple, it does not mitigate against the officer 'taking action', although it is unclear what action is taken. It appears that, with regard to recidivistic couples, a discursive practice of 'minimal effort' wherein officers 'do what they have to do' and 'don't put a lot of effort into it' is also employed.

Passage 174 is interesting for the number of discourses operating within it. As noted earlier, a 'subculture' discourse of violence, alcoholism and financial problems was ubiquitous in officers' constructions of couples. The construction of couples as 'just mad' relates to the second of officers' discourses on couples, a discourse of pathology, wherein this subculture discourse was also prevalent.

#### Pathology discourse

As noted in Chapter three, alcohol and drug addiction provide an account of domestic violence as pathological. Alcohol is a dominant theme throughout all domestic violence literature and the many casual references to alcohol in the analysis illustrate its imputed ubiquity. The following passages, however, attribute domestic violence exclusively to alcohol.

175. And quite often, especially with recurring domestics, it's only when they're drunk. (.) Like you'll go back (.) probably (.) maybe twice a week and when they're sober they're fine they're great together when they drink they fight. (.) And you continually get called back. [G, 4(3)]
176. Some of them just need time to sober (laughs). [C, 8(1)]
177. [Me: Would further support services assist in stopping repeat offenders?] No (.) shutting the pubs earlier probably would. [I, 14(4)]
178. You're going to look for (.) things like alcohol, drugs (.) those sorts of things because they can be the (.) catalysts that have made people flip. [A, 7(1)]

As noted earlier, an etiological account of domestic violence wherein alcohol and drugs are the 'catalysts that make people flip' has been criticised for obscuring offender accountability, denigrating the significance of violence and demeaning victims' experience. While it is important to note that officers' discourses of arrest, particularly an agencies kick in discourse, suggest that inebriation would not mitigate against arrest, subsequent interventions may be confined to alleviating alcohol and drug problems. This appears to be the sole solution indicated above as if couples are 'great together' when sober, then couples 'just need time to sober' or should be denied the opportunity to get drunk by 'shutting the pubs earlier'.

It is interesting that in passage 175 the 'only when they're drunk' account is constructed as particularly relevant to 'recurring domestics'. While this account may explain police being 'continually called back' (and indeed, as noted above, officers are in good company in making use of this discourse), constructing the problem as one of alcohol and not violence may also function to decrease the perceived dangerousness of recurring domestics.

A further way in which officers made use of a pathology discourse in their constructions of recidivist couples' relationships was to attribute domestic violence to a pathological relationship. Within this discourse, both parties are constructed as equally culpable.

179. You know that whole time it had been going on (.) it had been continually going on it was (.) it was a (.) it was just a bloomin' fatal attraction thing she was always sleeping with other guys, he was always sleeping with other girls (.) They had a real rocky relationship. They were always (.) they committed

offences together, like other offences um (.) they both used drugs they both (.) used alcohol. [J, 7(3)]

180. You can have two people who get on just perfectly fine with each other like the guy won't be violent at all to this female (mmhm) but you get two other people together you get (.) say put that guy with a different partner (.) and something (.) just (.) weird stuff happens, you know this guy who (.) usually would never have done this (.) all of a sudden just kaboom (.) it's all over it's bloomin (.) fireworks and guns a blazin'. (.) So (.) but you know for some reason they'll stay with that partner. [J, 11(1)]

181. I think [the policy is] pretty good. I think it depends on the victim and the offender um (.) I think that (.) yeah everything really falls upon them I think we've got good powers um (.) to keep people safe and good agencies to (.) um (.) help us out and help them out. I think that the victim and the offender make it (.) hard or easy to sort out the problem. There's always going to be people whacking each other and in horrible relationships and it's probably going to get worse. [D, 15(4)]

The above passages provide three accounts of how officers' made use of a pathology discourse to construct the couple's relationship as the problem. In passage 179, the construction of the couple as inhabiting a subculture of criminal offending, alcohol, drugs, and promiscuity may be an attempt to diminish their accountability. However, the construction of the couple's 'real rocky relationship' as a 'fatal attraction thing', positions the problem within the couple's relationship, not within the offender's violence. Similarly, passage 180 constructs offenders' violence as a product of couples' unsuitable chemistry. Within this construction the violence is positioned outside offenders' responsibility and is constructed as coming from nowhere, so that 'all of a sudden', 'kaboom', it is 'fireworks and guns a blazin'.

Passage 181 also makes use of a pathology discourse insofar as couples are in 'horrible relationships'. It is interesting that the speaker starts with a separate construction of victims and offenders. Although this suggests only one party is violent, couples are constructed as equally responsible for 'sorting out the problem'. It is possible that this dual responsibility facilitates the construction of a pathological relationship wherein victims and offenders are absent, and rather 'people' are 'whacking each other'. In the following passages a pathology discourse also coarticulates with a mutual violence discourse.

182. He's been arrested about three times since he's been back in town and of course he's gone back into that environment where (.) I mean she's (.) she's just ah (.) no better than him (laughs). And (.) they sort of feed off each other, they just wind each other up eh? [] so they were both (.) both in the wrong but he (.) he always was the one who'd (.) snap? (mmhm) you know (.) it could have easily have been (.) she (.) you know but she wouldn't have done anything physical cause I mean the size of him [J, 15(1)]

183. With people that are in and out of court all the time that's always the same couple's just (.) abusive relationship. You know some of them like she's just as bad as him but he's the one that loses it and does the whacking where she starts it off and (.) yeah (.) both bad drinkers, you know, people like that. They're the ones you know you're just going to lose cause you know it's not going to work out the way you want it to. [D, 9(1)]

The above constructions of couples as 'feeding off each other' and recurring domestic violence as the same couple's 'abusive relationship' support a discourse of pathology by constructing the relationship as abnormal. The above passages also make use of a mutual violence discourse wherein 'she' is 'no better than' or 'as bad as him' and 'both are in the wrong'. It is important to note that in both passages, women are not presented as having been physically violent. Indeed, men are constructed as the ones who 'snap', 'lose it' or 'do the whacking'. The reference to the difference in men's and women's physical size in passage 183, constructed therein as preventing the woman from being violent, is also important as it speaks to the contrasting threat women pose to men's physical safety than vice versa. This disparity is central to the feminist theory of abuse as it is precisely what enables men to overpower women with violence. Yet, within a discourse of mutual violence, it appears as though this imbalance is overlooked and equal culpability emerges as women are constructed as having 'started it off' by 'winding him up'. A discourse of 'provocation' is commonly found within officers' and others' discourses on domestic violence (Busch et al, 1992; Pinkus, 1996) and is explored further in the next section. Before moving on, however, it is noteworthy that solutions produced within officers' discourse of couples' pathology were also void of interventions that address men's violence. By positioning the problem within couples' relationships, a pathology discourse indicated solutions of 'separation', 'splitting up' or 'ending the relationship'.

184. I don't know how your going to assist them, separation is probably the biggest key and, and both parties won't agree to that. [B, 12(2)]
185. I don't think [arrest] is overly effective. The best thing about it is that it may end the relationship. That's what I think is the most effective way of dealing with it. But that's what I think the best thing about an arrest is because it may end a relationship which is abusive or which needs to be ended but for some reason won't. (mmhm) It's like euthanasia I think. Euthanasia for people with bloomin relationship problems. [J, 13(2,3)]
186. I just become blasé with that family you know those people. (.) You sort of think 'oh can't you get your life together' because you can see the answer. The answer is either split up or (.) you know you stop drinking or you stop your drugs. You know you can see the answer. [D, 9(4)]

Within the above passages 'the answer' is noticeable for its absence of violence related interventions. Instead, alcohol, drugs and relationships which 'need to be ended but won't' are constructed as the source of the problem, thus the things that need fixing. The 'euthanasia' metaphor in passage 185 is interesting, not only for its concordance with pathology and its implication that the relationship is both painful and incurable, but for its guise of finality. While 'arrest as euthanasia' may function to encourage the consistent arrest of offenders, and its logic is impeccable within the discourse of pathology presented above, it is no 'final' solution if the problem is the offender's violence.

#### Mutual violence discourse

Within the mutual violence discourse officers constructed couples as engaging in mutual violence and domestic violence incidents as 'fights'. These constructions again position the problem within couples' relationships, facilitating a solution of counselling. What is interesting, however, are the accounts officers drew on to construct violence as mutual. A discourse of provocation wherein women 'wind men up', employed in passages 182 and 183 above, provides one account. A similar account is provided below wherein women are constructed as provoking violence by 'having a go at' or 'tormenting' men. A provocation discourse is also employed below to provide two further accounts of mutual violence wherein women are constructed as 'the first to hit' or 'damaging property'.

187. You gen- well not generally but most times it was (.) the male (.) dominating the female (1) and once you've sorted out what went on and if you've (.) found

out that it was both sides (.) the female may have (.) been the first one to hit (.) that's when you could use your discretionary power and separate them overnight. (.) Um (.) it's all documented so if we go back to that place we (.) we know what's taken place previously. [K, 6(1)]

188. Like I said all policies are reasonably inflexible (.) and there's some cases where (.) there (1) it just shouldn't be followed because of the incident going on (mmhm). Whether the person who rang us, the alleged victim, is in fact the person who started the incident and (.) the force used is minimal to protect the alleged offender, he's actually just used normal force to protect themselves. (1) But the policy does allow for that it says only if there's sufficient evidence (.) so some people might say that the policy hasn't been followed because (.) an arrest hasn't been made but there's actually not been enough grounds to make the arrest. [C, 3(2)]
189. I don't want to sound antiwoman or anything like that I mean (.) I have been to quite a few domestics where I can see why (.) things have happened and I'm not condoning that (.) that a male should hit a woman or anything like that. But there are a lot, quite a lot where the women will have a go at a guy first (.) you know? (mmhm). I don't quite see that as fair sometimes, but (.) I (.), yeah I just play along with the policy really and (.) And my attitude towards it now is that um (.) if there's an allegation of assault (.) then someone gets arrested for it (.) more often than not the guy and (.) if he's got an excuse or a story, well he can tell it to the judge. [E, 4(1)]
190. There are some people that we go to every week (.) and it's just ongoing (.) and it's hard to say who the actual problem is whether it's the male or it's the female or whatever (.) um (.) some I could think of (.) there's one particular I can think of where the women gets intoxicated, she goes home and throws things around the house so the guy gives her a smack (.) (mmhm) and (.) we lock him up for (.) giving her a smack and we lock her up for damaging property (laughs) and next week they're back at it again. [C, 6(3)]
191. Sometimes it is in fact a fight situation (.) one is as bad as the other ah and at the beginning of this policy [] generally speaking it was the woman that called they got the first story (.) or they gave their side of the story first and it was a blanket take what they say version and ah regardless of what he said. And it was wrong it was simply bloody wrong. [Me: No matter what sort of evidence there was to corroborate that- ] Yeah (.) aw well no, you needed some evidence. Evidence along the lines of the place was turned upside down and she had redness or was bleeding or was obviously in a scuffle of some description. But the background as to how that scuffle may have happened or who actually did what wasn't necessarily looked into. Like he'd been pushed and shoved and and ah if they're tormented, not that being tormented is necessarily a ah an excuse to use violence but say tormented, then pushed and shoved and then hit by the woman, so he hits her back so she calls the cops and he gets locked up. And all that did was clog the system across the road at court with ah (.) everyone that-nearly everyone that got locked up because of that pleading not guilty. (.) and I'm sure that some of them were in fact not guilty of assaults and that in fact it

was more of a fight. That's changed quite a bit over the years with regards to the way that we approach it now and it wouldn't be unusual now for both of them to get locked up for assaulting each other. [I, 3(7)]

The above passages contain a number of explicit and implicit constructions of women as 'the first one to hit'. It is unclear whether 'having a go' in passage 189 refers to a physical or verbal go. As previously noted, women need not be physically violent themselves to be constructed as equally abusive. While both passages 189 and 191 make use of an invalidating discursive device to refute any implied approval of 'men hitting women' and 'tormenting as an excuse for violence', these passages appear to cohere with a provocation discourse wherein women 'wind men up'. This discourse of provocation probably draws on some common discourse of women's greater verbal competency (Dobash & Dobash, 1998) and abusive men's constructions of their violent response to a verbal assault as self defence (Saunders, 1988). However, insofar as physically abusive men are generally also verbally abusive (Johnson & Bunge, 2001), the 'winds him up' account of mutual violence this provocation discourse supports, appears to entitle men a lower tolerance for being 'tormented' than that which women must withstand.

In passage 188, it is also unclear whether women 'starting the incident' refers to their 'hitting first', or is implicative of the construction of women in passage 190 as 'throwing things', thus perhaps suggesting men are protecting themselves (or their property) from this. Nevertheless, the construction of women as 'the first one to hit' redefines the situation in passage 187 to one of 'it was both sides', constructs men's violence as 'normal force to protect themselves' in passage 188 and constitutes a 'fight situation' in passage 191.

Another account of mutual violence is provided in passage 190, wherein women are constructed as initiating violence by coming home intoxicated and throwing things around the house. A similar assumption of abuse parity appears to be constructed here. Property damage does constitute threatening behaviour in law and indeed the woman is arrested. However, the suggestion that either party could be the 'actual problem' constructs an incident of equal violence.



Drawing on a discourse of provocation these three accounts of mutual violence – women ‘hitting first’, ‘throwing things’ and ‘winding men up’ – contain an inherent assumption that violence has the same meaning for men and women. However, as discussed in Chapter four, this is generally not the case. Furthermore, a discourse of mutual violence enables any assault subsequent to provocation to be constructed as a ‘fight situation’. This ‘fight situation’ may be construed as a ‘fair fight’, that presumes a balanced competency on ‘both sides’ to ‘protect themselves’. The disparate physique of men and women that precludes such symmetry has already been discussed. Moreover, given the greater damages women tend to incur in a domestic incident, women are likely to feel more threatened than men. Indeed, the incident is constructed as ‘the male dominating’ in passage 187 and only the woman is constructed as injured with ‘redness’ and ‘bleeding’ in passage 191.

There is also an important legal distinction between domestic violence and fighting, as people need not be arrested for the latter and, indeed, officers produced variable responses above. In passage 187 and 188, the mutual violence discourse functions to mitigate against ‘enough grounds’ to make an arrest, discretion is used and parties may be separated. Although a ‘following policy’ discourse is employed in passage 189, men’s arrest for responding to women’s ‘first go’ with violence is constructed as unfair. Similarly passage 190 constructs men as ‘not guilty’ if they cause ‘redness’ or ‘bleeding’ subsequent to being ‘tormented, pushed, shoved then hit’.

Insofar as a mutual violence discourse functions to mitigate against any arrest or invokes couples’ dual arrest, it is unfortunate that neither police outcome affords women much protection. It is interesting that in passage 186 documentation of the incident is constructed as providing women with some protection should the police return. This not only relies on consistency in police practices of documentation and consulting the family violence database, but also overlooks the possibility that women may not call back. With regard to couples’ dual arrest, however, the following passage constructs this as a possibility.

192. It’s becoming more (.) more often the case where (.) both of them end up getting locked up. (.) And police take the view (.) I often take the view, if there’s evidence that there’s been a fight then just lock them both up. (.) That approach has caused, on the odd occasion, people then not to ring back (.) because they

know that (.) they know that it's the same circumstances as they got themselves into- and they get themselves into it (.) as opposed to the innocent party that gets punched that's a different scenario. [I, 14(8)]

The construction of an 'alleged victim' in passage 188 and 'innocent party' above is interesting as this suggests that women's victim status turns on their passivity. That this construction affords women no leeway to fight back has been a central argument in feminist research (see Sleutel, 1998). Of principal concern is that when violence continues to be part of women's experience, denying them the right to retaliate further entrenches their powerlessness. Furthermore, women's experience of 'mutual violence' may entail its redefinition as 'self defence'. The following passage denotes a possible discursive shift as it constructs women's violence thus.

193. There'd been some threatening manners with the knife and she had a cut on her hand that she claimed she did herself (mmhm). And just judging by what we saw and by what her manner was like at the scene I'd say she was probably the offender in that case. (.) But, then again you look at it (.) why would she feel the need to wave a knife around (.), it's obviously a history where he has been hitting her and she fears for her safety. (mmhm) so (.) yeah (.) there's not a lot you can do when no one's talking, you separate them (.) hope they don't find each other again that night and when- and they'd both been drinking and when they're sober in the morning they're probably as happy as Larry again. [G, 4(6)]

Passage 193 provides an alternate account of women engaging in violence and constructs the woman's 'threatening manners with the knife' as a means of protecting herself because she 'fears for her safety'. It is noteworthy that use of a weapon has elsewhere been found to construct women as more dangerous and intentionally violent (Busch et al, 1992) and result in their being charged with a more serious offence (Martin, 1997). However, within the above passage use of a weapon appears to be construed as restoring the physical imbalance.

It is also interesting that the 'history where he has been hitting her' is constructed as 'obvious'. Whether the transparency of the man's violent history is derived from 'instinct following', 'subtle evidence' or something else, the officer's response of 'there's not a lot you can do' is consistent with a hands tied discourse. It is also interesting that the violence is reconstructed as an alcohol problem, as the couple is presented as 'happy as Larry' the next morning 'when they're sober'. This not only repositions the problem within the couple, but constructs domestic violence as

intermittent, that is, violence is something the couple engages in only when they are drinking together.

Within a discourse of mutual violence, the equitable culpability of both parties appears to facilitate a construction of domestic violence as a relationship problem. As illustrated by the following passages, officers' discourse of mutual violence produced solutions of relationship counselling.

194. Even if it's something that they go to like a relationship services thing where um (.) because it's a two way thing if you're going to only send one person to it they might be winding each other up for two weeks before they have a domestic. [E, 16(2)]
195. Then the other thing too is it comes back a lot on the female party that she's prepared to (.) to work at it, because it's not just him that's (.) in that position it's not just him that has to go (.) I mean she's obviously going to need some sort of help or (.) or see what he's doing, trying to make a change to, yeah. [A, 17(3)]
196. I guess it's working it's um (.) it's hard to say because it's one of those areas that's difficult to deal with anyway and I can't see any other way of dealing with it. There's not (.) I mean we're there to detect crimes and arrest (.) and (.) I mean that's what our job is (.) I don't know whether they want to put another agency in to do relationship counselling and stuff. [G, 11(2)]

In passage 194 a mutual violence discourse, wherein domestic violence is a 'two way thing', functions to position the problem within the relationship. That is, the construction of couples as 'winding each other up' weeks before a domestic, indicates a solution of 'relationship services'. Passage 195 also appears to construct domestic violence as a relationship problem insofar as 'it's not just him in that position' and 'she' must be 'prepared to work at it'. The reference to 'relationship counselling' in passage 196, also suggests couples' relationships are part of the problem.

While relationship counselling may well be indicated, it has some failings as a solution to domestic violence. Attributing domestic violence to a relationship problem may normalise violence as it is constructed as an understandable, if not acceptable, response to the dysfunction within the relationship. Within a mutual violence discourse, violence can also be obscured as women's nonviolent behaviours are constructed as 'as bad as' men's violence. Relationship counselling can also

have pitfalls with regard to keeping women safe from further violence or other power and control tactics, particularly if men are given a forum to legitimate their terms of understanding. Furthermore, women may be revictimised when men's violence is redefined as a dysfunctional relationship for which they are jointly responsible.

However, while the construction of domestic violence as a relationship problem has previously been found to mitigate against arrest (Busch et al, 1992), the numerous discourses of arrest officers made use of appear to have facilitated a discursive shift in this regard. Furthermore, the shortcomings of relationship counselling notwithstanding, it may well be indicated, and it is important to reiterate that the category of 'couples' as presented in this chapter constituted those who remained together, and who were known to the police for their recidivous domestic violence. As indicated in passage 196 (and I hope confirmed by this analysis), domestic violence is a 'difficult area to deal with anyway'.

The following passages, together with passage 196, provide an overall commentary on the constraints of policing domestic violence that represents another account of how officers' hands are tied. While this discourse is not exclusive to officers' constructions of couples, its placement here reflects the greater difficulty recidivistic domestic violence, produced extensively in officers' constructions of couples, presents to policing domestic violence.

197. We don't have the resources or the ability to (.) or the skills for that matter to stop the abuse happening. We can go in and stop what's happening here and now, but we can't stop the ongoing abuse and that's um (.) that's for other agencies to come in and take over. [C, 5(3)]

198. I mean you can only do so much as a cop. You can't (.) keep going on and on and on with it you've got to (.) someone's got to pick it up and run with it (mmhm) (2) and with all the issues that are there that are causing the domestics, you know who does it? Is it alcohol awareness people, is it drug, alcohol counsellors is it (.) family planning people, is it social workers it is (.) guys that run courses in prison? [E, 13(1)]

199. If for every domestic that there was, there was um (.) people available who could go in there and counsel the children and counsel the woman and counsel the partner and you know (.) intensively look at the situation and look at their budget and their finances and (.) and all the rest of it and counsel him for when

he was a boy which made him (.) if you could do all that and there's lots of resources well then great but there isn't. [H, 10(2)]

It would appear that a discourse of 'it's not just about the violence' coheres with the above 'constraints of policing' discourse. The myriad issues, constructed above as interrelated with domestic violence, are interesting not only for their content and number, but also as a recognition of the diversity and complexity of discourses officers used in their understanding of domestic violence and the policing of it. However, the constraints of policing domestic violence are endemic in the above passages as these issues are constructed as 'above and beyond' the 'so much' that a 'cop can do'. Passages 196 and 197 firmly define the boundaries of policing as 'detecting crimes' and stopping the 'here and now' abuse, with the relentless affiliated issues of 'ongoing abuse' constructed as 'for other agencies to take over'. The above passages also speak to the lack of resources available for alleviating this intricate social concern and the question is poignantly posed in passage 198 'whose job is this?'.

Within officers' constructions of couples, an alternative account of domestic violence is encountered. The discourses of immaturity, pathology and mutual violence appear to facilitate an understanding of domestic violence as less serious, less dangerous and less important than that which emerged from the preceding chapters' analyses. This alternative account also appears to enable a more variable police response than has been otherwise indicated by the analysis. The three discourses identified in officers' constructions of couples produced different police concerns for policing domestic violence, with a construction of couples as mutually violent being identified by officers as particularly problematic.

## CHAPTER TEN

### Conclusion

Empirical research on domestic violence has a substantial focus on the deterrent effect of an arrest. That intimate partner violence is a crime warranting arrest irrespective of whether or not this deters further violence notwithstanding, one of the aims of this research was to ascertain officers' understanding of arrest. While previous discursive research has identified discourses that functioned to undermine the prospect of a police response of arrest, the discourses emerging from this research speak to the diverse utility of arrest.

Discourses of arrest operated differently for the various subjects within the analysis. In relation to the police, a *morality*<sup>8</sup> discourse constructed arrest as the 'right thing to do' and as 'positive action'. Officers' discourse of doing a 'proper job' coheres with a *morality* discourse and functioned to defer responsibility for the outcome of the police response on to others (i.e. judges, victims and offenders). A *path of least resistance* discourse also figured prominently in officers' understanding of arrest. Within this discourse, arrest is constructed as a means of avoiding getting 'called back', as well as enabling officers to 'cover their ass', whether this be in relation to avoiding criticism from their superiors, the media or victims, or avoiding blame for a victim's subsequent death.

With regard to women, an arrest ensures victims' *immediate safety*, affords them *time to reflect* and allows *agencies to kick in*. An arrest is also constructed as a means of *empowering women* and *gaining their confidence* in the police response.

As with victims of domestic violence, an arrest affords offenders *time to reflect* and allows *agencies to kick in*. However, for offenders, the predominant discourse of arrest was that it *puts out a sign* that domestic violence is unacceptable and they cannot 'get away' with it. Arrest is also constructed as *wearing down* repeat offenders and solving the problem by *getting them in jail*. Although arrest did constitute some 'shock value' for first time offenders, in light of empirical research,

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<sup>8</sup> The use of italics in the conclusion is intended to draw attention to the provisional status of the discourse as an 'object of research' in the project.

it is interesting that arrest is explicitly constructed as not a deterrent for offenders. This highlights the complementarity of discursive research in relation to empirical research as, within police discourse, the deterrent effect of arrest received a low priority vis-à-vis its other beneficial effects.

In relation to domestic violence couples, the *agencies kick in* and *time to reflect* discourses were also employed. A *puts out a sign* discourse was relevant to couples as well, however, this discourse functioned to warrant the dual arrest of couples who were 'wasting police time' with their 'little arguments'. Arrest was further constructed as a means of *ending couple's relationship* and allowing them *time to sober*.

Officers' discourses of arrest supported their construction of the arrest policy as the preferred option. However, the various understandings of domestic violence implicit in these discourses afford men and women different power positions and enable or constrain constructions of the problem and solution.

The analysis suggests officers understand domestic violence as a cyclical phenomenon that is vulnerable to intrafamilial transgeneration and escalating violence. Officers consistently drew on the *transgenerational* and *escalation* discourses in their constructions of women and offenders to warrant an arrest. Officers constructed the police role as instrumental in *breaking the cycle* of violence by effecting arrests, which they understood as initiating a systemic response wherein legal and other domestic violence services agencies would work to ensure victim safety and offender accountability. The *transgenerational* discourse functions to accentuate the commensurate consequences of domestic violence with regard to its expansive effects on the domestic violence offending population in particular and the criminal offending population in general. The *transgenerational*, *creates future criminals* and *cycle getting wider* discourses constitute components of domestic violence that extend it beyond the physical violence and operate as a social warrant for police intervention. The social warrant understanding of arrest is interesting because it appears to resist feminist interpretation, while achieving the desired outcome advocated by feminist research. That is, the feminist critique that not holding offenders accountable by the nonenforcement of legal consequences for

their violence condones and perpetuates domestic violence, seems to have taken root in police discourse. However, it seems to have done so not on the basis of women's terms of understanding of their experience of domestic violence, but by drawing on a 'good of the wider society' social resource.

A social warrant construction also positions domestic violence as a public concern, thus relegating the *privacy* discourse an historical status. This obsolescence of the *privacy* discourse, in concert with a discourse of the current policy operating as *permission to arrest*, circumvents the need for a gendered analysis of the patriarchal power relations, institutional practices and ideology previous discursive practices supported.

The construction of domestic violence as important, serious, potentially fatal and ongoing produced within the *transgenerational* and *escalation* discourses represents a discursive shift from discourses that minimise and trivialise domestic violence as identified in Chapter four. While the construction of domestic violence as a 'one off thing' within the *expressions of inner tension* discourse contradicts the construction of domestic violence as ongoing, it appears to be an isolated exception and has specific offender criteria. While attributing violence to exceptional circumstances diffuses offender responsibility, there does appear to be a discursive shift regarding accountability in terms of consequences for offenders who 'just lose it'. Although their arrest was facilitated by the *agencies kick in* discourse and a lesser sentence was constructed as equitable, their behaviour was constructed as warranting an arrest.

The construction of women as intimidated and men as manipulative represents a further discursive shift in officers' understanding of the power dynamics of domestic violence. The constructions of women related to the *dilemma* discourse suggests a transition from the pathologisation of abused women's noncooperation to its construction as a rational choice. A further police role was identified within the *dilemma* discourse. The *gain victim confidence* discourse, with its inherent strategies to get women 'on side', including 'spending time' with victims, suggests the police discourse of domestic violence as a *waste of time* may have shifted as well. The *transgenerational* discourse appears to be instrumental in overriding the



*waste of time* discourse, even in the face of victim noncooperation. Indeed, officers drew on the *transgenerational* discourse to account for their frustration with victim noncooperation. Interestingly, this discourse facilitates a construction of noncooperative victims as bad mothers, which stands in contradiction to the construction of women as 'protectors' of the family, found within the *dilemma* discourse.

The analysis identifies victim cooperation as an extant problem impeding the policy mandate of holding offenders accountable. However, officers drew on the *dilemma*, *transgenerational*, and various arrest discourses to support a discursive practice of gathering evidence from 'other avenues'. The (perhaps-unintended) effect of this discursive practice enables a continuation of the powerlessness a woman experiences as a victim of abuse wherein her voice is silenced and others impose their social constructions on her.

As previously noted, there has been extensive theoretical debate regarding the disempowering effects of proceeding with an arrest or prosecution a woman does not want and women's loss of control over the outcome of police initiated interventions for their abuse. A gap between women's and criminal justice agents' understanding of victim cooperation has also been identified (Baker, 1997; Shoham, 2000). It appears from this analysis that the *dilemma* discourse enables an understanding of these disparate objectives and the *gain victim confidence* discourse facilitates victim cooperation. However, the analysis suggests victim cooperation is an area that requires further investigation. This could perhaps entail an analysis of abused women's, abusive men's, police and other criminal justice agents' discourse on women's cooperation, to identify other discursive practices that facilitate or impede victim cooperation and discourses that enable or constrain an understanding of the various objectives of those involved. An empirical investigation to quantify the extent of women's noncooperation would also be beneficial, as officers participating in this and other discursive research (Busch et al, 1992; Rigakos, 1995) provided high estimates of the frequency of this occurrence.

With regard to the discursive practices of abusive men, the analysis suggests that, despite police motivation to employ good investigative practices, there are times

when inevitably the prosecution's case rests on the testimony of the victim. That offenders' manipulative, threatening and intimidating behaviour impedes this, often with fatal consequences, continues to undermine the potency of the criminal justice response. Even when women are willing to confront their abuser, make a statement and give evidence in court, offenders' manipulative behaviour takes other forms which create a new set of problems in gaining a conviction, as illustrated by the 'Jeckle and Hyde' construction. Indeed, a number of problematic concerns related to policing domestic violence were identified in the *manipulation* discourse, particularly in relation to evidentiary requirements.

While the *manipulation* and *dilemma* discourses suggest a discursive shift in police talk, these discourses often operate in isolation. That is, discourses that blame the victim and exonerate the offender proceed without reference to the constructions of men and women within the *manipulation* and *dilemma* discourses. For example, victim blaming discourse restricts solutions and interventions to those aimed at getting the woman to leave her abuser. This solution is supported by the construction of domestic violence as persisting due to women 'putting up with it'. Victim blaming discourse constructs women as responsible for their own victimisation. Their failure to cooperate with their partner's arrest and prosecution or to take advantage of the opportunities police positive action makes available to them to 'get out and restart', puts the outcome of their noncooperation or inaction 'on her bed'. These constructions are devoid of an analysis of power relations and disregard the problems imposed by offenders' manipulateness.

It is noteworthy that victim blaming and offender exonerating discourse enables an alternative understanding of assignments of blame than that afforded by empirical research. While likhert ratings of blame, based on vignettes, arising from empirical research, provide a quantification of how much blame goes to whom, it affords little understanding of how this happens. Within discourse analysis, following the discursive path, so to speak, illustrates how these discourses evolve, how they are supported and how they constrain solutions.

Officers' discourse on protection orders is also noticeable for its absence of domestic violence power dynamics. There was considerable discursive continuity,

with regard to constructions of domestic violence as trivial and protection order breaches as 'technical' breaches, within officers' discourse on protection orders. The contradictory constructions of protection orders identify them as problematic in the policing of domestic violence, particularly with regard to the serious/trivial cut off point for protection order breaches.

Officers produced binary constructions of protection orders as facilitating women's protection and hampering the effective policing of domestic violence due to women's misuse of power afforded them by a protection order. However, this latter construction is again based on an understanding of domestic violence that is devoid of any power analysis. It is interesting that officers did use a social resource of domestic violence dynamics shared with the feminist theory of power and control, thus suggesting an understanding of protection orders as a legitimate means of correcting the imbalance of power created by domestic violence is within officers' discursive repertoire.

Protection orders also illustrate one of the many paradoxes of domestic violence. Firstly, women's use of protection orders stands in contradiction to a construction of women 'putting up with' domestic violence found within victim blaming discourse. Secondly, while officers appear to be wary of the increased power afforded women by protection orders, it is precisely this shift in the power balance of domestic violence dynamics that women require in order to effect the changes police construe as the solution (i.e. leaving their abuser, not putting up with it). The paradox of solo mother families being both the cause and solution to domestic violence similarly disregards the discursive resources that officers employed elsewhere.

As previously indicated, protection orders generated enough data for a separate research project and this analysis suggests that further exploration of the 'power' discourse within protection orders is warranted. Research aimed at understanding paradoxical domestic violence discourse would also be advantageous. How binary constructions are related and whether there are discursive overlaps, perhaps through particular constructions of women, men and type of incident, is another way in which a future discursive project could proceed from this research.

The analysis indicates there are some discursive shifts with regard to police discourse holding offenders accountable for their violence. For example, men were constructed as able to control their violent behaviour. The discourse of *manipulation* and *male privilege* produced an account of domestic violence relationship dynamics that is consistent with feminist theory of power and control. However, these discourses resist the feminist interpretation that men's power and control over women is a product of patriarchal society and locate it in individual abusive men.

Officers' constructions of men also contain a few contradictions. For example the 'good people – bad people' construction of men who 'lose it once' stands in contradiction to the Jeckle and Hyde construction, wherein men are produced as able to present a persona of 'good people', and the grounds for making this distinction may be problematic. The construction of higher SES offenders was also inconsistent in relation to the *transgenerational* discourse. Although it is possible that higher SES offenders grew up with domestic violence, the assumption they have not functions to hold them more accountable. Conversely, the *normative social system* discourse appears to diffuse offenders' responsibility for their violence. Again this discourse resists a feminist interpretation, as it is not the disparity in power relations between men and women that form the sociopolitical backdrop that enables domestic violence, rather it is a subculture backdrop of violence, addiction and financial problems, that enables it.

Within the *normative social system* discourse, violence is attributed to factors beyond offenders' control (i.e. subculture, upbringing, pathology, environment, situational factors). As previously indicated, officers discourses of arrest support the arrest policy as the preferred option, and officers constructed effecting arrest as essential to their role of policing all domestic violence offenders, but particularly repeat offenders. However, within the *normative social system* discourse, men's violence is constructed as a manifestation of these factors that are beyond offenders' control. The therapeutic solutions implied by the *agencies kick in* discourse suggests interventions specifically directed at men's violence were not necessarily part of the solution enabled by this discourse.

Furthermore, officers' discourse of arrest, as it functions for offenders, stands in contradiction to the constructions of recidivous violent offenders produced within the *impossible to solve* discourse. Offenders who are trapped in the cycle of violence with alcohol, drug and financial problems, who 'don't care', 'won't change' and are 'beyond help', facilitated a *there will always be offenders* discourse, which was exculpatory for repeat offenders insofar as they were not expected to change. The 'trapped in a cycle of violence' construction embodies a domestic violence paradox wherein both victims and offenders inhabiting this subculture are constructed as lacking the very skills required to effect the changes that are construed as the solution. However, repeat offenders were not held accountable in the same way women are within victim blaming discourse. This is quite interesting in light of the greater amount of research evidencing women's decreased ability to take control and help themselves after years of subjugation to abuse has robbed them of the inner strength necessary to effect these changes (see Scutt, 1997; Walker, 1979).

The analysis suggests that an exploration of the discursive flexibility with which officers made use of discourses that embody a power and control construction of domestic violence dynamics within some discursive resources and practices, then seemingly cast this construction aside within other discourses, is another possible topic of future research.

A further contradiction identified by the analysis relates to the discursive flexibility with which officers constructed the outcome of police action for repeat offenders. The binary construction of therapeutic and punitive outcomes as useful and futile appears to be related to who issues these measures (i.e. judges or police). As previously indicated, this thesis forms part of a larger research project, which includes a discourse analysis of solicitors' discourse on domestic violence (currently in progress). How solicitors construct court outcomes and the police role regarding repeat offenders would be an interesting area of investigation. Research on this issue could also be advanced with an analysis of judicial discourse addressed through trial summations.

Another binary construction was that of bail conditions and protection orders as protecting women or impotent against a determined offender. This binary construction appears to be systematically related to constructions of offenders and women. That is, police initiated action constructs systems as working and effective in discourse on solutions women can effect or take advantage of, and constructs systems as not working in discourses of manipulative, recidivous and pathological offenders. These binary constructions have implications for women who are scared their cooperation with police will result in a violent retaliation from their abusive partner. Women's vulnerability is further exacerbated by the 'other cops' category, which brings consistency of police response into question, particularly when women are uncooperative.

The analysis suggests repeat offenders are indeed problematic to the policing of domestic violence. Recidivous offenders' imperviousness to sanctions was attributed their subculture membership within officers' discourse. A discourse analysis of repeat offenders' discourse aimed at ascertaining whether this coheres with their understanding of their 'imperviousness', whether there is something objectionable within the delivery of services or any other interpretation could be a future area of research.

A further discursive shift suggested by the analysis was the legitimisation of women staying in the relationship. While women staying with an abusive partner prompted an *unworthy* discourse, these women were undeserving of sympathy not police attention. Women's continued receipt of police protection is probably facilitated by the *cover your ass* discourse. However, while this choice has been pathologised in the past, the assistance victims and offenders receive when *agencies kick in* may partially account for this discursive shift. However, the construction of couples who stay together and continue to require police intervention facilitates an understanding of domestic violence as a relationship problem. Within a *relationship problem* discourse, domestic violence was differently constructed as drama, petty arguments or exclusively related to alcohol. The obscuring and disparagement of violence concomitant with these constructions suggests their mutual determination.

While within a *mutual violence* discourse the construction of women's use of a weapon as restoring the physical imbalance represents another discursive shift, a mutual violence construction also facilitates couples' dual arrest. The power relations supported by a *mutual violence* discourse, wherein a woman's right to defend herself with physical force is denied, favours men. Not only does this discourse ensure women's victim status turns on their passivity, thus exposing women to further violence, but by officers own admission, couples' dual arrest may cause them to not call back. This is particularly concerning in light of the 'mutual violence' constructions of women as not the ones who 'lose it' and 'do the whacking'.

It is possible that a *mutual violence* discourse is facilitated by the gender obfuscation endemic to officers discourse, insofar as this has been found to diffuse responsibility for the violence (Lamb, 1991). Obfuscation and nominalisation were extensive throughout the analysis. However, police officers are constrained by the legal environment in which they work and the use of gender-neutral terms may be partially attributed to this occupational hazard.

It is appropriate here to reiterate that decontextualising discourses may do them an injustice. Furthermore an unintended consequence of deconstructing discourses and exposing the power relations that support them, is an implied invalidation of discourses that favour one group over another. The purpose of this analysis was to identify shared social resources officers used in their understanding of domestic violence. The accounts provided by officers are undoubtedly shared with others. It is precisely the shared social meaning of these discourses that validates them. As is evident from this analysis, alternative discursive resources that support equitable power relations between men and women were also found within officers' discursive repertoire. It is hopefully an outcome of this research that identifying the contradictions within, and power relations supporting, police discourses that may affect the practice of policing domestic violence, will benefit its policing.

Additionally, it should be noted that to discuss policing in isolation is also decontextualising, as the police are constrained by criminal justice system policies and a scarcity of resources. Indeed the *constraints of policing* discourse wherein

recidivist offending is *impossible to solve*, the lack of resources constitutes there being *only so much a cop can do* and officers' *hands are tied* by evidentiary requirements, offenders' manipulative tactics and women's noncooperation, was very much in evidence in officers discourse.

Discursive research is concerned with the subjective experience of a small number of participants, thus prohibiting sample representation. The analytic process itself relies on subjective decisions of the researcher. Such external and internal validity limitations, as these are commonly understood within empirical research, were discussed in Chapter five. However, a further limitation of this research concerns the geographic location on which participants' experiences of policing domestic violence were based. The small size of the provincial town would have some bearing on officers' familiarity with recidivous offenders and couples, and participants indicated that police working in area were reliant on this communal information-sharing system. Whether or not the geographic restriction impeded the ability of this research to capture the entire discursive repertoire used by officers in their understanding of domestic violence, could be ascertained by a similar piece of research conducted in a metropolitan area. Another issue regarding research limitations concerned the absence of cultural comment in this analysis. As it was not my intention to analyse cultural discourse relating to domestic violence, I did not query officers on their ethnicity or their experience of any associated cultural elements to domestic violence. However, the minimal spontaneous reference to ethnicity ensuing from the interviews is interesting (the only mention of ethnicity encountered in the interviews was a reference to a 'large Samoan woman' and a 'skinny Asian guy'). Given the cross cultural variability in the social construction of domestic violence, I would advocate discourse analysis as an effective method of extrapolating cultural discourse related to domestic violence, however, I did not consider myself qualified to perform such an analysis.

In conclusion then, officers drew on a variety of discourses to construct domestic violence in variable and contradictory ways that enabled and constrained various solutions and interventions. That minimalising, trivialising, victim blaming and offender exonerating discourses persist, suggests they continue to be part of officers'



subjective experience. Domestic violence is complex, policing it a difficult task and officers are struggling with multifarious issues and causes simultaneously. Overall the analysis indicates diverse discursive shifts in police discourse on policing domestic violence and suggests officers were committed to the policy agenda of ensuring victim safety and offender accountability.

As the analysis in discursive research pulls texts of participants' voices apart and breaks them up, I thought it appropriate to conclude with the voices of officers.

"I guess by having your research out there, people will recognise what we're trying to do and what we're trying to deal with. (.) It's one of the (.) it's a priority area of policing but it's probably one of the most difficult to deal with too."

"I was interested in taking part I (.) I don't like family violence (.) you know the more we can do with it the better (.) but um (.) I don't think it's just the police job (.) I think (.) yeah, all we are, we're just the cleaners that work you know (.) we just come along and sweep up the mess."

## Appendix A

## Power and Control Model



*From: The Domestic Abuse Intervention Project, Duluth, Minnesota.*

Reprinted from: New Zealand Police Research & Development Group, Integrated Training Programme, Module DUT152, Family Violence, 1997

## **Appendix B**

### **Police Discourses on Policing Domestic Violence Information Sheet**

#### **What is this study about?**

The aim of this study is to explore police officers' experience of policing domestic violence. The intention is to gain an understanding of the practical realities of implementing Police Family Violence Policy, and of applying legislation related to domestic violence and to breaches of protection orders.

#### **What would I have to do?**

If you agree to participate you would need to be available for an interview with the researcher to discuss your understanding of the difficulties inherent to policing domestic violence and the improvements and/or failings afforded by the family violence policy. The interview will be audiotaped and transcribed by the researcher. No identifying information will appear on the transcript as code numbers will be used. Audiotapes will be erased or returned to you after transcription as you so advise.

#### **How much time will be involved?**

The interview will take approximately one hour. The District Inspector has approved this can be done during duty time.

#### **Who is the researcher?**

Debra Oliver will be conducting the research under the supervision of Dr Mandy Morgan. Until recently, Debra was on the police recruits waiting list, having completed S.C.O.P.E. and other application requirements in 1999. Debra has experience working with women's refuges in New Zealand and Canada and has some familiarity with the legal processes and documents involved in pursuing and defending orders under the Domestic Violence Act through previous employment at a solicitors firm. This research is being completed as partial fulfilment of the requirements for a masters degree in psychology at Massey University.

#### **What can I expect?**

If you choose to take part in the research, you have the right to:

- refuse to answer any questions.
- turn off the audiotape at any time during the interview.
- withdraw from the study at any time.
- ask any further questions about the study that occur to you during your participation.
- provide information on the understanding that it is completely confidential to the researcher. All records will be identifiable only by code number, and will be seen only by the researcher and her supervisor. Though excerpts from your transcript may be included in the thesis it will not be possible to identify you in any reports that ensue from study.
- have access to your transcript and be able to comment on or make changes to it.
- be given a summary of the findings from the final report.

**Contact details**

The Family Violence Coordinator, has distributed this information sheet to police officers who have had recent experience of attending domestic violence incidents (name selection was not in any way based on policing styles). However, she will not have access to the names of those who agree or decline to participate and has not been nor will be advised of the specific content of the interview.

If you are interested in assisting me with this research or if you have any questions, please contact me either by telephone or email [contact details omitted]. Alternatively, you can return the attached form in the envelope provided enabling the researcher to contact you. Mandy Morgan, can also be contacted through the Psychology Department at Massey: 06 3569099.

Thank you for your consideration.

Yes I would like Debra Oliver to contact me regarding my participation in her research or to answer some questions regarding her research. I can be contacted in the following way:

Telephone: ..... or

Email: ..... or

By post: ..... or

.....

Name: .....

Please note supplying the researcher with the above details does not in any way oblige you to participate in this research.

**Appendix C**

**Police Discourses on Policing Domestic Violence**

**Consent Form**

I have read the information sheet for this study and have had the details explained to me. My questions about the research have been answered to my satisfaction and I understand that I may ask further questions at any time.

I also understand that I am free to withdraw from the study at any time and to refuse to answer any particular questions.

I agree to provide information to the researcher on the understanding that it is completely confidential and will not be used for any purpose other than this research.

I agree to the researcher audiotaping the interview and I know that I have the right to ask for the tape to be turned off at any time during the interview.

I understand that the researcher may use brief direct quotations from the interview in her reports of the study provided these do not identify me in any way.

I wish to participate in this study under the conditions set out on the information sheet.

Signed: .....

Name: .....

Date: .....

Researcher: .....

## Appendix D

### Interview Schedule

1. Can you tell me about a domestic violence call out you've attended that stands out most for you and how you approached it?
  - What about it made it most salient for you?<sup>9</sup>
  
2. What did you already know about domestic violence before becoming a police officer? Did your understanding of domestic violence change after undergoing police training?
  - Have you found that the way domestic violence was talked about at training college and in the family violence module has been reflected in your experience of it as a police officer?
  - Has your understanding of domestic violence changed as a result of your work?
  
3. What is your understanding of a police officer's role with regard to domestic violence?
  - What expectations of the police do you think the victim has? The offender?
  - If the victim has called the police, what do you think is her rationale for doing so? What things do you think she considers when calling the police?
  
4. There have been a few controversial issues surrounding policing domestic violence that are repeatedly referred to in the literature that I'd like to get your opinion on.
  - (a) The differential treatment of domestic and non-domestic assaults.
    - What aspects of marital or intimate partner violence can make the violence fall outside the realm of criminal behaviour?
  - (b) The impact of contextual factors on decision making.
    - What factors do you consider in making your decision?
    - Is there a concern to sort out who was assaulting who?
    - What has been your experience of your ability to recognise abuse?
    - How confident are you in your ability to correctly interpret what is going on?
  - (c) The efficacy of arrest on deterring abuse or violence.
    - What effect have you found an arrest to have on offenders?
  - (d) Repeat offenders: What is your approach to repeat offenders?
    - What do you think the Police can do to prevent repeat offending?
    - Other agencies?
    - What would you like to see happen in this area?
  - (e) Breaches of protection orders: How do you approach breach of protection orders? What factors do you consider?
  - (f) Inadequate consideration has been given to victims' preference regarding consequences for the offender.
    - Have you had any experience of a woman not wanting her partner arrested and how have you with this?
  - (g) The loss of police discretion.
    - Have you any comments on this issue?

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<sup>9</sup> Bulleted points are prompts only and, as much as possible, interviewees were encouraged to guide the direction of the interview.

5. What is your understanding of the objectives of the family violence policy?
  - How well does the policy meet those objectives?
  - What aspects do you find most/least helpful in allowing you to do your job?
  - What are some of the more difficult issues in implementing the family violence policy?
  
6. Given the emphasis in the family violence policy on 'interagency approach', what is your perception of support services?
  - Refuge?
  - Court mandated men's programmes?
  
7. What has been your experience of the support of the policy from the Court?
  - How would a case based on police evidence only fair in court?
  
8. Do you feel that any changes in policy, the law or the way the law is applied by the courts are required to enable you to deal more effectively with domestic violence?
  
9. What did you think about the study when you heard about it? What did you expect? What made you decide to take part?
  
10. Is there anything that we haven't covered that you would like to talk about?

## Appendix E

### Transcription Key

- [A, 1(2)] These are found at the end of each passage. The capital letter identifies the officer speaking. The first number identifies the page number of the officer's transcript and the number in round brackets identifies the passage number on that page.
- (.) A full stop in round brackets indicates a pause that was less than a second
- (1) Numbers in round brackets indicate a pause in speech measured in seconds
- (mhmm) Signifies an encourager from the interviewer
- [] Empty square brackets signify that material has been omitted
- [policy] Words in square brackets replace pronouns for clarification
- fine Underlined words indicate an emphasis in speech
- (laughs) Words in round brackets signify the speakers actions.
- A hyphen indicates absence of a pause between one utterance and another.



**Appendix F**  
**Categories of first coding**

All domestic violence (dv) incidents similar	
All dv incidents different	
Arrest	Purpose, attitude towards Implications of arresting/ nonarresting
Boundaries	Information on incident necessary to do job Let court decide Distinction between police and other's role
Causes	
Constraints	Re: legislation, resources, control over others' actions
Court	
CYA	
Decision making	Being done in conjunction with others Factors considered when making a decision
Deterrence	In response to my question Amalgamate with arrest?
Discretion	In response to my question Decisions made/procedure used which contravene policy
Dropping charges	
Domestic Violence	Problems ensuing from Pre and post joining police Escalation Language used to describe actual acts – nominalisation
DV-categories	Differentiating between minor/major; physical/psychological; category of charge
DV-couples	Distinguish from offenders and victims
DV-nondv assaults similar	
DV-nondv assaults different	
Evidence	Types of things looking for Explanations of procedures upon arrival at incident
Following policy	Automatic following
Interagency	

Justice	Punishment fit the crime Police acting equitably between partners
Lazy cops	
Male-female violence equal	Violence perceived similarly/differently between sexes
Offenders	
One-offs	
Police role	
Protection orders	Easy to get/difficult to get
Police vs Social problem	
Policy	Comments on advantages/disadvantages
Policy: Old-school	
Proper job	Being professional
Recidivism – offenders	
Recidivism – couples	
Recognise abuse	
Safety	Concerns of police or victim safety
Sentencing	
Social work	Counselling references (i.e. bit of chat, spending time) Is/is not their job
Solutions	Up to victims and offenders
Systems abuse	Inappropriate use of police, protection orders
Training	
Victims	Victims' expectations; Why women stay
Victims' Voice	
Women as offenders	Overlap with couples?

## Appendix G

### Second Coding

<u>Victims</u>	<u>Couples</u>	<u>Offenders</u>
<p>Traits</p> <ul style="list-style-type: none"> <li>- Scared (due to partner and police presence) – need protecting</li> <li>- distrustful</li> <li>- childish/immature</li> <li>- hysterical</li> <li>- drama queen</li> <li>- bitch/nice</li> <li>- liars/dishonest</li> <li>- weak</li> <li>- irresponsible/lazy/ don't care</li> <li>- emotional – during incident</li> <li>- helpless as violence progresses</li> </ul> <p>Worthiness discourse (of compassion not police attention)</p> <ul style="list-style-type: none"> <li>- separates innocent victims from recidivist masochists</li> <li>-</li> </ul> <p>Women responsible for violence</p> <ul style="list-style-type: none"> <li>- has control of abuse</li> <li>- has control when violence first starts</li> <li>- put up with it</li> <li>- chooses to be victim or not (rational)</li> <li>- solutions - requires objective state</li> </ul> <p>Domesticity discourse</p> <ul style="list-style-type: none"> <li>- needy thus returns to partner</li> <li>- familial discourse (protectors/bad mothers) – Dilemma</li> </ul> <p>SES differences</p> <ul style="list-style-type: none"> <li>- high = shame</li> <li>- low = normal</li> </ul>	<p>Childish/immature</p> <ul style="list-style-type: none"> <li>- Waste police time</li> <li>- take the easy way out by phoning the police</li> </ul> <p>Mutual violence</p> <p>Typical couple</p> <ul style="list-style-type: none"> <li>- lower intelligence</li> <li>- D &amp; A</li> <li>- Polygamous</li> <li>- Fatal attraction (not in their control)</li> </ul> <p>Resisting assistance</p> <ul style="list-style-type: none"> <li>- don't care</li> <li>- won't change</li> <li>- loyal to each other</li> </ul> <p>Solution mutual responsibility</p> <ul style="list-style-type: none"> <li>- thin line metaphor</li> </ul> <p>Normalcy of violence</p>	<p>Type I</p> <ul style="list-style-type: none"> <li>- know system, manipulative</li> <li>- know system, go quietly/don't go quietly</li> <li>- don't care/won't change, jail second home</li> <li>- are in control</li> <li>- no parental rights</li> <li>- social norms</li> <li>- can learn/can't learn</li> <li>- typical offender</li> </ul> <p>Type II</p> <ul style="list-style-type: none"> <li>- private affair</li> <li>- patriarchal</li> </ul> <p>Type III</p> <ul style="list-style-type: none"> <li>- will become repeat offenders without police intervention</li> <li>- in need of a shock</li> <li>- can change</li> <li>- need to be taught a lesson</li> <li>- accept responsibility</li> <li>- external forces</li> <li>- loss of control</li> <li>- arrest unjust</li> <li>- no such thing as first time offenders</li> </ul> <p>Other</p> <ul style="list-style-type: none"> <li>- out of control</li> <li>- liars</li> <li>- unpredictable</li> <li>- someone to fear</li> <li>- provoked, police perception</li> <li>- provoked, offender's perception</li> <li>- have rights, offender's perception</li> <li>- have rights, police perception</li> <li>- pathology – intention</li> </ul>

## Police

<u>Justice</u> - Impartial - Act within the law - Evidence/facts - rational - Boundaries with court - judge decides - making judgements Protect victim/deal with offender	<u>Social workers</u> Are counsellors - spend time - bit of a chat  Not counsellors - Police vs Social problem - actively resist being drawn in	<u>Domestic violence</u> - Stop the violence - Intervene before it gets out of hand/unable to prevent violence - Rewarding - black & white - Not rewarding - impotent - Ambulance at bottom of hill - getting worse / on decline
<u>Part of community</u> - Using other resources - Policy changes with public attitudes - Upholding their side of things	<u>Finger pointing</u> Victim/offender; court; agencies  <u>Court</u> Good/Bad judges; (good judges back them up; bend the rules {inadmissible evidence; history}, give harsher sentence)	<u>Not arresting</u> Easy way out, sticking head in sand, sweep under carpet Lazy, not using brains Afraid of paper work / Must be justified thus more paperwork Achieves nothing/ doesn't work / means lack of consistency
<u>Police as subjects</u> Fatalistic (done our best) Frustrated Impartial? Human beings – good/bad days  <u>Comparisons</u> dv like going to death/rather go to a death Burglaries more satisfying  <u>Metaphors</u> Ambulance at bottom of hill (and similar) First port of call Banging heads against a wall	<u>Arrest</u> - Puts out a sign of offenders and (recidivist couples) - Offender has record - Wears down offender - Time for other agencies to kick in - Time for couple to evaluate their future - Empowers women – time for her to reflect/best result for women & children - Solves problem - Safety/stops immediate violence/offender jailed - CYA – Victim can't say didn't do anything / P's will back up women - Path of least resistance (saves coming back in 10 minutes; less paperwork) - Is Positive Action / right thing to do	
<u>System Abuse</u> - intentional misuse to get respondent arrested - applicants 'don't have a good understanding' - misusers in minority - most calls & orders made genuinely - Recognise S.A. by word of mouth	<u>Policy</u> - Guidelines, consistency - CYA: protection, removes responsibility - Can't cover all incidents - policies come and go - increased reporting by neighbours	
<u>Discretion</u> - Because policy can't fit every occasion - Is used - when used creates more paperwork - have discretion / don't have discretion - reduced discretion both applauded and mourned (best thing about the policy; the way it should be; the way the world is going / most difficult thing)	<u>Evidence</u> - Visible physical, injuries/ environment - Women's word = must testify - Witnesses (Impartial←how impartial?) - History (should/shouldn't go on) - Exception to hearsay - Logic – group/combined decision - Judgement/experience	

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