POLICE DISCOURSE ON
POLICING DOMESTIC VIOLENCE

A thesis presented in partial fulfilment of
the requirements for a degree of
Master of Arts in Psychology
at Massey University

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1996

Acknowledgements

My thanks and appreciation go to my main supervisor, Dr. Mandy Morgan, whose patience and encouragement never wavered, even when I was about to give up. This thesis would not have been possible without her, even at times when there was silence (especially when she was the last person I wanted to see) her presence in the work here is great. I'm not sure she'd go along with all that was said but she will probably leave that unsaid! Hine, my second supervisor was helpful in providing me with Maori writers wise words. I hope I have honoured them.

Andy, my partner, has been very supportive in the last weeks when tempers frayed and the kids kept asking haven't you finished that '*#@!!* thesis' yet, and when you've finished we can have some fun... I'd echo those sentiments. Friends have been of invaluable help in more ways than I can say, I won't name names but you know who you are. To all those people who so freely gave of their time to talk with me and share their thoughts, I thank you. Finally, thanks to all those 'textual friends' (John Shotter's words) without whose words this would probably never have been written.

Abstract

This research looks at how six police officers talk about policing domestic violence. The analysis is based on interview data collected in 1993-4, in Palmerston North, New Zealand. A 'discursive approach' was adopted in analyzing the texts. The central assumption was that the meanings given to events and people are likely to influence policing practice. Two main areas were looked at: the first was the social construction of policing domestic violence; the second was how the officers talk seemed to position people as either deserving or undeserving of police 'discretion'. Gender, race, and class assumptions influenced these decisions. Women who were about to leave or had attempted to leave a violent relationship were seen as more deserving of police time. Women generally were negatively constructed in the talk of them, and no excuses or justifications were given as explanatory accounts for their actions. By contrast, excuses and justifications were often offered for some men to account for their violence. This tended to be more evident if the offender was a white middle-class male. Thus, some forms of violence and abuse seemed to be condoned, and no action was taken. Maori and Pacific Island men, in contrast, were viewed as the 'type of guys' most likely to beat their wives. Generally, though, domestic violence still seemed to be viewed as a 'private' matter or a 'relationship' issue. This interpretation appeared to function in a way to place domestic violence in the category of 'not real police work', thereby decreasing the likelihood that action would be taken in the form of an arrest. This is contrary to a policy that endorses arrest and the criminalization of male violence in the home.

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Preface

This thesis is a report of a research project that was conducted, in part, from October 1993-January 1994, when I interviewed six police officers based in and around Palmerston North, New Zealand. The focus of the research is the policing of domestic violence. The thesis looks at how these officers spoke about policing domestic violence, subsequent to the implementation of the 'arrest policy' in New Zealand in 1987. Interviews were also conducted with five women who had been victims of male violence and abuse and who had sought police intervention. These interviews are not included in the analysis, but they provided valuable background information and 'expert' knowledge, both prior to interviewing the police officers and whilst analyzing the texts. Women's refuge workers were also spoken with, again to gain an insight, from their perspective, of the major issues and questions involved, for women, in policing domestic violence. These interviews are not included in the thesis proper, but they also informed my reading of the texts.

Domestic violence is increasingly recognized as a serious social problem, and one for which there is a raised awareness at the present time, following quite prominent media coverage and advertising campaigns targeted at reducing it. A background to the 'problem' and literature/research on policing domestic violence is outlined in Chapter one. This is framed from a feminist perspective. Chapter two outlines the theoretical assumptions that inform the analysis of the interviews with the six officers. The central assumption was that any or all 'talk' is neither neutral, nor just referential, but that the interpretations and meanings 'given' to and about situations and people influence both thoughts and actions. That is, domestic violence as a 'problem' needs to be contextualized as created by, and arising from, the culture in which it is embedded. This construction of the 'problem' is also allied with, and not separate from, the linguistic resources that are culturally available to make sense of experiences; and I argue that this 'sense-making' contributes to the formation and maintenance of domestic violence. Chapter three details the 'method' adopted to analyze the texts. This was a 'discursive approach' (see Norris, 1982; Parker, 1992; Potter & Wetherell, 1987). This approach is based upon contemporary theories and practices currently utilized by many social scientists. It is informed by a perspective that is generally known as 'social constructionism'. Chapters four through to six detail the analysis: with Chapter four outlining the social construction of policing domestic violence; and Chapters five and six looking at how the officers talked about themselves and those they police. The central 'findings' are then summarised in the final commentary.

Chapter 1

Women's Experience of Male Violence: A Feminist Perspective

Until recently, the problem of male violence against women within heterosexual relationships has not been deemed the province of police intervention. Historically there has been a split between what has been defined as the private sphere and the public sphere as far as appropriate action against men who abuse their wives is concerned (Ford, 1986, pp. 2-12). The very use of the terms 'their' and 'wives', combined with 'home' and 'privacy', has embedded within it a powerful set of constructions which have maintained and reproduced discourses and practices that perpetuate violence and abuse toward women.

In this chapter I introduce a feminist perspective on domestic violence. I start with the historical background to the problem of male violence, including the nature and extent of violence against wives. This is also contextualized by looking at the traditional dichotomy between the public sphere and private sphere, and how discourses of both the law and family contribute to the construction of domestic violence. A brief overview of the prevalence and incidence of wife abuse is given. Following this section, I then address the question of defining violence and discuss differences between women's definitions, professional/expert definitions and legal definitions of violence. I conclude this chapter with a discussion of policing practice in relation to domestic violence.

Historical Background of Male Violence

There has been a long tradition of male supremacy and domination, with violence against women and children accepted as a legitimate practice, and as a practice supported and legitimated by religious, legal and socio-cultural discourses that sustain and reproduce a male culture of violence. One example is given by Martin (1978) who saw wife abuse as historically sanctioned by religious and legal regulations/norms which imbued 'rights' that gave men responsibility for the deeds of their wives and children, thus giving a 'legitimate' justification to the male householder for their 'right' to discipline those who were disobedient (cited in Lystad, 1986, p. 72). As late as 1915 a London Police Magistrate ruled that:

> the husband of a nagging wife ... could beat her at home provided the stick he used was no thicker than a man's thumb (cited in Dobash and Dobash, 1979, p. 74),

referring to an earlier 'rule of thumb' law enshrined in English Common Law by Judge Buller in

1782, but which was abolished in 1891 (cited in Pahl, 1985: 11). Today, this 'rule of thumb' law, which sanctioned the beating of a wife with a stick no bigger than one's thumb, is likened to an unofficial 'rule of stitch' policy identified by Walker (cited in Lystad, 1986, p. 72), which operates amongst some police to determine whether arrest is warranted. This unofficial 'stitch rule' relates to the amount of visible injury the police need to see before they seem willing to take women's allegations regarding wife abuse and/or battery seriously.

Dobash and Dobash (1979) specifically situate the production and maintenance of violence against wives as rooted in the patriarchal structure of western society which is intricately linked now with a capitalist economy, such that a system of policies and practices which reinforce violence against women are sustained. They state:

> We propose that the correct interpretation of violence between husbands and wives conceptualizes such violence as the extension of the domination and control of husbands over their wives. This control is historically and socially constructed. The beginning of an adequate analysis of violence between husbands and wives is the consideration of the history of the family, of the status of women therein, and of the violence directed against them. This analysis will substantiate our claim that violence in the family should be understood primarily as coercive control (1979, p. 15).

Dobash and Dobash (1979) also outline what they term the 'legacy of the 'appropriate' victim', seeing it as no coincidence that it is women rather than men, in general, who are beaten and abused by their spouse. They see the roots of this in the social position of women in relation to men:

> The seeds of wife beating lie in the subordination of females and in their subjection to male authority and control (p. 34).

This, say Dobash and Dobash (1979), is sustained and legitimated through the institution of marriage and the family:

> To be a wife meant becoming the property of a husband, taking a secondary position in a marital hierarchy of power and worth, being legally and morally bound to obey the will and wishes of one's husband, and thus, quite logically, subject to his control even to the point of physical chastisement or murder (p. 33).

The question of 'rights' also involves the notions of citizenship, 'civil' liberties, and human rights, all of which are part of liberal-humanist discourses that form/inform the cornerstone of liberal democracy and are of relevance to both the public/private dichotomy and legal discourse. I will now look at both of these latter areas in turn, although they overlap, and are linked to, notions of marriage and the family; these will be discussed separately, below.

Public and Private

At the heart of the debate concerning the policing of domestic violence is the dichotomy drawn between the public and private sphere; from some police interviewed the question still remains as

to whether policing 'domestics' is 'legitimate' police business. Common sayings such as 'the sanctity of the home', 'a man's home is his castle', 'what happens in the privacy of the home..', all rest on the privileging of a sharp divide between the public and private sector; a divide which has a long history, dating back to Greek and Roman times.

Like 'property' or 'possessions', 'privacy' is a cultural construction of human history. In what has come to be called the western tradition, the differentiation of public and private can be dated back at least to the ancient Greeks, where a distinction emerged between the *oikos* or private household, and the *polis* or the public and structured body politic. The private world was of lower worth than the public; with women, children, servants and slaves being defined and confined to the private sphere in contrast to men, who were defined as worthy, and allowed access to the public realm. Plato and Aristotle suggested that in a good society the private would be subordinated to the public (see Pahl, 1985). This split between public and private, along with the implicit valuation of the public over the private, has continued to be influential in Western political thought and, despite academic critiques, still remains influential as an implicit cultural construct that in many cases has been accepted as 'the natural order of things'.

Concepts such as the 'privacy of the home', 'home as a haven in a heartless world', the respect of the 'privacy of the individual', all beg the questions of whose privacy and rights are being protected, and whether such distinctions are in fact a means of legitimating male power and control and the continuing oppression of women. Definitions of privacy that are couched in these terms rely on a sharp differentiation between the public and private spheres, and as noted previously these have a long history which is also embedded in power relations between people. These power relations are gender, class and racially-based, such that their validity remains primarily unquestioned by those whose interests they most serve (see Pateman, 1991; who outlines a feminist critique of the public-private dichotomy).

According to May (1978):

> It seems that the right of domestic privacy is more easily invoked and defended by some members of society than by others; this differential right to privacy is important in explaining the "invisibility" of wife abuse in most societies and at most periods of history (cited in Pahl, 1985, p. 16).

This does not mean to imply that throughout different periods of history and between different social and cultural groups there have not been marked changes in emphasis according to negotiated meanings and practises. For example, Rosaldo (1974) speculates that in those cultures where men were more closely involved in domestic life the distance between men and women and the degree of authority that men exerted over women appeared to be less :

> When a man is involved in domestic labour, in childcare and cooking, he cannot establish an aura of authority and distance. And when public decisions are made in the household,

women may have a legitimate public role (cited in Eisenstein, 1984, p. 15).

Legal Discourse

The rhetoric surrounding 'the law' positions it as a state intervention evolved to protect the rights of citizens and/or to ensure 'social order' or to act as a constraint upon authoritarian governments. Legal discourse, within the Western liberal-humanist tradition, utilizes notions of fairness and equality, along with claims of being objective, neutral and universally applicable (see Daly, 1990; Edwards, 1989; Goodrich, 1987; Smart, 1989). Goodrich (1987), in *Legal Discourse*, charts the historical parallels between legal philosophy and linguistics, and then advances a 'critical linguistic' reading of law as a social discourse which challenges the 'taken-for-granted' assumptions of law as 'science' and thereby deconstructs the texts to look at the 'linguistics of legal power'. In this he demonstrates how 'the law' has constructed a system of power and knowledge which perpetuates its own elitism and mystique, akin to a sacred text, and justifies itself via a conceptual language of legal faith and 'scientific' objectivity. An example of this is given in analysing Kelson's 'legal formalism', which theorizes law as a self-contained system of norms, "independently identifiable or internally guaranteed, without reference to any content, usage or history of the rules that comprised the system" (Goodrich, 1987, p. 35). Kelson (1945) states:

> Law regulates its own creation inasmuch as one legal norm determines the way in which another norm is created and also, to some extent, the contents of that norm (Goodrich, 1987, p. 42).

Not only does such a discursive practise present major obstacles in terms of providing an access point for women seeking legal changes (see Daly, 1990), it also limits the scope of the law to maintaining 'norms' which themselves are based upon male privilege (as discussed previously).

According to Daly (1990), feminists today acknowledge that neither forms of equality nor rights-based claims are sufficient in themselves to reduce inequality. She goes on to state that sometimes in applying the traditional equality approach women end up in a worse position; for example gender-neutral standards in divorce settlements or presumptive joint custody of children upon marital dissolution (Daly, 1990, p. 11). Feminists agree there are biological and social differences between men and women; yet disagree on how these differences ought to be dealt with in law. The need for gender-based rules is summed up by MacKinnon's off-hand comment :

> There are no gender-neutral persons I know of, frankly - I don't know how many you've met recently (cited in Daly, 1990, p. 12).

Edwards (1989), in her book *Policing 'Domestic' Violence*, sees three issues as important in policing domestic violence. The first is to do with police accountability: "Who and what police

'police' is rarely, if ever, seriously considered" (p. 4). Women, whilst constituting over half the population and being the main victims of rape, sex murder and spousal violence, are still largely ignored. Issues relating to gender (and to a large extent race and class) still tend to be absent in accountability debates. The second issue she raises relates to the public-private divide which, in terms of the law, influences policing practise in the sense of organizing and ratifying different levels of response and prioritizing. Thirdly, she identifies problems arising from definitions of 'law and order', which are categorized under a split between left and right wing theories of the law and the state. For example, the 'law-and-order' debate is centred on questions of law, policing, public order and prisons, and in the different speculations about the causes of disorder and crime - as well as their solutions to avert 'crisis' - adopted from these different political traditions.

Left critique of law and order is usually guided by Marxist theories of the law and the state; legal relations as well as the forms of state are seen as dominated by and serving the interests of the ruling class (see Gramsci, 1971; Althusser, 1971). Althusser says:

> The state is thus first of all what the Marxist classics have called the State apparatus. This term means: not only the specialized apparatus (in the narrow sense) whose existence and necessity I have recognized in relation to the requirements of legal practice, i.e. the police, the courts, the prisons; but also the army, which (the proletariat has paid for this experience with its blood) intervenes directly as a supplementary repressive force in the last instance, when the police and its specialized auxiliary crops are 'outrun by events'; and above this ensemble, the head of State, the government and the administration (1971, p. 137; cited in Edwards, 1989, p. 7).

Traditionally, the struggle of the Left has been characterized by calls for less oppressive laws and policing, greater accountability and the abolition of repressive punishment.

In contrast the right-wing response has been to call for more controls, through an increase in laws, police powers and greater punishment. Edwards sees this position as based in the notion that the rule of law "is a necessary and unqualified human good" and must also be upheld as a stand against despotism (Edwards, 1989, p. 8). The 'rule of law' theory is seen as reflecting the will of the people and as neutral, and therefore equally and universally applicable.

Feminists demands for more legal intervention, more policing and more punishment in terms of violent crimes against women though are not to be seen as part of the same right-wing calls for greater control and regulation, *per se*. Instead, these demands come from a theoretical position that seeks the recognition of women as deserving the status of subjects with rights to be free of violence and abuse - rather than upholding what has been a male right to beat and chastise 'his wife' (Hanmer and Maynard, 1987).

Marriage and Family

Feminists have identified various aspects of family life as crucial to an understanding of women's subordination. For example, different writers emphasise: male violence; men's control over women's sexuality/reproduction; the economics of domestic labour and its contribution to capitalism or the extent to which men benefit from it; familial relationships which shape the construction of masculinity and femininity; and the state regulation of family life (see Jackson, 1993, pp. 177-201). These are not distinct areas, yet are interlinked and contribute both to the structure and ideology of the patriarchal family. According to Aries and Duby (1988, pp. 43-4):

> the structure and ideology of the patriarchal family of the Middle Ages had, of course, formed much of the basic structure and ideology of both the modern state, which emerged out of and superseded that institution, and the smaller, less powerful nuclear family, which was encouraged by the state in order to obtain its own support and security. Thus the state and the nuclear family were inextricably intertwined and mutually supportive; they both grew out of the large medieval households and were largely modelled upon them.

They comment with respect to the nuclear family that:

> Henceforth a value was attributed to the family, which had previously been attributed to the line. It became the social cell, the basis of the State, the foundation of the monarchy.

Foucault (1979) noted that the family was the corner stone of the patriarchal society, that it was the model upon which other institutions were based, and that its order became a moral order, its hierarchy sacred (cited in Aries and Duby, 1988, p.49).

The Middle Ages, then, have been identified as the period in which major social changes began. These include a shift from feudalism to the idea of a nation-state, and the development of marriage as a social institution. Marriage was the joint product of two dominant interests: the Church, wanting to control the 'moral and spiritual' order; and the aristocracy wanting to control the 'political and economic' order. Yet the intersection of these two groups meant such boundaries were more fluid, with the Church being a dominant political force competing with the aristocracy for 'absolute and divine', power and vice-versa. The 'rise of the individual' (allied with that the western conception of the 'individual', 'personhood' and 'identity' which could be seen as the roots of the 'psychological self' - see Taylor, 1989) is also cited as developing during this period.

Industrial capitalism separated family life from paid work, and the early 19th century bourgeoisie espoused a 'new' 'domestic ideology' in which home was seen as a woman's 'natural' sphere (see Hall, 1982, 1989; cited in Jackson, 1993, p. 181). But the term 'family' itself is problematic and glosses over historical and cultural variability of family forms and different forms of family life women experience today. For instance, in New Zealand *The Summary of Statistics on Women* (1993) stated:

> Over the past twenty years changes in marriage and childbearing patterns have resulted in an increasing proportion of women living in a growing diversity of family and household types. In 1991 only 28% of women aged 15 years and over lived in a household containing only a traditional nuclear family with a married couple and dependent children (1993, p. 52).

Yet state policy is informed by the concept (ideology) of the 'normal' family. What one defines as a family is by no means unproblematic (as already noted) and what constitutes a 'normal' family is culturally constructed.

Without side-tracking into theoretical debates concerning the role and use of the term 'ideology' here (which would entail a lengthy debate which is by no means resolved, incorporating the relationship between modernism/post-modernism, structuralism/post-structuralism (see Beechey, 1985; Larrain, 1994)), I will take as a starting point the importance of language in producing and sustaining what Donzelot (1979, cited in Beechey, 1985) terms 'familialism'. This is a discourse on the modern family summed up by the term 'happy family' which has become widely diffused throughout society through educational, legal and psychoanalytic discourses (Beechey, 1985, p. 109). The familial discourse summarised in Beechey refers to a system of beliefs which:

> (1) describe a particular kinship system and set of living arrangements (the coresident nuclear family) and assert that this form of family is universal and normatively desirable, and (2) assert that the form of sexual division of labour in which the woman is housewife and mother and primarily located within the private world of the family, and the man is wage-earner and breadwinner and primarily located in the "public" world of paid work, is universal and normatively desirable (1985, p. 99).

Edholm (1982), commenting on the family, says that it is:

> not a fixed structure but a complex set of relationships and practices, each element of which can vary cross-culturally (cited in Jackson, 1993, p. 180).

Thus, one needs to understand the diversity of different family forms and how class, ethnicity, racism and sexuality impact on family life, rather than just take the white, middle-class, heterosexual concept of the "normal" family as paradigmatic. This is one of the grounds upon which black feminists have criticised white feminists' preoccupation with the family as the site of women's oppression (see Bhavnani and Coulson, 1986, cited in Jackson, 1993, p.178; Spivak, 1984, 1985, cited in Alice, 1993).

Connections between the family and the state are by no means clear-cut, cohesive or continuous, and it is beyond the parameters of this thesis to explore these other than to make the point that whilst the family has been seen typically as part of the 'private' sphere it has also been subject to state intervention in the form of child protection laws, statutes pertaining to marriage, divorce, and social welfare. All of these interventions are based upon government policies and legislations (state interventions) with regard to the family that contain implicit assumptions regarding women that have been gender biased, but which have been subsumed under the apparently unbiased

discourse of 'The Family'. This discourse is often embedded within a social and political rhetoric which makes claims of 'neutrality' and of being universally applicable, and this masks the fact that this discourse is not neutral but actually serves ideological purposes[1] (for instance, see Walby, 1986, 1990, on women and social policy; and Armstrong , 1992, on developing a feminist analysis of the state).

The familial discourse outlined by Donzelot (1979) above is one that draws on the metaphor of 'happy families' yet, as Dobash and Dobash (1979) put it "a marriage licence seems to be a hitting licence". This does not appear to be an exaggeration. A recent survey conducted for the Justice Department in New Zealand (*Hitting Home*, 1994) indicated that over 67% of respondents had personal knowledge of males who had (or did) abuse their partners. Over 10% said they approved of hitting, and some 56% disapproved only a little or moderately. These figures are frighteningly high when one considers the tendency of most people in self report questionnaires to respond in socially approved and sanctioned ways - I assume most people would say 'society' now condemned wife abuse; therefore these figures are likely if anything to be on the low side of those who implicitly condone "keeping a wife in line with a hit or two".

The other frightening statistics were that some 65% of respondents felt that in at least one circumstance a woman who is hit only has her self to blame, and 58% of people said that the psychological abuse of female partners is permissable in some circumstances. This lends support to the view of feminists that women are often blamed for violence and abuse in the home, rather than the male violence being problematized; and that many consider this violence to be acceptable in some circumstances. With regard to marriage, a majority of respondents thought the man was 'in charge' in most New Zealand marriages. The reasons given for their being in charge included: a need for power; lack of self esteem; seeking a macho image; family background; and a lack of confidence in women.

An example of this male position being legitimated can be seen in arguments for a 'family wage'

For example, Mrs. Thatcher's campaign speeches on the importance of the family which echoed a return Victorian" values, while at the same time cutting welfare benefits such that those on low incomes rienced poverty and "family" hardship akin to Dickensian Britain, not dissimilar to changes occurring in Zealand now. Armstrong (1992) says "we stand poised on the brink of transition from the welfare state e enterprise state..and the burden of poverty is increasingly being borne by women and children..dependency tate-provided social security benefits in New Zealand is strongly related to gender" (p.224 op.cit.). She goes o cite statistics from 1981 which then reported 25% of Non-Maori women and 47% of all Maori women ·ly dependent on social security benefits as their source of income, whilst only 6% of non-Maori men; these res would not include married women who become unemployed and are living with a partner - they are uded completely from the social welfare benefit system and financially dependent on the male bread-winner use assessment is calculated on the household rather than personal income.

for New Zealand men in the 1920's. Armstrong (1992) sees the rationale behind this 'family wage' as founded upon the notion that a man had a dependent wife and three children and that women had no dependents and lived in a household receiving other income; therefore the Arbitration Court saw it as only 'just' and 'fair' that men in employment were paid more than women. She cites a passage from the Arbitration Court of 1922 which reflects the prototypical sex roles assigned, supported and sanctioned by this policy:

> Up to the present we have been considering the right of the labourer to a wage adequate to a decent livelihood for himself as an individual..(however) the great majority of men cannot live well balanced lives, cannot attain a reasonable degree of self development outside of the married state...Outside of the family, he cannot as a rule, command the degree of contentment, moral strength and moral safety which are necessary for reasonable and efficient living. ... Now the support of the family falls properly upon the husband and father, not upon the wife and mother ... his decent livelihood means a family livelihood as reasonable terms from the bounty of the earth (Arbitration Court, 1920; cited by Armstrong, 1992, pp. 231-232).

This Arbitration Court decision was not challenged in New Zealand until the legislation of the Employment Equity Act, but this Act was repealed by the National Government here in 1990 (Armstrong, 1992).

Women's struggles for pay equity are seen as one area which may provide women with the economic resources and independence to make 'choices'; e.g., to leave a violent relationship. However, there are a number of factors - such as those referred to by the term "the feminization of poverty" (see Gimenez, 1990) - that vitiate the reality of these choices: any implied increase in 'freedom' is thus illusory when viewed in this way. For example, there continues to exist within many relationships a continuing male power over economic resources that is revealed in the tendency for women not to spend money on themselves (see Pahl, 1989). Again, it is only recently that the Matrimonial Property Act was changed in New Zealand (1976) to recognize, upon the dissolution of marriage, women's contributions to the family income and well-being by allocating half of the matrimonial property to each party.

Incidence Rates

Chapman (1990), writing on violence against women, locates it as a universal problem which

> constitutes a major human rights problem which has been largely ignored or unacknowledged as a human rights issue..at best the problem is seen as a series of individual complaints and at worst, to tolerate it as the rightful consequence of being female (p. 54).

She found in a study of 90 cultures around the world that family violence was occurred in almost all of them, with violence against women the most common form of family violence (Levinson, 1989, cited in Chapman, 1990, p. 55). Violence against women, from assault to homicide,

represents a significant source of crime throughout the world.

According to Connors (1989), homicide statistics in the United States and many other countries show that large numbers of women are killed by their husbands or boyfriends (cited in Chapman, 1990, p. 55). One study in Peru found 70% of all crimes reported to the police were of women being beaten by their partners (Connors, 1989). In New Zealand it is reported that one in seven women are subjected to some form of assault or abuse, and that every week a woman dies because she has been beaten up by her male partner. In 1992 over 20,000 women in New Zealand sought help from women's refuges. Severe injuries included damaged kidneys, intestinal injuries, head injury, deafness/blindness and cancer (cited in *Fresh Start* and *Women's Refuge Newsletter* July 1993; N.Z Women's Refuge Foundation). Research has found that the violence often starts very early on in a relationship (challenging the view of it as a "relationship" problem), and the odds are that the violence will continue and escalate. Not only do women pay a high price physically, emotionally, and psychologically, but the monetary costs of violence against women have been reported in Australia as being $1.5 billion per annum in New South Wales alone (cited in Busch et al., 1992; and *Women's Refuge Newsletter*, July 1993).

According to Chapman and others (see Dobash and Dobash 1979, 1992; Hanmer and Maynard, 1987; Hanmer et al. 1989; and Yllo and Bograd, 1988), wife beating is neither a family problem nor is it caused by individual psychosis: rather, it reflects the unequal distribution of power between the sexes. Thus, instead of being seen as a rupture in the social order, violence is "an affirmation of a particular social order" (Lehman, 1984; cited in Chapman, 1990, p. 56). That is, a social order predominately based upon male domination and female subordination.

According to a U.N Conference on Women in 1980:

> domestic violence was a complex problem and constituted an intolerable offense to the dignity of human beings,

and in 1985:

> Such violence is a major obstacle to the achievement of peace and the other objectives of the Decade and should be given special attention. Women victims of violence should be given particular attention and comprehensive assistance. To this end, legal measures should be formulated to prevent violence and to assist women victims. National machinery should be established in order to deal with the question of violence against women within the family and society. Preventative policies should be elaborated, and institutionalized forms of assistance to women victims provided" (*Report of the World Conference* 1985; cited in Chapman, 1990, p. 58).

In 1985 the General Assembly of the U.N. adopted resolution 40/36, a domestic violence provision which advocated multidisciplinary measures to deal with violence against women in the home as well as advocating the reform of justice systems to eliminate bias. Since then there have been some changes in the U.S., Canada, Britain, Australia and New Zealand in the form of policy

directives to have legal institutions treat violence against women as criminal behaviour (a more detailed discussion of this is elsewhere).

Yet changes in the law alone do not ensure a solution, especially when women continue to face what has been referred to as "structural violence" (by the *U.N. Information Committee/Non-Government Organizational Programme Group on Women*, 1988; cited in Chapman, 1990, p. 57) in the form of wage discrimination, legal constraints, poor access to education, housing, child-care etc.. These factors severely compromise women's possibilities of being free from violence, and put them at continuing risk of exploitation and abuse.

Aside from these constraints, changes in the law that criminalize male violence toward women need to be properly enforced throughout the criminal justice system; an area that still seems to be problematic (see Busch et al., 1992; Hanmer et al., 1989). Interdisciplinary projects on domestic violence have been attempted - for instance, the D.A.I.P. project in Minnesota in the U.S.A. (see Pence, 1983, in Hanmer, 1985) which formed the model for H.A.I.P.P.(*Hamilton Abuse Intervention Pilot Project*; see Busch et al., 1992) in New Zealand - and a Canadian project which united 10 national associations representing service providers, consumers and their advocates from sectors within criminal justice, social services, health care, education and religion to look at providing a coordinated service and approach to domestic violence (Chapman, 1989, cited in Chapman, 1990, p. 61).

Defining The Problem: 1. Defining Violence

There are two strands to defining the problem. The first is, the question 'what is considered to be violent?' There seems to be discrepancy between what women perceive to be violent and what the police and courts do (see Hanmer et al., 1989). Thus, the 'problem' is relative to the context from which it is defined. The second strand relates to the policing of that 'violence'.

Feminists have sought to articulate and give voice to what they have variously termed wife battery, wife abuse, and wife beating, and to identify that violence as a problem that needs to be recognised and acted upon. Changes have been sought at all levels - legal, social, economic and political - as well as providing necessary 'safe-havens' for women experiencing abuse and violence, in the form of women's refuges (see Dobash and Dobash, 1979; 1992; Yllo and Bograd, 1988). Legal, social, economic and political factors all contribute towards a definition of violence. There is no one definition of violence, and the parameters and boundaries of what is

included or excluded is dependent upon who defines it and how it is defined. This impacts not only on what is considered violent but also what action is taken.

Hanmer and Maynard (1987) note that:

> A sociological definition of violence needs to include both the use of force and its threat to both compel and constrain women to behave or not to behave in given ways (p. 6)

Blatant examples of male brutality towards women, they say, can be located on a continuum of male power over women, along with a variety of economic, psychological and social mechanisms of control. Klein (1981) and Tong (1984) examined types of male violence that are subject to legal regulation, and they observed that what is common to all crimes of violence against women is that women are injured as women; as childbearers, sexual objects for men, and nurturers (cited in Hanmer and Maynard 1987, p. 24). Maynard (1993) identifies three categories under which most violence is defined: these are legal; professional/expert; and those by women themselves. Examples of what these may entail are outlined below, with specific reference to domestic violence.

Women's definitions

According to Maynard (1993) :

> radical feminists argue that in order to be able to capture the extent of the impact of violence, it is important not to predetermine the meaning of the term (p. 105).

Kelly (1988) further states that:

> if we are to reflect in our definition ... the range and complexity of what women and girls experience as abusive we must listen to what they have to say (1988, p. 71, cited in Maynard 1993, p. 105).

One of the first studies to do this was conducted by Hanmer and Saunders (1984) who interviewed women in Leeds (United Kingdom) on their experience of violence. They took as their starting point the women's own definitions of violence of what they found intimidating, threatening and fear-inducing.

They found a marked difference between women's conceptions of violence and that of the police and the courts. A more inclusive definition of violence has been gained by talking with women themselves, and in the wheel below (see Figure 1) is a summary of the type of definition adopted by women's refuges and groups actively working both with 'victims' of violence in the home and violent offenders; this is the 'power and control model' of violence (see Busch, Robertson and Lapsley,1992; Hanmer and Maynard, 1987; McMaster and Swain, 1989). The power and control model situates violence as part of a systematic process whereby abusers are able to maintain power and control over their partners through physical, psychological, economic and social

means. Among the tactics of power and control are those of minimalising, blaming and denying the violence. Busch, Robertson and Lapsley (1992) note that:

> Police officers, judges and social service workers who do not have a clear understanding of the dynamics of abuse can easily collude with the batterer by accepting such rationalisations instead of recognising them as part of a systematic exercise of power and control (p. 11).

Insert Figure 1 about here

In the study done by Hanmer and Saunders (1984) they identify a link between public and private violence against women. In the diagram below (see Figure 2) they outline how the circularity and interdependence between the two perpetuates constraints upon women's lives, such that police and judicial practises of 'non-intervention' can be seen as playing a very significant role in maintaining and reproducing the conditions under which violence against women continues:

Insert Figure 2 about here

In conclusion, then, Hanmer and Saunder's study (1984), along with others cited above, points to how the reality and the threat of violence act as a form of social control. They point to 'methodologies' of conducting research that attempt to empower women, and which include rather than exclude what women say in their definitions of violence. As Kelly (1988) suggests:

> our commonsense definitions of what constitutes violence reflect men's ideas and limit the range of male behaviour that is deemed unacceptable to the most extreme, gross and public forms (cited in Maynard, 1993, p. 105).

Professional/Expert Definitions:

Under this category violence is usually predefined by the professional and often becomes reified as truth, this taking priority over the experience as reported or perceived by the 'victimized' person. This definition taps into the dichotomy drawn between objective/subjective, academic/non-academic and expert/non-expert accounts.

In contrast to a feminist approach to defining violence, which seeks a broader and less dichotomized account and incorporates women's definitions rather than excludes them, there is a series of studies conducted by Gelles and Steinmetz (1976), Gelles and Straus (1988) and Steinmetz and Straus (1980). Their research - based on a national survey, with self-report check lists of predefined 'violent acts' such as slapping, hitting, punching, with 'tick boxes' for each answer - ignores any context of such acts, or accounts of intention or justifiability. They use a positivist, quantitative methodology in studying violence in the home, making no distinction
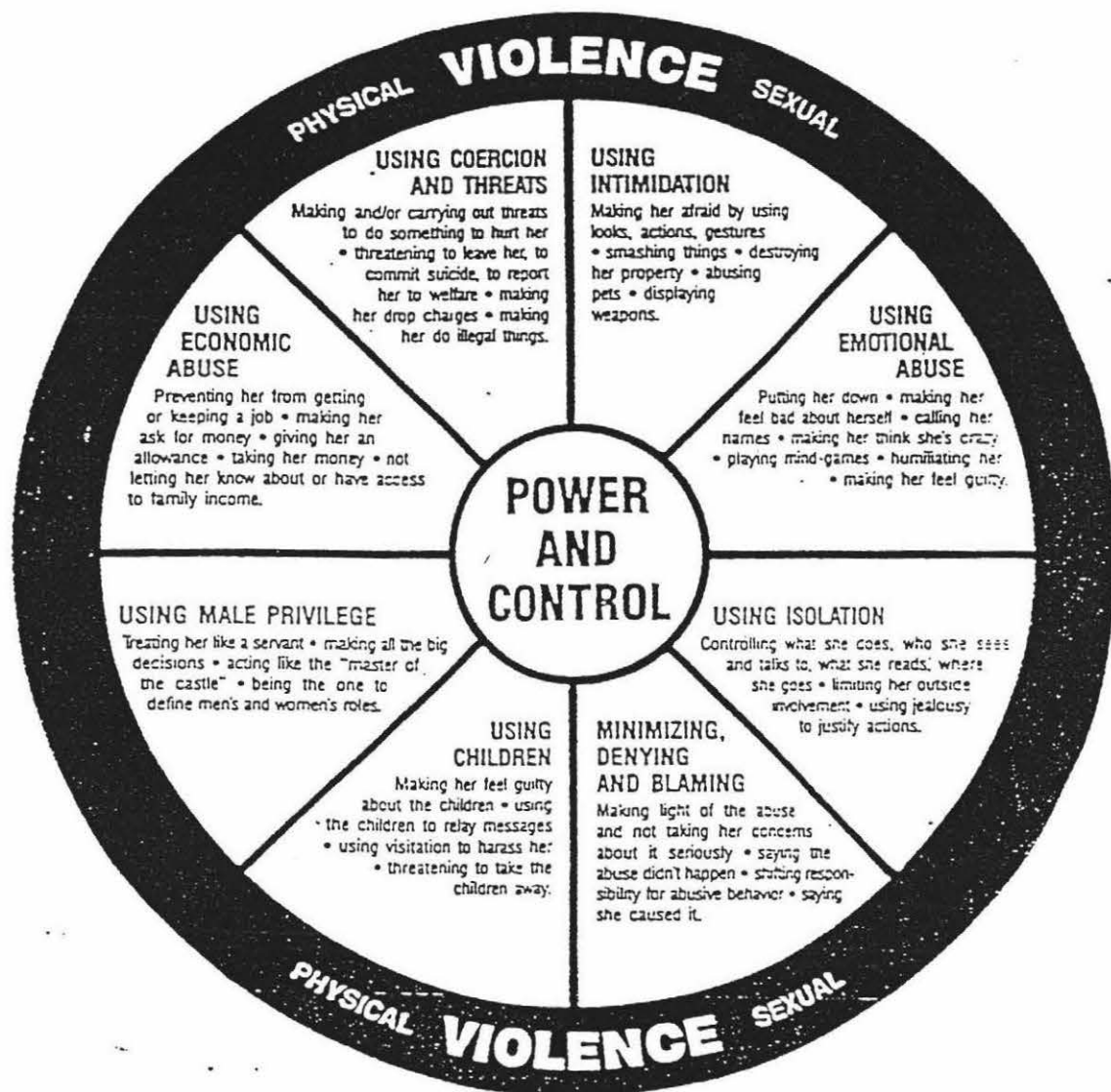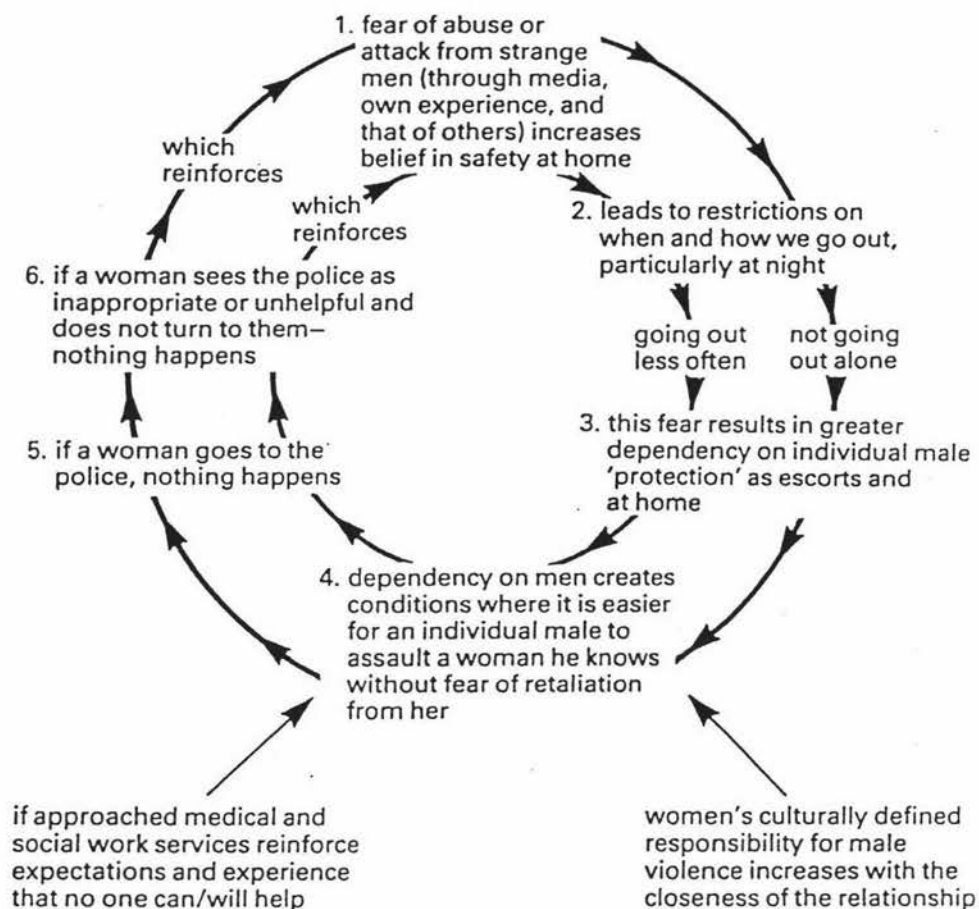
VIOLENCE

PHYSICAL · SEXUAL

USING COERCION AND THREATS
Making and/or carrying out threats to do something to hurt her • threatening to leave her, to commit suicide, to report her to welfare • making her drop charges • making her do illegal things.

USING INTIMIDATION
Making her afraid by using looks, actions, gestures • smashing things • destroying her property • abusing pets • displaying weapons.

USING ECONOMIC ABUSE
Preventing her from getting or keeping a job • making her ask for money • giving her an allowance • taking her money • not letting her know about or have access to family income.

USING EMOTIONAL ABUSE
Putting her down • making her feel bad about herself • calling her names • making her think she's crazy • playing mind-games • humiliating her • making her feel guilty.

POWER AND CONTROL

USING MALE PRIVILEGE
Treating her like a servant • making all the big decisions • acting like the "master of the castle" • being the one to define men's and women's roles.

USING ISOLATION
Controlling what she does, who she sees and talks to, what she reads, where she goes • limiting her outside involvement • using jealousy to justify actions.

USING CHILDREN
Making her feel guilty about the children • using the children to relay messages • using visitation to harass her • threatening to take the children away.

MINIMIZING, DENYING AND BLAMING
Making light of the abuse and not taking her concerns about it seriously • saying the abuse didn't happen • shifting responsibility for abusive behavior • saying she caused it.

PHYSICAL · SEXUAL

VIOLENCE

Figure 1

Power and control model of violence

1. fear of abuse or attack from strange men (through media, own experience, and that of others) increases belief in safety at home

which reinforces

which reinforces

2. leads to restrictions on when and how we go out, particularly at night

going out less often

not going out alone

6. if a woman sees the police as inappropriate or unhelpful and does not turn to them— nothing happens

3. this fear results in greater dependency on individual male 'protection' as escorts and at home

5. if a woman goes to the police, nothing happens

4. dependency on men creates conditions where it is easier for an individual male to assault a woman he knows without fear of retaliation from her

if approached medical and social work services reinforce expectations and experience that no one can/will help

women's culturally defined responsibility for male violence increases with the closeness of the relationship

Figure 2

The perpetuation of the division between the public and private spheres of women's lives (from Hanmer and Saunders, 1984).

between male and female violence. They do not raise issues such as whether the act of violence was a means of control or self defense, or what the degree of fear or intimidation felt by the recipients of that violence was. Consequently, they ignored whether there was a marked difference between the wife and husband's use of violence in terms of context, meanings and consequences (both in terms of quantity and quality). They reported a degree of sexual symmetry in terms of violence in the home; that is, according to their findings both men and women were equally victimized.

These findings have been critiqued by Dobash and Dobash (1992) and the sexual symmetry arguments stand in contrast to a body of evidence that suggests violence is gendered. Thus, to adopt a 'gender-neutral' stance is in itself a bias (albeit an unacknowledged one) masked by the rhetoric of objectivity. Dobash and Dobash (1992) note:

> Unfortunately, the presumed gain in objectivity achieved by asking research subjects to report only "acts", while refraining from elaborating upon their meanings and consequences, is illusory (p. 82).

Most violence is perpetrated by males against females, and to ignore gender differences under the guise of objectivity, validity or without adequate theoretical conceptions to understand and explain violence is at best misguided and at worst dangerous (Dobash and Dobash, 1992, pp. 71-84). The ideological consequences of such research contribute to a silencing and denial of women who continue to be abused and victimized daily.

Legal definitions

Legal definitions tend to carry a certain authority, since they determine whether agencies such as the police, social services and courts of law are able to intervene or prosecute in most circumstances. Scutt (1982), an Australian legal expert and academic who has worked in the area of domestic violence, states clearly the legal obligation of police:

> At common law, police in Australia are under an obligation to protect life and property. ... There is no adequate reason for failing to include within their obligation to protect, persons who are married to their assailants, or persons who are cohabiting with their attackers (cited in Horsfall, 1991, p. 26).

Legal definitions of violence are usually narrow, and in practise often only include the more visible and extreme forms of physical violence. They generally exclude, for instance, the use of threats to produce fear in the case of 'domestic violence' (although in the U.S. and Australia there are anti-stalking laws in place and moves to recognise psychological violence as prosecutable). In addition, in many countries rape within marriage is still not recognised by law - with women being seen as consenting to sexual intercourse upon marriage. In both examples above women seem to be 'legally defined' in term's of 'their husband' and a male view that sees them as under the control of, and the 'property' of, the husband (see Walby, 1990).

Feminist researchers have documented how the law's definition of violence takes priority over women's definitions. They look at the mechanisms through which the law constructs the 'truth' of the matter in cases of rape, child sexual abuse and domestic violence, often in the face of contradictory and conflicting evidence. The law professes to be 'gender-neutral': yet by its power to define what constitutes a violent act it has much power, which feminists argue often supports and legitimates a male view and implicitly condones many forms of male violence (see Edwards, 1981, 1989; Maynard, 1993; Stanko, 1985).

Feminists continue to seek changes in the law, advocating legal reforms that more adequately reflect justice and 'equity' for women. Yet in seeking a legal solution women face a contradiction: that is, legal systems themselves are often a source of mistreatment of women. For example, Seager and Olson (1986, cited in Chapman, 1990) make the point that nowhere in the world do women enjoy the same legal or constitutional rights as men. Chapman (1990) comments:

> In many cases custom and law are at odds: when women are abused for violating custom, legal institutions are mandated to bring the behaviour under the rubric of the law (pp. 60-61).

Daly (1990), reflecting on feminist legal thought, also talks of the paradox facing women pushing for legal reforms in a manner that could perhaps be seen as political 'realism':

> we must work with the law because that is all we've got, but we must also develop new legal meanings of discrimination, equality and justice that are outside the law (p. 8).

Defining the Problem: 2. Policing Male Violence

In Hanmer and Saunder's study (1984) most women spoken to had experienced or known someone who had experienced some form of violence in the form of sexual harassment, physical or verbal abuse, intimidating or threatening behaviour etc. However, few had reported it to the police.

A common report amongst women subjected to different types of violence was that the amount of fear they experienced seemed related to the perceived lack of control those women felt in the circumstance:

> the inability of the woman to control the initiation of the behaviour and the subsequent interaction... it seemed the greater the uncertainty about the outcome the more terrifying the encounter (Hanmer and Saunders, 1984, p. 33).

This highlights two points about women's experiences. First, the confusion and uncertainty surrounding violence, especially as suffered from a male partner, in terms of how to deal with that violence. The second uncertainty is how the police/judicial system is likely to respond.

Male violence is reported by many women to be unpredictable and out of their control, and often the strategies they adopt to deal with the situation are misperceived by outsiders and seen as problematic solely in terms of the 'psychological' (or in some cases the 'sociological') state of the woman. An example here (stemming from the professional/expert definition of violence) is given by Gelles (1976) when he poses the question 'Why do women stay?'. Just by posing the question in this seemingly innocuous manner the focus becomes oriented towards analysing women as 'the problem', or shifts away from understanding male violence toward women from its socio-historical context. As Yllo and Bograd (1988) point out the question is more usefully posed or reframed as 'Why do men beat their wives?' or as 'What social factors constrain a women from leaving?' (1988, pp. 13 and 21). Similarly, Walker (1985) worked with battered women and described the psychological state of many women in violent relationships as a human response to trauma:

> Women's behaviour in the face of violence has often, in the past, been misinterpreted as deliberately provocative or emotionally dependent, when in fact, it can be best understood as a natural response to terrorising tactics. When free of violence, their psychological state changes too (cited in Busch, Robertson and Lapsley, 1992, p. 33).

In terms of 'domestic violence' the woman is often seen as part of the problem and the focus is on the relationship, rather than the problem being the male violence (see Dobash and Dobash, 1992; McKendy, 1992; Walker, 1985). Feminists have identified this as part of 'victim blaming'. The consequences of 'victim blaming' often lead to further victimization, especially within the legal and 'therapeutic' systems (eg. the raped woman being seen as 'provocative'; a woman being scared to go out of the home, especially at night, is 'dependent' upon male 'protection' - when often it is from those males she requires protection; or the battered woman being seen as 'asking for it').

The point is that women's perceptions of violence, and what they experience as terrifying, are often excluded from legal or professional definitions and approaches, thus negating and constraining some women from either believing the validity of their perceptions and/or enabling them to take action against that violence. Often, when they did attempt to report an incident to the police, they were not believed, the incident was trivialized, or no further action was taken. These experience often result in a reluctance by women to pursue their case.

Allied with the above are Women's Aid and Home Office statistics that support the claim that women are more likely to be assaulted by men known to them than by strangers. It is often noted that statistics concerning violent crimes against women only represent the 'tip of the iceberg'. Part of the reason for this is linked by Hanmer and Saunders (1984) to the reluctance of women to disclose violence, particularly that which occurs between intimates. This reluctance extends to

reporting violence to the police. This was not found to be because of a lack of fear or seriousness with which they viewed the violence, but more to do with whether, in their view, the police would a) think the incident was trivial; or b) could or would be of some help; or c) if they did involve the police whether it would be followed up. Hanmer and Saunders state:

> the vast majority of the women interviewed do not think the police in practise are either able or willing to protect them (1984, p. 56).

Three complaints about police action stood out: not responding quickly enough to calls; not knowing the outcome of complaints; and the lack of seriousness with which the complaint was treated. When one considers the perception of uncertainty surrounding both the behaviour itself and the possible negative response of the legal system in dealing with violence against women it becomes more understandable that complaints are not reported.

Hanmer et al. (1989), in looking at policing male violence from an international perspective, state:

> Police failure to respond to men's violence is one of the few areas in which they are rightly, in our view, criticised for insufficient and inappropriate policing, as opposed to exceeding their powers. As well as being of immediate importance to women who have been attacked, the police response to men's violence has a general social significance. In deciding how to respond to women reporting violent attacks, the police, and later the courts, are defining which attacks are to be criminalized and proceed with and which are to be 'no-crimed'. The police are making a distinction between attacks they deem to be justified and those that are not (1989, p. 6).

These findings certainly fit with those of studies undertaken in New Zealand for the Victims Task Force on Protection from Family Violence (see Busch et al., 1992). They found that there was a tendency on the part of police officers to look at the relationship rather than the violence, and to trivialize the violence. Often the police implicitly condoned the violence by not acting when there was sufficient evidence to do so. Busch et al. (1992) concluded that there is a need for a clear message to come from the judiciary that domestic violence is wrong: that it is a crime.

My research, based on interview data collected from six police officers in Palmerston North during November/December 1993 and January 1994, looks at how these officers talk about policing domestic violence. I analyze these interviews through an approach referred to as 'discourse analysis' (see Parker, 1992 ; Potter & Wetherell, 1987; and Chapter 3, this thesis). Central to the conceptual framework is the recognition that any, and all, talk about domestic violence is a social construction. The following Chapter outlines the theoretical assumptions that informed my analysis of data from those interviews.

Chapter 2

Theoretical Assumptions

In the preceding chapter I gave an overview of what has been said regarding 'domestic violence' and policing 'domestic violence' from a feminist perspective. Implicit within these arguments were a number of assumptions which I will now articulate more fully. This articulation will then be drawn upon in order to develop a more coherent conceptual framework for the analysis of the police talk on policing domestic violence contained in Chapters 4-6; with Chapter 3 outlining the 'methodology' employed in more detail.

Language

> We need to interpret interpretations more than to interpret things (Montaigne, cited in Lodge, 1988, p. 108).

Language can be viewed as something more than just 'speech'; linguistic utterance; or the formation of sound waves that resonate between the ears of a body of hearers which acquires their meaning through the deployment of innate grammatical structures (as in Chomsky's cognitive model; see Potter and Wetherell (1987) for summary). Instead, it is seen as the main 'tool' we have for constructing, maintaining and transforming our 'social world' and sense of 'self' (see Gergen, 1985; Shotter, 1984, for summary perspective of 'social constructionism'). Gergen (1985) summarises succinctly one view - the social constructionist view - in the following statement:

> The terms in which the world is understood are social artifacts, products of historically situated interchanges among people. From the constructionist position the process of understanding is not automatically driven by the forces of nature, but is the result of an active, co-operative enterprise of persons in relationship (cited in Wescott, 1992, p. 74).

The 'social constructionist' approach represents a paradigm shift within psychology as a discipline and as such challenges the traditional individualistic and 'scientific' premises upon which psychology has been based. This 'paradigm shift' has emphasised how our views of ourselves and the world - and their inter-relations - are socially constructed through an interplay between our actions and the linguistic resources available to us in our community (see Gergen, 1985; Shotter, 1984). By this I mean to convey a number of inter-related points. First, one is born into a social world that already antedates us, yet which is still a product of human beings. And second, that it is through a process of interaction with that world and others that one learns to ascribe meaning to

one's experiences and to articulate - through language - a sense of one's self and one's life that is considered socially and culturally appropriate within that world (see Berger and Luckmann, 1967)[2].

In this view, language is not seen as reflecting reality but as actively constituting it. According to such a view social relations, those including gender, class and race, are constructed through everyday practises and structures which are discursively constituted via language. It follows, then, that 'meaning' and 'interpretation' become the central issues that need to be addressed in both 'theory' and 'practice'. In addition, theory must be involved in articulating an understanding of self and society, what forms and informs the status quo, and articulating possible alternatives to it. Neither language, meaning, or interpretation can be fixed. Rather, they are culturally and historically specific, and thus subject to change.

In addition, as Foucault reminds us, 'available discourses' simultaneously enshrine, maintain and constitute both knowledge and power relations. Change is possible but both enabled and constrained by the systems, structures and practices that are established within the given culture. This again affirms the point that language does not merely reflect 'reality' but actively constructs a 'reality' and becomes the central focus for understanding and analysing social organizations, social meanings, power and individual consciousness.

Rather than sideline language, language as discourse takes central stage, as Shotter (1993) puts it:

> [In] the behavioural and social sciences, we have begun to experience a major movement, a change not so much in our theories as in our practices: a shift of interest toward how we talk and write about our different subject matters - with a corresponding decrease in what the supposed nature of these subject matters might actually be (p. 8).

Shotter (1993) cites an example taken from Rorty (1980) on how certain metaphors (and not empirical facts), have determined what we think is 'true' regarding 'the nature of mind' and other philosophical questions:

> It is pictures rather than propositions, metaphors rather than statements which determine

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[2]. For example:

> It [our experience of our institutional world] is experienced as an objective reality. It has a history that antedates the individual's birth and is not accessible to his biographical recollection. It was there before he was born, and it will be there after his death. Since institutions exist as external reality, the individual cannot understand them by introspection. He must 'go out' and learn about them, just as he must learn about nature. The paradox that man is capable of producing a world that he then experiences as something other than a social product will concern us later on. At the moment, it is important to emphasize that the relationship between man the producer, and the social world, his product, is and remains a dialectical one...The product acts back on the producer (cited in Shotter, 1984, p. 44).

most of our philosophical convictions..Without the notion of the mind as mirror, the notion of knowledge as accuracy of representation would not have suggested itself (cited in Shotter, 1993, p. 9).

Michael Shapiro (1984) makes a similar point:

An increasing interest in the literary genre by social scientists has led to modes of social and political analysis which cast both the social processes under investigation within aesthetically oriented imagery and foreground the language of inquiry itself. ....it reflects an appreciation that language is necessarily opaque rather than clear, that its figures, its grammatical and rhetorical tropes ... constitute persons and objects rather than simply adding extra means of expression (p. 218)

In other words, the questions of 'truth', 'objectivity' and 'science' are to be addressed more in terms of whose truth?, what is objectivity and how did such dualism between subjectivity and objectivity arise? and how has 'science' - as one meaning-making system - come to be reified as 'The Truth'? How do different ways of talking and writing about a subject either enable or constrain our thinking, knowledge and/or practices that are based upon those discursive constructions ? Central to addressing these questions are some poststructuralist theories regarding the link between knowledge and power: that is, the notion that knowledge is not neutral, so that often those who have power also regulate what counts as truth and are able to subjugate alternative knowledge practices (for example, what Foucault terms 'the will to truth' (see *The Order of Discourse*' (1970); or what Gramsci refers to as the practise of hegemony by dominant groups (see Fraser, 1992, pp. 178-80); or perhaps what Bakhtin refers to as heteroglossia (see Stam, 1988, pp. 121-2)).

Shapiro (1985) locates some of the above questions within Heidegger's philosophy and says 'Heidegger can be read in a way that provides a new set of orienting questions' (p. 217) through his questioning of 'science' and his attack on the positing of an epistemology of representation connected to a notion of man as a being with a viewpoint [i.e., a cognitive self/psychology based upon Cartesian philosophy] (Shapiro, 1985, p. 216).

According to Heidegger,

Science always encounters only what its kind of representation has admitted beforehand as an object possible for science..the sciences still speak about the Being of beings in the unavoidable suppositions of their regional categories. They just don't say so (cited in Shapiro, 1984, p. 216).

Heidegger argues that science neglects the context in which it is embedded, when it is the practices which link and constitute 'man' and give rise to the predicates upon which science is based. He thus shifts the scientific inquiry away from 'why?' and 'what?' questions to how humans come about and how the world is produced.

Heidegger, says Shapiro (1984),

displaces the ego subject, the subject of consciousness, from the centre of knowledge and

> puts in its place an historical changing subject constituted as a set of skills and /or
> practices, including (and especially) linguistic practices which 'house' human existence
> (p. 216).

This displacement promotes a view which understands the world of persons and things as produced by prior practices embedded in language in general and speech practices in particular. Here, I proceed from the assumptions that one cannot use the term 'social practice' independently of the discourses that form and inform the material actioning of language practices in the world (that is, practices are inseparable from their medium - language), and further that language and ideology are intimately connected. As poststructuralists assert, all meaning and knowledge is discursively constituted through language and other signifying practices (see Gavey, 1990; Weedon, 1987).

Critical Literary Theory and Poststructuralism

The Bakhtin School

A central point in this approach is stated by Voloshinov:

> consciousness itself can arise and become a viable fact only in the material embodiment
> of signs (cited by Selden, 1985, p. 16).

This is to say both that language constructs subjectivity, and that language, as a socially-constructed sign-system, is itself a material reality. Selden (1985) notes that 'The Bakhtin School' departed from classical Marxist assumptions about ideology by

> refusing to treat it [ideology] as a purely mental phenomenon which arises as a reflex of a
> material (real) socio-economic substructure' (p. 16).

Selden (1985) also notes this approach was concerned with language or discourse as a social phenomenon. Accordingly,

> 'words' are active, dynamic social signs, capable of taking on different meanings and
> connotations for different social classes in different social and historical situations. ...
> Verbal signs are the arena of continuous class struggle: the ruling class will always try to
> narrow the meaning of words and to make social signs 'uniaccentual', but in times of
> social unrest the vitality and basic 'multi-accentuality' of linguistic signs becomes
> apparent as various class interests clash and intersect upon the ground of language (cited
> in Selden, 1985, p. 16-17).

The members of the Bakhtin School were thus in many ways the theoretical precursors to post-structuralism. Their critique of Saussurian linguistics, which they argued treated language as a dead, neutral, and static object of investigation, foreshadows many of the claims of post-structural theorists. Voloshinov rejected the notion of

> The isolated, finished, monologic utterance, divorced from its verbal and actual context
> and standing open not to any possible sort of active response but to passive understanding

(cited in Selden, 1985, p. 16).

Bakhtin developed further the implications of this view in his study of literary texts to look at the way language can disrupt authority and 'liberate alternative voices'. He also articulated the notion of the dialogic aspect of utterances, which put simply means the openness to interpretation and interaction that exists between an audience (listeners/ receivers/readers) and texts (speakers/characters/writers), such that there is a dynamic of uncertainty, non-closure, active participation and co-elaboration. Lodge (1988) notes in this context that

> Bakhtin's perception that language in use is essentially 'dialogic', every speech act springing from previous utterances and being structured in expectation of a future response, has implications that spread beyond the field of literary studies. (p. 124)

According to Todorov (1984), Bakhtin's work offers a cultural analysis which is a 'transdisciplinary view of the human sciences and of cultural life based on the common textual nature of their materials' (cited in Stam, 1988, p. 118). Bakhtin's notion of 'text' refers to the observation that all cultural production is rooted in language, and according to him no cultural production exists outside language. He therefore breaks down the arbitrary distinction some make between what is 'inside' and 'outside' the text - that is, between text and context - for the context is already textualized by what he terms the 'already said' and 'prior speakings', while the text is 'redolent with contexts' always inflected with history and shaped by events (see Stam, 1988). Such a view is referred to as *intertextuality* (Kristeva's translation of Bakhtin's 'dialogic'). Stam (1988) characterizes intertextuality as

> the open-ended possibilities generated by all the discursive practices of a culture, the entire matrix of communicative utterances within which the artistic text is situated (p. 132).

Now, as Lodge pointed out in his quote above, these ideas do have profound implications beyond literary theory, and the implications I draw from this in my approach to 'discourse analysis' are predicated upon such a view. Thus, I am challenging the notion referred to by Parker (1992) as 'critical realism' in which he sees a separation between discourse and the structural context in which discourse is embedded. The implications of these ideas for psychology as a discipline have been drawn out by Gergen (1973) in his view of 'social psychology as history', and more explicitly by Shotter (1992) in his recent paper on *Bakhtin and Billig: Monological Versus Dialogical Practices* and his book *Cultural Politics of Everyday Life* (1993). Wertsch (1991), in *Voices of the Mind: A Sociocultural Approach to Mediated Action*, also draws on the works of Vygotsky and Bakhtin to propose a radical challenge to psychology as a discipline. He outlines an account of human mental processes which is grounded in action and recognizes the relationship between these processes and their cultural, historical and institutional settings.

Barthes

It was Barthes (1968) who coined the phrase 'The death of the author', in which he rejected the traditional view that the author is the origin of the text, the source of its meaning, and the only authority for interpretation. For Barthes, each text possesses a plurality of meanings, just as each 'I' which reads is 'already itself a plurality of other texts' and 'each text refers back differently to the infinite sea of the 'already written'' (Barthes, 1968, cited in Selden, 1985, p. 76). Thus to try 'to see all the world's stories..within a single structure' (Barthes, 1968, cited in Selden, 1985, p. 76) is a vain ambition which limits meaning and reduces the reader to a consumer of fixed meaning rather than turning the reader into a producer of meaning. Barthes states:

> Textual analysis indeed requires us to represent the text as a tissue,..as a skein of different voices and multiple codes which are at once interwoven and unfinished. (Barthes, 1968, cited in Lodge, 1988, p. 193).

Yet what this also suggests is that any reading of a text, however good, will only be a partial one and 'as the reader adopts different viewpoints the text's meaning is produced in a multitude of fragments which have no inherent unity' (Barthes, 1970, cited in Selden, 1985, p. 77).

Barthes' contribution to literary theory is a useful reminder for all writers and readers and his contention that:

> The worst sin a writer can commit is to pretend that language is a natural, transparent medium through which the reader grasps a solid and unified 'truth' or 'reality'... Bourgeois ideology, promotes the sinful view that reading is natural and language transparent; it insists on regarding the signifier as the sober partner of the signified, thus in authoritarian manner repressing all discourse into a [single] meaning (Selden, 1985, p. 74).

has resonances in Culler's (1982) observation that:

> Structuralists are convinced that systematic knowledge is possible; Poststructuralists claim to know only the impossibility of this knowledge (cited in Gavey, 1990, p. 7).

Derrida

Derrida is seen as a 'pioneer' in the field of deconstruction, and his work *Structure, Sign and Play in the Discourse of the Human Sciences* (1966/trans. 1978) is marked as the beginning of 'poststructuralism' as a movement. According to Derrida we can never transcend language/culture, and any word/concept contains not only a positive but also its opposite. Western thinking, Derrida says, has been founded upon the 'logic' of binary oppositions, such as mind/body, rational/emotional, freedom/determinism, man/woman , nature/culture and one term is always given a more privileged position than its opposite, in a way typical of ideologies.

This view has been brought into psychology by Billig et al.(1988) and Billig (1991), and in his view of the nature of ideology one is 'persuaded' by the rhetorical force of 'common-sense' and 'lived' ideology such that the privileging of one side of the dichotomy is seen as 'natural' and 'the way things are'. Yet there is no inherent 'logic' to this 'either/or' dualism, says Derrida, because neither part of the binary opposition can exist without the other since both are interdependent and related:

> to give anything an identity, to say what it is, is necessarily also to say what it is not. In this sense, presence contains absence. That is, to say that a quality is present depends upon implying what is absent (Burr, 1995, p. 107).

This, therefore, implies a 'both/and' logic. To oppose one side of a binary will result in merely a reversal of the system rather than a revolution of it. Deconstruction is not a replacement theory but a disruptive one which may challenge the orthodoxy of dominant belief systems and set in motion another shift in thinking that was not permitted before dislodging the 'giveness' of the fixed sign. Derrida argues that the notion of structure, in theories like structuralism, presuppose a 'centre' or 'transcendental signified' which is fallacious (see Lodge, 1988, pp. 108-123). Derrida (in Lodge, 1988) argues against classical structuralism, as well as traditional humanism and empiricism. All such theories imply they are based on some secure ground, yet Derrida claims these are no more than philosophical fictions (based upon metaphors and metonymies that are 'read' as 'real'). The search for an 'essential reality' or 'origin' or 'truth' is futile, because

> language bears within itself the necessity of its own critique, deconstructive criticism aims to show that any text inevitably undermines its own claims to have a determinate meaning, and licences the reader to produce his own meanings out of it by an activity of semantic 'freeplay' (Derrida, 1966, in Lodge, 1988, p. 108).

The written word, in Derrida's view, relies upon its meaning via the context in which it is embedded. Both signified and signifier, though, are related in such a way that

> there is, with respect to the very structure of language, no proper context to provide proof of a final meaning' [there is a process of continual deferral] (Lechte, 1994, p. 109).

therefore making any claim to 'truth' an impossibility; 'truth' is both relative and plural. This is part of Derrida's contribution to critiquing not only Saussureian linguistics but 'deconstructing' the basis of 'western dualistic thinking', such that he 'deposes' philosophy from its centre and instead focuses upon 'a grammatology of difference' (see Lechte, 1994, pp. 105-9; Lodge, 1988; and Norris, 1982, for summaries of Derrida's influence).

To illustrate part of this critique I will utilize a simple example from Burr (1995):

> Saussure had claimed that, though [the] relationship [between the signifier and the signified] was arbitrary, the signifier (for example, the word 'tree') and that which it signifies, its meaning (our idea of a tree), are bound together. The meaning becomes 'fixed' to the signified. The word 'tree' therefore has attached to it all the 'treeness'

qualities we think of when we think of the real object (leafy, tall, shady and so on). But Derrida ...questioned the idea meaning could ever be present in the signifier in this way ... The meaning of 'tree' is ... to be found in all the things that are absent from it. Tree is **not** shrub, **not** flower, **not** animal and so on. But of course we are not conscious of this when we use words, and mistakenly believe that the meaning of a word is fully present in the word alone ... meaning is always **both** dependent upon a signifier's difference from other signifiers **and** constantly deferred from one signifier to another in an endless chain. ... We are therefore always implicitly referring to what these things are not, to what is absent from them. These absences are repressed ... 'deconstruction' involves very closely reading a piece of text with an eye to showing up how its construction relies upon such unstated absences (p. 105-6; my emphasis).

Deconstruction is further defined as:

to peel away like an onion the layers of constructed meanings ... a strategy for revealing the underlayers of meanings 'in' a text that were suppressed or assumed in order for it to take its actual form - in particular the assumptions of 'presence' (the hidden representations of guaranteed certainty) [referred to as logocentrism] ... [And] Any meaning or identity (including our own) is provisional and relative, because it is never exhaustive, it can always be traced further back to a prior network of differences, and further back again...(Appignanesi and Garrat, 1995, pp. 79-80)

According to Weedon (1987), Derrida questions

Saussure's *logocentrism* in which signs have an already fixed meaning recognized by the self-consciousness of the rational speaking subject. ... The effect of representation, in which meaning is apparently fixed, is but a temporary retrospective fixing. Signifiers are always located in a discursive context and the temporary fixing of meaning in a specific reading of a signifier depends on this discursive context (p. 25).

For example, the meaning of the signifier 'woman' varies from ideal to victim to object of sexual desire, according to its context. This meaning, says Weedon, is always open to challenge and redefinition with shifts in its discursive context. Thus the meaning of 'woman' is subject to change, depending upon how social and historical practices contribute to the construction of possible 'subject positions'. This introduces the notion of how 'subjectivity' is discursively constructed and located in the text. Weedon defines 'subjectivity' as the term used to "refer to the conscious and unconscious thoughts and emotions of the individual, her sense of herself and her ways of understanding her relation to the world" (Weedon, 1987, pp. 32-5; and section below on subject positions). Even within a particular culture there will be competing and conflicting discourses; therefore both the signified (concept) and signifier (sound or written image) are open to constant rereading and reinterpretation.

The implications for a feminist poststructuralism using Derrida's notion of deconstruction have not yet been fully articulated, and although Weedon (1987) hints at the contribution of his ideas[3],

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[3]. See also Spivak (1985), who Weedon says has used deconstruction to propose a 'progressive politics' of gender and race (1987, p. 165), and Flax (1990).

Derrida remains on the margins in 'discourse analysis' texts. It is beyond the scope of this thesis to develop this theorising. Deconstruction, according to Weedon (1987) though, does not, as an approach, adequately spell out the social power relations within which texts are located and it is Foucault to whom we should turn for a clearer elaboration of this.

Foucault

Discourse, as defined by Foucault, refers to:

> ways of constituting knowledge, together with the social practices, forms of subjectivity and power relations which inhere in such knowledges and relations between them. Discourses are more than ways of thinking and producing meaning. They constitute the 'nature' of the body, unconscious and conscious mind and emotional life of the subjects they seek to govern (Weedon, 1987, p. 108).

> ... a form of power that circulates in the social field and can attach to strategies of domination as well as those of resistance (Diamond and Quinby, 1988, p. 185).

Foucault's work is imbued with an attention to history, not in the traditional sense of the word but in attending to what he has variously termed the 'archaeology' or 'genealogy' of knowledge production. That is, he looks at the continuities and discontinuities between 'epistemes' (taken by Foucault to mean the knowledge systems which primarily informed the thinking during certain periods of history: a different one being said to dominate each epistemological age), and the social context in which certain knowledges and practices emerged as permissable and desirable or changed. In his view knowledge is inextricably connected to power, such that they are often written as power/knowledge.

Foucault's conceptual analysis of a major shift in (western) cultural practices, from 'sovereign power' to 'disciplinary power', in *Discipline and Punish:The Birth of the Prison* (1979), is a good example of his method of genealogy. He charts the transition from a top-down form of social control in the form of physical coercion meted out by the sovereign to a more diffuse and insidious form of social surveillance and process of 'normalisation'. The latter, says Foucault, is encapsulated by Bentham's Panopticon; a nineteenth century prison system in which prison cells were arranged around a central watchtower from which the supervisor could watch inmates, yet the inmates could never be certain when they were being watched, therefore, over time, they began to police their own behaviour. The Panopticon has became the metaphor for the processes whereby disciplinary 'technologies', together with the emergence of a normative social science, 'police' both the mind and body of the modern individual (see Dreyfus and Rabinow, 1982, p. 143-67).

Power, in Weedon's (1987) interpretation of Foucault is:

> a dynamic of control and lack of control between discourses and the subjects, constituted by discourses, who are their agents. Power is exercised within discourses in the ways in which they constitute and govern individual subjects (p. 113).

Foucault's focus is upon questions of how some discourses have shaped and created meaning systems that have gained the status and currency of 'truth', and dominate how we define and organize both ourselves and our social world, whilst other alternative discourses are marginalised and subjugated, yet potentially 'offer' sites where hegemonic practices can be contested, challenged and 'resisted'. He has looked specifically at the social construction of madness, punishment and sexuality. In Foucault's view, there is no fixed and definitive structuring of either social (or personal) identity or practices, as there is in a socially determined view in which the subject is completely socialized. Rather, both the formation of identities and practices are related to, or are a function of, historically specific discourses. An understanding of how these and other discursive constructions are formed may open the way for change and contestation.

Foucault developed the concept of the 'discursive field' as part of his attempt to understand the relationship between language, social institutions, subjectivity and power. Discursive fields, such as the law or the family, contain a number of competing and contradictory discourses with varying degrees of power to give meaning to and organize social institutions and processes. They also 'offer' a range of modes of subjectivity (Weedon, 1987, p. 35). It follows then that,

> if relations of power are dispersed and fragmented throughout the social field, so must resistance to power be (Diamond & Quinby, 1988, p. 185).

Foucault argues though, in *The Order of Discourse*, that the 'will to truth' is the major system of exclusion that forges discourse and which 'tends to exert a sort of pressure and something like a power of constraint on other discourses', and goes on further to ask the question 'what is at stake in the will to truth, in the will to utter this 'true' discourse, if not desire and power?' (1970, cited in Shapiro 1984, p. 113-4).

Thus, there are both discourses that constrain the production of knowledge, dissent and difference and some that enable 'new' knowledges and difference(s). The questions that arise within this framework, are to do with how some discourses maintain their authority, how some 'voices' get heard whilst others are silenced, who benefits and how - that is, questions addressing issues of power/ empowerment/ disempowerment.

Subject Positions and Positioning

According to Davies and Harre (1990) positioning is

the discursive process whereby selves are located in conversations as observably and subjectively coherent participants in jointly produced story lines. There can be interactive positioning in which what one person says positions another. And there can be reflexive positioning in which one positions oneself (p. 48).

The concept of 'positioning' as a term has parallels to that of 'role' within traditional social psychology, yet articulates both a far more fluid and dynamic sense of the multiple 'selves' or 'identities' one has, and also how these 'are called forth' and/or actively constructed, in conversations between people or in other discursive contexts (to paraphrase Althusser on the notion of being 'hailed' by certain ideological positions). By contrast, the use of 'role' is more congruent with the modernist notion of the self as fixed, static, structurally formalised and ritualistic, thus leaving little room for capturing the more subtle and complex aspects of interaction (see Davies and Harre, 1990).

Davies and Harre define a subject position in the following way:

A subject position incorporates both a conceptual repertoire and a location for persons within the structure of rights for those that use that repertoire. Once having taken up a particular position as one's own, a person inevitably sees the world from the vantage point of that position and in terms of the particular images, metaphors, storylines and concepts which are made relevant within the particular discursive practice in which they are positioned. At least a possibility of notional choice is inevitably involved because there are many and contradictory discursive practices that each person could engage in (Davies and Harre, 1990, p. 46).

They argue that central to acquiring a sense of self and interpreting the world from that perspective is the learning of the categories which include some and not others such as male/female, father/daughter, then participating in various discursive practices that allocate meaning to those categories. The self is then positioned in relation to the storylines that are articulated around those categories (for example as wife ,not husband, or good wife and not bad wife). Finally, they say one recognises oneself as 'belonging' psychologically and emotionally to that position through adopting a commitment entailing a 'world-view' commensurate with that membership category.

All of us have multiple affiliations, and are different selves within each of them. For instance, I am not just my biological category of female, or 'simply' a woman, but other descriptors such as white, middle-class, mother, student, wife, pakeha woman, lapsed catholic/would-be buddhist etc. point to the many social contexts in which my 'identity' has been constructed through the various descriptions that give experience meaning. In some contexts it may be crucial I am a woman, in others not so much (although I can't think of that many right now), yet the important point is there is no singular, unitary self that is maintained at all times in all places. The essential self of humanism that is fixed and not subject to change is radically questioned by poststructuralists who see social identities as "discursively constructed in historically specific social contexts; they are complex and plural; and they shift over time" (Fraser, 1992, p. 178).

Weedon (1987) outlines how the poststructuralist "decentering of the subject" proposes a subjectivity which is "precarious, contradictory and in process" (p. 33) and opens up the possibility for change by 'offering' alternative ways of ascribing meaning to our experience. An example she gives is the potential opened up by 'feminist' discourses for women to reascribe what they had perhaps previously internalised as personal inadequacies and failings to a recognition of the socially constructed 'nature' of experience; through a process described as 'consciousness-raising' in the 1970s by second-wave feminists (or in contemporary jargon 'deconstructing' the 'positioned subjectivity' that may be experienced as 'oppressive'), such that:

> what had been experienced as personal failings are socially produced conflicts and contradictions shared by many women in similar social positions. This process of discovery can lead to a rewriting of personal experience in terms which give it social, changeable causes (p. 33).

Davies and Harre (1990, p. 47) argue the contradictions one experiences between the constitution of various selves actually provides the dynamic for understanding. They use the metaphor of an unfolding narrative, in which we may be constituted in one position or another, in one narrative or another within a story, or perhaps stand in multiple positions or negotiate new ones by 'refusing' the ones that have been articulated by posing alternatives. Yet within their story they do not make explicit the notion of power that may enable or constrain this 'negotiation'. The very fact there is a notional idea of 'resistance' (a Foucauldian concept) implies the concept of an 'agent' or 'agency', thus shifting the focus away from a being merely functioning under the control of social structures and practices.

For those concerned with issues of social justice and looking at the workings of power/knowledge, the concept of positioning also opens up the question of how discourses construct what and who is considered as 'other'. In Derrida's view of presences and absences, the defining of one category in positive terms - and the 'other' as what the dominant group is 'not' - and analysing what is not said as much as what is, one can see glimpses of the workings of what Gramsci terms hegemony. Fraser (1992) says hegemony is 'the discursive face of power':

> It is the power to establish the 'common sense' or 'doxa' of a society, the fund of self-evident descriptions of social reality that normally go without saying. This includes the power to establish authoritative definitions of social situations and social needs, the power to define the universe of legitimate disagreement, and the power to shape the political agenda. Hegemony, then expresses the advantaged position of dominant social groups with respect to discourse (p. 179).

Certain social groups are defined by the dominant orthodoxy as 'other'. One example is *women*, who within a male hegemonic system are variously defined in terms of whatever men are (which is valued positively) women are not; they are 'other'. In this way, the self/other binary intersects with others such as rational/emotional, culture/nature, public/private and are seen to represent

male/female respectively. Within this particular discourse women disappear, become invisible in the binary man/not (wo)man, and women do not have a positive identity but are constructed from a 'position' of 'lack' and 'without male identity', the 'absence of the phallus', as Irigaray argues:

> women are refused access to society and culture in direct proportion that men are of society and culture ... socially speaking, women - at least from a traditional perspective - must be attached to a man in order to have a social persona; a woman thus does not have her own identity ... that to have an identity which is not one's own - to be a 'sex which is not one' - is to be excluded from the fullness of being: it is left precisely in a condition of 'dereliction'. Women as women are therefore excluded from the social contract (cited by Lechte, 1994, p. 162).

Women, it is argued, thus need to create new 'subject positions' for themselves in which they are valued as women. This task of identifying, deconstructing (and then reconstructing) the dominant cultural discourses of gender identities has begun. Weedon's (1987) example regarding the creation of alternative 'feminist' discourses is one example. Yet some women wonder whether 'poststructuralism' serves women's interests in this aim, and it is to this issue I now turn.

Feminist Poststructuralism

Feminism of all types can be seen to share some common ground and it is from Weedon (1987) I take my definition of feminism:

> Feminism is a politics. It is a politics directed at changing existing power relations between men and women in society. These power relations structure all areas of life, the family, education and welfare, the worlds of work and politics, culture and leisure. They determine who does what and for whom, what we are and what we might become (1987, p. 1).

Fraser and Nicholson see the concerns of both postmodernism and feminism as so inter-related that a useful union of both is worth articulating:

> Feminists, like postmodernists, have sought to develop new paradigms of social criticism which do not rely on traditional philosophical underpinnings. They have criticized modern foundationalist epistemologies and moral and political theories, exposing the contingent, partial, and historically situated character of what has passed in the mainstream for necessary, universal, and ahistorical truths. They have called into question the dominant philosophical project of seeking objectivity in the guise of a "God's eye view" which trancends any situation or perspective (1990, p. 26).

Flax (1990) also states:

> Postmodern discourses are all deconstructive in that they seek to distance us from and make us sceptical about beliefs concerning truth, knowledge, power, the self, and language that are taken for granted within, and serve as legitimation for, contemporary Western culture (p. 41).

It is important to note that there is no one 'feminist' perspective or position; it is more correct to

speak of 'feminisms'[4]. Recent feminist theorizing has tended to be more reflexive upon some of its own implicit assumptions. The tendency of 'feminist theory' to adopt a meta-narrative or universalizing approach that is a 'totalizing discourse' has been critiqued by those who propose a 'postmodernist or poststructuralist' feminism (see Flax, 1990; Fraser, 1992; Gavey, 1990; Kristeva, 1981; Lather, 1988; Nicholson, 1990; Weedon, 1987). The aim of these writers is not to denounce the force or potency of previous feminist writing but to offer a more critical theory that is historically contextualized and able to account for cultural diversities and differences between women and advocates a move away from 'disabling vestiges of essentialism' (McNay, 1992, p. 120).

One critique of the tendency toward a 'totalizing discourse' has arisen from women of different class, race, ethnic and sexual orientations regarding 'the universal oppression of women' discourse as only voicing the concerns of white, western, middle class, heterosexual women. It is argued then that questions of racism and classism are not adequately addressed or only paid lip-service within some feminist theorising (see Fraser and Nicholson, in Nicholson, 1990). Fraser and Nicholson (1990) say:

> In recent years, poor and working-class women, women of colour, and lesbians have finally won a wider hearing for their objections to feminist theories which fail to illuminate their lives and address their problems. They have exposed the earlier quasi-metanarratives, with their assumptions of universal female dependence and confinement to the domestic sphere, as false extrapolations from the experience of the white, middle-class, heterosexual women who dominated the beginnings of the second wave (p. 33).

Thus we need both theories and practices that attend to differences between women, both within and across historical periods and cultures; they believe some of the postmodern theorists enable the development of these new ways of working.

Another tendency within some feminist discourses is to subscribe implicitly to the humanist articulation of the notion of an 'essential' self that is fixed and unchanging, for example, either in

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[4]. More generally there are three major "schools" of feminism, "liberal", "radical", and "socialist" (see Jaggar (1983) for further outline). Liberal feminism's stated aim is a full equality of opportunity, whilst working from an acceptance of some of the liberal-humanist philosophy which underpins the current state. However, some argue that realisation of its aims at more equality may transform the sexual division of labour and norms of masculinity and femininity such that the present social and political system is changed (see Eisenstein, 1981, cited in Pateman, 1991, p. 117). Radical feminism takes as its starting point the desire for a new order in which women are free of all forms of subordination to men and the many expressions of "femininity and femaleness" are valued positively. This can only be achieved in the current context, they say, through adopting a separatist strategy (see Weedon, 1987, p. 4; and pp. 63-73 on some aspects of 'French Feminism'). Socialist feminism sees patriarchy as integrally tied to sexual, racial and class oppressions and to achieve social justice a radical transformation of the social system is necessary (see Weedon, 1987, p. 4).

the form of a language that speaks of women's experience as some quintessential or transcendental truth (see Gavey, 1990, p. 5) or the biological essentialism implicit in some feminist theories (e.g. Firestone, 1970, cited in Nicholson, 1990, p. 27). Feminist poststructuralism questions the fixing of such an unique, individualized and essential self and sees all experience as having no 'inherent' meaning, but that meaning is given to experience via language. As Gavey (1990) points out it is not that liberal humanist values are unworthy, *per se*, but that

the absence of metatheoretical concerns about power render them insufficient (p. 4). Weedon (1987) also comments on the need for theory that looks at the relationship between experience, social power and resistance, yet still recognizes the importance of the subjective in constituting the meaning of women's lived realities and be able to account for diverging and different 'subject positions' (see pp. 8-9).

Women adopting poststructuralist or postmodernist approaches contend that insufficient attention has been paid to language, in the form of discourse, which constructs both our 'subject positions' and 'subjectivity' and an analysis that starts to enable an articulation of how these are constructed, and/or may be resisted, is needed. While this may also question even some of feminism's implicit assumptions, this could be both necessary and productive. Lather (1988) argues that:

we need to wrestle with the postmodern questioning of the lust for authoritative accounts if we are not to remain as much part of the problem as of the solution ourselves (cited in Gavey, 1990, p. 5).

This 'postmodern' shift in thinking can be located, some say, as a more general movement within the contemporary Western cultural tradition which problematizes Enlightenment beliefs and the philosophy of an essential, individualized, rational and coherent self (and society). A postmodern position would entail assumptions such as there is no one 'Truth' but many competing truth claims, and pluralism, relativism and heterogeneity reign. There has been a move away from 'grand theory' to a more localized and contextualized approach in theorizing.

A postmodernist feminism, according to Fraser and Nicholson (1990, in Nicholson, 1990) would be:

comparativist rather than universalist and attuned to changes and contrasts instead of covering laws [and] would replace unitary notions of woman and feminine gender identity with plural and complexly constructed conceptions of social identity (pp. 34-5).

This can be developed, Weedon argues, through attending to,

recent poststructuralist developments in the theory of language, subjectivity and power for knowledge production which will serve feminist interests (Weedon, 1987, p. 10).

Gavey (1990) suggests that a way of working that is consistent with a feminist poststructuralist perspective is discourse analysis. Further to this she also contends that discourse analysis provides

a way of working that enables the articulation of contradictions between discourses, creating competing discursive positions which avoid recourse to either theories of 'false consciousness' and the researcher making inferences about a person's 'true' beliefs, or to a 'unified theory' which may not be able to contend with the complex and fragmentary 'nature' of social life and interaction. She says:

> It is possible, therefore, not to deny desires which may be incompatible with liberation, 'but to understand desires as produced and therefore, potentially at least, as changeable' (cited in Gavey, 1990, p. 9-10)

Gavey sees important shared ground between feminism and poststructuralism - for example, that the social and historical specificity required in this approach is not dissimilar to concerns compatible with socialist feminist theories - and therefore that it is futile to dichotomize the two movements.

Fraser (1992) suggests that a theory of discourse can help us understand at least four things, all of which are interrelated. These are:

> First, it can help us understand how people's social identities are fashioned and altered over time. Second, it can help us understand how, under conditions of inequality, social groups in the sense of collective agents are formed and unformed. Third, a theory of discourse can illuminate how the cultural hegemony of dominant groups in society is secured and contested. Fourth, and finally, it can shed light on the prospects for emancipatory social change and political practice (Fraser, 1992, p. 178).

This, she says, requires a number of theoretical approaches, and she advocates a form of 'bricolage' to overcome any tendency toward a total theory. Fraser (1992) suggests a 'pragmatic approach', based upon the works of Bourdieu, Bakhtin, Foucault, Habermas, Gramsci and aspects of Kristeva in developing her 'postmodern feminism'; whilst Weedon's (1987) poststructural position draws on Barthes, Derrida, Foucault, aspects of Cixous, Irigaray, Kristeva, and Lacan.

There seems to be what could be described as a 'creative tension' between different 'feminist' positions. This tension is perhaps part of the 'inevitable' process of knowledge production. Difficulties arise if one sees this as a dichotomy between modern and postmodern - both positions have useful contributions to make.

Lyotard states the 'hard-line':

> The grand narrative has lost its credibility, regardless of what mode of unification it uses, regardless of whether it is a speculative narrative or a narrative of emancipation (1984, p. 37, cited in McNay, 1992, p. 125).

Yet postmodernism itself must be wary of creating its own 'regime of truth' and transposing one 'grand narrative' for another. An observation from Nancy Harstock (1990) I think echoes the dilemma of adopting an "either/or" approach:

> despite its anti-foundational claims, postmodernist theory rests on a desire for universality; the desire for totality is replaced with an equally totalizing desire for

contextualism, pluralism and heterogeneity (cited in McNay, 1992:130)

Whilst a 'postmodern' position may be one I would have great empathy with I would risk the accusation of writing from the position of a 'true believer' of the fundamentalist creed according to 'postmodernism' if I did not outline some of the 'tensions' between modernism/postmodernism within feminism.

Some of the main tensions have been outlined in McNay (1992, pp. 120-130) and have centred around questions to do with the political impact postmodernism may or may not have on feminism in terms of 'losing' the power to offer a practical and valid form of social criticism if one forsakes large historical narratives and analyses of societal macrostructures. As McNay articulates the concerns via Fraser and Nicholson's paper 'Social Criticism without a Philosophy: An Encounter between Feminism and Postmodernism' (see Nicholson, 1990) and reactions to it, I am left wondering whether it is a 'storm in a tea-cup'. Both 'sides' agree that feminist scholarship is still

> Insufficiently attentive to the theoretical prerequisites of dealing with diversity, despite widespread commitment to accepting it politically (Fraser and Nicholson, 1988, p. 389, cited in McNay, 1992, p. 120);

that is, the question of 'difference' has to be addressed more fully by feminist theory. Both concur also that contrary to Lyotard's pronouncement of the necessity that all grand narratives must be discarded, for feminism such a position is not useful. The point of contention then seems to be an effect of contests over the meaning of the term 'postmodern'.

I wonder if Larrain's (1994) distinction between postmodernism and poststructuralism would hold more appeal? Larrain (1994) says:

> The dividing line between poststructuralism and postmodernism is far from clear. They certainly share a good number of premises and principles- for instance, the centrality of discourse for modern life, the relativist distrust of truth, the discursive constitution of the subject, and so on...While for poststructuralism ideology critique is replaced by the articulating discourse which creates ideologically active subject positions, for postmodernism ideology critique is replaced by the end of ideology (pp. 90-1).

Yet this is probably an over-simplification of some major issues which I will try to summarize.

The main question is, if all is reduced to "relativism" where does that leave social critique of injustice and oppression? Fraser and Nicholson (1988, in Nicholson, 1990) argue that feminism can rescue postmodernism from its 'nihilistic' tendencies, and it is a false leap from the anti-foundationalist critique of philosophy in postmodernism to deny any social criticism beyond the local. Understanding the force and power of sexism, racism, and ethnocentrism necessitates charting the 'genealogy' of them; we need to be able to ground our analysis historically and contextually in a critical way, therefore requiring some form of 'grand narrative'. Kellner (1988) suggests Lyotard overgeneralizes the phrase 'grand narrative' and what is needed is some form of differentiation between different types of narrative. He suggests a distinction between 'master

narratives' that attempt to subsume every view under one total theory and 'grand narratives' which attempt to

> chart the history and development, for example, capital, patriarchy or the colonial subject (cited in McNay, 1992, p. 125).

Fraser and Nicholson (1988) say that postmodern social theory

> must not begin with a reflection on the condition of philosophy, but must start from an analysis of the nature of the social object which is to be criticized, e.g. social relations between men and women (cited in McNay, 1992, p. 120-1).

This requires a number of theoretical approaches, and as noted previously they advocate a form of 'bricolage' to overcome any tendency toward a total theory.

Those that question the adoption (or co-option) of 'postmodernism' into feminism (although Flax (1987) contends feminism is postmodern) say:

> Feminist politics is, at a fundamental level, posited on [the] modernist metanarrative of personal emancipation (McNay, 1992, p. 123).

That is, feminism can be located as part of modernism, even though it forswears Enlightenment values. Soper (1989) fears that a postmodern approach, with an over-stress on difference, may deprive us of the possibility of a 'feminist ethic' rooted in certain social norms and moral codes that ground calls for change - for example, in laws that adversely affect women. She worries that an emphasis on the 'particular' may lead to

> equivalence of all biases and particularities and reduces the feminist ethic to just one of many equally valid viewpoints [and] if taken to its ultimate conclusion must condone an anarchist and wholly de-regulated economic and social policy, and..we must ask again whether this - with its obvious neo-rightist overtones - is what feminists are wanting (cited in McNay, 1992, p. 127).

Harding (1987) also raises concerns regarding relativism in that such a position, like its counterpart objectivism, may act to justify silencing women. Gavey's (1990) response to fears of relativism is to emphasize that we not abandon our 'ethics' and values; in fact she sees recent moves within 'social constructionist' theories as reasserting a 'moral' dimension into psychology as a discipline. Yet what is questionable is a way of guaranteeing or fixing these knowledges or convincing others of their 'truth'. According to Kitzinger (1986, cited in Gavey, 1990, p. 16), theory and research should be assessed in terms of their utility in achieving politically defined goals.

It is my impression that at the 'heart' of most 'postmodernist' and 'poststructuralist' writers there lurks an implicit 'leftist' political agenda (see Larrain, 1994, p. 90), yet one is caught by what Wittgenstein terms "language games". My interpretation of one function of postmodernist thinking is that it seeks to dislodge dominant and oppressive 'regimes of truth', yet in articulating a 'deconstruction' of Enlightenment beliefs deconstruction comes from a position of being a 'product' and a part of this cultural heritage. Also in constructing postmodern 'theoretical'

criticisms, the 'logic' of the arguments preclude explicitly defining a 'normative' basis to this critique because they would then undermine the theorists own critique. Postmodern theorists would be in danger of constructing yet another 'regime of truth', yet in so doing the way is left open for these theories to be co-opted for ends which may not have envisaged.

Both Larrain (1994) and McNay (1992) look at the implicit assumptions within Foucault's theories and conclude that he does offer an agenda which maintains the notion of a politics of emancipation/liberation, and one that is compatible with, but different from, traditional Enlightenment values. It is perhaps one reason some feminists have spent most time on reconstructing a Foucauldian inspired analysis of power relations.

Two points arise from the above. Firstly, there seems to be no shared understanding of what 'postmodernism' means, and therefore, it is not surprising that communication between theorists seems confusing. Secondly, how and where the term is used varies widely (and perhaps this is part and parcel of its meaning). Within such a framework Stephen White (1991) tries to articulate a 'middle-way' between modernism and postmodernism (which he would rather define as 'post-modern modernity') toward a theory of justice which speaks a language of political and ethical engagement and questions injustice. He advocates an ethic derived from Heidegger on a 'responsibility to otherness' and a re-evaluation of the utility of Habermas's communicative ethics (see pp. 140-3). It is his belief that

> one cannot discuss justice and collective action in any sustained fashion without implying at least some elements of a metanarrative (1991, p. 140).

This certainly echoes Fraser and Nicholson's view (1990, in Nicholson, 1990) , cited earlier. What is needed, he says, is an understanding of 'normative discourse' from a viewpoint that encompasses how groups articulate and negotiate justifications of certain norms and shared values - thus postmodern approaches provide a basis for this. White pushes the liberal notion of 'tolerating diversity' (which may be debateable) into a 'fostering of otherness' which moves beyond the individualism of liberalism into a recognition of difference at an institutional level - thus requiring a 'pluralistic politics', starting with local narratives contextualized and elaborated within a broader cultural framework. Fraser (1987) talks of a concept of the 'concrete collective other' (cited in White, 1991, p. 106), yet White fears this may lead to group competition for power rather than establishing an ethical heterogeneity. Minimal norms of 'legitimate' action must be defined within White's proposal and he sees these arising from a starting point of a shared communicative endeavour. Yet within this agenda I wrestle still with the notion of power to define these 'norms' and White starts his point of departure from an already 'deconstructed' liberal state, challenged by the contingencies of postmodernism. His book *Political Theory and Postmodernism* is a beginning in the articulation of 'justice' within a context of pluralism (for

another view articulating 'justice' see MacIntyre (1981), *After Virtue*).

Within a New Zealand context, the question of 'justice' and what it means in relation to a bi-cultural environment and the policing of domestic violence is of particular relevance to this project. The issue of the social construction of racism, social 'identity' and different subject positions available to Maori needs addressing (see McCreanor, 1995; Wetherell and Potter, 1992). Related to this are obligations incumbent upon the government, as the Crown's representative, to fulfil the Treaty of Waitangi. This becomes even more complex when one looks at gender differences and the subject positions available to women within such a context. Within this project these issues will be touched on, yet it is not possible to cover them in depth.

An example of the complexity of these issues is, I think, highlighted in the following example of a discourse, relating to the negotiation of power, from the perspective of what is termed 'parallel development', of a justice for indigenous people:

> Indigenous people can't rely on state established agencies which oppressed them to provide the justice they are seeking..When you internationalise the issue using international law or indigenous law, you take away from the ability of the state of control the process, and that is really important (Moana Jackson, Maori Legal Services Director, commenting after chairing the People's International Tribunal of Hawaii) (cited in *The Evening Standard*, Sept.14th, 1993).

Moana Jackson has concerns regarding whether the Waitangi Tribunal can really work for Maori effectively while its jurisdiction is controlled by the government (for further discussion see Wilson and Yeatman (Eds., 1995, *Justice and Identity*). Similar concerns have resulted in the 'model' for practise within Women's Refuges in New Zealand being based upon a commitment to 'parallel development', with separate refuges for Maori and Pakeha women, working co-operatively together to offer support and a 'safe' environment for abused and battered women.

The questions raised by trying to implement an ethical politics within a pluralistic 'postmodern' context relate to the issues of who defines the 'minimal norms' necessary for 'justice', what avenues are open to contest or challenge those norms perceived to be unjust, and who/what defines the criteria for 'legitimation' of 'valid' dissent and how is that dissent negotiated? Fraser (1987) advocates a 'sociocultural means of interpretation and communication' in trying to address these questions; which would include:

> the officially recognized vocabularies in which one can press claims; the idioms available for interpreting and communicating one's needs; the established narrative conventions available for constructing the individual and collective histories which are constitutive of social identity; the paradigms of argumentation accepted as authoritative in adjudicating conflicting claims; the way in which various discourses constitute their respective subject matters as specific sorts of objects; the repertory of available rhetorical devices; the bodily and gestural dimensions of speech which are associated in a given society with authority and conviction (cited in White, 1991, p. 131).

This, I think, is a good place to start: I now turn to articulating my more circumscribed 'methodology' or approach to analysing the interviews conducted with six police officers in Palmerston North, who talk on policing domestic violence.

Chapter 3

'Methodology'

As stated in the previous Chapter, Gavey (1990) notes one way of working that she sees as
consistent with a feminist poststructural perspective is discourse analysis. Discourse analysis, as
such, would not usually be described by those who use it as a 'method', especially if by 'method'
one means a set of reproducible procedures that if carried out correctly and comprehensively, will
justify a set of results. Nor is there is any one 'method' in the area of discourse analysis. Potter
and Wetherell (1987) say:

> What we have is a broad theoretical framework concerning the nature of discourse and its
> role in social life, along with a set of suggestions about how discourse can best be studied
> and how others can be convinced findings are genuine (p. 175).

The 'justification' for and 'validity' of an analysis, in their view, can only be judged from a
'detailed interpretation which links analytic claims to specific parts of the extracts' (Potter and
Wetherell, 1987, p. 172). This requires enough 'representative examples' to be drawn from the
texts to enable a reader to follow the reasoning process used. Despite there being different
approaches to discourse analysis there are some 'common features' also, these are:

> Participant's discourse or social texts are approached in their own right and not as a
> secondary route to things 'beyond' the text like attitudes, events or cognitive processes.
> Discourse is treated as a potent, action-oriented medium, not as a transparent information
> channel (Potter and Wetherell, 1987, cited in Gavey, 1990, p. 11).

I have already outlined in the previous chapter the theoretical assumptions that grounded my
analysis. Below is a more detailed summary of the project and 'way of working' I found useful to
carry out my 'discourse analysis' of six police talking on the policing of domestic violence. I start
by defining discourse and discourse analysis, then outline my approach, the rationales for the
research, descriptive details of the project and, finally, how I analyzed the text.

Discourse and Discourse Analysis

An initial clarification of terms is useful. Parker (1992) says a discourse is: "a system of
statements which constructs an object" (p. 5). A more detailed 'definition' is:

> A discourse refers to a set of meanings, metaphors, representations, images, stories,
> statements and so on that in some way together produce a particular version of an event
> (or person or class of persons, a particular way of representing it or them in a certain
> light) (Burr, 1995, p. 48).

Alternatively, Potter and Wetherell (1987) use the term 'interpretative repertoire' to deal with
some difficulties they see with common (and often conflicting) social science uses of the term

'discourse'. In their view some researchers take 'discourse' to mean all forms of talking and writing, while others only apply it to the way talk meshes together (p. 6). Interpretative repertoires, according to them,

> are typically seen as made up of a particular sort of content as well as commonly having certain stylistic coherences; they may be organized around one or more central metaphors (cited from notes given on Analysing Discourse, at Massey University, Potter 1994).

What is important within this definition is the notion of 'stylistic coherence' around a common theme or topic which helps construct a particular culturally available understanding. Parker (1992), though, sees some dangers in adopting this terminology for three reasons: it may lead to an over-focus upon 'grammatical constructions'; it has for him 'uncomfortable resonances with behaviourism'; and to speak of a 'limited range' of repertoires may imply one can seek a 'total' picture (p. 11). On the other hand, Potter et al. (1990) say Parker's 'objectification' of discourses in a way reinforces the subject/object dualism he seeks to deconstruct. By focusing on the 'discourse' as 'object' he loses the 'speaking subject'; what the speaker is 'doing' with his or her talk which is linked to the social context in which that talk takes place (cited in Burr, 1995, p. 174). There is no established consensus or 'right' and 'wrong' and I have navigated my way through the various positions by referring back to the question of the usefulness of an account for my research purposes.

My own objections to the term 'interpretative repertoire' are not the same as Parker's and I briefly outline some of them. I think it is useful to locate the use of the term 'discourse' within a theoretical framework which enables us to address issues such as 'power' and 'ideology'. At the same time it is necessary to pay attention to a more detailed analysis of text than is often found in much discourse analytic work, especially that which is broadly based upon an analysis of socio-political discourses . In many ways I am advocating an integration of the two approaches mentioned above, from Parker (1992) and Potter and Wetherell (1987). My analysis differs though from those just mentioned, in that it introduces a deconstructive perspective (see Norris, 1982, 1988) more explicitly into the analysis; with a focus upon the presences and absences in the 'fragments' of text analyzed, binaries, and the elaboration of subject positions and positioning (see Davies & Harre, 1990; Morgan, 1996; Morgan (in press)).

I have set out my 'orienting' frameworks under 'analysing the text' below. I also raise there a question as to the desirability of a more 'semiotic' psychology, one which would pay more attention to the contextualization of discourse analysis within a critical literary framework (see previous chapter, and also Much, 1992). Much (1992), in her paper *The Analysis of Discourse as Methodology for a Semiotic Psychology*, adopts the term 'semiotic psychology'. She draws more on linguistic sources than most critical social psychologists do, and this sometimes sets limits on her theoretical perspective yet she signals the need for a cultural psychology/anthropology

dimension (see Shweder and Sullivan ,1993, cited in Much, 1992, p. 54). This dimension has not yet been adequately theorized within psychology. But it is beyond the scope of this thesis to develop this. As Potter and Wetherell (1987) say, it is important to emphasize that as social psychologists we are not concerned with discourse as it contributes to the study of pragmatics, within linguistics, but with discourse as a way to

> gain a better understanding of social life and social interaction from our study of texts (p. 7).

One formulation of 'discourse analysis' is:

> the framework within which explanations are sought (Radford, 1987, p. 137).

A more detailed version of 'discourse analysis' is outlined by Gavey:

> Discourse analysis involves the careful reading of texts (e.g. transcripts of conversations or interviews, or existent documents or records, or even more general social practices), with a view to discerning discursive patterns of meaning, contradictions and inconsistencies. It is an approach that identifies and names language processes people use to constitute their own and others understanding of personal and social phenomena. These processes are related to the reproduction of or challenge to the distribution of power between social groups and within institutions. Discourse analysis proceeds on the assumption that these processes are not static, fixed and orderly but rather fragmented, inconsistent and contradictory (1990, p. 11).

It is in this sense that this present analysis could be termed discourse analysis, in that it attempts to look at how language helps to construct and reproduce policing practice and various 'subject positions' for men and women within that discursive construction. I make the assumption that discourses, as already outlined, either enable or constrain other (alternative) meanings from emerging. Throughout the analysis I will also focus upon the possible functional implications of the various positions taken up, and look at what is also left unsaid.

The Research

Rationale

In 1987, a new policy was adopted by the New Zealand police with regard to the handling of 'domestic disputes'[5]. This policy directed that arrest action should be taken when sufficient evidence existed of an assault or a breach of a protection order. This approach was seen as an alternative to placing the responsibility for the laying of a complaint onto victims, who are typically vulnerable to intimidation by their abusers. This policy also directed that positive action be taken to assist victims of such offences.

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[5]. Their term which categorizes domestic violence as a 'dispute', along with neighbours fighting over fences or cats and dogs.

But despite these changes, a survey carried out in 1989/90 into the effectiveness of the change of policy indicated that there were inconsistencies throughout the country in terms of its implementation (Police Ten Bulletin). A more recent study, *Protection from Family Violence* (1992), conducted by University of Waikato researchers, was commissioned by the Victims Task Force, to investigate :

> continuing breaches of non-violence and non-molestation orders made by the Family or District Court, with a view to improve the protection offered to victims (Busch et al., 1992, p. 25).

This study also came to the same conclusion; that the policy is poorly implemented.

My focus in doing this research was a desire to 'problematize' what has disproportionately been under-researched in the field of 'domestic violence', that is, the policing of it (see Stanko 1987; Edwards 1989). Most research has focused upon the 'victims' of violence. While this is admirable in its intent to seek 'solutions', much of it inadvertently makes women the 'identified problem' (see Yllo and Bograd, 1988). Policing, like all social actions, is not founded upon a singular, cohesive discourse but on many discourses. This is especially the case in the field of policing domestic violence. This alerts us to possible inconsistencies and contradictions that may arise between the policy statement and its implementation. This thesis does not aim to provide answers. Instead, it raises questions by looking at the social construction of police practice in this area and how subject positions for both men and women are articulated within this context. I also hope to demonstrate how a feminist poststructuralist inspired discourse analysis is a useful form of political and social analysis.

Another aim of this thesis is to increase awareness of the issues surrounding domestic violence, particularly questions concerning the safety and protection of women. An implicit belief I work from is that every woman has the right to live without the fear or threat of violence.[6] But the central focus in this thesis is on the policing of domestic violence. The intention is not to discredit the police or any individual officers. A number of important advances have been made regarding policy changes and positive attempts to improve practice (especially the H.A.I.P.P. initiative mentioned in Chapter 1), and it is to be hoped that these initiatives continue and that research such as this can contribute positively to a process of change.

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[6] . In saying this I could be interpreted as locating this in a 'liberal' discourse of rights and this leads into a minefield of contentious debate, but I will not pursue this issue in this thesis (see Pateman, cited in Lechte, 1994, pp. 169-73).

Description of Project

There were two separate phases to this project. The first was to talk with women who had experienced a 'domestic' assault and/or breaches of protection orders, and had sought police intervention. A semi-structured interview was conducted with five women who agreed to be interviewed (details of interview questions in Appendix 1). Each interview was taped, with the participant's consent, and lasted between 1-2 hours. I made a verbatim transcript from the tapes. This did not include attention to details like intonation, pauses and their timing as in other transcription methods like the Jefferson system (see Potter and Wetherell, 1987, pp. 166 and 188-9) because this attention to detail was deemed unnecessary for the purpose required - to inform my construction of questions to the police I interviewed.

The interview focused on what happened, what they wanted or expected to see happen and feedback/questions they would like to raise with the police. This interview was framed so neither the women or their particular case could be identified, thus fears concerning 'disclosure' were alleviated. One objective here was to gain an understanding from the women of their experience of police intervention and whether the policy in place was felt to be 'working' for them. Questions were therefore asked regarding how effective they felt the police officers they dealt with were in offering protection or assisting in connecting them with the support services available. This could be viewed as gaining 'consumer feedback' on services.

The second objective was to provide a vehicle whereby the women I spoke with could comment upon and raise questions of policing practice in relation to domestic violence, within a context that was 'safe' - that is, confidential and without fear of repercussions. This material then acted as a guide to the questions I posed to the police during their interview.

The second phase was to conduct semi-structured interviews with six male police officers who had dealt with cases of domestic violence, including breaches of protection orders. Questions included what they did, how they saw their role, what influenced them to act or not. The foci were on their interpretation of policy; how they implemented it; what difficulties they perceived in carrying out their duties; what assumptions they made in general about violence in the home; and finally what training they had had or thought would be useful in dealing with domestic violence (see appendix 2). Each interview was taped, with the participant's consent, and lasted between 1-2 hours. From this a verbatim transcript was made. Again, details like intonation and pauses were not recorded.

Interviews and Data Collection

Women

Initial contact was made with workers at the Maori Women's Refuge and Women's Refuge in Palmerston North to discuss the project. The first aim was to gain feedback from them, as refuge workers, on their perceptions of the policing of domestic violence and the questions they thought were important. The second aim was to gain their assistance in 'recruiting' three women from each refuge who would be willing to be interviewed regarding their experience of domestic violence and police intervention in their situation. In the end it was only through personal contact with a woman I knew, who had survived years of battering and abuse, that I made contact with five women who agreed to talk with me. All identified themselves as Maori, and had been terrorised, in one form or another, by the men they lived with, and had had to have police involvement (yet most said it was usually someone else who had telephoned the police).

Because of the importance of confidentiality in this area and the potential risks involved regarding the safety of the women spoken with, a number of guidelines were arrived at as a result of informal discussions with both the refuge workers and the women themselves before the interviews were conducted. This was to ensure that no-one was at risk by taking part in the research. These guidelines were:

- Women will only be spoken to in the presence of a refuge support worker. In addition, in being mindful of culturally sensitive issues that may arise talking with Maori women, close consultation with both Maori Psychology lecturers in the department will be maintained and appropriate protocols re the interview observed. One of them will also be present during most of the interviews to mediate any difficulties or problems that may arise, because I am Pakeha. I am mindful of the power issues involved in being a researcher and also of the suffering and stress that can arise in recounting painful and traumatic events; therefore

- Where there is any possibility of an approach placing the victim in danger no contact will be made; and

- Women will be fully informed of the study, that confidentiality will be strictly maintained and informed consent sought (see Appendix 1). They have the right to decline to take part at any stage of the research and information given to me will be returned to them

and/or destroyed, should they wish to discontinue;

- Should it become apparent that any questions or part of the interview are causing distress the interview will cease and a refuge counsellor be available to the woman; and

- That transcripts of any material from the interview will be made available and cleared with the person before being included in the thesis;

- Finally, that none of the detail of any case is used during discussions with the police and only general questions and issues that the women would like raised with the police will be used during those interviews, as well as some that will stem from my own research. Should any person not want a transcript of the interview included in the research it will not appear. Any excerpts from the interview that I may wish to use in the body of the research will be cleared with the woman first.

Police

Police involvement in this research was sought from the then District Supervisor of Police in Palmerston North, who suggested that if I asked for volunteers I would be unlikely to get any. He therefore suggested six police officer's names for me to contact personally to ask whether they would consent to being interviewed. Only officers who had dealt with domestic violence cases were sought, with two from rural areas, two from central headquarters and two from 'community' police stations. Permission to talk with police prosecutors was also sought. Perhaps, not surprisingly, none of the officers declined to be interviewed. However, the prosecutors were 'too busy'. All the officers I spoke to had at one time or other been stationed in an area in the south of the North Island of New Zealand with a high Polynesian population. They were all married with children and now lived in and around Palmerston North. Their ages ranged from mid 30s to mid 40s, and they all could be described as middle-class.

Ethical concerns

The project was conducted within the ethical guidelines of Massey University and the New Zealand Psychological Society. Informed consent was sought from each participant. They were given information, both verbally and in writing, about the study and their rights and had the opportunity to raise any questions they may have had. This procedure was followed for both parts

of the study. Both the participant and the researcher signed and retained copies of the consent forms. The forms used are in Appendix 3.

Confidentiality

All the materials produced in the course of research (tapes and tape transcripts) were identified only by their code name. When transcribing, all identifying material such as names, places and even identifying sequences of events were changed or not used. No information that could have identified individual women was used during the course of the interviews with police. Nor was any information given to the police about individual officers, nor material used that may identify individual officers. All participants had access to a copy of their interview transcript should they have wished to look at it and will have available to them a final copy of the thesis (or summary) should they wish to read it. All participants had the right to withdraw from the interview or research at any time. Particular care beyond that of informed consent was taken with regard to the women interviewed, as previously outlined. The sensitive nature of the research demanded care be taken to ensure the safety of the women who were involved (e.g.their spouse was not going to beat them for talking with me) and the concern I had not to re-abuse them through this research. This was done by maintaining strict confidentiality; gaining informed consent; not pursuing interviews if women are at all at risk; stopping the interview if they were showing signs of distress and having a refuge counsellor available for them to discuss any issues that may have arisen as a result of their involvement in the research.

I did not include interviews with the women in the thesis, except as a reference to the fact they were interviewed. This was because, as stated previously, the focus of this research was on the police talking about policing domestic violence. What was said to me by the women to whom I spoke was invaluable as a source of 'expert knowledge' that guided the focus of my research. I did not want to focus the analysis on their experience *per se* but to reverse the usual research focus upon women as 'victims' of violence and ask questions which 'problematized' the enforcement of another practice of power-policing, and that includes I think, the policing of women through that process of how, where and when a law is or is not enforced.

The police officers involved were assured of confidentiality, and no information which is likely to identify them to their peers or superiors is used. Interviews were conducted away from their workplace in some cases. In other cases an interview room within the police department was used, and at a time and location which was mutually convenient.

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Analysing the Text

From the transcripts of the police interviews, I selected fragments of the interview data which form the text I analyze. The interpretation of these segments is only one of many readings that could be made and is liable to be partial (see Barthes, 1968). In choosing the segments for analysis I initially read and re-read the transcriptions looking for broad categories from which to begin to sort some order amid the chaos. I categorized each part of the text under three main headings. The categories were:

- How the police talk about themselves: Constructing Police Practice.
- How "domestics" are talked about by the police: Defining a Domestic.
- How they talk about the people involved: The Positioning of Others and Themselves.

From that point, having marked each segment, they were cut and sorted into three piles of hundreds of snippets of speech. These are not, in fact, discrete categories; all three are intricately intertwined. But for the sake of clarity of exposition and in the process of reading the text, I used these three areas as my system for coding the data. After many readings of the transcript from this perspective I ordered the material in terms of emergent themes, which formed sub-categories within these three headings. I used the three frameworks outlined below: Identifying Discourses, Language Functions, and Subject Positions and Positioning, in order to ask questions like: 'What discourse is this appealing to?' (see Parker, 1992). For example, in the first section there were many implicit and explicit appeals to police 'discretion'. 'What function does this have or perform?' For example, in section two many explanations were given as to what the officers thought was going on and I found it useful to look at categories of utterances, like 'justifications' and 'excuses' (see Potter and Wetherell, 1987). 'How does this talk create a 'subject position' either for the officers themselves or for those whom they were talking about?' (see Davies and Harre, 1990; Weedon, 1987).

Identifying discourses

Discourse analysis, as stated, "deliberately systematizes different ways of talking so we can understand them better..to look at the tensions within discourses and the way they reproduce and transform the world" (Parker, 1992, p. 5). Discourses, according to Parker, "both facilitate and limit, enable and constrain what can be said (by whom, when, where)" (1992, p. xiii), and to this end he outlines seven main criteria and three auxiliary ones to guide a process of discourse analysis. I include here a summary of his approach, which is detailed in Discourse Dynamics

(1992), as I found it useful as a way of asking 'orienting questions' of the text I analyzed: The seven main criteria for distinguishing discourses according to Parker (1992) are:

1. Texts:

    a) Treat object of study as text, put into words;

    b) Explore connotations, free associate.

2. Objects:

    a) Look for objects in the text;

    b) Treat talk about these objects as objects of study.

3. Subjects:

    a) Specify subjects, as types of object in text;

    b) Speculate about how they may speak.

4. Systems:

    a) Map picture of the world, networks of relationships;

    b) Map defences against attack used by these frameworks.

5. Links:

    a) Identify contrasts between ways of speaking;

    b) Identify points of overlap.

6. Reflection:

    a) Relate ways of speaking to different audiences;

    b) Choose labels of ways of speaking, discourses.

7. History:

    a) Look at how discourses emerged;

    b) Ask how the discourses tell their own story of origins.

The remaining three auxiliary (but essential) criteria are:

8. Institutions:

    a) Identify institutions reinforced by discourses;

    b) Identify institutions attacked by discourses.

9. Power:

    a) Look to what categories of person gain or lose;

    b) Ask who would promote and who would oppose.

10. Ideology:

    a) Look at how they link with other oppressive discourses;

    b) Describe how they justify the present.

As an example of how I applied this approach I will take an excerpt from one section of an interview, where one officer spoke at length about his own family, (contained in the quote

below), followed by my analysis of this. The following passage most typically highlights the construction of a dichotomy between a 'normal' family and 'disturbed' families. Where 'disturbed' for this person seems to mean a disruption of what Donzelot (1979, cited in Beechey, 1985, p. 109) calls 'familialism' or the discourse on the modern family summed up by the term 'happy family', and this disruption is embodied in 'domestic violence':

> I'm a very strong family person. I believe in the family being together, being together and that and um, I can't, I can't understand the idea of a family living together in terror or in fear and I've always told my kids you know I'm your father and because of that you've got to have some respect towards me um, as well as the fact that I'm adult but that's it. I'm no great anything within the family unit except part of it and I should really be there you know if you've done something wrong and you're in line with punishment, t.v. turned off or go to bed or something, well then you know you've got a bit of a worry then but to actually fear me, no never, and the same with my wife. She should never ever feel, 'do I tell him this' do I tell him that' because he's going to hit me, no. The family unit should be, should be friends, should be able to be together and enjoy each others company and never live in fear (White p.6 line 86-97).

In this passage 'should's' form a definitive part of the way things ought to be and when/if they are not they become outside one's realm of understanding and 'other', that which is not as it 'should be'. The discourse here regarding the family is one which draws heavily on the nuclear family as the norm. Within this notions of equality are introduced in a manner that seems to attempt to position this person as a more 'enlightened progressive family man' (as opposed to a 'male chauvinist'); seen in the lines 'I'm no great anything within the family unit except part of it' and 'should be friends'. Yet at the same time there is also a contradiction to this equality discourse, a recognition that the relationships are not equal. This is seen in the lines 'I'm your father', 'I'm the adult', and from this position one demands respect and has the authority to punish. These contradictions echo changing discourses between the post-war period of the 1950's, probably the period when the traditional 'familial ideal' was at its peak, and the challenge to this discourse which was part of the 1960's 'radical movement', which included what is termed 'Second Wave' feminism and it's challenge to male dominance/patriarchy.

The emphatic insistence on 'my wife should never, ever' fear being hit would fit the more 'enlightened, progressive' view of condemning 'wife beating'. Perhaps it also reflects his position as an officer dealing with this as a reality, and his consequently wanting to doubly emphasise his distancing from 'that'. 'That' here being all that 'domestic violence' which is represented in terms of 'not in my home', a representation which thus renders it as an experience that is 'incomprehensible'. At the same time, in taking this position as someone who could never imagine this as a reality, he appears to be denying the potential that his wife 'could' feel threatened or fearful of him - which works to deny the gender inequalities that make this a possibility.

Language Functions

This is a view of language as 'doing things with words' (Austin, 1961, cited in Fraser, 1992, p. 185), arising from Wittgenstein's philosophy, and also expressed in Lyotard's notion of the 'perfomativity' of language. Wittgenstein's later work, the *Philosophical Investigations*, articulates a theory of language which is performative rather than referential: that is, that language only has meaning in relation to its use and context. He says:

> The speaking of language is part of an activity, or a form of life... naming is something like attaching a label to a thing. One can say it is preparatory to the use of a word... nothing has so far been done when a thing is named.
> It has not even got a name except in the language-game" (Wittgenstein, 1953, paras 23, 24, 49, cited in Goodrich, 1987, p. 51).

The theory of 'meaning-as-use' is connected with the concept of 'language-games': that a name only functions as a name in the context of a system of linguistic and non-linguistic activities - language is part of a communal activity, a 'form of life'. Wittgenstein provided the basis for a more instrumental view of language than had hitherto been the case. In this view, language is meaningful by virtue of being a tool that can be used or a technique that can be mastered. Its meaning pertains to the activity or context in relation to which it is used. Thus the concept of meaning requires not only that the utterance be intelligible but also that there needs to be a degree of shared understanding between language users. This further implies, I think, that the language user has an implicit knowledge, that will be culturally based, of the 'social rules' governing how, when and where language is used. That is, if meaningful communication is to occur (see Kenny, 1973, on Wittgenstein).

It was Austin (1961) who went on to systematize some of Wittgenstein's ideas by producing a typology of linguistically constituted activities or 'speech acts'. His concern was with the classification of what utterances accomplish, which was not to exhaustively list all social functions of utterances, but more to start the process whereby one could begin to talk about what words 'do'. Austin uses two terms to distinguish between statements whose function is more linked to descriptions of 'states of affairs': 'constantive' utterances that are referential statements, and 'performative' ones that actually perform the action they describe. For example, 'I swear to tell the whole truth and nothing but the truth', performs an oath (Selden, 1985, p. 88). He also introduces the notion of illocutionary force, which involves performing the act e.g. to promise, to swear, to argue and so on.

For the purposes of this analysis it is Austin's (1961) account of excuses, and his clear distinction between two types of accounting strategies - justifications and excuses - that was of most utility. Potter and Wetherell (1987) state:

> Excuses are accounts which admit the relevant act was bad in some way, but claim

performance was influenced or caused by some external agency. ... Justifications, on the other hand, do not involve the denial of responsibility, instead they claim certain actions are in fact good, sensible or at least permissable in the circumstance (pp. 75-6).

Further refinements and expansion of this framework have been made, and include the addition of three new categories, apologies, requests and disclaimers. Apologies neither mitigate responsibility for an act nor try to justify it, instead there is an acknowledgement of a transgression and an implicit 'vow' that it will not recur. Requests seek the sanction of an act before it is undertaken. Lastly, disclaimers attempt to fend off anticipated negative assessments before an act or statement is made; like 'I am not sexist, but..' (Potter and Wetherell, 1987, p. 76-7). Semin and Manstead's typology of accounts (1983, cited in Potter and Wetherell, 1987, p. 78)[7] was used to frame the different types of justifications and excuses some of the police offered, both for their own actions and those of the male accused of beating or abusing his wife.

Subject Positions and Positioning

I have already covered the 'theory' of this aspect of the analysis in the previous chapter, but I include here a quote from Foucault that is an apt summary of these notions for it indicates how they may be used to guide an analysis:

> Who is speaking? Who, among the totality of speaking individuals, is accorded the right to use this sort of language? Who is qualified to do so? Who derives from it his own special quality, his prestige, and for whom, in return, does he receive if not the assurance, at least the presumption that what he says is true? What is the status of the individuals who-alone-have the right, sanctioned by law or tradition, juridically defined or spontaneously accepted, to proffer such a discourse? (Foucault (1972) *The Archaeology of Knowledge*, cited in Goodrich, 1987, p. 145).

In the example I gave under 'Identifying Discourses' I also talked about subject positions in a way

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[7]. **Summary of Semin and Manstead's (1983) typologies:**
   Excuses:
   1. Denial of intent
   2. Denial of volition
   3. Denial of agency
   4. Appeal to mitigating circumstances
   Justifications:
   1. Claim that effect has been misrepresented
   2. Appeal to principle of retribution
   3. Social comparison
   4. Appeal to higher authority
   5. Self-fulfilment
   6. Appeal to principle of utilitarianism
   7. Appeal to values (political, moral, religious)
   8 Appeal to need for face-saving work
   (cited in Potter and Wetherell, 1987, p.78; shortened version)

that highlights the approach to the textual analysis I adopted.

The reading of any text is not a neutral or value-free activity. This analysis is informed by feminist readings on male violence (e.g., Edwards, 1989; Hanmer and Maynard, 1987; Hanmer, Radford and Stanko, 1989; Yllo and Bograd, 1988). In line with a "feminist" analysis, which argues there is no way of ever securing a purely 'objective' stance, it is important for me to identify my position as a reader of the text and make explicit the "position" I am coming from. I would position myself as feminist, with a social constructionist view, and in terms of my material positions in the world as female, heterosexual, Pakeha and educated.

Concluding Comments

The above is not meant to over-simplify what is a demanding analytical process, which relies upon a reflexive knowledge of social, political and cultural discourses. Neither can it be an exhaustive 'list' of everything that is brought to bear in interpreting the text. It functions to provide an insight into the 'process' of my reading the text that goes beyond an appeal to 'intuition'. Chapters 4-6 now detail the analysis that is drawn from that reading.

Chapter 4

The Social Construction of Policing Domestic Violence

In 1987 the New Zealand police implemented a new policy in relation to domestic violence - 'the arrest policy'. To cite this as new is to highlight a move toward viewing what happens in the home, traditionally the 'private' sphere, as of public concern, and to treat violence/assault/battery/threatening or intimidating words or behaviour between intimates as a criminal offence, as is the case for violence and abuse inflicted by strangers outside the home, in the 'public' realm. Outlined below is some of the history of the 1987 policy in New Zealand and the approaches that were previously in place. This provides a framework in which to understand both the significance of the policy and possible constraints that may arise in implementing it. Three distinct phases have been characterized by Ford (1986, p. 10) in the policing of domestic violence:

- The Traditional Approach or non-involvement.
- The Crisis-Intervention Approach.
- The Arrest Method.

I now outline each of these briefly, both to contextualize historically the policing of domestic violence in New Zealand and also to suggest that past institutional practice continues to provide an 'interpretative' framework for constructing present practice.

1. The Traditional Approach

The traditional approach of policing 'domestics' that was typical of most Western 'democratic' nations prior to 1970 was 'non-involvement'. This approach rests on the assumption that 'domestics' are not police business because they constitute a 'disturbance' between 'family members' and thus fall into the category of 'social work'. Having been defined as such any action taken became conciliatory: calm the situation down, perhaps offer advice, and then get on with one's 'real work'. According to Glynn (1975, cited in Ford 1986, p. 10), most police officers see their role as 'enforcing the law', yet much of their time is actually spent in 'keeping the peace' and 'maintaining order' - both of which broadly fall into what may be termed a 'social service' function. These social service functions are not recognised as 'real' police work , despite 80-90% of their time being involved in 'maintaining order'. According to Snibbe and Snibbe (1973):

    The police are loath to acknowledge service functions, one suspects, because compassion

and helping might in some way tarnish the mystique of law enforcement (cited in Ford, 1986, p. 10).

Such a dichotomizing of police functions may not be particularly useful, for as Ford (1986) points out, 'the two categories are in fact complimentary' (p. 15). Yet what this dichotomy highlights is a split that re-presents a categorization of 'domestics' as part of a 'social service' function; despite the change in policy which advocates arrest and therefore implies that domestics are now to be viewed as a 'serious crime'. This 'social service' categorization by officers 'on the ground' can then act to construct the view that 'domestics' do not constitute 'real police work' in the present context. This is highlighted by the following responses:

1.   We're not trained counsellors so our ability to deal with a domestic dispute is probably limited (Green, pp. 15-6).

2.   You know I mean it's all the ongoing separation there, you know, ex hubby's ringing up and abusing the wife..pay lawyers and you get to pay them to sort it out.. (Pink, p. 8).

This interpretation of the situation and what is required constructs 'domestics' as being in the category of a social services 'problem' that is not 'really' the police officer's domain. The implication from this reading of the situation is that domestic violence is a case of 'marital disturbance' that falls outside the boundary of 'real' policing, and what is therefore required is a 'trained counsellor' or 'lawyer'. This functions to subvert the implementation of the arrest policy that now exists and reinforces the 'de-criminalizing' of domestic violence. I will deal with these issues in more depth below.

2. Crisis Intervention

The next phase, the crisis-intervention approach, was based on the research of Bard (1975) who developed a programme in the U.S. for training officers in counselling and mediation, with the primary focus being on 'conflict resolution'. This was adopted in New Zealand during the 1970's, and explicitly endorsed a 'social services' approach to the 'management' of 'family disturbances', operating as a low key approach aimed at avoiding confrontation and using arrest as a last resort.

The New Zealand Police had input into a social services document on 'Families and Violence' in 1980. They argued at this time against police arrest at 'domestic incidents' for the following reasons:

a) The likelihood that such action will contribute to family stress rather than relieve it;
b) The fact that if the aggressor was arrested he may, on release, become more violent;
c) Arresting the aggressor may involve financial hardship for the family;
d) Doubts by the police that the prosecution will proceed as complainants may want to withdraw charges; and
e) The police being 'used' by the spouse as a means to remove the offender from the

home (Ford, 1986, p. 12).

Many of the above statements are echoed in justifications and excuses offered today by some of the officers I spoke with for non-intervention as opposed to arrest; thus endorsing the view that it was a policy statement that held wide appeal for those 'on the ground.' This can be seen in the following passages:

3.   Two things are going to happen either she's going to withdraw her complaint or....you can put a bigger gulf um and cause further disruptions by taking him out of the house...(Blue p. 39).

4.   He admitted doing it. She, you know it was obvious that she had been belted around but it's impractical I mean what's the point of arresting him. He was under the influence of alcohol and drugs which is not of his doing. Totally out of character and I mean if the policy is as such that you're supposed to arrest him well you know it's a farce (Yellow p. 37).

In the passage 3, an excuse is offered for non arrest - 'she's going to withdraw her complaint' - and hence the decision to take no further action. This implicitly questions the 'point' of such action, it would only be a 'waste of time'. The account in passage 4 also offers the same explanation 'what's the point'. There is a justification offered for non-action in passage 3, by an appeal to what Semin and Manstead (1983, cited in Potter and Wetherell 1987, p. 78) refer to as the 'utilitarian value' of an act. That is, an account which invokes the notion of the potential 'benefits outweigh the harm'. This is seen above in the rationale that, even if some action were taken, it would only cause 'further disruptions'. In the passage 4, 'mitigating circumstances', in the form of alcohol and drugs, are appealed to, together with a concept of 'external' agency - it was 'not of his doing' - which acts as an excuse, to deny responsibility for the action. These accounts also seems an attempt to position these officers as 'having' a 'social conscience', founded upon a 'liberal-humanist' discourse of care and concern for the individual, yet what is not said is that the 'individual' within this context actually means man (and not woman). Busch et al. (1992) say that interpretations such as this result in an implicit 'collusion' with the male offender and act to further 'sanction' wife abuse (p. 35). These points will also be addressed again under the section titled 'What is real police work?'.

But crisis-intervention was deemed ineffective as a policy for the following reasons:

        a) Police are not trained as mediators;
        b) Police do not have the resources to spend long periods at domestic disputes;
        c) The time of crisis is not the time for mediation;
        d) Social support back up meant more, not less, demands on police time;
        e) More often than not the police were dealing with criminal related offenses and a 'soft' approach may have been seen as condoning violence in the home; and
        f) Domestic dispute complaints make up only a very small proportion of a police officer's work time (Ford, 1986, p. 26).

Therefore, the police department became receptive to alternative options. This led to the research of, and finally the instigation of, an 'arrest policy' by the New Zealand Police Department.

3. The Arrest Policy

Ford (1986) reported on a research project conducted in Hamilton during 1985 and 1986 which investigated the adoption of an arrest policy which was based upon the model developed in Minneapolis in the early 1980's. This model stemmed from research by Sherman and Berk (1984) in which police tried out three intervention methods when attending violent 'domestic disputes':

1. To arrest the aggressor
2. To give advice or informal mediation
3. To order the suspect to leave the premises for a period of up to eight hours (cited in Ford, 1986, p. 14).

An analysis of 'official recidivism' figures six months after the intervention showed that those aggressors who were arrested subsequently showed less violence than those who had either been asked to leave or those who had been given advice. An arrest policy appeared the most effective deterrent to future (male) violence and offered the best protection to victims (women). The arrest policy was then adopted by a number of U.S. departments. One reason cited for this adoption, over and above the protection it offered for women in violent situations by the criminalizing of male violence, was in part predicated upon the culture of litigation in the U.S.. That is, women were suing the police for their inaction in cases of domestic violence. Ford posits this as one reason for the implementation of the arrest policy there:

> The adoption of the arrest policy was probably speeded up by many departments after a victim of domestic violence was awarded damages of (U.S) $2.6 million from a police department after officers had failed to take action in her case (Bangham, 1986, cited in Ford 1986, p. 14).

Whilst New Zealand does not have such a culture of litigation, as yet, one could argue that social changes that have been a part of a shift, during the 1980s within western democratic nations - New Zealand included - toward the philosophies of 'user pays', quality control, and accountability have contributed to the adoption of an arrest policy here. This reading of change within policing practice locates the process of change within an ideological framework premised more upon 'pragmatic realism' rather than 'social critique'. According to Ellis (1987) the shift in position came about because:

> the state now sees women as an important constituency who can, through their support of police efforts, reaffirm the legitimacy of policing (cited in Stanko, 1989, p. 64).

The commitment to a change of 'policy' has largely come from police headquarters, policy makers and feminists. Women have foregrounded the awful realities of male violence and abuse, thereby challenging the nonreponsiveness of the law and law enforcers in policing men, and thereby offering some protection under law to women. Stanko (1989) says:

> To police superiors, a presumptive arrest policy, ideologically, may be one way to satisfy feminist demands and at the same time secure the loyalty of the rank-and-file to the chain of command by providing them with more law enforcement options in policing battering (p. 64).

This view, which could be interpreted as 'cynical', may have some foundation, yet is also contradicted by my research. From the analysis of interviews 'resistance to policy' by front-line officers was also linked to 'resisting directives from police headquarters'. Therefore if the policy was instigated as a possible 'appeasement strategy', by encouraging adherence, through the granting of increased powers to officers 'on the ground', it does not appear to have been an effective one. As the accounts given above, under non-involvement and crisis intervention, demonstrate, there is a gap between 'rhetoric' and 'reality'; that is 'policy' directives are interpreted as different from 'practical policing'. Some of these issues are discussed further under the 'organizational context' of policing.

Ford's research, initiated in 1985 after a national conference on domestic violence that year at the Royal New Zealand Police College, sought to provide the background information necessary to instigate changes in policy and perhaps legislation in the policing of what were then termed 'domestic disputes.' Previous research in New Zealand, conducted by Church and Church (1982), had found general dissatisfaction being expressed by victims of domestic violence regarding aspects of police response. These complaints included:

a) Lack of consistency: There was a wide variety of police response to the same type of situation;
b) Lack of investigation: Police refusing to follow up or to investigate complaints of assault;
c) Misadvice: the police giving out wrong or misleading advice about the assistance available to victims; and
d) Lack of safety: Police not realising the actual danger involved to the victims (women) concerned (cited in Ford, 1986, p. 4).

The adoption of the arrest policy in New Zealand was heralded, by some, as a major shift of emphasis by signalling domestic violence as a crime. It also shifted the onus from the 'victim' having to make the complaint, or give evidence, to the criteria of 'sufficient evidence to arrest the offender'. Both the existence of 'protection orders' implemented in 1982 (see Busch et al., 1992, p. 34) and the adoption of the 'arrest policy' in 1987 enshrine in 'law' certain public sanctions against wife beating. For 'justice' to be enacted, for women in particular (see Yllo and Bograd, 1988) these laws need to be acted upon. The use of the term 'victim' implicitly acknowledges that a person, has been subjected to 'victimization', that is subject-ed to adverse actions beyond her power to control; in 90% of cases of 'domestic' violence or abuse a woman is the victim of violence inflicted by her male partner (see Yllo & Bograd, 1988). According to one dictionary definition a victim is,

a sufferer from any destructive, injurious, or adverse action or agency.

By law, and by one definition of their role, the police are required to ensure both that the policies of arrest and protection orders are implemented and enforced. This, on the surface seems straightforward. Yet a closer reading of police discourses regarding their 'role', their views on

policing policy, what 'law and order', 'police protection' and 'justice' means, reveals that differing interpretations of these issues radically influences policing practice. It is to these issues I now turn.

What is 'real' police work?

This question is central to understanding some of the police responses to their policing of domestic violence. The construction of 'real' police work by the officers I spoke with seems to concur with the view put forward by Reiner (1985) of policing; that is, at its core policing is concerned with 'public' order maintenance, with an ideology of crime control and a commitment to protecting the 'public' (cited in Stanko, 1989, p. 51). But within this context neither domestic violence, nor women seem to be regarded as fully 'public' (see also Busch et al., 1992; Pateman, 1991). Despite the policy, for some officers the policing of domestic violence is still viewed as a 'social service' function and not their province - except when there is a 'serious' breach of the law, such as visible physical injury to either a person or property. For example, the passage below most typically depicts this 'social service' type of interpretation:

5.   every now and again through a married couples career violence is going to be used and when that violence is uncontrollable by the male that he smashes a window or he throws cups or plates to the ground..or he can't control that violence and he slaps them then he doesn't deserve arrest for that time because that problem can be sorted out by other things (Blue, p. 20-21).

By continuing to see attending a 'domestic' as part of a 'social service' in 'keeping the peace' through sorting out a 'disturbance' the overall effect is to 'de-crime' wife battery and abuse, to see it still as a 'private' matter between intimates. This is echoed by the following comment as well:

6.   It's probably not our domain but we are probably the better placed people to deal with it because we are total rank outsiders (Pink, p .9).

'Real' policing seems to be categorized by what Skolnick (1975) describes as 'exciting crime' (cited in Stanko, 1989, p. 53). A good summary of this definition of 'real' policing is contained in the metaphor of 'boys own adventure' stuff; uniforms, badges, car chases, flashing lights, apprehending the 'bad guys' and so on; the 'bad guys' being 'real' criminals. The definition of a 'real' criminal rarely seems to include those men who beat their wives. Men who abuse and beat their wives are seen as 'ordinary' and their actions defined according to 'common-sense' definitions of 'normal' male behaviour (see Stanko, 1985). This 'boy's own' version of policing was conveyed during the interviews by talk about going in 'all guns blazing, 'taking the guy to the ground', 'dragging him out', 'handcuffing him and locking him up'; metaphorical language reminiscent of a western with all the images which evoke the familiar cliche of the 'good guy

wrestling with the baddie'. These very terms were used in a passage cited below in relation to arrest:

7.   Imagine what would happen if a Samoan couple or any race couple, if he punched her to the ground in the middle of Palmerston North Square now, every policeman in the station would hurry out with blue lights going, crash into them, take him to the ground, handcuff him, drag him back here under arrest for Crimes Act assault regardless of what the female says..and that's the difference in the reactions we do today. Yeah (Blue, p. 10).

Note the use of the example given here, in passage 7, which situates this 'domestic' in the middle of a public square in contrast to the example given before of non-arrest of the man who had 'obviously' hit his wife but was 'suffering' from a drug or alcohol 'problem', in passage 4. The man in passage 4 case was white, middle-aged and at home. The reading of any 'crime' is predicated upon a number of determinants and these two contrasting examples implicitly allude to some of the 'situation-specific' contexts which are part of the decision-making process; that is an 'offence' is more likely to be interpreted as such in a public place as opposed to a private place. Gender, race and class assumptions are also an implicit part of this decision-making process. These issues are dealt with in more depth in Chapter 5.

Another part of the decision-making process is reading who is a 'suspect' or likely 'criminal' and again this seems to be inter-related with the time and place, position and disposition of a potential 'offender' and the preference for exerting 'discretion' or not by an officer. The following passage echoes this:

8.   I don't like ever falling back on an arrest simply because I don't, I can't decide who is the good guy and who is the bad guy or there, or if there are any alternatives, you know (Blue p. 20).

According to this account it is necessary to make judgements on whether a 'guy' is 'really' a goodie or baddie. Note the use of the colloquial, familiar term 'guy', which seems to function as already establishing the sense that the police officer is dealing with an 'ordinary' person as opposed to a 'real' criminal, as noted previously, and linked with this reading of it there is a reluctance to pursue 'criminal' charges - as seen in the lines, 'I don't like ever falling back on an arrest' and 'if there are any alternatives'. Busch et al. (1992) note common 'alternatives' as referral to counselling or psychiatric services (p.11), others are to 'give advice' or 'restore order'. According to Black (1983) offenses such as assault commonly involve 'ordinary' citizens who 'seemingly view their conduct as a perfectly legitimate exercise of social control' (cited in Stanko, 1989, p. 55). Stanko goes on to say that:

Men's behaviour typically labelled by women as sexual and physical violations has to a large extent been considered 'normal' by ordinary citizens, the police, and the courts (1985, in Stanko, 1989, p. 55).

The more 'active' police role seemed to be preferable to those interviewed than more 'routine' work; highlighted by references to 'serious domestics', which are seen typically as those where

an 'obvious crime' or 'assault' has taken place:

9.   Sufficient evidence um, for any offenses committed, assaults, and the degree of assault
        that is, the assault just of punches is different to an assault to where a baseball bat is
        used. That kind of thing (White, p. 22).

This response was to a question related to 'what would constitute sufficient evidence?' Note the
opposition between 'just' punches in contrast to the need to 'disarm' someone of a weapon, in this
case a baseball bat. The 'just' seems to act to minimize the seriousness of the first 'assault' and
to decrease the perception of 'needing' active involvement and in the second example the need for
disarming someone acts to increase the physical 'action' required and is interpreted as constituting
'sufficient evidence'. Walker (cited in Lystad, 1986, p. 72) refers to this type of interpretation of
seriousness as the unofficial 'rule of stitch' policy operative amongst officers. This unofficial
'stitch rule' seems to relate to either the potential for, or actual visible 'serious injury' required
before women's allegations of abuse or battery are taken seriously. Historically this has parallels
with the 1782 'rule of thumb' law in place in Britain, which sanctioned the beating of a wife with
a stick no bigger than one's thumb (see Chapter 1).

A 'serious domestic' is opposed to 'just another domestic', as encapsulated by this phrase:

10.   domestics they're a dime a dozen (Yellow p. 9).

As previously noted, this interpretation of 'just another domestic' often functions in a way to
construct a practice of 'no action' needed, unless there is 'serious' visible injury:

11.   Unless it's a violent type of thing obviously it rests with him. He can be arrested in a
        violent situation he will be but you know if it's an argument and there's no actual
        physical violence so that it's a slapped shoulder sort of..(White, p. 14)

'Domestics' generally tended to be seen as mundane, not out of the ordinary, therefore 'routine',
thus functioning to render them as part of the least desirable aspects of the job and as the more
boring and unexciting functions of police work one would rather not do. This interpretation of a
'domestic' as 'routine' acts to minimize and trivialize the seriousness of domestic violence and
also fails to acknowledge, in practice, the potentially lethal consequences for the 'victim' of
assault or abuse (see Buzawa and Buzawa, 1990; cited in Busch et al., 1992, p. 35). Yet,
seeming to contradict this is the acknowledgement of potential 'risk' and 'danger' involved for the
officers attending:

12.   there are specifics you are taught, you know, you don't park outside the address and you
        know you make sure you listen before you leap as well. So you just don't go pushing
        through the door which, well you expect the unexpected (Yellow p. 11-12).

13.   You treat everyone the same, every domestic the same, because if you don't you may
        never get to go to another one and because the way we live in this country it's becoming
        an increasingly more violent society, um, I don't get paid for taking risks you know
        (Pink, p. 29).

In the passage 12 there is an emphasis upon what one has been 'taught' in terms of training and

correct procedure, with the emphasis on ensuring officer 'safety' in a 'dangerous situation', yet conflicting with this is the view of the 'routine' 'nature' of 'domestics'. In passage 13 there is also a clear articulation of a perception of domestics as dangerous, yet here this seems to function as a 'justification' for not attending, with the statement 'I don't get paid for taking risks'. What is not spoken of is the 'reality' that over half the homicides in New Zealand are domestic related (see Busch et al., 1992) which highlights the potential danger involved for the 'victim'. As noted above contradicting the potential for 'danger' is a discourse by some officers that engages in constructing domestics as not 'real' police work. In the next Chapter I look more at discourses that also engage in minimalizing, denying or excusing the (male) violence; such that a gap emerges between the potential 'reality' of a serious offence and the discursive construction of a practice that contradicts this. To be able to interpret this in context requires an understanding of 'police culture' or what Stanko (1989) refers to as the 'occupational and organizational routine operations of police work'.

The Occupational Context

Stanko (1989) sees a division between what has been defined as 'policy' in policing domestic violence, the use of arrest, which is seen as a preferred response by policymakers, police chiefs and feminists, and its implementation, which is the responsibility of rank-and-file officers. These officers are, she says:

> the major dynamic decision maker(s), making his/her decisions in the context of an elaborate hierarchical structure that can reward or punish its members...rank-and-file police have a relationship to arrest that is not so easily resolved through organizationally imposed policy (p. 47).

These decisions are made within a complex framework of organizational 'sanctions' which help define what will be viewed as 'real' work, ensure promotion, gain respect amongst colleagues, and 'legitimate' ones standing as an officer. Allied with this are issues related to how one exerts 'power' within such a context, both in terms of 'resisting' hierarchically imposed policies and using one's 'discretion'. Research into the effectiveness of the 'arrest policy' has shown that:

> While arrests may be increasing..the decision to arrest may still comprise a small proportion of cases to which police respond (Shapland and Hobbs, 1989; cited in Stanko, 1989, p. 49).

Resistance to Policy

Research on response in battering situations indicates even within those areas that have presumptive arrest policies, a decision to arrest is still discretionary and any attempt to remove this discretionary power has led to resistance (Stanko, 1989, p. 54).

One account of resisting the policy is given below:

14.	The reality is that we're police to the best of our abilities with the staff we've got assessing each incident as an individual regardless of policy. The policy says that um we're going to put all our time into family violence this week um, it's what they said in Police National Headquarters it's not going to affect us. We're going to go to whatever domestics occur during our shift and we're going to deal with them to the best of our ability and assess them as individuals. We're not going to, it's just not practical you know, we're going to simply do our job to the best of our ability and with the staff members that we've got (Blue, p. 34).

This 'resistance' discourse alludes to the separation between the official party line and unofficial practice and engages in an us-them distinction which echoes a management-worker split, with the officers 'on the ground' engaging in a dialogue of dissent and diffidence toward hierarchically imposed 'policy'. The policy seems to be interpreted here as 'just' a fad or passing whim from those above, seen in the line 'we're going to put all our time into family violence this week'. Those 'above' are depicted as having little concept of the 'reality' of day-to-day policing, and there seems to be an implicit aversion to accepting directives from a group who are seen as 'out of touch' with 'reality'. Here 'reality' is constructed by giving meaning to the experience of 'being on the ground': 'we're going to deal with them to the best of our ability and assess them as individuals' and leads to a strong appeal to decisions being left to the 'discretion' of individual officers, 'regardless of policy'. It seems that policy directives are read as an undermining of an 'individual' officer's worth and value by depriving them of their autonomy to act as their experience dictates. A further justification for not enforcing the policy is given 'its just not practical', thus making an appeal linked to 'common-sense' reasoning identified above as police being constrained from 'doing their job' by limited resources and time.

This 'common-sense' view, or as Billig et al. (1988) term it, 'lived ideology', can be identified with a 'law and order' discourse. This discourse is essentially one that identifies the 'problem' of 'law and order' as a lack of 'police presence' which will be solved by increasing policing numbers and granting police increased 'power'. Ideologically the 'law and order' discourse functions as a form of social control, 'where themes of protest, conflict, permissiveness and crime begin to run together into one great, undifferentiated 'threat'' (Hall, et al., 1978, p. 247).

Resistance to departmental policy by officers 'on the ground' who resent the intrusion of policy

into their discretionary, yet autonomous, decision making may take the form of resorting to the more 'traditional' approach, outlined above, that is calm the man down and 'restore order' (see Parnas, 1972, cited in Stanko, 1989, p. 54). The focus of the account above is upon the individual, as free agent, and is de-contextualized from the social and 'public' function of a uniform-ed officer. This resistance to policy functions to undermine a co-ordinated and consistent implementation of policy and may effectively disenfranchise those women who have recourse to phone the police in cases of 'family violence'.

Resistance: Masculine Ethos

Part of understanding this 'resistance' is also linked to what Skolnick (1975) refers to as the image of 'macho-style' masculinity that is part of the 'rank-and file' occupational culture and relies upon 'traditional' assumptions about 'male rights and female blame' and what 'real' policing is (cited in Stanko, 1989, p. 52). Research into the policing of crimes such as rape, sexual assault and battering support the view that these 'masculine, gendered assumptions' influence the decisions of police officers regarding what is going on and what action they should take (see Hanmer et al., 1989). For example the 'cliched' assumption regarding domestic violence, 'it takes two to tango', was referred to during an interview:

15.   It takes two to tango I'm afraid. But it happens quite a lot, you know, people will use
        the police to oust the partner (Yellow, p. 37).

I identify this as an 'equal' culpability discourse, with the construction of 'domestics' as a relationship issue, with two equally contributing to the situation acts to negate the notion of a 'victim' and functions in a way that is antithetical to the needs of battered women. Thus, it has the effect of undermining the policy. The interpretation that 'people (read women) will use the police to oust the partner' is a further rationale offered to justify non-intervention by attributing 'retributive intent' upon the action and position this as an 'unfair, improper and inappropriate' use of police time and resources; hence it becomes 'not our job'.

Within the context of an organizational structure, where front-line officers act as 'gate-keepers' in deciding what and who is 'criminal' together with an expectation that 'fellow officers' will be a 'united force', then certain implicit sanctions for and against some actions occur. That is, there are certain expectations one will conform to the 'team' view. Here, there seems to be a difference between the 'unofficial team' of front-line officers and the 'Official Team', represented by Police Headquarters. One way of asserting power, within a hierarchical context, says Punch (1985), is for front-line officers to resist dictates from 'above' and assert their 'own' 'power of discretion' (cited in Stanko, 1989, p. 54). The following passage highlights this notion of 'team':

16.   that's what I like um and we, front line police seek out other people who are capable of doing front policing and whether we viciously cut out all those who aren't capable of doing it, those who are not capable of handling and dealing out aggression when it's required and those who aren't capable of handling and dealing out the other side of aggression... Um, yeah, um, yeah we don't yeah, yeah. Well we make sure that we have a team that works, that works together all of the same views (Blue, p. 35).

In reading this, note the use of the terms 'viciously cut' those 'not capable of handling and dealing out aggression' and a powerful image is evoked of the 'balls' needed to be part of the 'team', hence lending support to the view referred to above of 'police culture' being that of 'macho-style' masculinity. This, together with culturally reinforced discourses of 'traditional' masculinity, may act for many officers as a powerful constraint upon policing the policy and to reinforce 'traditional' policing practice.

Resistance: Transmission of Policing Practice

The transmission of 'acceptable' police practice and what is defined as 'front-line policing' comes as much, or more so, from officers 'on the ground' as from police training college. Van Maanen (1978) says:

> recruits look forward to 'really' learning about police work..Induction into 'real' policing introduces a rookie to a wide array of information about sex, violence, internal support, and suspicion of anyone who is not a rank-and-file officer (cited in Stanko, 1989, p. 52).

In relation to policing domestic violence, the following passages refer to this 'transmission' process:

17.   Um, and you've got to make your appreciation of both parties very, very quickly. It's not hard at my years at the job, I say it's not hard for me to do it but it's very hard for the young constables if you haven't had any experience... it's very hard for them to make those decisions and I guess they can fall back on arresting the offender but I ... I don't like ever falling back on arrest ... Again I always, all through my career I've seen arrest as a last resort ... If they (inexperienced young constables) fall back on immediate arrest then they've given in and not put in their thought and their thought processes and their appreciation processes (Blue, p. 20 and p. 22).

18.   The other thing is we're not trained as counsellors so our ability to deal with a domestic dispute is probably limited and I would say the younger you are the even more so because you haven't had that experience of life, right, so even more so (Green, p. 16).

19.   Personally, I wasn't even, well I was just newly married then and that was a problem not really understanding the strains that can be on a couple, just a couple, no kids and a couple with teenagers and that kind of thing so really it's an understanding of that kind of thing and being able to see, you know, read in between the lines of what people are trying to tell you (White, pp. 11-2).

In the passage 17, the voice of 'experience' and 'seniority' speaks of the 'inexperienced' 'young' constable whose 'powers' of 'appreciation' have not yet been developed. The use of 'I guess they can always fall back on arresting the offender' places this as an undesirable or second best

'option'. Thus, to be seen to be enforcing the policy can be allied with negative connotations regarding one's standing and status as an officer.

The 'appreciation' process is especially emphasised, and is opposed to 'giving in' to immediate arrest. This could be read as a resort to arrest is seen as 'giving in' to policy dictates from police headquarters rather than standing with your fellow officers. In addition, it is recognized that it is necessary to develop an 'appreciation' for such a view. It seems the case that, 'appreciation' also takes on the connotation of using one's own powers of 'appreciation' (read 'discretion') and being 'appreciated' as having such powers. Read in conjunction with the notion of a 'team' player, and the 'power' of a senior officer, who positions himself as an the voice of 'authority', due to both his rank and years of experience, it is likely the young officer will learn, via this 'transmission process', what is expected, desired and tolerated as 'correct' practice in relation to 'domestics' and what 'real policing' is about: that is, arrest is a last resort, despite 'policy'. In the next two passages 18 & 19, experience is also referred to as important, in terms of 'understanding the strains on a couple', which functions to position domestic violence as a 'problem' connected with the relationship, leading more toward these officers positioning themselves as 'mediators'. Hence advocating a more 'traditional' or 'crisis-intervention' approach. The implications of taking up such subject positions and the positioning of domestic violence as caused by 'strains' is discussed in the next Chapter.

When probed further as to how one is able to 'make an appreciation' of the situation, the reply highlights a fairly 'typical' response from most of those officers interviewed in terms of the common 'explanatory' frameworks used, and includes both psychological and sociological discourses related to the 'causes' of domestic violence. While these will be discussed in more depth in the next Chapter, the reply is given here so as to convey an indication of the 'decision-making' process:

20.   after a dozen years or so you do that instinctively and I'm not quite sure what
       appreciation process you go through but if I was asked to write it down I'd probably say
       that the environment that they live in is a factor, how they dress is a factor, how they talk
       is a factor, all this sort of thing, all these sorts of input that you can make instant
       decisions on...some reason be it for financial or whatever it might be, financial always
       there you know..and for some reason this is a home you know. And often when I say
       this is a house that's often the time I end up arresting the offender. Arresting the man or
       the female or whatever it wants (Blue, p. 23).

Summarizing Resistance

Sanders (1987), who examined police charging decisions in the West Midlands in England, suggested that officers' resistance to policy and the adoption of the more 'traditional' stance should be understood within the context of an 'underlying structural and ideological' framework. That is, the position of rank-and-file officer is seen predominately as being one of 'upholders of public order', and as such they merely reinforce 'conventional requirements of the law'. Officers are less likely within this framework to read 'private violence as public trouble' because of the '*absence* of public disorder'. He says violations of public order are easier to prove 'legally' than those of a 'private' order (italics in original, cited in Stanko, 1989, p. 54). This indicates that, despite policy changes, the public-private dichotomy as a 'discursive construction' has a long history (as noted already in Chapter 1). Within 'liberal ideology' this can be dated to the eighteenth century, and the separation between the public sphere and private sphere continues to inform practices in the fields of the law and the family in a way that acts to reinforce and perpetuate racist and sexist discourses (see Pateman, 1991; Wetherell & Potter, 1992). It perhaps is not surprising that maintaining such a dichotomy is seen as 'common-sense' as it forms part of the workings of hegemony (see Gramsci, 1971, cited in Fraser, 1992). The power to establish the common sense or 'doxa' of society is in part based in language, providing the linguistic resources for 'sense-making', as seen in the passage below:

21.   Um, I don't, I don't believe that you can policy things like that cos they're private. They've got to be, they've got to be assessed as individuals. You can't make yes and no arrests of these certain circumstances um decisions (Blue, p. 34).

Decisions in the area of domestic violence were typically seen throughout all the interviews as different from policing in the 'public' realm, where 'things' are seen more clearly as 'yes' or 'no' decisions (discussed under law and justice). It seems that to be able to make decisions in the case of domestic violence requires 'additional' knowledge. For instance, an 'assessment' of the people involved as 'individuals' and one could infer from this that these additional factors are likely to influence the decision such that factors over and above the law are being appealed to. The basis of these judgements seems to be linked to what is 'really' going on; a psychological or sociological discourse is evoked as a justification or rationale of the situation and the underlying reasons may be 'financial, economic or whatever', and influence whether one takes any action or not, despite the 'fact' that one has either committed an offense or not. These judgements also implicate a certain category of person (expanded under subject positions and positioning). Shifting the focus away from a 'domestic' that requires police attention to a domestic situation that needs understanding functions to provide the grounds for establishing the value of discretion, which is able to be employed because of the 'knowing' people. In this way, 'moral' and 'ethical' reasoning over and above the 'law' becomes 'justified'. This draws on a sharper distinction between 'normal' policing practise that would occur in the public sphere and the 'domestic' or

private sphere (see Hanmer et al., 1989).

Discretion and Discretionary Power

The use of 'discretion' and the 'discretionary powers' of the police have long been held as a 'right' officers have and are viewed by most as an essential part of front-line policing, as noted previously. Their use of 'discretion' tends to function as 'positioning' an officer as the voice of 'authority', the wielder of 'power and control' over 'law and order'. Berk and Loseke (1981) say police decisions to arrest are found in their 'interpretations' of particular 'domestics' and are also related to their prior experience and the 'situation-specific' rationales that are 'inherent in the policing enterprise' (cited in Stanko, 1989, p. 55). They stated that:

> these rationales do not constitute an abuse of discretionary power, [but] they are part of the normal exercise of duty (Berk & Loseke, 1981, cited in Stanko, 1989, p. 55).

Yet 'discretion' by police often acts to disenfranchise certain sectors of the community of their 'rights', especially groups who are traditionally categorized as 'minorities', which includes women, through the over-enforcing of some laws and under-enforcing of others (see Edwards, 1989, pp. 81-110). In the case of domestic violence the use of police 'discretion' usually results in an under-enforcement of the law (see Edwards, 1989; Hanmer et al., 1989). Hanmer et al, say:

> Police failure to respond to men's violence is one of the few areas in which they
> are rightly, in our view, criticised for insufficient and inappropriate policing, as
> opposed to exceeding their powers. As well as being of immediate importance
> to women who have been attacked; the police response to men's violence has a
> general social significance. In deciding how to respond to women reporting
> violent attacks, the police, and later the courts, are defining which attacks are
> criminalized and proceeded with and which are to be condoned or 'no-crimed'.
> The police are making a distinction between attacks they deem justified and those
> that are not (1989, p. 6).

In understanding this use of 'discretion' in policing domestic violence, it is important to note there is no single factor involved but a combination of factors in making a decision to arrest or not; related to both 'legal' and 'moral' criteria. Oppenlander (1982) found that in his study 'officers often did not arrest, although there were legally objective grounds for doing so' (cited in Edwards, 1989, p. 94). McLeod (1983) claims moral judgements are predominant more than legal criteria in the area of domestic violence (cited in Edwards, 1989, p. 94). Some of the 'moral' criteria include perceptions or interpretations of deservedness, that is deciding whether 'she' deserved it

and whether 'his' behaviour was justified, beliefs about the family and the 'normality' of some forms of violence, the demeanour of the assailant toward police, the visibility of injury to the woman and so on (see Edwards, 1989; Stanko, 1989). These issues are covered in more depth in the next two chapters. In the following passage, on advocating 'discretion', a distinction is also made between 'law' and 'justice' in a manner similar to the distinction noted above between 'legal' and 'moral' criteria being a part of decision-making; with moral criteria seeming to dominate:

22.   What it was, that regardless of my background knowledge I had to arrest the male and that's, that annoyed me in that I would fight to the death of my right to be, to um, to u, to use my discretion, use my discretion or police that's yeah. I really believe in the right to use my discretion and if anybody says to me you must arrest the offender, you must arrest the person who did the assault, then it takes my discretion away. It says, you can't use your own, it says you can't use your own brain, you can't assess the situation, you must arrest the offender and that doesn't give me enough leeway to do my job. With the justice you know it's quite legal but there's a difference between the law and justice and yeah... (Blue, p. 16).

Another example of a less explicit appeal to discretion is given below, in the context of 'community' policing and the importance of 'knowing' people and their history:

23.   I'd probably say oh I know all about that I'll go and attend it and then both see a familiar face come through the door and so no-one is going to say oh hell I'm going to get no change out of this guy or I'm glad you turned up because you know what it's all about and you help deal with it..yeah all right the matter can be resolved (Pink, p. 9).

These two accounts, in passages 22 and 23, are typical of a 'discretion discourse' which seems to appeal to notions of individualism and 'personal agency.' These 'beliefs' and 'values' are culturally reinforced by Western notions of the self and a tradition of liberal humanism that values and reifies the freedom and rights of the individual as citizen, and promotes self responsibility and initiative. Yet, in the context of their police role they have been empowered to enforce a social policy that ensures the rights of others (citizens) such that a discrepancy emerges between a discourse on personal agency and agents empowered by the state to enforce law and order and maintain the peace. The 'solution' seems to be to appeal to the former via the notion of discretion which functions to undermine the policy laid down.

One also could read into this discretion discourse, especially as given in passage 22, an appeal being made also to a psychological discourse, which has been created and elaborated upon during the course of this century,(see Rose 1985, 1989, cited in Parker, 1992, p. 4) whereby one needs to understand people, reasons 'behind' actions and it requires time to really get to the bottom of things, 'to use one's own brain to assess the situation'. With this type of appeal a shift seems to occur and be 'justified' by the 'psychological discourse', such that a move is made from the strict enforcing of the law and the role of law enforcer to folk psychologist and arbitrator of justice .

The distinction between law and justice seems to be akin to 'yes there's the law , but.' Therefore drawing on 'common-sense' notions of decency, right and wrong and positioning these officers more as 'moral mediators' who make value judgements of deservedness, 'rightness'. As noted previously, the interpretations offered have implications for the type of policing employed and the action taken. Here, the move from the possible explanation 'I don't make the law , I just enforce it' to someone who sees it as their job and duty to define justice and use their discretion to implement it, is made.

Law and Justice

In the following passages some of the police 'definitions' of law and the judicial system are highlighted:

24.   It's our job to present the facts and prove, get as close to the truth as we possibly can (Blue, p. 56).

25.   I find it frustrating that the fact that you can't impart on the people concerned the fact that the police really like to deal with black and white situations. It's either going either a negative or a positive you either have breached an order therefore you will be arrested for it or you have'nt and there is not much we can do about it (Pink, p. 8).

26.   But it must come to the stage where, u, we can't be the judge and jury. It must come to a stage when okay, right, we will take this to court and a court of law will determine the aspects of it and leave it to the judge... It's our job to 'fairly inform'. The judge has got to make a determination on what's happened so you gather as much evidence as you can to present to him so he can make a fair, u, determination of what's happened (White, pp. 27 & 29).

27.   We should never let our emotional response dictate in any way the sentence (Blue, p.56). In the above statements notions of the law are appealed to in a way that attempts to define both the law and the policing of the law in a clear-cut, objective and detached manner, such that one deals with 'facts', arrives at the 'truth' of the matter in a 'fair' and 'unbiased' way; with implicit faith in the judicial system to support and uphold these principles of fairness and justice. Different meanings have developed concerning the function of the law and policing and its relation to democracy, the state and the 'democratic state' (see Chapter 1; and Hall, et al., 1978). The dominant 'legal discourse' is premised upon liberal-democratic jurisprudence (see Goodrich, 1987).

Passages 24-27, given at the start of this section, elaborate a demarcation of boundaries between roles of the police and judiciary. Ultimate responsibility is shifted to further down the process in the justice system as to the outcome, yet what is not spoken of explicitly is the front-line responsibility the police play in the entry process to that system. The acknowledgement of 'it

must come to the stage where we can't be the judge and jury', in passage 26 seems implicitly to allude to the role the police do play, in terms of being the first stage judge and jury, bridging then both the meting out of law and justice. Judgements of whether a law has been broken or is acted upon, is a part of policing.

A function of the statement about what it is police 'like' to deal with, in passage 25, seems again to be that of marking boundaries. Appeals to a clear-cut enforcing of the law and dealing with 'black and white' issues. 'Domestics' within such a construction do not seem to fit. Whilst one may gather evidence and statements very often between 'couples' there are no other witnesses there to verify or validate one story or the other. When the situation is unclear, it seems to be interpreted as 'just arguing', unless there was serious physical injury, which falls outside the police's domain according to this interpretation of law, policing and justice and becomes the province of 'others': that is, judges, social workers, counsellors or lawyers:

28.   You know I mean it's all the ongoing separation there, you know, ex hubby's ringing up and abusing the wife..pay lawyers and you get to pay them to sort it out.. (Pink, p. 8).

As well as the police definition of their role as 'protectors' of law and order, above (and order is read as public order), and 'fighters' of crime, they are very clear about what they are not:

29.   We're not trained counsellors so our ability to deal with a domestic dispute is probably limited (Green, p. 15-6).

This, as already noted at the outset of the Chapter, reflects the definition of a 'domestic' as a 'family dispute', and draws the police into a 'mediation role' - which in turn is defined as 'not real police work'. Thus the meanings these police place upon the situation has a real impact upon their practice, and functions in a way which 'de-crimes' wife abuse.

Chapter 5

Subject Positions and Positioning

> The methods of conceptualizing the self involved in different linguistic practices have
> vital consequences for the positioning of people in society; they are not neutral or without
> impact, they produce senses of the self which may be negative, destructive, oppressive,
> as well as senses of the self which might change and liberate (Potter and Wetherell, 1987,
> p. 104)

In this section I want to focus more closely on how language and discourse produces and
reproduces certain 'subject positions', both for the officers and those they police; within the
context of talking about policing domestic violence. Whilst the interview format adopted was a
'semi-structured' conversation, it differs from the everyday conversational interaction depicted by
Davies and Harre (1990) in their 'lived narrative' example of 'positioning' because the person
here is spoken 'about' and not 'with'. Therefore, there is little I can say on whether those spoken
'about' either 'chose' or 'rejected' the implicit 'positioning' of themselves[8]. Such 'choosing', it
seems to me, happens in the reified, 'self'-conscious and 'self'-reflexive conversations of
'academics' and requires an already established 'vocabulary' or discourse of 'abstraction' through
which such a 'deconstructive' endeavour is 'enabled'. More generally 'taken-for-granted'
assumptions remain unchallenged.

What I focus upon here are the 'possible' discourses that are available that may contribute to the
construction of 'self' and 'others' throughout the interview - where 'others' are identified as
different from and distinctly not the same as that 'self'. Within that construction of 'self' certain
implicit assumptions and culturally available discourses act to establish what is termed and
functions as 'common-sense': for instance, discourses of 'cultural identity' and 'gender identity'
are implicated. As Yeatman says:

> A claim to identity necessarily involves the proposition that the subject concerned is
> sufficiently different from its relevant others as to have its own identity in relation to
> them. Identity claims always implicate an inherently linked dual operation: the
> construction of self is simultaneous with the other side of the coin, the construction of
> this self's others. Selfhood and otherness are relational terms (1995, p. 195).

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[8]. Nor did I as interviewer actively intercede and attempt to challenge those 'positionings',
because it may have had the effect of dissuading any further discussion and as Wetherell and Potter
(1992) point out such challenge requires the skill of 'reflexive awareness' that is difficult to engage
in on the spot; and the function of these interviews was not for purposes such as 'consciousness
raising' or 'counselling' where such intervention is construed as necessary and appropriate.

I also make the assumption that the meanings given to events and a person's actions have a real effect upon what 'rights' a person 'has' or is 'granted' within a given society. Consequently, I will look at the functional implications of the 'self-other' constructions and talk briefly about these in relation to social justice.

I will begin with how the officers talk about some men they police, then follow this in the next Chapter with how they talk about women in terms of policing domestic violence. Some comparisons and contrasts will then be made between the male and female subject positions elaborated by the officers. Both sections include some general reflections upon talk related to race and social class. How the police I spoke with position themselves, within this context, is an integral part of each section.

Policing Men

The language used when talking of policing some men involved in 'domestics' is reminiscent of the 'warring' parties metaphor described by Radford, 1987. In her study of legal decisions regarding domestic violence one construction of what was happening was that of a family at war. Here the metaphor of warfare characterizes the clash between two males possibly on 'opposite sides' of the law, where later the 'bad' guy is marked out from the 'good' guy through 'markers' like the demeanour, social class and race of the male and the degree of physical injury to the woman. The passages below speak of 'policing domestics' in terms of a power struggle between the officers and the 'accused' male and their 'battle' to assert authority and control. For example:

1. Go in there trying to establish some form of authority on the situation its easier then to climb down to a more relaxed and casual approach...But its always harder to build up to an aggressive approach because that's always seen as aggressive from the male that's involved in committing the offence.. But if you go in there with a casual approach and sort of say come on we want to talk, sit down and he doesn't and then you build up to that aggression to force upon him, I, you'll get met with aggression (Pink, p. 30-31).

2. You know you can decide if you're going to walk into a um, house and within five minutes of being there you can be saying to the woman don't call me this is a ridiculous thing to call me just for, or you could be going in there with guns blazing and taking the guy to the ground and locking him up and handcuff him and drag him out because before you go there because you're sole charge you know every domestic in the town (Blue, p. 16).

3. The fact when the police turn up um, if he is the aggressor in the house then he's generally going to be a nice guy because you are there and you have authority but he can switch back to what he was (finger click) like that and if he does suddenly turn violent yeah, he's got access to numerous weapons throughout the house, kitchens full of them, knives broomsticks, anything, that's a poker over by the fire.. (White, p. 11).

4.   I'd say you know you have a short sharp shock you know. You say well you've offended in this way smack, you will not offend like that again but you can't... (Pink, p. 40).

The passages above allude to a 'battle', fight, struggle, one has to match aggression with aggression, assert control, wrestle, take the guy to the ground, go in with all guns blazing, drag him out and so on; in which implicit assumptions of masculinity are drawn on. In the first passage a discourse on the 'innate aggressiveness' of men is implicated. This is spoken of as a 'common-sense' view of what men are like, the potential is always present 'inside' the male to react violently; which is also expressed in passage 3 by 'he can switch back to what he was, like that (finger click)'. This aggressive male, it is assumed, must be countered equally with a 'show' of aggression from an opposing male - as depicted in passage 4 when expressing a view of a strategy of deterrence; which was implied as needing to fight violence with violence.

An image is evoked of two 'alpha' males meeting in 'battle', one defending 'his' 'territorial right' to dominate the home, the other asserting 'his' 'territorial right' to dominate the other male and police 'his' patch. This is particularly evident in passage 2 with the reference to rural policing and being in 'sole charge'. The officer is positioned by virtue of his authority to enact the law as a social agent with certain obligations and 'rights'. Through the use of his 'discretionary' power in interpreting the enactment of law (discussed in Chapter 4), he seems to position himself as having the 'right' to 'assert' his personal agency as well. In these passages I read this as muscle. Yet, he is also constrained by both police and public sanctions against using 'undue' force. The defining of 'undue' force is unclear and raises questions regarding the 'abuse' of such powers (see Reiner, 1985; Morgan & Smith, Eds., 1989; Dunham & Alpert, 1989).

In terms of a 'self' that is constructed, the officer and possible male 'offender' are more like each other than different, both are seen as 'having' the 'innate' potential for aggression. The following passage from an officer talking about his own life highlights this 'insider's' view and also alludes to a construction of a link between violence and stress. This last point is discussed more at the end of this section:

5.   We were both pleased to get out of the marriage but even so it's a very stressful time, you know, we had arguments leading up to the deciding to separate and I'd sort of you know and yeah it's well enough I think it's inside every man probably. Some of us can say hang on wait a minute if you start doing that, that's, you're not being, that's bad news you don't give them a crack. Other men have not got that self control you know and they'll give a woman a slight threat. If a woman says she's fearful that the man's going to hit her I believe her (Green, p. 12).

This 'self' construct implies a type of 'biological essentialism'. One derivation of this is encapsulated in the metaphor of 'man as beast' and emphasises nature in the nature/culture binary. Yet man is also constructed as 'having' the 'rational' capacity of 'self control' in the passage

above; which is seen as part of what distinguishes a 'civilized' man from a 'beast'. One way of coping with the contradiction between these two opposing constructs of 'self' seems to be to search for 'plausible rationales' to 'explain' the 'temporary' loss of 'control'. The possible rationales offered come from culturally available discourses for making sense of such contradictions; in the passage above 'marital stress' was one of a number of possible explanations for understanding male violence toward women they live with. Note the positioning of this officer as a self that is in control, whilst 'other men have not got that self control'. But, he offers an explanation which seems an attempt to understand them 'losing' it. He attempts to distance himself though from being seen to condone 'that', which is later identified as a 'crack' or 'slight threat'; it is 'bad news', by saying he would believe a woman who says she is 'fearful that the man's going to hit her'.

This reading of a search for interpreting male 'loss of control' is lent support by the following passages which contextualize domestic violence as part of a 'problem' related to alcohol or drugs. Both of these, along with 'stress' are part of a 'loss of control' explanatory model of violence and/or implicate the 'frustration-aggression hypothesis' (see Lystad, 1986; Ptacek, 1987, cited in Yllo and Bograd, 1988):

6.   I haven't had that many domestics to deal with recently because I don't work night shifts so I'm out of that. Out of that timing for domestics because they sometimes occur in the early morning after the guys come back from the pub.. (Pink, p. 15).

7.   I went to one where, how many people of about fifty years of age have a domestic. He slapped and bruised her something terrible but he'd been on the anti-depressants mixed with alcohol yet when I got there they were both sitting at the breakfast table in the morning having a cup of tea. He admitted doing it. She, you know it was obvious that she'd been belted around but it's impractical I mean what's the point of arresting him. He was under the influence of alcohol and drugs which is not of his doing. Totally out of character and I mean if the policy is as such that you're supposed to arrest him you know it's a farce (Yellow, p. 37).

8.   When that violence is uncontrollable by the male that he smashes a window or he throws cups or plates... on a single or couple of occasions through their married life he can't control that anger or he can't control that violence and he slaps them, then he doesn't deserve an arrest for that time (Blue, pp. 20-21).

In the above texts a denial of agency is presented, in relation to the 'offending' male's actions, it was not him but that violence overtook him. In passage 7, although there is an acknowledgement of an offence 'he admitted it', 'it was obvious that she'd been belted around' the excuse of alcohol and drugs are used to justify not arresting because it was totally 'out of character' and 'not of his doing', which according to Semin and Manstead's categories fits an excuse by an 'appeal to mitigating circumstances' and a denial of responsibility by an appeal to the notion of 'external agency' (see excuses and justifications, 1983; cited in Potter and Wetherell, 1987, p. 78). This denial of agency is also evident in passage 8 'when that violence is uncontrollable by the male'.

The use of 'that' in 'that violence' acts to objectify violence and divorce it from a relationship to either the person enacting it or the context; including the consequences upon the woman subject-ed to 'that' male violence. Such that, violence here becomes an uncontrollable 'thing'. Also, a justification for the male violence is being offered in the form of every couple has fights, which according to Semin and Manstead's typology (1983), is an appeal to social comparison, 'others do same or worse but go unnoticed, unpunished or even praised'.

The rationales offered above seem to act in a way that positions 'domestics' and 'violence 'as separate from a connection with and to an active agent. Through such positioning the potential for constructing a notion of a 'male offender' becomes constrained; that is how can there be a 'crime' or 'criminal' without a subject who is held responsible for an action? Thus these accounts position the 'offending' male as both 'not responsible' and 'not accountable'. As noted in the last chapter, these accounts also seem an attempt to position these officer's as 'having' a 'social conscience', founded upon a 'liberal-humanist' discourse of care and concern for the individual. Yet what is not said is that the individual in this context means man. Functionally, the excuses and justifications offered act as a form of 'collusion' with the male (see Busch et al., 1992, p. 35) and also act to deny a woman the subject position of a citizen with rights (see Pateman, 1991).

Alcohol is often positioned as a cause of domestic violence. It is spoken of by some of the officers in a deterministic way, that is it causes domestic violence; highlighted above in passage 6 where the officer positions the 'timing' of 'domestics' as 'when the guys get home from the pub'. And below a summary comment on 'domestics':

9.   Well, most of them are usually involved in alcohol to some degree or some level
        (Yellow, p. 10).

To understand what 'guys' may mean here it is necessary to situate this talk in the context of policing practice both in relation to 'domestics' and other arenas outside the home. Alcohol consumption and violence have been familiar bed-mates in policing public order, in the form of pub-brawls, rugby/football matches which are usually fights between men (see James & Saville-Smith, 1989, pp. 64-5); more generally men constructed as 'louts' or 'yobbos' (certainly not your 'average' middle-class male). In response to a question relating to whether violence in the public realm carried through to the home, one officer responded:

10.   I know this guy from way back because I've been here ten years... I've even arrested
        him for assault and that and its usually alcohol related. But I've noticed you know, with
        this complaint coming along it doesn't surprise me knowing his background from a
        policing point of view, it doesn't surprise me that he would have that attitude and he
        would try and solve things in the home with his fists (White, p. 1).

The conflation of alcohol 'causing' domestic violence though is not justified (no studies have demonstrated a direct causal link), yet may be premised on the experiential construction of such a

link, from policing in the public sphere. Bradbury (1984) says the strong association between alcohol and violence must be understood as part of the cult of masculinity and 'male-mateship behaviour'; where in pubs:

> Violence appeared to be accepted as a more appropriate response to certain situations in the pub milieu than in other social contexts..the almost nonchalant way in which [the offenders] reported violent incidents which had happened in the pub, or originated in the pub, indicated that such behaviour was being viewed as an integral part of the pub environment (cited in James & Saville-Smith, 1989, p. 64).

The transfer of such learning ('appreciation') from a situation-specific context of brawling between men in the pub to the 'domestic' sphere functions in a way that denies gender differences, that is a 'pub brawl' between two men is different from a 'male' beating or abusing 'his' wife. The conflation of alcohol 'causing' violence also functions to position 'domestics' as a class problem as well as providing a 'justification' for the male. It is deemed 'acceptable' within the construction of masculinity to drink, 'that's what men do' and part of drinking is being 'out of it' in a sense temporarily 'dispossessed' of one's faculties.

The following passage highlights the identification of 'domestic' violence with drinking and social class:

11.   you can readily identify with the lower class, the lower socio-group, you're saying they're always in the pub and they are probably the ones that are always doing it and but not being detrimental to their partners they're the ones that readily accept, oh well he was drunk and it just and it just got out of hand and he gave me a clip around the ear or a smack in the mouth or whatever and yeah, no, no, its all right now we've sorted it out (White, p. 36).

In this passage there is a perception of the 'normality' of domestic violence amongst the 'lower' class, yet also a construction of the woman involved as seeing this as an accepted part of married life and as providing excuses for the husband. This functions in a way to predefine the situation as 'normal' for 'that' group of people, distancing the officer from an obligation to act and 'dispossesses' the woman from any right to protection. Below are some further 'causal' explanations that identify domestic violence as a 'problem' related to financial or marital 'stress' or unemployment:

12.   A lot of it is the fact that um, mostly got no money and so it's a financial thing um, no employment so there's boredom creeping in and um, generally his or her behaviour that's annoying them. He might be gambling or drinking the money away or um, having another girlfriend or something like that, um and ah on her part, you know she might be hard to live with. It's generally those things, unemployment seems to be a major cause of it because he's bored, got time to kill during the day, gets frustrated and of course can't afford things that other people have got. Trying to live beyond their means if they could they'd probably say (White, p. 37-8).

13.   You know that Carter Holt has just closed down and three weeks before he had lost his job and she was a um grape picker at the local vineyards but the grape season has ended and there is no longer, she no longer has a job until the next season but there is a six week or longer stand down time before they can go back on the dole for the social welfare, but they are in a Housing Corp house and their standard of living is really low

and they haven't got any money and they've got five kids. One of them over five and four of them under five and you can't tell me that going in and saying you're under arrest and drag him off to the police station is going to help that domestic situation (Blue, p. 17).

In both the above passages there is an implicit appeal to understanding the external 'stresses and strains' upon a 'couple'. In passage 12 the frustrations of unemployment is linked to 'boredom' and 'having time to kill'; as if one way to 'kill time' is to beat your wife ! In both passages 12 and 13 'low income' is implied as a major 'causal factor' of domestic violence, and hence there is a hint of contextualizing domestic violence within a 'capitalist' social structure; with reference to 'can't afford things that other people have got' and 'living beyond their means' in passage 12 and 'their standard of living is really low and they haven't got any money' in passage 13. Yet what is not said is that not all people who are poor 'beat their wives' and some people who are rich do 'beat their wives'. Dobash and Dobash (1979, 1992) talk of the link between patriarchy and capitalism as 'determinants' of domestic violence (see Chapter 1; also Ferraro, 1990, who critiques feminist theories of domestic violence that adopt a 'universalizing approach') but what is also absent in both the passages above are any questions related to the male's assumed 'right' to 'take out' these 'frustrations' upon 'his' wife. A gender-neutral stance is in fact adopted in the two accounts above, with the emphasising of 'his or her behaviour' in passage 12 and talking of both 'having' frustrations in passage 13. The old assumptions of male dominance and female subordination are 'taken for granted' as a 'normal' part of family life here and therefore do not even enter the story. Both of these accounts offered excuses for not arresting in appealing to the 'mitigating social circumstances' within the home environment. Within a liberal-humanist traditional discourse this type of appeal sounds very 'reasonable' and 'familiar'. An 'ideological dilemma' (see Billig et al., 1988) emerges between what appears to be the 'caring, compassionate and understanding' 'side' of policing and the consequences of endorsing this, within this context, which acts to exclude some 'protection' from violence for women, within such an account.

Ptacek (1987) interviewed 18 men who were part of a counselling programme for batterers in Boston, U.S.A. He found that in offering an account of their behaviour batterers tended to offer excuses and justifications for their behaviour, with the former dominating. He states:

In making excuses and justifications, the deviant individual employs 'socially approved vocabularies' that are routinized within cultures (Scott & Lyman, 1968, pp. 46, 52). The batterer appeals to standard rationalizations in an attempt to make sense of or to normalize his behaviour (Ptacek, 1987, p. 141).

The dominant excuses were denial of responsibility, through an appeal to 'loss of control' through 'diminished responsibility' 'because' of alcohol and drugs. Yet Gelles (1974, cited in Ptacek, 1987, p. 142) cites anthropological data that suggests drunken behaviour is learned, rather than chemically induced. But because it is believed to lead to loss of control, people actually behave as though alcohol itself has that property and then use 'loss of control' as an excuse for unacceptable

behaviour; such as wife beating. Another common appeal was to what is termed the 'frustration-aggression hypothesis' (Bandura, 1973), in which descriptions used identified an internal 'build-up' of frustration that then resulted in aggressive 'outbursts'. Frustrations such as financial stress or 'provocation' (appealing also to a victim-blaming discourse) were commonly referred to as 'causing' violent behaviour. Bandura (1973) though does state that 'aggression is only one of a number of responses to frustration' (cited in Ptacek, 1987, p. 143). What I want to note from the research just cited, by Ptacek (1987) are the similarities between the excuses and justifications offered by batterers and the excuses and justifications offered by some of the officers I interviewed, regarding the male 'offender' at 'domestics'.

As noted by Scott and Lyman (1968, cited in Ptacek, 1987, see also Chapter 2 and 3, this thesis) interpretations are constructed from culturally available discourses or linguistic practices. In the police accounts common psychological discourses are appealed to, like the 'loss of control' and 'frustration-aggression' models above as explanatory frameworks for the male violence they encounter at 'domestics'; that is drugs, alcohol, financial stress all provide excuses and justifications for some men.

The 'loss of control' and 'frustration-aggression' explanations are based upon more generally available cultural discourses which contribute to constructions of 'self' and making sense of some people's actions. Both psychanalytic and behavioural discourses of self are embedded within the two explanatory frameworks above. These discourses also dominate much of the 'clinical' or 'therapeutic' literature and therefore inform many approaches to domestic violence (see Ptacek, 1987).

The 'frustration-aggression' hypothesis could also be identified as an explanation embedded within some sociological discourses regarding domestic violence. Yllo and Bograd (1988) say these sociological discourses examine:

> the family as a social institution [where] wife battering is often attributed to the breakdown of family functioning, resulting from external stresses or changing cultural norms (p. 19).

Whilst the former sociological discourse attempts to locate the 'problem' in the organization of social structures, rather than the individualizing/pathologising psychological discourses noted above, male violence is still often conceptualized as 'resulting' from 'frustrations' like unemployment, financial stress and so on. This type of sociological discourse, say Yllo and Bograd (1988), often still maintains an implicit 'gender-neutral' stance (for example Gelles, 1972, cited in Yllo and Bograd, 1988, p. 19) or the notion of external 'stressors' being 'determinants' of domestic violence. As seen in passages 12 & 13 in particular, the positioning of domestic violence within what could be seen as a 'lay sociological' framework, has implications for the type

of subject positions that are constructed and elaborated. The positioning of a 'couple' in the talk of 'domestic violence', for example, implicitly draws on an 'equal culpability' discourse which acts to position the framing of interpretations in gender neutral terms. As MacKinnon (1990) says:

> There are no gender-neutral persons I know of, frankly-I don't know how many you've met recently (cited in Daly, 1990, p. 12).

The framing of interpretations in gender-neutral terms functions in a way to negate a subject position for women. And the positioning of domestic violence as caused by 'unemployment' or 'financial stress' functions as a basis for the construction of excuses and justifications for the male, who is positioned within the 'traditional family' discourse as 'head of household' and 'breadwinner'; thereby 'rationalising' non-arrest because to remove the male according to these accounts will result in creating more stress. What is not said is the amount of stress caused to the women and/or children who may be 'living in fear' as well as, and on top of the other 'mitigating circumstances'.

A feminist discourse would suggest the focus upon 'external' stressors or individual 'deviant behaviour' excludes an articulation of the gender and power relations that actively constructs the contemporary nuclear family and 'makes' domestic violence a possible 'reality' for 'most normally functioning families' (Yllo and Bograd, 1988, p. 19). Rather than constructing domestic violence as a 'loss of control' or 'frustration-aggression' a feminist discourse constructs male violence within a framework that says it is one means of men 'aggressively exerting control' over women; a means that has been historically 'legitimated' (Dobash and Dobash, 1979; see also the power-control model, discussed in Chapter 1, this thesis).

In the talk below, excuses and justifications are offered for some men, yet not others. In the section below the officers talk about the 'type of guy' construed as most likely to beat or abuse his wife. Despite studies that indicate domestic violence is not restricted to any one group of people, (see Maguire, 1988) an analysis of the 'type of guy' constructed throughout the conversations indicates a different view is held by some of those officers policing domestic violence. It is this issue I now look at in more depth.

Certain type of guy?

This section attempts to look at the ways in which how the police talk positions a certain category of persons as being implicated as involved in 'domestic violence', namely those in the lower socio-economic groups and of different racial and ethnic backgrounds, particularly 'Pacific

Islanders'. Smith and Klein (1984) in researching decisions to arrest found that class was a factor influencing the tendency of the police to arrest (cited in Edwards, 1989, p. 158). Although, in passages 11, 12 and 13 above the construction of 'domestics' as 'normal' for the 'lower class' also mitigated against arrest. This contradiction can be better understood through looking at the 'discursive construction' of both 'domestics' and the 'type of guy' that 'warrants arrest'.

The following passage contrasts a 'normal' and 'disturbed' family with the use of 'home' and 'house' as markers of these two categories respectively; it was a response in the context of talking about decision-making:

14.   you do that instinctively and I'm not quite sure what appreciation process you go through but if I was asked to write it down I'd probably say that the environment that they live in is a factor, how they dress is a factor, how they talk is a factor, all this sort of thing, all these sorts of input that you can make instant decisions on or after it doesn't ???? make instant decisions. I'm not saying that that doesn't mean socio-economic groups at all because you can go into very, very poor households and, and walk into a home. You know that's the difference between a house and a home like a disrupted home has been disrupted for a long time becomes a house and it loses it's home atmosphere um. I'm not quite sure what input into, comes into me that allows me to make that decision but it does. I've seen it in lounges and I look around and I talk to people and talk to both parties and I think I'm in, this is a home you know this is a caring environment that's for some reason be it for financial or whatever it might be, financial always there, always... you know and for some reason this is a home you know. And often when I say this is a house that's often the time I end up arresting the offender. Arresting the man or the female or whatever it wants (Blue p. 23).

Thus factors, that implicitly allude to a persons socio-economic status, outside of the 'facts' play a part in defining whether this is a domestic that requires police intervention in the form of arrest and the 'appreciation' process includes a distinction between a 'home' atmosphere, which is 'caring environment', and a 'house', which has ceased to be a home and 'has been disrupted for a long time'. This 'marking' of distinctions and differences I read as related to how similar or dissimilar the person and context is to the officer's own experiential world-view. That is meaning and making sense of the situation and people involved is socially constructed from the interpretative frameworks available, often this is the dominant hegemonic discourse that is male, white and middle-class.

Below is an excerpt from one section of an interview, where one officer spoke at length about his own family. The following passage most typically highlights the construction of a dichotomy between a 'normal' family and 'disturbed' families. Where 'disturbed' for this person seems to mean a disruption of what Donzelot (1979, cited in Beechey, 1985, p. 109) calls 'familialism' or the discourse on the modern family summed up by the term 'happy family', and this disruption is embodied in 'domestic violence':

15.   I'm a very strong family person. I believe in the family being together and being together and that and um, I can't, I can't understand the idea of a family living together in terror or in fear and I've always told my kids you know I'm your father and because

of that you've got to have some respect towards me um, as well as the fact that I'm adult but that's it. I'm no great anything within the family unit except part of it and I should really be there you know if you've done something wrong and you're in line with punishment, t.v. turned off or go to bed or something, well then you know you've got a bit of a worry then but to actually fear me, no never, and the same with my wife. She should never ever feel, 'do I tell him this' do I tell him that' because he's going to hit me, no. The family unit should be, should be friends, should be able to be together and enjoy each others company and never live in fear (White, p. 6).

In this passage 'should's' form a definitive part of the way things ought to be and when/if they are not they become outside one's realm of understanding and 'other'. The discourse here regarding the family is one which draws heavily on the nuclear family as the norm. Within this notions of equality are introduced in a manner that seems to attempt to position this person as a more 'enlightened progressive family man' (as opposed to a 'male chauvinist'); seen in the lines 'I'm no great anything within the family unit except part of it' and 'should be friends'. Yet at the same time there is also a contradiction to this equality discourse, a recognition that the relationships are not equal; seen in the lines 'I'm your father', 'I'm the adult' and from this position one demands respect and has the authority to punish. These contradictions echo changing discourses between the post-war period of the 1950's, probably the period when the traditional 'familial ideal' was at its peak, and the challenge to this discourse which was part of the 1960's 'radical movement', which included what is termed 2nd Wave feminism and it's challenge to male dominance/patriarchy.

The emphatic insistence on 'my wife should never,ever' fear being hit would fit the more 'enlightened, progressive' view of condemning 'wife beating' and perhaps his position as an officer dealing with this as a reality wants to doubly emphasise his distancing from 'that'. 'That' here being all that 'domestic violence' represents in terms of 'not in my home' thus rendering it as an experience that is 'incomprehensible'. At the same time in taking this position as someone who could never imagine this as a reality, he appears to be denying the potential that his wife 'could' feel threatened or fearful of him- this also denies the gender inequalities that make this a possibility.

The implication, as noted previously, I read from this in relation to passage 14, is the more like one's own home the environment is the more likely the reading of home may be made and the more one may seek 'underlying causes' to account for the police being on the scene, like alcohol, drugs, frustrations and 'provocation' (see passages 7, 8, 11, 12 and 13 for examples of the first three and 'provocation' is dealt with under the subject positioning of women). In passage 14, the officer is able to read whether it is a 'home' or 'house' based on the 'how they dress', 'how they talk', 'the environment they live in', yet there is a denial that this is based on socio-economic factors. The attempt to distance this account from 'bias' or 'prejudice' in the form of linking 'domestics' with a 'problem' particular to 'lower socio-economic' classes is made by the

statement, 'because you can go into very poor households and call it a home'. I read this as a type of disclaimer, that qualifies what may be perceived as attributing a direct link between domestic violence as a class 'problem' 'only' found amongst 'poor households'. This statement may be based on an attempt to be seen by others (in this case me as interviewer) in a good light, with the 'you know' acting to appeal to a 'shared (middle class) understanding', which is perhaps also based upon a discourse of 'liberal tolerance' (see Potter & Wetherell, 1987, p. 87).

In passage 14 there is also an appeal to a common policing strategy, that of the 'appreciation process', which as noted in the previous Chapter, is outlined in terms of the accumulation of years of experience. This appeal also seems to be founded upon 'general policing practice'; whereby one is taught to be alert to 'likely suspects' and to scan the environment for 'out of the ordinary' situations or events, in the public realm (see Edwards, 1987; Stanko, 1989). Within this police are given wide powers of discretion (discussed previously) and these discretionary powers allow for greater police freedom in particular 'public order' situations, where the substantive law often requires police evidence alone. For example, police 'suspicion' of loitering, breach of the peace, drunk and disorderly behaviour is sufficient evidence of the offence (cited in Edwards, 1987, p. 87).

In reference to the policing of 'domestic' violence some men are more likely to warrant arrest than others; as seen in the excuses and justifications employed for using 'discretionary powers' not to arrest. According to Pivilian and Werthman (1967) public policing is predicated upon being alert to 'suspicious' actions and events, where suspicion is aroused by surveying the landscape for situations or people who appear 'out of place' (cited in Edwards, 1987, p. 87) or for 'people who do not belong' (Adams, 1963; cited in Edwards, 1987, p.87). This certainly has implications regarding the men who may be seen as 'likely suspects' of a 'crime' in their 'own' home, when cliches, (arising from the historical construction of the patriarchal family of western culture) such as 'a man's home is his castle' may constrain the numbers of men who could possibly be 'out of place'. A simple reading of 'out of place' may be one based on 'disorder', whereby the amount of damage visibly present to either property or persons 'alerts' an officer to the possibility an offence may have occurred. The reading I make below though, is relating this concept of 'out of place' with passage 14, and the 'marking' of 'home' and 'house' as relevant criteria in the decision-making process of whether arrest is 'warranted'. The connection between likely arrest and the 'situation-specific' 'markers' is made between whether a property is 'owned' or not.

In passage fourteen, then, home is read as related to those people who 'have' possessions and 'owned' property. This seems to firstly imply a desire for such possessions (desire constructed in this sense as being an object one has learnt to value or place value in and is not divorced from the

forming of that desire within a 'capitalist' economy) and secondly, an ability to afford such possessions. The ability to afford property and possessions is more accessible to those working, having some surplus income

and generally falling more in the 'middle-class'. Both the 'environment', 'how they dress' and so on more I read as more likely to appear similar/familiar to the officer's attending if they conform to 'common-sense' notions of 'normality' i.e. the traditional western, middle-class nuclear family than if the people involved are dissimilar to this 'norm'; and therefore likely to appear 'out of place'. The people within a 'home' seem to be accorded rights, one being the right to police discretion, which one could argue is a right constructed within liberalism, by a legal system which defines the legal subject as 'essentially formed with regard to property right' (see Goodrich, 1987). The following passage highlights the link made between property and likelihood of 'criminal offence':

16.   I guess you would say you wouldn't often get called to a domestic where there is a Mercedes parked up the driveway but you'd more than likely go to one where the car is on blocks with no wheels under it or there's no car at all (White, p. 38).

Historically, women have been defined as the property of their husband and as having no rights to property (see Dobash and Dobash, 1979; Pateman, 1991). Thus it is more a case that historically the legal subject has been constructed as a male subject. The following observation is made by one officer:

17.   Yeah, so I formed the impression that this, this girl now is going to get assaulted at home whether she is doing well or not just to, in his mind just to ensure she doesn't slip some way. So she'll get a clip around the ears or a slap or a punch just to keep on an even keel which kind of makes her, some kind of property of his or, you know, I'll kick the dog because the dog barks kind of style, I slap her because she might get out of line (White, p. 2).

The male officer identifies one aspect of this historical defining of women as 'property' and the assumption of the male to 'legitimately' use violence to 'keep her in line'. This more blatant example of domestic violence was not sanctioned by the officer. Yet 'male rights' are sanctioned in other less explicit ways through the offering of excuses and justifications for some men and their non-arrest. This functions as a means of implicitly endorsing some forms of male violence and ideologically reinforces the traditional 'rights' of the male subject; who is afforded 'protection' by a law officer invested with discretionary powers. Thus, what is being protected is the male right to the 'privacy' of his 'home'; categorized as a 'loving and caring environment' and this also may include his 'right' to beat 'his' wife.

'House', in passage 14, is read as without possessions and non-owned property, either rented or state-owned housing. This acts to mark out a certain category of person, which according to police accounts are those who are in lower socio-economic groups, the 'unemployed','low wage

earners', 'immigrants', 'Islanders' or Maori. Maori seem also to be seen in the same category as immigrants and Islanders, outside white culture and as 'other'. 'Defacto' couples also categorize as outside of 'traditional' marriage and thus also are viewed as 'other'. This last point is made in relation to a question about whether any differences were noted between 'domestics' attended:

18.   They've all been the same type of relationship and now thinking about it I haven't been to too many where the couple are actually married. Always been de facto type situations um, yeah (White, p. 38).

Here, although 'they've all been the same type of relationship' the 'type of relationship' most linked with 'domestics' is a de facto one. Being 'married' by inference is different and one implication I read from this is 'marriage', as culturally marked as part of a 'legally sanctioned' union, now also becomes marked as part of a 'civilized' union where one is unlikely to 'see' a 'domestic'.

The following passage highlights some of the cultural 'differences' that pertain to decision-making:

19.   Imagine what would happen if a Samoan couple or any race couple, if he punched her to the ground in the middle of Palmerston North Square now, every policeman in the station would hurry out with blue lights going, crash into them, take him to the ground, handcuff him, drag him back here under arrest for Crimes Act assault regardless of what the female says..and that's the difference in the reactions we do today. Yeah (Blue, p. 10).

The example given here which situates this 'domestic' in the middle of a public square in contrast to the example given in passage 7 of non-arrest of the man who had 'obviously' hit his wife but was 'suffering' from a drug/alcohol 'problem'. The man in the former case was white, middle-aged and at home. One notable difference here is that it seems more likely an 'offence' will be interpreted as such in a public place as opposed to a private place. The other notable difference between the two examples are those between a 'Samoan, or any race couple' and a white middle-aged man. Below are passages that further elaborate rationales based upon 'cultural differences':

20.   I've been to others where, where it's quite a nice guy, you know, you wouldn't expect him to be the kind of guy that solved his problems with his fists, then of course I've been to complaints where it's an Islander, a relationship from the Islands, people that have been in New Zealand five or six years or something like that and um, they, that person believed it was his right to do it. It's almost expected of him and you know I was told that because I arrested him it was stupid because back in the Islands I wouldn't dare arrest him.. [I: and so are you saying that it was in fact all part of the Pacific Island culture ?] Yeah, and he'd brought that culture over to New Zealand and he's adopting that way and I said not in New Zealand it's not tolerated. It shouldn't be tolerated by the woman, it's not tolerated by the police, it's not tolerated by society so you can't bring that over here (White, pp. 1-2).

21.   Three quarters, four fifths of the population was Samoan and there was a very, very small Caucasian population and a relatively small Maori population as well. It was all housing corp..full of, chocker block full of Samoans and ..three or four bars..(Blue, p. 11).

22.   You've got to be aware there are cultural differences..[me as interviewer: And is that very different from when you go to a white family domestic?]..No because white people have got cultures as well. I get annoyed when they say bi-culturalism, it's bloody multi-culturalism, you know I've, yeah, okay, I'm from a working class family in England, you know and working class families in England domestic violence went on all the time, still does. Then they get it the rich business man, goes on in his family as well. It's just that the wife's got the means of dealing with it herself because she's got money, whereas at the lower end of the scale the wife can't get away from it because she's got nowhere else to go (Green, p. 31).

23.   I was transferred into, it was the early eighties, into a first generation part Samoan community where domestic disputes were a legend and in fact they used to have a saying..it's typical Porirua domestic no further action (Blue, p. 6).

In reading the above it is important to note the emphasis in contemporary police training, including New Zealand (see Gordon, 1986), upon inculcating an appreciation of 'cultural differences'. Part of this emphasis is expressed by Goldstein (1977) in his assessment of the qualities needed in police members:

> With proper instruction recruits should be able to understand the cosmopolitan nature of an urban area and appreciate the differences between cultures. They must learn to tolerate unconventional behaviour and respect divergent lifestyles (cited in Gordon, 1986, p. 76).

Yet, note at the beginning of passage 20 how 'nice guy' is identified, by implication, with a 'white guy' who this officer positions as someone he wouldn't 'expect' to use 'his fists'. Directly followed by and in opposition to this positioning is an 'of course' related to 'Samoans'; where the assumption appears to be 'what else would you expect'. This 'appreciation' of such a 'fact' seems to be read in passage 20 as identifying 'domestic violence' as an imported cultural commodity or 'problem' transported in by the 'Island immigrants'; 'head brought that culture over to New Zealand'. This I identify as a discourse premised upon 'cultural imperialism', which is located in a view of the 'supremacy' of the dominant Western culture, seen as 'civilized' and 'developed', as opposed to the 'primitive', 'uncivilized' or 'barbaric' 'other'. This 'ethnocentric' and 'racist' discourse has been elaborated for a long time and has been culturally 'legitimated' (see James & Saville-Smith, 1989; McCreanor 1995; Wetherell & Potter, 1992). Such a 'cultural imperialism' discourse as passage 19, fails to acknowledge or leaves unsaid the 'fact' domestic violence is also very much a 'product' of New Zealand culture and has been since white colonization (see James & Saville-Smith, 1989). Note also the intertwining of this discourse with a discourse of assimilation later in the passage, 'he's adopting that way, and I said not in New Zealand it's not tolerated'. What implicitly is stated as 'tolerated' is the 'dropping' of one cultural tradition and 'adopting' 'the New Zealand way'; which here means Pakeha culture. This assimilation discourse within New Zealand can also be identified in the dominant ideology that forms and informs what is seen by many as a 'common-sense' view.

An example of this 'common-sense' view is echoed by the 'New Zealand First' political party, one of whose platforms is a conservative 'nationalism' founded upon 'we're all the same and in it together'. This notion of 'national identity' linked with 'national good' (see Bell, 1996, pp. 183-196) also points to contradictions between the intersection of discourses related to notions of cultural pluralism and cultural hegemony. 'Pluralism' implies 'cultural diversity' and the endorsing of 'difference', whereas 'nationalism' implicitly denies 'difference'. Staying with 'New Zealand First' as an example, this 'new' party founded by a Maori, Winston Peters, espouses a nationalistic discourse which seemingly denies 'difference' and 'inequality', yet also uses these very arguments to counter New Zealand's 'Asian immigration' policy; we cannot 'allow' these people in 'because' they are different and will be a 'drain' upon resources. This 'anti-Asian' discourse is a re-presentation of the rhetoric used to endorse the 'White Australia Policy', explicitly operative in the 1950's in Australia.

The contradictions between a discourse of 'nationalism' and 'pluralism' are managed and 'justified' through a discourse of 'assimilation'. Thus 'difference' becomes 'tolerable' only if 'cultural diversity' is reduced to 'sameness'. Within the context of policing domestic violence such discourses function to undermine a recognition of 'Maori identity', 'bi-culturalism' and legitimate claims for justice under the Treaty of Waitangi. Nationalism, as a discourse then functions then to 'legitimate' a discourse of cultural oppression (see Bell, 1996; Wetherell & Potter, 1992).

In passage 21, again domestic violence is constructed as a class and race 'problem' related here to 'overcrowding', through the use of the description 'choker block full of Samoans', 'low income' implied by 'housing corp' and 'alcohol' - there were 'three or four bars'. In passage 22, this officer's talk seems to attempt to position him within a discourse of 'liberal tolerance', where 'cultural differences' and 'diverse lifestyles' are acknowledged and 'respected'. This is identified with an appeal to 'multi-culturalism', a common discourse since the 1970's in Australia and New Zealand, yet the function of this discourse seems to be to undermine 'indigenous' or 'first nation' people's claims to 'rights', including land and resources, within a Pakeha discourse of 'sovereign nationhood' (see Wilson & Yeatman, Eds., 1995).

The construction of 'domestic violence' as related to problems of alcoholism, unemployment and to stress (including financial stress) by these police intertwined with entering a 'publically' owned house, that is a housing corporation house, or 'rented' accommodation may make it more likely for some officers to 'see' a potential crime or criminal, and arrest the offender. They may not be so alert in entering a middle-class home to potentially define the male as a 'criminal' or someone who may have committed a 'crime' in terms of violent or threatening behaviour; see for example

passage 16. It may be probable then for the police to be more alerted when entering a 'house', especially where someone is 'Polynesian' and/or has been drinking, to the possibility of violence.

The systematic over-enforcement of the law in the public realm where suspects are 'black, underprivileged and powerless' has been researched and documented, for example Box (1987) refers to 'vigilante justice', where certain people are charged with offenses for which there is no real defence, such as 'being disorderly, resisting arrest, using threatening behaviour to an officer' (cited in Edwards, 1989, p. 87). In such cases 'suspicious persons' become pre-defined, says Edwards (1989) by means of a circular 'logic' which 'legitimates' arrest through using previous statistics of arrests to justify grounds of suspicion. The circularity of this is both discriminatory and self-fulfilling in terms of those background assumptions of suspicion.

Edwards (1981) says that, historically, powers of arrest:

> became a way of controlling and containing working-class men and women, the latter being frequently arrested on suspicion of prostitution (cited in Edwards, 1987, p. 89).

In a New Zealand context both 'Polynesian' and Maori are more likely to be apprehended, charged and imprisoned than are Pakeha (see Jackson, 1985). Whilst my research into domestic violence indicates that arresting the male is still resisted by many officers, as seen in passage 23 where 'a typical Porirua domestic' acted to mitigate against arrest, the discourses of 'nationalism', 'assimilation' and 'cultural imperialism' also indicate that if arrest does occur it is more likely that the 'type of guy' who ends up arrested is going to be 'black underprivileged and powerless'.

Chapter 6.

Policing Women

This Chapter outlines how the police officers' talk on policing domestic violence constructed particular views of 'women'. Women, according to some constructions elaborated on throughout the interviews, are depicted in terms of being manipulative and seeking revenge; as fickle and changeable; highly emotional/hysterical; or so 'needy' in terms of security or needing a man that they will put up with any amount of violence. Sometimes, although not often, women are spoken of as victims, yet what is not said is what they are 'victims' of - namely violence and abuse from men they either live with or have lived with. In all of these constructions of women the 'characteristics' noted above are spoken of as intrinsic to the woman; they are inside her. The 'self' construct appears to be one of 'biological essentialism', or of a 'highly emotional' female in 'need' of 'control'. A 'rational' female 'self' is not spoken of at all, nor are excuses and justifications of women's actions sought or given.

In the context of talking about policing domestic violence women only appear to be spoken of as selves, who are either 'biologically' or 'morally' 'adapted' to 'domesticity'. This also, as stated above, leads some of the officers I spoke with to the conclusion that some women's 'need' for a man is so great they will put up with any amount of violence. The following passage refers to the positioning of women as 'biologically' or 'morally' 'adapted' to 'domesticity':

1.   We're generalizing, females require the stability of a home regardless of what their home life offers...I'm sure some of the fault lies in the females desire for stability she has in the home despite the fact that stability is not something that you or I would accept (Blue, pp. 42-3).

James and Saville-Smith (1989) say the dominant construction of the 'social world' within New Zealand is that of a 'gendered culture', in which females are mainly 'defined' through the 'Cult of Domesticity'. This 'Cult of Domesticity', according to them is:

> a particular construction of femininity which emphasizes almost exclusively women's alleged nurturant and maternal capacities... In this construction of femininity, women's lives are structured as dependent and privatized. This is opposed to a masculinity which situates men as actors in the public sphere where they are providers for, and protectors of, women (James & Saville-Smith, 1989, p. 31).

A 'Cult of Domesticity' certainly was, and is, part of a longer Western tradition, which Hall (1982, 1989; cited in Jackson, 1993, p. 181) locates as part of the 'domestic ideology' connected with the rise of industrial capitalism (see also Chapter 1, this thesis). Within a 'Cult of Domesticity', a woman's 'natural' place is seen as in the home. Women within this construction

implicitly become identified as part of both 'nature' and the 'domestic' or 'private' sphere. When relating this to the social construction of some men as 'possessing' a 'control' over 'nature' or 'biology', this particular construction also functions as a way to 'legitimate' the controlling of 'women', who are often constructed by a male 'definition' of 'women', as 'house-wife' or 'sex object' (see Hanmer & Maynard, 1987; James & Saville-Smith, 1989). Part of the construction of women's 'nature' also seems to be an identification of women as 'being' emotional, that is seen as the opposite of 'rational'. These are discourses that are readily identifiable in terms of 'common myths' regarding gender differences - for example, men as rational, women as emotional or 'irrational' - that come from long history in which a male construction of the person and situation has dominated (see James & Saville-Smith, 1989; Pateman, 1991).

An example of one such male positioning of women as 'emotional' or 'irrational' came from an officer interviewed, and echoes some of the points made above:

2.   I'm not being chauvinistic or anything but women still get hysterical and it takes a
       dominant person, whether it be a dominant male or female officer to control that female
       (Pink, p. 32).

The statement 'I'm not being chauvinistic or anything, but..' seems to act here as a disclaimer.
According to Potter and Wetherell (1987),

> disclaimers are pre-accounts which attempt to ward off anticipated negative attributions in
> advance of an act or statement... People use disclaimers when they are about to do or
> say something which is likely to be interpreted as coming from someone with a particular
> identity..The disclaimer attempts to prevent the listener interpreting the talk in terms of
> this noxious identity by acknowledging the possible interpretation and denying it (p. 77;
> drawing on Hewitt and Stokes, 1975).

The statement by this officer appears an attempt to distance himself from being positioned as a 'male chauvinist', yet what follows is a positioning of women 'as' hysterical and 'needing' 'domination' and 'control'. A traditional psychoanalytic discourse is implied in this positioning of women as 'hysterical', and it functions in a way which also positions women as 'emotional', 'irrational', and, taken to one implied 'logical' conclusion, as 'mad'. One functional implication may be that the 'she' being positioned as 'hysterical' is neither capable of expressing what 'really' happened in the situation nor what she wants to happen. The police definition of the situation has the authoritative voice by virtue of their maleness and their power as officers with 'discretion'. What is left unsaid is an explanation, justification or excuse for this 'hysteria'. Walker (1989) reframes such an interpretation of women as 'hysterical' in terms of an 'understandable' human response to the trauma of male violence and abuse. She notes that women's 'psychological state' changes when free of violence: that is' any 'hysteria' is 'situation-specific' and not 'intrinsic' (cited in Busch et al., 1992, p. 33; and Chapter 1, this thesis). Women's refuge workers and some feminists have argued that what is needed in a 'crisis' and/or 'court' situation is the presence of an 'advocate', which does not imply that women are incapable of speaking for

themselves (see Dobash & Dobash, 1992), but is a recognition of the social context of women's positioning within a male hegemonic discourse that tends to dominate interpretations and practices. One means of 'resistance' within a male construction of the discursive fields of 'the family' and 'law' is an 'advocate'.

A common complaint from the police interviewed was that women withdrew complaints; despite a policy that takes the onus off the woman to be the one to formally lay charges against the offender. The withdrawal of complaints was a rationale given by these police as to why they didn't arrest or like attending 'domestics' and saw them as a waste of time. Women were positioned within the framing of these rationales as 'vacillating', which seemed to include 'being' indecisive, changeable, fickle, not knowing their own minds, or highly emotional, and such constructions functioned to reinforce the police in their view that 'these women' were wasting police time. This is highlighted by the following passage:

3.   There's no, ninety-nine percent of them change their mind. They want him arrested and really what they want is a um, the attention more than the arrest. And that gives me the impression that they want some retribution, they want some vengeance (White, p. 17).

This passage starts with 'ninety-nine percent of them change their minds', about laying charges or wanting arrest, and the rationale given for understanding this is 'really what they want is attention'. The implication is that women are so in 'need' of male 'attention' that they will phone the police 'just' to get some. The other major implication that seems to derive from this is that 'women don't know their own minds' or change them, thus seeming to provide a 'legitimation' to interpret women's minds for them or to discount anything that is said 'because' 'she'll only change her mind'. Noted in the previous section on male subject positions was an identification of some 'males' as 'having' a 'rational' self, such positioning, I suggest, also acts here to 'legitimate' the prioritizing of the males voice in/upon the situation.

There is also embedded within this traditional gender discourse an assumption which sees men as more identified with mind (that is rational) and women with not-mind (that is emotional and irrational), and by implication body. The identification of women with the body functions to position them both as 'sexual objects', and thus the 'rightful' objects of men's 'attention' (which also sees them as the 'natural' targets of male violence), and as the 'embodiment' of emotion - including the capacity to seek vengeance, amongst other things. Thus, in a rather convoluted way we get to the second part of the passage above, 'And that gives me the impression that they want some retribution, they want some vengeance', which on first appearance has little connection to the first explanation, that what women really want is attention. The positioning of women as 'vacillating' or 'vacuous' functions to deny the very 'rational' reasons women may have for

phoning the police, one of which may be a 'simple' desire to stop the immediate male violence and abuse that prompted the initial call.

There seemed to be a general assumption that some women will call the police for silly, inconsequential reasons. This is further seen in the following passage:

4.   You know you can decide if you're going to walk into a um, house and within five minutes of being there you can be saying to the woman don't call me this is a ridiculous thing to call me just for (Blue, p. 16).

In this example the term woman is used in relation to 'a ridiculous thing to call me for' and no action results, yet the implication is that women will call for trivial, inconsequential and unimportant reasons and 'waste police time', such that it is not too improbable that the two terms used so closely together become synonymous with that 'ridiculous woman'. The statement 'what a ridiculous thing to call me for', coming from someone who has authority and power, may serve a number of functions, that of setting the tone for future interactions, delimiting and defining what it is that police will and won't respond to, and possibly constrain the woman from calling again. Thus, through interpreting the woman's action negatively, a subject position is constructed, by implication, of a woman with 'no right' to call the police there, and this construction thereby becomes a powerful means of control.

There is also a common assumption amongst officers that a woman will ring the police 'just' to get back at a man, and to get him removed from the house for 'no reason'. This summons up a positioning of women as 'vindictive'. This includes notions of their being manipulative, conniving, scheming, calculating, revengeful, resentful, malevolent, deceptive 'con artists' who at best trick and fool you and at worst are untrustworthy liars. The following passages highlight some of this:

5.   I think you're being a little bit naive. I mean, what goes on in a persons home and then a woman goes to court and says oh he's made threats against me and I'm really worried and you know and if it's, if it's one of those where the guy bothered to turn up to court to defend himself..(Green, pp. 13-14).

6.   I only had about six years in the job and I could still get trapped and tricked by situations like that and definitely if you get that situation you'll think twice and a third time, not about going of course, but you will think twice about your actions when you get there (Blue, pp. 44-45).

7.   It takes two to tango I'm afraid. But it happens quite a lot, you know, people will use the police to oust the partner (Yellow, p. 37).

In passage 5, through contrasting 'what goes on in a person's home' with 'and then a woman goes to court', the police officer identifies these two situations as 'describing' two different 'stories'; with the implication being that the 'story' that is told in court is more 'fiction' than 'fact'. The 'court story' is constructed in this text as 'untrue' through the statement of if 'the guy

bothered to turn up to court to defend himself'. The implication being that, given the man's testimony, the non-molestation order may not be granted. There are two points here I want to draw regarding subject positions. The first is the apparent privileging of 'his-story' in the passage as opposed to 'her-story'; she is positioned here both as an 'untrustworthy' complainant, and possibly as being 'vindictive' against her husband; whilst the positioning of the 'husband' is as someone who would, if given a chance, 'reflect reality'. The second point relates to how the statement 'oh he's made threats against me and I'm really worried' seems to function to the minimize the possible 'seriousness' of the woman's story, and when read with the subject position of a woman as both 'untrustworthy' and possibly 'vindictive', then this 'minimalization' becomes amplified. What is not said is the 'reality' that non-molestation orders are not granted without very 'justifiable' grounds and 'valid' fears for the safety of the woman.

Passage 6 is a response made in relation to 'repeat calls'. The interpretation given to a woman who has called before seems to be that she may be manipulating or fooling the police, with the officer not wanting to be 'trapped or tricked' again. Such an explanation seems to position women again as 'untrustworthy', 'manipulative' and 'deceitful', as if 'once bitten, twice shy'. The 'rationale' of such an explanation seems to be linked to a set of unspoken assumptions, for example, that if 'she' is still with the same man who beat her last time, 'she' must either like it or be willing to put up with it. This when also connected to a perception of a woman's 'willingness' to 'do something about it' (seen in passages 11, 12 & 13 below), seems to function as a powerful constraint upon some officer's to be 'willing' to 'do anything' about 'women's complaints' of male violence and abuse. These accounts seem part of a construction that positions women as either 'masochists' or, in a more 'benign' interpretation as offered in passage 1 (and repeated below as passage 9), that some women's 'need' for a man is so great that they will put up with any amount of violence. Accounts such as this appear to be attempts to seek 'answers' to a question framed as 'Why do women stay?' This point is discussed below in summarizing passages 9-13.

In passage 7 the phrase 'it takes two to tango' draws on an 'equal' culpability discourse, where there is no victim. Therefore, within the construction of 'domestics' as a relationship issue, with the couple equally contributing to the situation, some police seemed to view it as an unfair and inappropriate use of them, as police, that they should be called and 'expected' to remove someone, (usually the male), from the home. When this happened, the situation seemed to take on the meaning that 'people will use the police to oust the partner', and 'people' here seems to mean 'women'. Women are positioned in this text as 'using' the police to 'do their dirty work', and as acting vindictively towards their partner.

Even when women are not positioned as acting vindictively toward their partner, for example in the passage below, the construction of 'domestics' as a relationship issue, along with a construction related to a discourse of 'equal culpability', acts to position women as 'equally to blame':

8.   So you've got to listen to what people are telling you and sometimes it is really really difficult right to know what's going on. The women's saying one thing, the guy's saying another, there's no evidence of any violence although the violence being used might be threats, verbal, gestures, well that all stops as soon as the policeman walks in (Green, pp. 15-16).

Within a discourse of 'equal culpability' there is an absence of a 'victim'. Such an absence then becomes a 'justification' for 'non-action'. This lack of positioning of a victim functions to deny some women 'legitimate protection'. There seems more of a willingness to read most women as 'conning' the system, as in passage 7, or as not having a 'legitimate' claim, or one that can be 'validated' for police presence, as in passage 8. In passage 7 women are positioned, in a sense, more as the 'criminal', that is as the one who has 'victimized' the male partner or officers. This seems a rather odd reversal, and one way of understanding this reversal comes from a feminist discourse, whereby such reluctance on the part of some police to 'offer' 'legitimate protection' is seen as deriving from a 'victim-blaming' discourse. This 'victim-blaming' discourse may function as a form of double victimization of women: firstly from the male partner, and then from the criminal justice system (see Hanmer et al., 1989 and Chapter 1, this thesis).

The following passages were rationales given as to why women either withdraw complaints, or, if their partner is arrested, may not want the case to proceed in court. These rationales act to position some women as more 'deserving' of 'police protection' than others:

9.   We're generalizing, females require the stability of a home regardless of what their home life offers...I'm sure some of the fault lies in the females desire for stability she has in the home despite the fact that stability is not something that you or I would accept (Blue, p. 42-3).

10.   in a sense you are battling him um and her and she is on the phone virtually in tears that you will carry on with it and you're the only person sort of sticking to your guns and saying no this is going to proceed, this is for the courts, it's gone past me. But you really wonder who you are helping (White, p. 18).

11.   some of them don't learn and just go back anyway. It's not that they don't learn they just don't want to do anything about it. They just accept it as being part of life and the policeman will sort it out you know (Yellow, p. 17).

12.   I can tell now whether the chances of this woman leaving for good are high or low and if they are low then I'll do everything in my power to solve it short term for her..but I won't spend the long and involved time that I will put into a female who says this is the final straw and then this is never going to occur again because she is never going to live

with him again and I will put serious time into that (Blue, pp. 44-45).

13.   Have you done anything about it, are you going to do anything about it, because they
        may have gone down the road and done something about it and there we have an order in
        existence and um, we know if the guys getting straight back into it then you know that
        she's done something (White, p. 33).

The reasoning in passage 9, 'I'm sure some of the fault lies in the females', is a good example of
the positioning of an 'internal' account with an identification of the 'problem' being 'in the
females'. According to this account, some women 'need' the security or 'stability' of a 'home',
such that they will put up with anything 'regardless of what their home life offers'. Yet what is
not spoken of is the 'external' construction of such a 'need'; that is, the economic, social and
cultural positioning of women whereby a woman is often economically 'dependent' upon her
husband, has 'dependent' children, and may face further 'deprivations' in 'leaving'. That is,
there are very 'real' reasons that constrain a woman from leaving an abusive relationship and the
'cliche' of being caught between 'a rock and a hard place' may be a more apt story. Yllo and
Bograd (1988) reframe the question 'Why do women stay?' as 'Why do men continue to beat
their wives?' and 'What constrains a woman from leaving?'
There is also the assumption in these passages that implies this 'need for stability' or putting up
with violence and abuse is more related to some women than others. In this account, the use of
'you or I may not agree' seems to appeal to a 'shared middle-class understanding,' and the
implication seems to be that the women he is speaking of are 'those' women in lower socio-
economic groups. This subject positioning is echoed in the two passages below:

14.   you can readily identify with the lower class, the lower socio-group, you're saying
        they're always in the pub and they are probably the ones that are always doing it and but
        not being detrimental to their partners they're the ones that readily accept, oh well he
        was drunk and it just and it just got out of hand and he gave me a clip around the ear or
        a smack in the mouth or whatever and yeah, no, no, its all right now we've sorted it out
        (White, p. 36).

15.   Then they get it the rich business man, goes on in his family as well. It's just that the
        wife's got the means of dealing with it herself because she's got money, whereas at the
        lower end of the scale the wife can't get away from it because she's got nowhere else to
        go (Green, p. 31).

In passage 14 there is a perception of the 'normality' of domestic violence amongst the 'lower'
class, yet also a construction of the woman involved as seeing this as an accepted part of married
life, and as providing excuses for the husband; with the lines 'they're the ones that readily accept
it'. This functions in a way to predefine the situation as 'normal' for 'that' group of people,
distancing the officer from an obligation to act, and it thereby 'dispossesses' the woman from any
right to protection. In passage 15 there is
an acknowledgement of some of the constraints that mitigate against some women leaving a

violent relationship - 'she's got nowhere else to go' - or enabling others to leave, the financial resources, the 'money' to do so. Yet such a 'structural' explanation often ignores the 'subjective' factors that may enable or constrain 'leaving'; that is, the 'emotional' 'investment' in a 'relationship'. This is not to suggest 'dependence' *per se*, but to identify the possible meanings that may contribute to the construction of 'subjectivity'. An example is given by Hollway (1989, p. 55) of one such construction that she identifies as the 'have-hold' discourse, premised upon both a Christian discourse and a familial discourse that may intersect to construct a powerful 'meaning-system' that could act to constrain 'choice'. In this sense one also glimpses what Foucault (1979) refers to as 'disciplinary power' (see Chapter 3).

Returning to the previous passages 11, 12 & 13, on some officer's construction of 'those' women who 'deserve' police 'attention'. Women who want to leave the relationship are positioned in passage 12 as 'deserving' 'long,involved and serious' time, and by implication are taken seriously, yet those this officer categorizes in the 'low' end of the scale for leaving can be quickly 'dismissed'. This account functions in a way to demarcate those women who are seen as deserving of 'protection' and those who are not. A woman is more likely to be seen as a 'victim' of violence if she leaves, or attempts to leave the relationship, if, in the officer's words in passage 13, she 'does something about it'. Yet, part of the 'problem' may be that in either staying or leaving there may not be 'protection' there from continuing violence and abuse.

The 'defining' of women in the accounts from the male officers has 'real' consequences in terms of whether any action is taken or not. And this may also have a real impact on how some women start to see themselves from these male definitions, in the form of phallocentric discourses that may 'become' internalized (see Weedon 1987, on subjectivity). These phallocentric discourses may function as a form of 'policing' women (see Donzelot, 1979; Foucault, 1979). The importance of reframing these dominant discourses in terms of women's experiences and interpretations is discussed in part here and in Chapter 1.

Comparing and Contrasting the Gender Constructions:

In comparing and contrasting the 'typical' constructions of masculinity and femininity, one major difference noted was a tendency to construct women as 'having' 'characteristics' that are spoken of as intrinsic to the woman, an 'internal' explanation is made. By contrast, for men there was a tendency to seek 'external' explanations in the form of justifications and excuses for some men's behaviour.

One 'self' construct of women appears to be predominately one of 'biological essentialism', or a highly emotional 'self' that is often in 'need' of 'control'. As seen in the last section men are also constructed in terms of 'possessing' an 'innate aggressiveness'. The gender constructions of 'maleness' and 'femaleness' as biological givens are part of a culturally accepted discourse that conflates sex with gender, that is men and women are born both 'sexed' and 'gendered'. By contrast, a social constructionist discourse emphasises the historical and cultural formation of 'gender' and positions 'gender identity' as changeable and not fixed. In a discourse that conflates sex and gender, gender becomes fixed and seen in 'common-sense' terms of that is what 'men' and 'women' are 'inherently' like.

As stated at the outset, though, there is also a difference between the male and female gender constructions in the way they are spoken of by most officers throughout the interviews. In the talk of men there was an additional construction of men elaborated as 'having' 'rational' selves, and as therefore able to control their 'natural instincts' . I see the justifications and excuses sought for actions on the part of the male in terms of a way of dealing with two different and seemingly contradictory constructions of 'maleness'; those of a 'self' which is 'driven' by his 'biology' and a 'self' that 'controls' 'biology'. Hollway (1989) speaks of the 'discourse of male sexual drives' which is framed by the construction of a male self driven by his biology. She talks of the functional implications or practices that are predicated upon such a discursive construction, one example being the lenient sentences judges hand down in cases of rape, whereby interpretations made of male actions implicitly evoke a 'discourse of male sexual drives' (1989:54).

These masculine self constructs are also part of the discursive construction of a 'patriarchal' culture within which, amongst other things, men are constructed as the 'legitimate' family provider or 'breadwinner', as well as rugby player/supporter, drinker and so on. James & Saville-Smith (1989) talk of two main narratives that frame masculinity within New Zealand culture, that of the 'Man Alone' and the 'Family Man'. These stories intertwine and are often in conflict, with New Zealander Barry Crump - the 'good keen man', the rugged outdoors type with five widows to mourn him - perhaps the human embodiment of this conflict. He epitomizes the man that 'myths' are made from. The point is that these stories of what men are like have profound consequences for and in everyday life, and have both material and ideological effects.

Returning to domestic violence, some police officer's accounts of and about domestic violence, and the subject position elaborated for some men 'resulted' in a general view of the male temporarily 'losing control', for which a 'rationale' is sought. This took the form of an appeal to 'external agencies' - such as alcohol, drugs, unemployment, marital stress and so - on that

'overtook' the male. The language used when implicitly alluding to these discourses of violence is in terms of 'violence' as some external force that suddenly 'overtook' the man, such that some men are thereby distanced from 'owning' any emotion and become implicitly absolved of 'responsibility' for their actions.

By contrast, as noted at the outset of this Chapter, a 'rational' female 'self' is not spoken of at all, nor are excuses and justifications of women's actions sought or given. *Women*, it seems, within the examples given in the officer's talk of them, only have a 'subject position' or 'identity' that is negative - that is 'mad', 'bad' or 'sad' or, as I identified in my analysis, 'vacuous', 'vacillating', 'vindictive' and sometimes 'victim'. In this way, the self/other binary intersects with others such as rational/emotional, culture/nature, public/private and in concert are seen to represent male/female respectively. Within this particular discourse women disappear, become invisible in the binary man/not man, and women do not have a positive identity, but are constructed from a 'position' of 'lack' and 'without male identity' - the 'absence of the phallus', as Irigaray argues:

> women are refused access to society and culture in direct proportion that men are of society and culture ... socially speaking, women - at least from a traditional perspective - must be attached to a man in order to have a social persona; a woman thus does not have her own identity ... that to have an identity which is not one's own - to be a 'sex which is not one' - is to be excluded from the fullness of being: it is left precisely in a condition of 'dereliction'. Women as women are therefore excluded from the social contract (cited in Lechte, 1994, p. 162).

Chapter 7

Summary Comments

Deconstruction is Justice (Derrida, in White, 1991, p.116)

The analysis I have just given in the last three chapters is by no means complete and could, and probably will, be contested. Yet this is also part of a process by which 'power and knowledge' (see Dreyfus & Rabinow, 1982; McNay, 1992; Weedon, 1987; and Chapter 2, this thesis, on Foucault) are simultaneously produced and reproduced and sometimes challenged, through and by language and discourse (see Flax, 1990; Fraser & Nicholson, 1990; Gavey, 1990; Lather, 1991; Morgan, 1996). I have attempted to offer a deconstructive account (see Norris, 1982, 1988) of police discourse on policing domestic violence. Throughout the analysis the central focus was upon how language functions to construct meanings, meanings that go beyond 'just' naming 'things', but to look at how meaning and meaning-making 'systems' may actively constitute our everyday lives and practices - with a focus upon one practice in particular, policing domestic violence. To re-iterate the Montaigne qoute, my central assumption was, and is:

> We need to interpret interpretations more than interpret things (cited in Lodge, 1988, p. 108).

Within the parameters of what was possible, I looked at the social construction of policing domestic violence, by the officers interviewed, and also the subject positions that seemed to be articulated throughout the text. Within this, I wanted to focus upon how assumptions related to gender, race and class influenced what was said and not said, and how these assumptions may both form and inform practice. As stated in Chapter 1, this analysis was from a feminist perspective, and invariably is a partial reading: but I hope that enough 'fragments' of 'talk' were given to enable the reader to 'judge' for themselves the 'reliability' and 'validity' of my reading. I will not offer 'conclusions' as such, but will summarise what I perceive to be the central issues that were raised, what implications these may have, and also discuss briefly what I think I left unsaid.

In the last Chapter, I closed with a summary of the way the officer's spoken with talked about 'men' and 'women'. At root, what was noted was the construction of a 'rational' male self and an 'emotional' female self. Excuses and justifications for male actions were given, whereas there was an absence of such accounts for women. There was a tendency to identify 'problems' of and for men as related to the external world. By contrast, women were identified with 'problems' that related to and with 'things' 'internal' to them. This difference, I suggest, metaphorically

embodies the 'spaces' that have been elaborated as 'given' for each gendered position: that is, 'public' space is dominated by a male presence and 'private' space by a female presence. These absences and presences highlight a continuing story of male domination/female subordination; despite some social changes that have created different stories. A very 'traditional' gender account emerged.

Re-visiting History

Historically, the public/private divide has been gendered along the storylines that emerged in the talk, and to a large extent these have 'structured' both our 'public' institutions and 'private' thoughts. Locke's version of the 'social contract' has been seen as instrumental in constructing the constitution of 'civil society', in which 'public' and 'private' spheres are separate (Pateman, 1991). Assumptions such as a 'wife's subordination to her husband [having] a foundation in nature' (Pateman, 1991, p. 119) are often located as having their 'foundation' in seventeenth/eighteenth century 'Enlightenment' thought. Yet a contradiction emerges between notions attributed to liberal thought, of 'free and equal' individualism and the 'naturalness' of a wife's subordination, because as Pateman points out, a 'natural subordinate cannot be free and equal' (Pateman, 1991, p. 119). Thus 'wives' (read women) are excluded from the status of 'individual' and from participating in the public world of 'equality, consent and convention', according to traditional liberal theory (Pateman, 1991, p. 119).

Pateman (1991), as well as other feminists (see Fraser, 1987; on critical theory, Habermas and gender) has argued the 'sphere of domestic life is at the heart of civil society rather than apart or separate from it' (p. 132). Despite feminist critiques of the public-private dichotomy the dominant construction of a separation between the two remains. 'Traditional' liberalism forms/informs the 'dominant ideology' of most western democratic nations, as well as being the 'cornerstone' of our jurisprudence.

Law and Policing: Women

The rhetoric surrounding law positions it as a state intervention evolved to protect the rights of citizens and/or to ensure 'social order' or to act as a constraint upon authoritarian governments. Legal discourse utilizes notions of fairness and equality, along with claims of being objective, neutral and universally applicable (as already outlined in Chapter 1). Yet, what emerged in the analysis of the talk on domestic violence was a view that fundamentally policing was still seen in terms of policing 'public' order. Where 'public' seems defined as opposite and separate from

'private'. Within the interview talk, 'domestics' are still constructed as basically 'private', as a 'relationship issue'. The citizen with rights and privy to 'discretion' seemed to be a white, propertied (middle-class) male. Women, as noted above, were not spoken of as 'having' a 'rational' self, indeed all the constructions of women were negative: vacillating, vindictive, vacuous and sometimes victim. Women also were constructed, by implication, as 'naturally' suited to domesticity. Within such an account it is difficult to imagine the construal of women as citizens who are part of a 'civil society' (see Walby, 1994; on citizenship and gender).

Therefore, contrary to the rhetoric of law, some men and women are interpreted as more equal than others, and the notion of a 'domestic' as 'private' was still evident. In the context of policing domestic violence, women are ultimately the ones that bear the broken bones, bruises, and scars of/for what a feminist discourse identifies as 'systematic' violence and abuse. That is, inequality arises from and is structured by the public/private notions that are part of a traditional liberal ideology. Feminists have recognized and acted upon the failure of a 'gendered society' (see James & Saville-Smith, 1989) to 'deliver' justice for women, with the development of spaces that are 'safer' for women, for instance, in this context women's refuges. As noted previously in Chapter six, one very practical response to developing a more 'equitable' position for women within the context of the criminal justice system and policing domestic violence is the attendance at the 'scene' and in court of an 'advocate'. Developments such as H.A.I.P.P., whereby a co-ordinated 'systems' approach is adopted between different 'service providers', both within and outside the criminal justice system, may facilitate an approach to domestic violence that is more 'accountable' to women.

The challenge remains to find ways to incorporate feminist critiques into practice. Women's Refuge workers in New Zealand have an input into the police training programme on domestic violence, and it is to be hoped this input will continue. The Police Department campaign 'stopping family violence' has profiled domestic violence as a public issue; from my research, if talk of practice is anything to go by, there also needs to be 'internal' changes within police 'culture' for this campaign is to be anywhere near actualized. Women's Refuge workers note that financial resources to support groups aimed at 'stopping family violence' are also scarce, and once again women are 'paying' the 'bill'. It is a question of 'the powers that be' putting their money where their mouth is.

Carol Smart (1989) suggests that most feminist critiques of law have tended to revolve around 'sameness' and 'difference' discourses, and sometimes this tendency may function to 'cede to law the very power that law may then deploy against women's claims' (p. 5). She says she has:

> fundamental doubts about striving to achieve a feminist jurisprudence if such an enterprise merely challenges the form of law but leaves untouched the idea that law should occupy a

> special place in ordering everyday life...we can resist the move towards more law and the creeping hegemony of the legal order (Smart, 1989, p. 5).

Certainly, my research showed that despite policy/law changes there was resistance from some officers in enacting laws. Smart (1989) talks of the traditional liberal 'rights' based claims as sometimes providing a useful discourse, that within liberalism may lend 'legitimacy' to women's claims, for instance 'to have the right to be free of male violence'. These claims, though, also compete with contradictory ones, like 'the right to privacy', and the contestation of 'rights' is unlikely to be resolved 'legally'. This said however, an example of a court case in Britain recently (in The Dominion, Saturday 24th August 1996, p. 4) of a rape trial in which the male defendant was allowed to conduct his own defence and cross examine the female victim in intimate detail highlights the need, still, to challenge legal 'sovereignty'. A 'justification' for this particular action was given, based in a 'rights' discourse of the male 'having' the 'right to conduct his own defence'. Within the traditional parameters of law the woman's 'rights' were denied. This case is a good example of the 'double victimization' of women that can and does occur within a male-defined system. This point was also noted in my research on the policing of domestic violence. For example in Chapter 6 on subject positions and women, the positioning of women as somehow to 'blame' (a variant on a discourse of provocation) functions as a means to 'legitimate' non-action on the part of some officers.

Smart (1989) also points out that the 'rights' discourse may also act to mask an issue by oversimplifying 'complex power relations': that is, once 'rights' have been 'granted' then it may be assumed they are also enacted and the power difference has been 'resolved'. She gives the example of injunctions existing for a woman to get an order to remove a man who is violent from the home. Whilst a 'legal right' exists, this does not stop the man being violent, nor does it acknowledge the constraints that may exist for women in 'exercising that right' (Smart, 1989, p. 144). These are not issues that are easily dealt with by law alone, and for 'rights' to exist for women there must also be the power there to be able to 'exercise those rights'.

Law and Policing: Men

It is not only women, within a society based upon 'patriarchal-liberalism' (Pateman, 1991), who suffer 'systematic oppression'. The analysis of 'subject positions' in the present text also noted the tendency for officers to draw on meanings that contribute to 'a certain type of guy' 'warranting arrest', namely 'working class', 'Maori' or 'Pacific Islander' males. This is not to argue that 'these' men did not 'warrant' arrest, but to point to the discourses that include or exclude certain people from 'justice', through the use of 'discretion'. The discussion of 'cultural difference' pointed to discourses of 'cultural imperialism', 'nationalism', 'assimilation', a holy trinity that mitigated against a recognition of 'difference' and equalled 'cultural oppression'. If

'liberal' notions of 'tolerating difference and diversity' are ever going to approximate parallel notions of 'freedom and equality' then within a culturally diverse and plural society a discourse which actively 'endorses tolerance' and 'fosters otherness' (White, 1991, p. 126) needs to be developed (see Alice, 1993; White, 1991). Moana Jackson (1985) reports on Maori and the criminal justice system and says the present system of 'one law for all' has been equated with 'justice', yet:

> the ideal of one law for all has been confined not just to one Pakeha philosophy of law, but to one specific process of the law as well. In effect, therefore, the process has become synonymous with justice (p. 38).

Justice

From a Maori perspective, though, this results in systematic injustice. Jackson (1985) suggests 'one justice for all', and for this to be enacted requires the separate development of a Maori Justice system, in which Maori Law is recognised and honoured. His reading of the Treaty of Waitangi is that if the New Zealand government were to honour the Treaty, and a commitment beyond rhetoric to bi-culturalism, the 'logical' conclusion is an 'accountability' to the 'tangata whenua of Aotearoa' based on notions of parallel development. Yet challenges are also there for Maori men to be more accountable to Maori women, and to resist the 'colonial' discourses that may contribute to the continued 'colonization' of Maori women: for some Maori women, 'battering' from a male partner, may position her as the 'victim' of gender, race and class oppression all at once, and possibly pose dilemmas as to whether 'arrest' represents a desired 'solution' (see Y.W.C.A. Conference, 1983). Rose Pere (1988) does say that within Maoridom some women have had a space and 'voice' to speak, and unlike most Pakeha women do have knowledges that challenge 'traditional' western concepts of 'self', and that these may be more liberating than dominant Pakeha knowledges (see also Smith, 1992; on Maori women and discourses). The challenge that Alice (1993) poses of 'unlearning our privilege as our loss' (see Spivak, 1984, 1985, 1990) is a discourse that both resists 'cultural imperialism' and challenges us, as Pakeha and part of the 'dominant(ing) orthodoxy', to discover how 'subjugated' knowledges and practices can challenge and 'liberate' us from 'oppressive' 'regimes of truth'. Questions related to how to redress injustice and be part of a process that attempts to address and act on issues of justice, within the context of a pluralistic society, remain a vast under-explored territory. The challenge is to develop theories and practices that do not attempt to 'conquer' but to 'boldly go...'

Past, Present and Future

Previous research in New Zealand in the area of 'protection orders', domestic violence and policing policy, by Busch et al. (1992) came to the conclusion that:

> Many of the problems identified in the policing of domestic violence could be resolved by the consistent implementation of policies. This requires better training and systems of accountability. We recommend that refuge workers have greater input into police training, the development of a system of community based victims advocacy to monitor police performance, [and] a greater role for victim advocacy within the police and court systems.. (p. 3).

Whilst the implementations of their conclusions may go some way toward 'justice', my research indicates, I think, that the questions raised by a discursive approach to the subject, and developing 'justice' in the area of domestic violence, are far from having easy 'solutions'. What emerged was that the meanings 'given' to events and people do influence practice. Further research and development in the area needs to adopt a 'systematic' analysis/practice. Funding resources are required if efforts by women's refuge workers and projects like H.A.I.P.P. are to continue to develop. Research that facilitates the questioning of continuing injustices and challenges us all to search for alternatives, that is, other ways of 'acting' toward and with each other, may move us toward a society that is more just (see James and Saville-Smith, 1989; White, 1991; Wilson and Yeatman,eds., 1995). This may also function in a way that provides the space for more 'enlightened' 'subjugated' knowledges and practices to emerge.

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Appendix 1

Interviewing Women

Preliminary Note:

The interview 'format' adopted with the women I spoke with was more conversational, although given the topic not 'chatty'. Power issues as an interviewer were recognized, in an attempt to address these, another Maori woman was usually present and took part in the conversation as well as acting as a 'monitor' and/or 'advocate' (see Roberts, (Ed.), 1981, on doing feminist research).

Summary of topics and questions:

1. Background information: family; where came from; connections; married; children; ages; etc.

2. History of violence and abuse

3. Would you tell me about the first time you phoned the police, some of the history leading up to that, or other times you decided not to phone and what was different?

4. What happened, what did you expect to happen, what did you want to happen?

5. Comments on police response?

6. Partner's response and interaction with you and/or police?

7. What was the result of police intervention? Arrest, warn, advice or mediate? effects?

8. Protection Orders: do you know about them; have you had one in place; or been advised to do so?

9. Support people?-advice about services?

10. Procedure-if complaint laid, court -what was it clear how things work/ed? New policy, do you know about it?

11. Would you have wanted another woman there as an 'advocate'?

12. What do you think would stop the abuse?

13. What role do you think the police can/do play in that?

14. Do you think arrest would deter future violence?

15. If not, what are the alternatives?

16. Has women's refuge been a part of your experience?

17. From your experience what changes would you like to see happen?

Appendix 2:

Police Interviews: Summary sheet of topics and questions:

1. Background details: Age; Married; Children; Decision to join force; years of service; area-rural/town; etc.

2. How do you see your job - what do you see your job as?

3. Can you tell me something about you first call out to a 'domestic' (I used the term that is most commonly used by officers)?

4. Post 1987, any differences, changes in what you did or how you approached 'domestics'? comment further and elaborate if appropriate.

5. How does the procedure work?

6. How and by whom do calls get prioritized? - how is 'seriousness' gauged?

7. What warrants sufficient evidence?

8. Are there any guidelines you follow that act as a 'rule of thumb'?

9. How do you make decisions? - difficulties, reservations

10. What do you think causes domestic violence?

11. What do you think is going on?

12. What do you think would stop violence? - any 'success stories'

13. Why do you think some women ring the police and others don't?

14. Are women likely to pursue complaints? - what do you think is happening there?

15. Repeat calls - what is your response?

16. Charging - when is arrest most likely?

17. What happens; your role; and after, i.e. Court system

18. Referral/working with other agencies - advantages/disadvantages

19. Training - what type; and how are you trained to deal with domestics? any further needed/required? what would you want to see happen?

20. I noticed in the papers recently that police are targeting 'family violence' as an area to focus on-what will this mean in terms of changes for you? How will this be done?

Appendix 3

Two information sheets were prepared: one for participating police officers; and one for participating women. These are attached, along with an example of the consent form used.

Police Discourse and Practice in Relation to Domestic Violence

Information Sheet

What is this study about?

The aim of this study is to identify factors that contribute to possible differences between the 1987 Domestic Dispute Policy and the implementation of it, with respect to reported assaults on women by their partners or breaches of protection orders. The project will form part of a Masters thesis in Psychology at Massey University, conducted by me, Jennifer Pinkus.

What would I have to do?

You would take part in an interview with me, conducted at Massey University or another suitable location, lasting between 1-2 hours. The interview will cover your experience of these cases, what was done, how you interpreted the situation, what influenced your decisions to act or not, how you see your role and what training you have received in relation to domestic or not, how you see your role and what training you have received in relation to domestic violence or would want, to carry out your policing duties in this area. This is just a broad outline of the areas likely to be covered. Your permission will be sought to tape the interview so a transcript can be made to work from; with all identifying details omitted and a code name used. All information given will remain completely confidential.

What can I expect from the researcher?

If you take part in the project, you have the right to:
*refuse to talk about any particular issue, and to withdraw from the project at any time.
*ask any further questions about the project that occur to you during your participation.
*provide information on the understanding that it is completely confidential to the researcher. All records are identified only by a code name, and are seen only by me. It will not be possible to identify you in any reports that are prepared from the study.
*be given a transcript of the interview at a later date, and have the opportunity to discuss this, and decide whether and in what way it may be used in the thesis.

Jennifer Pinkus

Police Discourse and Practice in Relation to Domestic Violence

Information Sheet

What is this study about?

This study is about police attitudes and actions in cases of domestic violence, both in the handling of assault charges and breaches of protection orders. I would like to hear your story of what happened to you and how things went when you called the police. In addition, I would also like to bear about what you expected or wanted to happen and any feedback or questions you would like to put to the police. My intention in the end is to offer some general feedback to the police that may improve their practice. This interview will be strictly confidential and no names or information that may identify you or your particular case will be used. The project is part of a Master's thesis In Psychology at Massey University, by me, Jennifer Pinkus.

What would I have to do?

You would take part in an interview with me, at a place suitable to both of us, in the presence of a refuge worker or other support person, which would last between one-two hours. During the interview I want to ask you about your experience of police action regarding your case, how it was handled, how you felt about what was done or not done and any changes you would want to see happen. The interview would be based on some general questions, and I would seek your permission to tape record the interview to make a transcript to work from, with a code name used and all identifying information deleted. Should you not wish to answer any questions, to stop the interview or withdraw then you are free to do so at any point. There will be a refuge person there for you to talk with afterwards, should you wish to.

What can I expect from the researcher?

If you take part in the project, you have the right to:
*refuse to talk about any particular issue, and to withdraw from the project at any time.
*ask any further questions about the project that occur to you during your participation. *provide information on the understanding that it is completely confidential to the researcher. All records are identified only by a code name, and are seen only by me. It will not be possible to identify you in any reports that are prepared from the study.
*be given a transcript of the interview at a later date, and have the opportunity to discuss this, and decide whether and in what way it may be used in the thesis.

Jennifer Pinkus

Police Discourse and Practice in Relation to Domestic Violence

Consent Form

I have read the Information Sheet for this study and have had the details of the study explained to me. My questions about the study 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, or to decline to answer any particular questions in the study. I agree to provide information to the researchers on the understanding that it is completely confidential.

I wish to participate in this study under the conditions set out on the Information Sheet

Signed:

Name:

Date:

Researcher: