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**The legal response to
men's violence against women (ex-)partners:
Narrative representation of women's experiences
and discourse analysis of lawyers' talk**

A thesis presented in partial fulfilment of the requirements for the degree of
Doctor of Philosophy in Psychology
at Massey University, Turitea Campus, Palmerston North, New Zealand

Rachael Lynn Pond
2003



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This is to certify that the research carried out for my Doctoral Thesis entitled "The legal response to men's violence against women (ex-)partners: Narrative representation of women's experiences and discourse analysis of lawyers' talk" in the School of Psychology at Massey University, Turitea Campus, New Zealand is my own work and that the thesis material has not been used in part or in whole for any other qualification.

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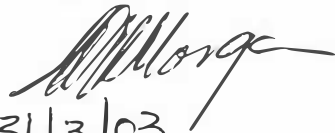


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ABSTRACT

Men's violence towards women within the context of intimate relationships is a complex and serious social problem. Particularly problematic are its prevalence and its extensive deleterious effects on women and children's health and psychological wellbeing. The present research was interested in New Zealand's legal response to domestic violence. More specifically, it explored how well the legal system serves the needs of women who experience abuse from their male partners and ex-partners, and how lawyers make sense of partner violence and the legal response to it. Feminist poststructuralism was a useful theoretical stance for the research. Feminist poststructuralism argues that there are multiple truths and realities, some that are hegemonically authorised as truth, and others that are marginalised and rejected. This stance also theorises that our sense of self, and understandings of phenomena like domestic violence and the legal response to it, are socially constructed by culturally and historically specific discourses. To create space for women to voice their experiences of the legal response to domestic violence, I interviewed ten women, and represented their individual accounts using narrative methodology. Collectively, the women's narratives suggest that the legal system does not consistently serve the needs of women seeking protection from partner violence; many women were dissatisfied. Women did not always feel that judges, lawyers, and other legal personnel treated their experiences of violence and psychological abuse seriously or empathetically. Some women also encountered resistance when they attempted to protect their children through supervised access. In the second phase of the research, I interviewed eighteen lawyers working in the area of domestic violence, and analysed their transcripts using discursive methodology. Lawyers utilised many discourses to make sense of and constitute domestic violence and the legal response to it. Some discourses were consistent with holding perpetrators accountable for their violence, and with protecting women and children. However, many discourses minimised and detracted attention away from men's violence towards women, marginalised women's experiences of abuse and violence, and undermined women and children's protection and safety. In this way, the legal system maintains and perpetuates gender bias and oppression against women.

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Finally, I would like to thank the School of Psychology for supporting me with a Graduate Assistant position during my Ph.D. years, and for its provision of resources and funding.

PREFACE

On 11 September 2002, there were two very disturbing news updates in the *Manawatu Evening Standard* newspaper about men who had been violent to their (ex-)partners. There were at least three other stories in other papers around New Zealand.

One of the articles in the *Manawatu Evening Standard* reported that a twenty year old man from Palmerston North had been committed for trial for killing his 17 year old woman partner (Teen mum's partner, 2002). She had been found in the hallway of their home, dead, naked from the waist down, and covered from head to toe with over 45 bruises and lacerations. His blows to her head were so forceful that they caused an indentation and bone to be chipped from her skull. He had felt "annoyed, upset, angry, and frustrated" after returning from a family function. When she tried to hug and console him, he "lost it". He assaulted/killed her using his fists, hands, and the stabbing motion of a broom handle. Witnesses called for the trial described other times he had directed horrific psychological and physical abuse towards her. She had suffered broken ribs, strokes, black eyes, and fat lips. Her health had deteriorated, and at the time of her death she weighed only 41 kilograms. One time, in front of her mother, he threw her clothes into the street, pulled the curtains, and locked the doors. He then threw her to the floor, dragged her by her clothes, held numerous knives to her throat, threatened to kill her, yelled at her, and beat her. She was admitted to hospital, unable to walk properly and with paralysis down the left side of her body. The reason for the attack: she had taken too long to walk his dogs, and could not be trusted. During the trial, he claimed that there was no violence in the relationship, "just disagreements", and she was a "very easy girl to bruise". Indeed, he insisted he would never harm her (Dead woman, 2003; Fist, hands, sticks, 2003; Mist found not guilty, 2003; Mother tells, 2003; Teen mum's partner, 2002)!

Also in the *Manawatu Evening Standard* newspaper was an article about a man who had regularly poisoned his ex-girlfriend's food with sleeping tablets so that he could have sex with her. When they had broken up, he had continued to stay at her house because he was almost bankrupt. When he kept wandering into her bedroom at night, she got upset and started barricading herself in her room. Having researched the effects of temazepam on the internet, he administered this drug in her food so that he could sexually molest her without her knowledge or resistance (Woman drugged, 2002).

The *Timaru Herald* reported of a mid-Canterbury man who had been found guilty of attempting to set his woman partner on fire (Found guilty, 2002). After physically and sexually abusing her during the last few months of their relationship, he took her out to a shed on their property, and tried tying her to a chair and setting her alight. His previous abuse included dominating her, not

allowing her to make friends or attend church, punching her in the jaw, forcing her to perform sexual acts, and threatening to cut her up and feed her to the sharks (Burgess, 2002; Found guilty, 2002; Timaru District Court, 2002a, 2002b; Tried to set, 2002).

In Auckland, a Chinese woman and her ten-year-old son were in hospital, fighting for their lives (Mother and son, 2002). Her husband (the boy's stepfather) had severely bashed them with a metal table leg, causing serious head injuries to them both. The next day, after a turn for the worse, the boy's life support machine was turned off. His mother woke from her coma almost one month after the attack (Bashed boy, 2002; Bashed woman's recovery, 2002; Machine switched off, 2002; Man appears, 2002; Mother and son, 2002; Mum wakes, 2002; Woman out, 2002; Woman recovers, 2002).

Lastly, the *Nelson Mail* reported of a man sentenced to community service for throwing a plate at his partner. His violence caused her injuries that required stitches (Plate thrower, 2002).

Violence against women within the context of intimate relationships is a complex and serious social problem in Aotearoa/New Zealand, and internationally (Mullender, 1996; Radford & Stanko, 1996; Samspell, Bernhard, Kerr, Opie, Perley, & Pitzer, 1992; United Nations Children's Fund, 2000). Such violence and abuse by men is particularly problematic because of its prevalence, and because of the extent and magnitude of deleterious effects on the health and psychological functioning of women and children. Women and children deserve to live their lives free of violence and the fear of violence.

Seemingly, the legal system has an important role in responding to domestic violence as a crime, and in providing protection to women and children. In a broad sense, the present research was interested in the intersection between domestic violence and the legal system from a critical social psychology perspective (more specifically, feminist poststructuralism). I was particularly interested in the part of the legal system comprising the Courts, the judiciary, and the legal profession. However, because women experiencing abuse and violence also rely on relevant law, police prosecution, police enforcement, and court counsellors, the present research also considers the 'wider' legal system where relevant.

'Domestic violence' terminology

Domestic violence is known by many names, including family violence, spouse abuse, wife battering, partner abuse, and intimate violence. I have found, as other writers have (e.g., Jones, 1994; McCue, 1995; Mullender, 1996), that the domestic violence vocabulary tends to be somewhat inadequate, never seeming to sufficiently capture the phenomena, or the severity of the problem.

The terminology used often depends on the stance of the researcher or practitioner. Those who do not see it as a gendered problem are more likely to use gender neutral language such as

'spouse abuse' or 'domestic violence' (Hoff, 1992). Whilst such terms usefully contrast violence in personal relationships with violence between strangers, they fail to make clear who is the victim and who is the perpetrator (Mooney, 2000). Feminists and others who recognise that violence and abuse is predominantly directed at women by their male partners and ex-partners will normally choose terminology such as 'wife abuse', and 'male violence against women partners'. The language used also depends on who the violence is perpetrated against. For example, the term 'family violence' is generally considered inclusive of violence against children by parents, and between family members other than intimates, whereas partner violence is not.

In this research, I am primarily concerned with *male violence against female partners*. Whilst recognising the significance of other types of family violence, this research does not specifically address child abuse, elder abuse, and violence in gay relationships¹. 'Female partners' includes cohabiting and non-cohabiting women partners and ex-partners (current and former wives, women de-factos, and girlfriends).

Where possible, I try to use language that reflects the premise that the majority of partner violence and abuse that induces fear and produces bodily and emotional harm is perpetrated by men. Sometimes I use the term 'domestic violence' to refer to male violence against women, because repeatedly using 'male violence against women partners and ex-partners' can be tongue-tiring and make sentence comprehension more difficult for the reader. In addition, I have found that common sense use of the term 'domestic violence' is often used to refer to male violence against women. Indeed, when people are not referring to violence against women by male partners, they tend to qualify this.

I use the terms 'violence' and 'abuse' interchangeably, particularly when I am discussing physical and sexual violence/abuse. The word 'violence' has merit because it conjures up images of physical and sexual assault and injury that some women experience. The word 'abuse' is useful because it encompasses many of the behaviours comprised in the physical and sexual violence/abuse categories, but that are not typically referred to by women and others as 'violent'. In contrast, I use the words 'psychological abuse' more often than 'psychological violence'. This is not intended to detract from the serious nature of psychological abuse and the grievous harm it causes. Rather, for me, the word 'abuse' more adequately portrays the often insidious and covert nature of this type of abuse and terrorisation.

When referring to women who have been abused by their partners, I sometimes use the word 'victim' (generally because of its pervasiveness in areas related to crime) and occasionally the word 'survivor'. Where possible I sidestep both. In my opinion, neither word is really adequate. This is because not all women who have been abused identify with one of these terms or the

¹ These forms of abuse are serious matters deserving of their own research, and warrant much more space and elaboration than I could give in this preface or Chapter 1.

other. Some women do not identify as being a survivor because they equate survivors with persons who have left the relationship, something they have not done yet. Alternatively, they believe the word connotes some sense of victory, which some certainly do not feel considering the immense and sometimes long-term negative effects that violence and abuse has had on their life. And, of course, not all women do survive (Gordon, 1988): a proportion of New Zealand women die each year as a direct consequence of their partner's violence. On the other hand, I am aware that the word 'victim' can invoke images of passivity and not recognise the great lengths to which many women go to resist, avoid, and escape abuse and violence. Hence, it is understandable that the word 'survivor' has been used to acknowledge the proactive attempts women make to resist, cope, and survive in the face of such adversity (Gordon, 1988; Kelly, 1988b). Because of the problems with each term, I try and avoid each, instead using phrases like 'women who have experienced violence and abuse by their partners'. This is in preference to 'abused women', which I feel limits the women's subjectivity/identity almost completely to their experiences of abuse (perceived as a negative and unfortunate part of their lives), and fails to acknowledge the rest of the person they may be. I have since found other writers (e.g., Mullender, 1996) who avoid this term for the same reason.

Finally, my conception of male violence against female partners recognises that abuse and violence does not only affect current or former girlfriends, de-facto female partners, and wives of abusive men, but any children who are or have been exposed to such violence and abuse.

Objectives of the research

The present research project had two main components. First, it explored how well the legal system serves the needs of women who experience abuse and violence from their male partners and ex-partners, and second, it explored how lawyers make sense of partner violence within the context of their work. Initially, I hoped to explore how judges make sense of domestic violence also. As discussed in Chapter 6, this was not possible because the Principal Family Court Judge and the Chief District Court Judge declined access to judges who might participate in the research.

The first phase of the research examined and represented abused women's satisfaction with different aspects of the legal system. This included their experiences of legal personnel (e.g., judges, lawyers, police), the Family and District Courts, protection orders, and child custody and access issues. As discussed in Chapter 5, narrative representation was considered a useful way to present women participants' experiences.

The second phase of the research explored the meaning that lawyers give to domestic violence, psychological abuse, victims and perpetrators of domestic violence, protection orders, and the legal response to domestic violence. The chosen methodology (elaborated in Chapter 6) analysed how this meaning was organised into consistent ways of speaking about these objects and phenomena (discourses). These discourses position women, children, and men in violent

and abusive family relationships, constrain and enable them in relation to living violence-free lives, and inform domestic violence intervention. That is, discourses of domestic violence and the legal system assist in protecting and/or endangering women (and their children) who are abused by their partners and ex-partners.

Researchers who identify as feminist and/or feminist poststructuralist are politically accountable. Consequently, this research has the intention of contributing towards improving women's experiences with the legal system in relation to domestic violence. The first component of the research achieved this by giving women voice, and by raising awareness within academia and the legal fraternity of the problems that some women face when they use the legal system for domestic violence matters. The location and explication of legal discourses of domestic violence within the second stage of this research raised awareness of their use and the possible effects these have on women and children's lives.

Some reflexive comments

As I will explain in Chapter 4, the theoretical assumptions underpinning this research are not conventional to mainstream psychology. Feminist poststructuralism strongly advocates that no research is objective. Rather, the researcher is ever present, her perspective and position integral and influential to the research. Furthermore, researchers construct their writing for rhetorical effect. Hence, the review of the research and literature, and other information that I provide in this and other chapters, will not be neutral, but part of an argument; an attempt to engage the reader and persuade her or him that the research is necessary and its method and findings justified. Of course, I will also be aiming to successfully perform the academic task of doctoral research, and all that this requires. To admit that one's research is subjective, a rhetorical accomplishment, and somewhat goal-oriented is quite routine in this style of work, but rare in traditional psychological research that is based on scientific principles.

Because feminist poststructuralism also argues that our reading of texts (e.g., of a research report) is an interpretative task where multiple readings are possible, I would also like to make it clear that what I present in this chapter and others, is *my version* of the articles and books that I have read. Likewise, your reading of my chapters will be your own and perhaps another version of current literature and research.

Because I am inevitably part of this research, it is important to point out that I am a Pakeha, heterosexual woman in my mid-twenties. My stance in relation to the domestic violence area is informed mainly by my academic involvement in this area and my work with domestic violence agencies. My work with Women's Refuge and Manawatu Women's Learning Group exposed me to feminist explanations of domestic violence, and personal experiences of women's lives. My feminist understanding was then consolidated through my immersion in the academic literature on feminism, and feminist theories of domestic violence. Generally, I found feminist theories useful, particularly for women who had experienced violence and abuse by male partners. I saw

value in holding male perpetrators of violence and abuse accountable for their behaviour, instead of excusing or placing blame elsewhere. I also appreciated the personal and political commitment that feminists working in the area had to ending violence against women and children. Hence, I strongly believe that women and children deserve to have violence-free lives, and have been committed to this goal through my academic work, my involvement with domestic violence agencies, and my personal interactions with people. I am also very aware of other sorts of oppression and inequality (sometimes overt, sometimes covert and subtle) encountered by women and girls – and by Maori, other ethnic minorities, gay and bisexuals, the elderly, members of lower socioeconomic groups, persons with disabilities, persons who do not fit our culture's expectations of attractiveness, and so on. Hence, I have an interest and some personal commitment to these areas too.

My stance in this research is also strongly influenced by poststructuralism, which I learnt about through my academic involvement. Feminist poststructuralism argues a radical critique of traditional assumptions about truth, knowledge, and reality. This critique of knowledge and reality resonated well with me. For some time, I had found claims to truth problematic, even within the area of domestic violence. I discovered that having an awareness of the importance of discourse and rhetoric in maintaining and perpetuating particular versions of events valuable. I noticed it was liberating that I no longer had to determine the truth of different accounts, or of different theories and explanations of domestic violence. It was much more interesting and valuable to examine how different discourses of domestic violence affect women in relationships characterised as abusive or violent. Because I had personally advocated for a Women's Refuge client using the legal system, and because I had heard many women talk about their experiences of using the legal system through Manawatu Women's Learning Group, I was specifically interested in the discourses and rhetoric that those in the legal system used about domestic violence. This interest was heightened because at that time, the Domestic Violence Act 1995 had not been long implemented. I also sensed that pro-feminist explanations of domestic violence were slowly becoming more pervasive in the legal system (this was probably assisted by much of the pro-feminist research that was being undertaken around this time). So, what discourses did people in the legal system utilise? How did they manage the contradictions inherent in these discourses? What subject positions did they offer for women and men whose relationships were characterised by violence and abuse? Embracing a feminist poststructuralist position, my journey in this area began.

Outline of chapters

There are three main parts to this thesis. Chapters in the first part provide background information about domestic violence and the legal system, and about the theoretical stance and methodologies used in the research. More specifically, Chapter 1 reviews relevant background literature on male violence against women (ex-)partners, Chapter 2 explains and critiques certain features of the New Zealand legal system, and Chapter 3 examines how the New Zealand legal system responds to domestic violence. Chapter 4 discusses the feminist

poststructuralist stance informing the research, whilst Chapters 5 and 6 exemplify the methodologies and method used for the research: narrative representation for the first objective of the research, and discourse analysis for the second objective of the research.

The second part of the thesis presents and discusses the findings for the narrative phase of the research. Chapter 7 includes each of the women participants' stories of the legal response to their (ex-)partner's violence. Chapter 8 re-emphasises and discusses some of the problems women participants raised about the legal response, as well as the factors that they appreciated.

Finally, the discourse analysis of the lawyer participants' talk about domestic violence and the legal response is presented in the third part of the thesis. Chapter 9 illustrates and discusses discourses that construct the entity of domestic violence, and Chapter 10 exemplifies those discourses that explain the occurrence of domestic violence. Chapters 11 and 12 present and discuss the discourses used by lawyers to support and undermine women's protection from domestic violence through protection orders, and children's protection of domestic violence through supervised access. The last chapter of the thesis draws some conclusions about the two main objectives of the research, and about feminist poststructuralism and the chosen methodologies. Suggestions for future research are also made in this chapter.

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Part 1

Preliminary chapters:
Foregrounding the problem
and the research

A FOREGROUND: VIOLENCE AGAINST WOMEN BY MALE PARTNERS

This chapter provides part of the context for the current research by reviewing relevant background information about domestic violence, particularly violence and abuse of women by male partners and ex-partners. Chapters 2 and 3 provide more of this context, with a specific focus on the New Zealand legal system, and its response to domestic violence.

A significant portion of this chapter is devoted to talking about particular types of violence and abuse that characterise heterosexual relationships that victimise women, and the effects that victimisation has on women and children. This academic literature is complemented with my own experience working with women through Women's Refuge and another agency, Manawatu Women's Learning Group, which provided domestic violence support and education groups for women. Using available resources, I give some indication of the extent of male partner violence in New Zealand. I also discuss New Zealanders' attitudes to domestic violence. I then go on to examine explanations for the etiology of domestic violence, particularly those promoted by psychological, sociological, and feminist approaches. Because explanations given in the social science literature have been found to comprise at least five different discourses (O'Neill, 1998), these are briefly outlined. Some of the other discursive research in the domestic violence area is also considered. Finally, because of the importance of recognising the right of Maori, and the Treaty of Waitangi, issues that have been raised by Maori are discussed. In doing this, it is hoped that awareness of Maori explanations and solutions for violence affecting Maori women and children will increase.

.

Male violence against women partners and its effects

Whilst men are at greater risk of assault by strangers and casual acquaintances, women are at greater risk of being physically abused, sexually abused, emotionally abused, and murdered by those they know well (Lees, 2001; Painter, 1991; Sampsel, Bernhard, Kerr, Opie, Perley, & Pitzer, 1992; Young, Morris, Cameron, & Haslett, 1997; Wilson, Daly, & Wright, 1993; Women's Coalition Against Family Violence, 1994). For many women, the home is a dangerous place, not a sanctuary, or the place of love and protection that it is often assumed to be (Herzberger, 1996).

Male violence and abuse includes acts that harm and injure a woman partner physically or emotionally, that harass her, that cause her to be afraid, and/or that cause her to do things she does not want to do (McCue, 1995). Whilst a single violent incident might be enough to induce fear and control a woman's behaviour for a long period of time, domestic violence often forms a systematic pattern of prolonged and escalating abuse (Church, 1984; Dobash, Dobash, & Cavanagh, 1985; Gelles, 1974; Follingstad, Hause, Rutledge, & Polek, 1993; Mullender, 1996; Mullender & Morley, 1994; Pizzey, 1974; Walker, 1979).

As suggested in the preface, the vast majority of domestic violence incidents involve violence by men against women partners (Dobash & Dobash, 1980, 1992; Gelles, 1993b; Mullender, 1996; Mullender & Morley, 1994; Pence & Paymar, 1993). Male-initiated assaults on women constitute the most serious and most frequent scenarios in relationship violence, and usually have far more serious implications than women's violence (Demaris, 1992; Herzberger, 1996; Johnson & Bunge, 2001; Mooney, 2000; Pagelow, 1984). When women are violent, it is usually in self-defense, retaliation, or after enduring years of abuse (Dobash & Dobash, 1980, 2000; Mullender, 1996; Mullender & Morley, 1994; Pence & Paymar, 1993). Women's violence is also less likely to cause serious injuries (Saunders, 1988), and is often not taken seriously by men, who feel their partners are unable to do any significant damage (Pagelow, 1984). A study by Johnson and Bunge (2001) found that women who have experienced partner violence are five times more likely to fear their lives were in danger than males who have experienced partner violence. Indeed, women are substantially more likely (between four to nine times more likely) to be murdered by a male partner or ex-partner than vice-versa (Crowell & Burgess, 1996; Dobash & Dobash, 1992, 2000, 2002; Easteal, 1993a, 1993b; Edwards, 1989; Home Office, 1990, 1998; Mullender, 1996; Mullender & Morley, 1994; Polk, 1994; Women's Coalition Against Family Violence, 1994)¹. A study that looked at homicide incidents in two American cities (Chicago and Philadelphia) found that even when the homicide offenders were women, men tended to be the initial aggressors, and the murders they commit were generally more violent than murders committed by women. While research shows that women are more likely to kill in self-defense and following a history of male perpetrated violence, men are more likely to kill when their partner attempts to leave the relationship (Cazenave & Zahn, 1992; Dobash & Dobash, 2000; Jones, 1991). Indeed, research shows that women's risk of being killed by an intimate increases significantly after she separates from him (Wilson & Daly, 1993; Wilson et al., 1993).

Because male violence against women is more frequent and serious, much criticism has been directed at Straus, Gelles and Steinmetz's (1980) well cited study that implicated that husband

¹ Seemingly, the gender asymmetry in spouse abuse is much less in the United States of America (Dobash & Dobash, 2000; Easteal, 1993a, 1993b).

beating is as common, if not more common, than wife beating. Not only has their research had negative consequences on battered women (Dobash & Dobash, 1988), but the original study failed to examine the context of women participants' violence (Mullender, 1996). This study also failed to distinguish when women were using violence against their partners in self-defence (Saunders, 1988), and to emphasise that relatively few women reported using violence that was likely to cause serious injuries (e.g., beating their partner, using a weapon) (Saunders, 1988).

Domestic violence is typically classified into three main categories: psychological abuse (sometimes called verbal, emotional, or mental abuse), sexual abuse, and physical abuse (Johnson, 1995)². Women also consider psychological, sexual, and physical violence as comprising domestic violence (Mooney, 2000). Consequently, my discussion is limited to these categories, with psychological abuse comprising verbal, emotional, and mental abuse. The use of these three category names also coincides with the terms used in the Domestic Violence Act 1995.

Physical violence is the most widely recognised form of domestic violence (Family Violence Prevention Co-ordinating Committee, 1988; McNeil, von Dadelzen, Gray, Duituturaga, Good, & Ash, 1988; Mullender & Morley, 1994). Indeed, it is often what people equate with domestic violence. Physical violence includes a variety of behaviours, from pushing to severe beatings, that intend to cause pain or injury, or that are perceived by the victim as intending to cause pain or injury (Smith, 1987). Such behaviours include pinching, squeezing, hairpulling, grabbing, pushing, shoving, shaking, slapping, biting, hitting, punching, whipping, kicking, beating, choking, strangling, suffocating, restraining, dragging, throwing objects, burning, drowning, using objects to inflict injury (e.g., a jug cord, a vacuum cleaner pipe, bottles), and using conventional weapons (e.g., a knife, a gun) (Church, 1984; Dobash & Dobash, 1980; Flowers, 1994; Leibrich, Paulin, & Ransom, 1995; McCue, 1995; Morris, 1997; Mullender, 1996). Other behaviours that have been included under this category, and sometimes under psychological abuse, include: locking a woman partner out of the house, abandoning her in dangerous places, refusing to help her when she is sick, injured, or pregnant, depriving her of food, sleep, medical care, and other basic human needs, forcing her off the road or driving recklessly, and threatening to injure or kill her (McCue, 1995; Morris, 1997; Oleksy, 2001; Tahoe Women's Services, n.d.).

Physical violence can cause bruising, bleeding, cuts, abrasions, severe lacerations, hair loss, burns, stab wounds, broken bones (e.g., smashed noses, broken cheekbones, broken jaws, broken fingers, broken ribs), broken teeth, black eyes, sprains, dislocations, neck and spinal injuries, internal injuries, burst eardrums, hearing loss, internal eye damage, miscarriage, permanently

² These are not the only categories used however. For example, spiritual abuse is sometimes included as a separate type of abuse. Also, whilst psychological, verbal, emotional, and mental abuse are sometimes used interchangeably, they are sometimes described as distinct categories.

disabling and/or disfiguring injuries, concussion, fractured skulls, and brain damage (Chambers, 1986; Church, 1984; Jones, 1994; McCue, 1995; Mullender, 1996; Pahl, 1985; Pizzey, 1974; Walker, 1979). In some cases, physical violence causes death. Two analyses of murders in England and Wales (one between 1984 and 1988, the other between 1983 and 1992) found that almost half (42% - 49%) of murdered women are killed by male partners and lovers (Mullender & Morley, 1994; Radford & Stanko, 1996). In New Zealand, one woman is killed every five weeks by her partner or ex-partner (Auckland City Police, 2000). Physical violence often causes a great deal of psychological and emotional harm as well, and induces fear of what might occur in the future (McCue, 1995).

Psychological abuse covers a wide range of behaviours which instil fear, increase dependency, and/or damage self-esteem. Such behaviours include insisting on knowing where a woman partner is and who she is with, trying to limit her contact with family and friends (i.e., isolating her), frightening her, intimidating her, threatening her, manipulating her, coercing her, harassing her, putting her down, insulting her family and friends, swearing at her, yelling at her, playing mindgames, making her do humiliating and degrading acts, humiliating her in public or in front of family and friends, preventing her doing what she wants to do, deliberately damaging or destroying things that belong to her, harming pets, preventing her from having money for her own use, preventing her from knowing about the family's financial matters, preventing her from being employed outside of the home, using or threatening violence against the children for the purpose of upsetting her, and using virtual or actual imprisonment (Church, 1984; Flowers, 1994; Leibrich et al., 1995; Morris, 1997; Mullender, 1996; Murphy & Cascardi, 1993; Thorpe & Swift, 1996). Women in Church's (1984) research also mentioned that they were subject to unreasonable demands, for example, not being allowed to disagree or express their own opinion, having to do all work around the house, being forced to behave in a slave-like manner, and not being allowed to bathe or flush the toilet. Some women also described the verbal abuse that they encountered. They were called "dirty", "hopeless", "stupid", "fat", "whore", "bitch", "cunt", "slag", "fuckwit", plus a multitude of other offensive names. Many women commented that they found verbal abuse to be more psychologically damaging than physical assaults (Church, 1984). Other research and literature also suggests that women find psychological abuse to be as damaging, or more damaging than physical violence (Crowell & Burgess, 1996; Follingstad, Rutledge, Berg, Hause, & Polek, 1990; Hester & Radford, 1996b; Mooney, 2000; O'Leary, 1999; Walker, 1979). For example, many women in Hester and Radford's (1996b) research mentioned that psychological, emotional, and verbal abuse had an especially powerful and far reaching impact on them, often greater than the impact of other forms of violence used against them. Some mentioned that this was precisely because it did not leave any physical signs (Hester & Radford, 1996b). Seventy two percent of physically and emotionally abused women in Follingstad et al.'s (1990) study reported that emotional abuse had a more severe impact on them than physical abuse.

Sexual violence is another form of violence that is perpetrated by men against their partners. Interestingly, whilst women greatly fear sexual violence from male strangers (Shirley et al., 1998; Stanko, 1987), they are much more likely to experience sexual victimisation by men they know: their lovers, husbands, boyfriends, relatives, friends, and acquaintances (Flowers, 1994; Gavey, 1990; Koss, 1985; Lees, 2000; Russell, 1982; Smith, 1989b; Sonkin, Martin, & Walker, 1985; Stanko, 1987). For example, Gavey's (1990) New Zealand research using a sample of 347 women university students, found that only 9% of the 64 reported rapes were perpetrated by strangers. Sixty one percent had been committed by boyfriends, lovers, dating partners, husbands, or male de facto partners, and 17% were committed by acquaintances. Similarly, an overseas study found that two-thirds of rape prosecutions involved men who were known to the women (Smith, 1989a).

Sexual violence is forcing a woman to carry out any unwanted sexual activity through physical means (e.g., by holding her down or hurting her), via threats, pressure, or coercion (Hester & Radford, 1996b; Leibrich et al., 1995; Morris, 1997; New Zealand Ministry of Health, 1998). It includes sexual activity whilst a woman is drugged, unconscious, asleep, or otherwise totally helpless and unable to consent (Russell, 1983), and sexual contact that is coerced by verbal pressure. Non-consensual sexual contact and/or other behaviours that demean, humiliate, shame and/or expose someone in a sexual way are also sexually abusive. Sexual violence and abuse has also been used to encompass: making jokes or demeaning remarks about women, women's bodies and body parts, and sex in the presence of the partner; treating women as sex objects; getting jealous and assuming the woman partner is having sex with any available man; insisting a woman dress in a sexual way that she is uncomfortable with; minimising the woman's feelings and needs regarding sex; criticising the woman in sexual terms and/or attaching negative sexual labels to her; sexually touching the woman in ways she finds uncomfortable (sometimes in front of others); withholding sex and affection; always demanding sex; forcing the woman to publicly or privately strip as a form of humiliation; forcing her to witness sexual acts; using pornography against her wishes and/or forcing her to view it; intentionally hurting or frightening her during sex; and forcing sex on her after abusing her (McCue, 1995; Mid-Valley Women's Crisis Service, n.d.; Mullender, 1996). Some women feel forced to have sex with their partners to prevent further abuse, to calm their batterers after physical violence, to stop abuse of a child, and/or because otherwise they will not be given money for bills and groceries (Flowers, 1994). Additionally, women in abusive relationships are more likely to experience verbal abuse, emotional abuse, or threats of physical abuse when they discuss condom use (Wingood & DiClemente, 1997)³.

³ This study examined the consequences of having a physically abusive partner on condom use and sexual negotiation practices in young African-American women in San Francisco.

Research has found that rape in marriage is not uncommon. In one study (Russell, 1982), 14% of 644 married women reported being raped by their husbands. In another criminological study in which 1000 women were interviewed, 15% reported being coerced by their husbands to have sex, 12% reported they had been forced into having sex despite a clear refusal, and 5% reported being beaten prior to being raped (Radford & Stanko, 1996). Sexual abuse is not only a marital problem: research shows that many girls and young women are forced to have sex by their boyfriends and male dating partners (Romkens & Mastenbroek, 1998). It is difficult to determine the incidence and prevalence of partner rape and sexual abuse, because many women who are coerced into sex, or who experience other forms of sexual abuse by their partners and boyfriends, do not define their experiences as sexual abuse or rape (Lees, 2000).

Whilst marital rape is now criminalised in New Zealand (albeit a narrow legal definition), few rape cases are reported, reach court, and/or result in a successful conviction (Lee, 1983; J. Martin, 1996; Stace, 1983; Stone, Barrington, & Bevan, 1983; Wellington Independent Rape Crisis Centre, 1997). A British study (Painter, 1991) indicates that 91% of women raped by their husbands never report to or discuss the incident with any official agency.

Physical, sexual, and psychological abuse overlap, and are often used in combination (Hester & Radford, 1996b; Mullender, 1996). Many women who have suffered physical assaults by partners have also experienced marital rape (Campbell & Soeken, 1999; Flowers, 1994; Frieze & Browne, 1989; Herzberger, 1996). Surveys of battered women report rates of marital rape between 34% and 59% (Lapsley, 1993). Psychological abuse almost always accompanies physical violence (McCue, 1995; Ratner, 1993), and is often used to accentuate physical violence (Mullender, 1996). Men who have established fear in their partner by being physically abusive in the past may then use threats, gestures, and glares to reinforce their control and sustain fear (Mullender, 1996). They might also shout, hit walls, drive recklessly, display weapons, stalk, harm pets, and/or destroy objects for this same end (Mullender, 1996). A New Zealand study (Leibrich et al., 1995) found that 90% of physically abusive men are also psychologically abusive. An American study (Follingstad et al., 1990) found that 99% of physically abused women had experienced emotional abuse from their (ex-)partner in the form of threats of abuse, ridicule and verbal attacks, jealousy and possessiveness, repeated threats to change the marriage (e.g., to divorce her, abandon her, or have an affair), isolation and restriction, and/or damage to property. Seventy two percent of the physically abused women sample had experienced at least four or more of these six types of emotional abuse⁴.

⁴ Follingstad et al. (1990) acknowledge that because little is known about the incidence of emotional abuse in the general population, it is not conclusive whether emotional abuse occurs at a higher rate for physically abused women as compared to non-physically abused women. That is, it is possible that many men are emotionally abusive to women partners, even if they are not physically abusive.

Women respond in different ways to abuse and violence perpetrated against them, and they use a range of different means to end the violence. "It is not a denial of their victimisation to notice also their bravery, resilience, and ingenuity, often with very limited resources, in trying to protect and nurture themselves and their children" (Gordon, 1988, p. 251). Some women try to be assertive, some are more submissive, some work harder to please their partners, some try to avoid assaults by fleeing from the home, some talk with their partner and reason with him so that he might understand and stop the abuse, some seek advice from or talk to others, some seek counselling, some ring the police or seek legal advice, some separate from or leave their partners, and some women physically resist or retaliate to make it clear they do not accept that it is their partner's right to abuse or control them (Browne, 1987; Church, 1984; Gordon, 1988; Herzberger, 1996; Hoff, 1990; Kelly, 1988b; Morris, 1997). Women in Morris's (1997) study reported that leaving the relationship was the best strategy to increase safety. Women also increased their safety by policing their own or their partner's behaviour, and/or being more assertive or confident in themselves. To cope with the violence, women pursued support from friends and family, focused on the children, talked about it with their partners, concentrated on their work, and/or got counselling or other outside help (e.g., Women's Refuge, police, lawyers, doctors). A significant proportion of women (14%) just learned to live with the violence and abuse (Morris, 1997). Note that learning to live with violence is not necessarily equivalent to tolerating violence. Many women never condone or agree with the violence used against them (Mullender, 1996).

The time at which women leave or attempt to leave abusive relationships may be the most dangerous period, with an increased risk of violence (and homicide) being perpetrated by their ex-partner (Hester & Radford, 1996a, 1996b; Jones, 1991; Morris, 1997; Mullender & Morley, 1994; New Zealand Ministry of Women's Affairs, 1998; Ratner, 1993), as the abuser attempts to regain his power and control. In Hester and Radford's (1996b) research, almost all women participants had experienced continued or escalated violence after separation. In New Zealand's *Women's Safety Survey* (Morris, 1997), over half of the women participants with recent partners had experienced some threatening behaviour by their partners after they separated. Most commonly, this involved the ex-partner phoning her when she'd asked him not to, though it also included him making threats, following her, and/or standing outside her house and workplace (Morris, 1997).

Sadly, pregnancy is another time that women experience significant risk of violence from their partner (Campbell, 2002; Fikree & Bhatti, 1999; Gazmararian, Lazorick, Spitz, Ballard, Saltzman, & Marks, 1996; Gelles, 1988; Hester & Radford, 1996a, 1996b; McFarlane, 1992; Morley & Mullender, 1994; Morris, 1997; Pahl, 1985). McFarlane (1992) suggests that as many as one in 12 pregnant women experience battering during pregnancy. In another study (Stewart & Cecutti, 1993), approximately two-thirds of the women who disclosed physical abuse during pregnancy reported that the level of physical abuse increased during their pregnancy; a similar proportion received

medical treatment as a consequence. As a result of violence during pregnancy, some women experience maternal complications in pregnancy, and unborn children are also threatened through miscarriage (Jejeebhoy, 1998; Jones, 1994; Koss, Goodman, Browne, Fitzgerald, Keita, & Russo, 1994; Morley & Mullender, 1994; Muhajarine & D'Arcy, 1999; Stark & Flitcraft, 1996).

The effects of male violence against women partners are not limited to the physical injuries acquired as a direct result of physical violence. Domestic violence significantly affects the physical, psychological, mental, cultural, and spiritual wellbeing and health of victims and survivors, with repeated abuse causing trauma and long-lasting dysfunction in these areas of women's lives (Arias, 1998; Elvidge, 1997; Hilberman, 1980; Koss, 1990; Koss, Goodman, Browne, Fitzgerald, Keita, & Russo, 1994; Mullen, Romans-Clarkson, Walton, & Herbison, 1988; New Zealand Ministry of Health, 1988; Pence & Paymar, 1993; Sampsel, 1992; Sampsel et al., 1992; Stark & Flitcraft, 1996). Women victims and survivors of intimate violence have lower general health, more somatic complaints, and more physical symptoms than average (Campbell, 2002; Coker, Smith, Bethea, King, & McKeown, 2000; Leserman, Li, Drossman, & Hu, 1998; McCauley et al., 1995; Ratner, 1993; Sutherland, Bybee, & Sullivan, 1998). Such women are more likely to report musculoskeletal disorders (e.g., headaches, muscle aches), urinary tract infections (e.g., bladder and kidney infections, pain and problems with urinating), gynaecological and sexual problems (e.g., vaginal discharge, pelvic pain, painful intercourse, sexually transmitted diseases), digestive and gastrointestinal problems (e.g., diarrhoea, spastic colon, constipation, nausea), skin disturbance (e.g., rashes), and respiratory illness (e.g., stuffy nose) (Campbell, 2002; Drossman, Talley, Leserman, Olden, & Barreiro, 1995; Leserman et al., 1998; Letourneau, Holmes, & Chasedunn-Roark, 1999; McCauley et al., 1995; Schei & Bakkevig, 1989). Psychological abuse is as strongly associated with many adverse health outcomes as physical violence (Coker et al., 2000). Psychological abuse has been associated with disabilities preventing work, arthritis, chronic pain, migraine, frequent headaches, stammering, sexually transmitted infections, chronic pelvic pain, stomach ulcers, spastic colon, and frequent indigestion, diarrhoea, or constipation (Coker et al., 2000). Women who have experienced forced sex as well as physical abuse have even worse health symptoms and gynaecological problems than those who have been physically assaulted by a partner but not sexually assaulted (Campbell & Soeken, 1999).

Research also shows that domestic violence is associated with mental health problems and certain psychological symptoms and disturbance, such as agitation and anxiety, panic, chronic distress, depression, interpersonal sensitivity, fatigue, numbness, lack of sleep, nightmares, post-traumatic stress disorder, eating disorders, alcohol and drug use and abuse, social dysfunction, low self-esteem, suicidal ideation and attempts, and a pervasive sense of helplessness and despair about themselves and their lives (Aguilar & Nightingale, 1994; Astin, Lawrence, & Foy, 1993; Bergman & Brismar, 1991; Browne, 1987; Campbell, Kub, Belknap, & Templin, 1997; Dobash et al., 1985;

Drossman et al., 1995; Ellsberg, Caldera, Herrera, Winkvist, & Kullgren, 1999; Fikree & Bhatti, 1999; Follingstad et al., 1990; Gelles & Harrop, 1990; Hilberman, 1980; Jones, 1994; Leserman et al., 1998; McCauley et al., 1995; Mooney, 2000; New Zealand Ministry of Health, 1998; Mullender, 1996; Ratner, 1993; Sutherland et al., 1998; Walker, 1984). A meta-analysis of existing research on the prevalence of mental health problems among women with a history of intimate partner violence concluded that such violence increases women's risk for mental health problems (Golding, 1999). Male violence against women also significantly affects one's sense of self. "Women who are abused by the men they live with find themselves progressively disenfranchised from their own beliefs, memories, values and emotions" (Adams, Towns, & Gavey, 1995, p. 387).

One New Zealand study that looked into the effects of violence by husbands on their wives (Church, 1984), found that women were not only shocked, frightened, and distressed by the abuse and violence, they developed a generalised fear of their husband, became more submissive, and more socially isolated. The stress-related symptoms that women participants experienced included tension headaches, rashes and skin complaints, abnormal blood pressure, gastric ulcers, feelings of complete helplessness, obsessive reactions, sleep disturbances, homicidal fantasies (thoughts of killing the husband), reactive depression, and thoughts of suicide (Church, 1984). Swedish research by Hyden (1999) similarly found that some women experience a generalised fear in addition to fearing their violent partner. The extent of fear in women's lives varied from a background emotion to an overwhelming fear that dominated their lives. Another New Zealand study (Morris, 1997) found that women participants who had been subject to psychological or physical abuse from their partner were more likely to experience a wide range of negative feelings and behaviours than women who had not been subject to abuse. For example, they were more likely to be tense, restless, worried, tearful, and had greater difficulty concentrating, sleeping, and enjoying life. Having experienced abuse, more than half the women said that it had affected them 'very much' or 'quite a lot'. The majority felt angry, hurt, upset, shocked, sad, and tense as a consequence (Morris, 1997).

Another New Zealand study (Pouwhare, 1999) found that domestic violence 'also presents major barriers to women seeking and retaining employment, with some women being forced to leave their work. Employment problems arise because some abusive men fail to provide promised childcare, destroy their partner's work clothes, harass her at work, accuse her of infidelity, threaten colleagues, and/or refuse to assist her with domestic duties. Some women are forced to take days off because of injuries, and many feel their performance is affected by their emotional state (Pouwhare, 1999). Another study (Mooney, 2000) found that 20% of women abused by their partners had to take time off work.

Clearly, children also suffer as a result of partner violence and abuse, although until recently, this has been neglected even more than the impact on women themselves (Mullender & Morley, 1994).

Many witness the violence perpetrated against their mother by observing the father's (or other intimate partner's of the mother) violence and abuse directly, by hearing it, or by seeing the results of it (Kelly, 1994; Mullender & Morley, 1994; Peled, Jaffe, & Edleson, 1995). This occurs even when the parents believe the violence and abuse has been kept hidden (Jaffe, Wolfe, & Wilson, 1990; Mullender & Morley, 1994). Some children are also assaulted in their attempts to protect their mother, some are used by the abuser to further violence and abuse against their mother, and some are physically, sexually, and/or psychologically abused themselves (Hester & Radford, 1996b; Kelly, 1994; Morley & Mullender, 1994; Mullender & Morley, 1994). Indeed, children who witness domestic violence have an increased risk of being directly abused themselves (Morley & Mullender, 1994; Mullender & Morley, 1994; Stark & Flitcraft, 1984, 1988). In one New Zealand study (Morris, 1997), most of the women participants' children had at least witnessed or heard incidents of abuse between their mother and her partner. In another New Zealand study (Chetwin, Knaggs, & Young, 1999), a majority of custodial parents with protection orders said that their children were unsafe prior to their protection order application. This was because their ex-partners behaved in a way that affected the children's emotional wellbeing, and/or because their ex-partners were physically violent to them or the children, used drugs, had mental illness, or did not have the ability to care for the children.

Being exposed to partner violence during childhood has a significant impact on the health and development of children and young people (Hester & Radford, 1996a, 1996b; Jaffe et al., 1990; New Zealand Ministry of Health, 1998; Pocock, 1994). Whilst there is not one typical reaction (Hughes & Luke, 1998; Jaffe et al., 1990; Morley & Mullender, 1994), and some children remain within non-clinical or 'normal' levels of functioning (Hughes & Luke, 1998; Morley & Mullender, 1994), children can suffer from an array of behavioural, emotional, and cognitive problems (Fantuzzo & Lindquist, 1989; Goodman & Rosenberg, 1987; Holden, 1998; Holden, Geffner, & Jouriles, 1998; Jaffe et al., 1990; Mullender & Morley, 1994). Some of the negative effects on children and teenagers include fear of their father, increased anxiety and distress, increased aggression, temperamental problems, unhappiness, depression, clinginess, nervousness, withdrawal, acting out at school and home, disobedience, lowered social competence, less empathy, less self-esteem, impaired school performance, bed-wetting, insomnia, fears, phobias, and suicidal behaviour (Abrahams, 1994; Benard & Schlaffer, 1992; Christopheropoulos et al., 1987; Forsstrom-Cohn & Rosenbaum, 1985; Hinchey & Gavelek, 1982; Holden & Ritchie, 1991; Hughes, 1988; Hughes & Luke, 1998; Kelly, 1994; New Zealand Ministry of Health, 1998; Morley & Mullender, 1994; Peled et al., 1995; Rounsaville, 1978; Westra & Martin, 1981). Many children never feel safe, have the disruption of leaving home and schools, and lose possessions, pets, and friends (Kelly, 1994). The *Women's Safety Survey* (Morris, 1997) reported that children responded by going quiet, crying, or trying to intervene. Their mothers described them as being upset, shocked, fearful, sad, and/or angry (Morris, 1997). Of teens exposed to violence, 59% are moderately or seriously disturbed as a result (e.g., are withdrawn, aggressive, or otherwise disturbed) (Rounsaville, 1978). Because of the

deleterious effects, children's exposure to male violence against women partners has been defined as a form of psychological/emotional abuse of the child (Kelly, 1994).

Intergenerational abuse (sometimes called the cycle of violence) is a well documented phenomenon connected with exposure to domestic violence during childhood (Caesar, 1988; Cappell & Heiner, 1990; Church, 1984; Elliot-Eckert, 1997; Hotaling & Sugarman, 1986; Kaufman & Kigler, 1987; McMaster, Maxwell, & Anderson, 2000; Peled et al., 1995; Rosenbaum & O'Leary, 1981b; Straus et al., 1980; Widom, 1989). Although there are several formulations of intergenerational violence (Morley & Mullender, 1994), it normally refers to the notion that male children who have witnessed or experienced violence in their childhood, subsequently behave violently to their own partners or children in adulthood. Although it is sometimes asserted that it applies to females too (i.e., that girls who are exposed to domestic violence as children are more likely to be victims of partner abuse as adults), research seems to suggest otherwise. For example, Rosenbaum and O'Leary (1981a) found that abused and non-abused women do not differ in their exposure to violence as a child. Other research also contests the phenomenon of intergeneration transmission of abuse (Morley & Mullender, 1994; Mullender, 1996; Stark & Flitcraft, 1984), or suggests that there is a weak-to-moderate relationship between growing up in an abusive family and becoming involved in a violent relationship (Stith, Rosen, Middleton, Busch, Lundeberg, & Carlton, 2000). Such research asserts that witnessing or experiencing abuse as a child does not necessarily mean a person will become a batterer in later life (Morley & Mullender, 1994; Mullender, 1996). Whilst the risk of becoming a violent adult might be increased, it is not a certainty (Kaufman & Kigler, 1987; Morley & Mullender, 1994). The majority of children exposed to domestic violence do not become violent to their partners (Mullender, 1996), and abusive men are considerably more likely to come from non-violent backgrounds (Stark & Flitcraft, 1984). There is also some concern that perpetrators excuse their abusive behaviour towards their partner by saying they witnessed abuse and violence between their parents during childhood (Mid-Valley Women's Crisis Centre, 2002). In this way, the intergenerational cycle of violence can discourage violent men from taking responsibility for their behaviour.

Concern about the impact of domestic violence on children is a significant factor in women's decisions to leave abusive relationships, often after trying to stay together for the sake of the children (Mullender & Morley, 1994). However, even after women separate from their abusers, men continue to harass, abuse, and be violent to women and children (Hester & Radford, 1996b). This has implications for violent men's contact with children after separation. Hester and Radford's (1996b) research found that contact between men and children tended not to work, even though the majority of women had wanted to maintain their children's contact with their father after separation. Indeed, in this research, contact with no further abuse and harassment of the mother and children was eventually set up in only seven out of fifty three cases in England and two out of twenty four

cases in Denmark. Because of this, these researchers suggested that contact between a perpetrator/father and child should not be presumed to be in the best interests of the child. Within the New Zealand context, realisation of the potential risks that domestic violence perpetrators pose to children led to changes in Family Court access arrangements in 1995/1996, so that access is now to be supervised until persons who have been violent can show their children will be safe with unsupervised access. Research examining the impact of this legislation (Chetwin et al., 1999) has found women feel they and their children are safer in formal supervised access conditions, as compared to informal supervised access, and unsupervised access conditions. Although women were harassed in centre car parks under a supervised access regime, they were unsafe and at risk when they supervised access themselves. Under an unsupervised access regime, over half the women reported their children experienced a range of physical abuse, emotion abuse, and neglect. Such findings highlight the ongoing victimisation that can occur against women and children, even after the relationship ends.

Learning about male violence against women within the context of domestic violence agencies

As mentioned at the beginning of this chapter, my understanding of male violence against women intimates is not solely academic. It has been enriched through my work for Women's Refuge and Manawatu Women's Learning Group. In the years that I worked for these organisations, I learnt much from women who had experienced violence and abuse in their lives. Some of these women had left their partners permanently; some were separating either temporarily or with the hope that it would be permanent; others remained living together in married or de-facto relationships. The ages of women varied: some were still teenagers; most were in their twenties, thirties, or forties; some were fifty or older. They identified with a range of different ethnicities, including Pakeha, Maori, Samoan, Indian, Filipino, Korean, and Eastern European. They were fulfilling a variety of different roles in their lives; many had children. A small proportion also had mental health problems, alcohol and drugs problems, or criminal convictions. The particulars about women who were abused by their partners seemed limitless. It seemed the same was true of their partners and ex-partners.

I met women who had experienced a wide range of violence and abuse from their (ex-)partner: women who had been consistently put down, insulted, degraded, and hated by their partner; women who were controlled, financially deprived, and insistently and wrongly accused of having sex and performing sexual acts on the least likely of men in the least likely of situations; women whose partners would not take them out to social occasions, or who would forbid them to talk to men whilst out; women whose partners were emotionally cold, ignored them, refused to talk to them, withheld affection, and neglected them in every regard; women whose partners socially isolated them by not letting them visit their family and friends and/or by being rude to family and friends who visited them; women who had been sexually abused and raped by their partners, forced to have sex in the room

in which their children were sleeping, and/or used for sex though otherwise they were not touched, spoken to, or smiled at; women whose partners had slapped, kicked and punched them in the face and over other parts of their bodies; women whose partners repeatedly beat them up; women whose partners had hit their head against walls or had hit their head with heavy objects; women whose fear was exacerbated by their partners' threats of violence, murder, and/or suicide; women who were being transferred to other parts of the country in the hope that gangs wouldn't find and kill them; women whose partners degraded and insulted them in front of their children; women whose ex-partners used the children to find out information about them, made inappropriate and emotionally disturbing statements to the children, played mind-games with the children, and/or would not financially assist with children's routine expenses. Some women had experienced abuse from their partner for a reasonably short time; others had endured abuse and violence for years. Some women's relationships had loving, more promising times too.

I also saw and heard the effects of this violence on the women's lives: women who were in physical and emotional pain, who were shaking, startled, upset, and exhausted; women who were depressed, anxious, and frightened; women who were bewildered and confused; women who had physical injuries like bruised faces, bruised body parts, strangle marks, swollen fingers and hands; women who miscarried after being punched and kicked whilst pregnant; women who suffered long term physically and psychologically; women who had lost their sense of self; women who were both resilient and desperate.

I met and heard of children who had learned a variety of techniques to survive and cope: some were quiet, timid, withdrawn, and felt a huge sadness; some were disobedient; some were warm, enthusiastic, and friendly. A couple of children had learnt abusive techniques from the abuser and imitated the insults and degradation towards their mother.

I am grateful to these women for what I learnt from them. Being involved with women in crisis, women in domestic violence education groups, and women working passionately in the area, provided a personal dimension to domestic violence; a dimension that is harder to capture or represent in academia. This personal dimension offered inspiration to my research. It gave me hope that intervention and research can collectively assist women and children in their quest to live violence-free lives.

The extent of male violence and abuse against women partners in New Zealand

There are several indicators of the extent of partner violence and abuse in New Zealand, including police statistics, Department for Court statistics, and Women's Refuge statistics. Research has also specifically examined the incidence and prevalence of male violence against women partners.

Police statistics provide limited information about the extent of domestic violence that has come to their attention and results in charges. This is because domestic violence spans, and constitutes part of, many categories of offence that police statistics are collated for (e.g., homicide, kidnapping and abduction, grievous assaults, serious assaults, minor assaults, intimidation/threats, certain sexual offences, trespass charges). Because no information is provided about the victim and perpetrator's relationship in any of these offence categories, it is not possible to distinguish male violence against women partners and ex-partners from non-domestic violence. The 'male assaults female' charge mainly consists of domestic-related assaults where a man is the offender and a woman is the victim, and hence most closely resembles male violence against women partners and ex-partners where a charge is laid. Unfortunately, publicly available police crime reports do not include this charge as a category of its own, combining it instead with other 'serious' assault charges, including those of a non-domestic nature. Hence, the only publicly available police statistics that give a glimpse of domestic violence are the 'domestic dispute' call out category and the 'Domestic Violence Act offences' category. For the year ended 30 June 2001, there were 24,369 domestic dispute call outs, with an unknown proportion of these being call outs related to male violence against women partners and ex-partners. There were 4,492 Domestic Violence Act offences (i.e., breaches of a protection order) for the year ended 30 June 2001 (New Zealand Police, 2001).

The most recent Court statistics indicate that for the year 2000, there were 2,922 male assaults female convictions (Spier, 2001)⁵. For the period 1994 to 2000, the annual number of male assaults female convictions has varied between approximately 3,000 and 4,000 convictions (Spier, 2001). Like police statistics, some of these convictions will correspond to male assaults against women who are not their partners or ex-partners. In 1999, the Family Court processed 6,537 protection order applications (New Zealand Judiciary, n.d.-c). This was slightly less than the number processed in 1997 and 1998. In these years, over 7,000 were processed (New Zealand Judiciary, n.d.-a, n.d.-b).

Whilst the aforementioned indicators do give a glimpse of the extent of partner abuse in New Zealand, police and Court statistics seriously underestimate of the extent of crime, including domestic violence (Dutton, 1988b; Edwards, 1989; Herzberger, 1996; Koss, 1985; Leibrich et al., 1995; Mullender, 1996; Pratt, 1994; J. Radford, 1987; Sampsel et al., 1992; Shirley, Dupuis, Tie, Davidson, Kiro, Mulitalo, & Bartley, 1998; Stanko, 1987; Triggs, 1997; Walker & Browne, 1985). One reason is that not all domestic violence is recognised or interpreted by women as constituting domestic violence or a criminal offence, and others might not detect, witness, or be aware of its

⁵ Because 52.6% of *all* violent offences that year resulted in a conviction (Spier, 2001), one could very tentatively estimate that these 2,922 convictions came from an original pool of around 5,555 male assaults female charges. This calculation is based on the cautious assumption that the same proportion of male assaults female charges results in a conviction.

occurrence. Some women may define their experiences as domestic violence, but may not consider legal intervention. Others may choose not to report the incident to police for a variety of reasons, such as not believing the incident is serious enough or not thinking police will consider it serious enough, fear of reprisal from the perpetrator, fear or distrust of the police or others involved in the legal system, believing the police are unpleasant or unsympathetic to women who have survived violence, lacking confidence that justice will be done, and/or believing the abuser's promise not to do it again (Koss, 1985; Mullender, 1996; J. Radford, 1987; Stace, 1983; Stone et al., 1983). In the *Women's Safety Survey*, Morris (1997) found that of 438 New Zealand women currently living with or recently separated from a male partner, only 11% of those who disclosed physical violence by their partners had ever asked the police to intervene. Dobash and Dobash (1980) suggest that the reporting of domestic violence is as low as 2%, although this figure may now be higher considering police have changed their approach to dealing with domestic violence. Of the small percentage of crimes that are reported to police, not all are officially recorded. If the scene is attended, and police actually charge someone with a crime, the alleged offender may still not be convicted. Shirley et al. (1998) calculate that only 32% of all reported crime results in a conviction. It is also important to remember that legal definitions confine the statistics too. For example, psychological abuse is largely unrecognised in crime statistics (with say, the exception of threatening to be physically violent), as are many kinds of sexual abuse.

Women's Refuge National statistics for 2000/2001 show that 7766 women and 9241 children received Refuge services. This was an increase of 901 women from 1999/2000 (S. Hann, personal communication, December 10, 2002). Women's Refuge statistics also greatly underestimate the extent of male violence towards women because only a small percentage of women experiencing abuse and violence utilise Refuge services.

Research in New Zealand has revealed that psychological, physical, and sexual abuse against women by male partners is reasonably common (Leibrich et al., 1995; Morris, 1997), if not more common than Australia and Canada (Morris, 1997). The *Women's Safety Survey* (Morris, 1997) and *Hitting Home: Men Speak About Abuse of Women Partners* (Leibrich et al., 1995) are two studies that have examined the national prevalence of partner violence in New Zealand. The latter study did this whilst researching men's attitudes towards domestic violence. The *Women's Safety Survey* findings were based on data from 500 female participants who had been randomly selected for previous research on experiences of victimisation (Young et al., 1997); the *Hitting Home* findings were based on a sample of 2000 men who were chosen as randomly as possible. Interestingly, domestic violence researchers have found reports of violence by victims more reliable than reports from perpetrators (Arias & Beach, 1987).

In the *Women's Safety Survey* (Morris, 1997), three in four women (73%) with recent partners and one in four women (24%) with current partners reported experiencing one or more acts of physical or sexual abuse by that partner. More than 40% of women with recent partners and 10% of women with current partners reported that they had experienced four or more acts of physical and sexual abuse by their partners, and 22% of women with recent partners and 2% of women with current partners reported that they had experienced ten or more such acts. Not surprisingly, the figures were less when the context was narrowed down to violence against women by their current partner in the past 12 months. Fifteen percent of women with current partners had experienced at least one act of physical or sexual abuse in the past 12 months.

Some of the male partners' violence resulted in women requiring medical treatment from a doctor (1% with current partners, 8% with recent partners) or hospital (1% with current partners, 7% with recent partners). The comparable figures for Maori were higher (2% and 19%; 3% and 24%, respectively). Three percent of women with current partners, and 24% of women with recent partners reported that they had feared that their partner might kill them. Comparable figures for Maori were 5% and 44%, respectively (Morris, 1997). Forty four percent of women with current partners and 94% of women with recent partners reported that they had experienced at least one type of controlling behaviour, such as the partner insisting on knowing who she was with and where she was, the partner putting her down, the partner trying to limit her contact with family and friends, and/or the partner frightening her. The research reported that the majority of the men's controlling behaviour had the purpose of exerting power and control over their partners, as opposed to say, him wanting to know where she was because he was concerned for her safety (Morris, 1997).

The *Hitting Home* study (Leibrich et al., 1995) also showed a high prevalence of abuse against women partners. One in five New Zealand men (21%) who had a relationship with a woman during the past year, reported committing at least one physically abusive act against her during that year. One in three men (35%) reported physically abusing a partner during their lifetime. Approximately half of the men (53%) admitted committing one or more psychologically abusive acts against their partner during the past year. Six in ten men (62%) reported such behaviour during their lifetime. The use of physical abuse and psychological abuse were inter-related: 90% of physically abusive men had also been psychologically abusive.

The researchers in Leibrich et al.'s (1995) study, classified abusive acts into four categories based on their seriousness: most serious, more serious, less serious, and least serious. In doing so, they found the occurrence of extremely serious abuse in the past year to be considerably lower in

frequency than the use of general physical or psychological abuse⁶. Approximately one in twenty men (4.5%) reported threatening their partner with a knife or gun, using a knife or gun on her, physically forcing her to have sex, choking or strangling her, and/or beating her up (these behaviours were classified as 'most serious'). One in six men (16.8%) had not done any of the behaviours just mentioned, but had kicked, bit, or used their fist to hit their partner, had made her do something humiliating or degrading, had pressured her to have sex in a way she didn't like or want, had hit or tried to hit her with something, had deliberately destroyed or harmed something that belonged to her, and/or had prevented her from having money for her own use (behaviours classified as 'more serious'). The majority of men in each seriousness category had committed acts classified in lower categories of abuse also.

Whilst these research studies do give some idea about the extent of partner abuse in New Zealand, it is not possible to accurately know how many women (and children) are actually affected. Figures reported in research that directly examine this (i.e., through interviews and surveys) are dependent on how abuse and violence is defined (i.e., what acts are considered violent or abusive). Research that uses broader definitions of violence obviously get higher prevalence rates than those that use more narrow definitions or limit the type of violence and abuse to physical violence. Interviewer rapport can also influence the amount and type of information disclosed, as can a person's wish to portray herself/himself in a more socially desirable light (Herzberger, 1996). These factors could be particularly problematic when one considers the silence and shame that often surrounds domestic violence. It is also possible that some research participants do not recognise instances in their relationship as violent or abusive. As Kelly (1988a) has pointed out, for a variety of reasons, women may not define their experiences as abusive or violent.

Attitudes to domestic violence

Violence against women partners was traditionally considered a man's right, something that women just had to get accustomed to (Mullender, 1996). It has also been considered a result of men's drinking, an occasional aberration in men who are mentally ill, a consequence of relationship dynamics, and a private matter that is not appropriate or deserving of intervention. More recently, domestic violence has been conceived as criminal behaviour that should not be tolerated. This has been accompanied with an increasing social intolerance towards it.

⁶ This was not surprising however, seeing their seriousness of abuse scale was constructed by ordering 22 types of abuse from least to most frequently reported. It makes sense then that more serious forms of abuse will be less frequent considering this is how they defined seriousness. Whilst one could argue that the frequency of an abusive behaviour does not necessarily equate with its seriousness, the examples of 'extremely serious' violence do indeed seem very serious.

Men who have been abusive to their partners usually deny responsibility for what they have done and minimise the impact that it has had on their partners (Dobash & Dobash, 2000; Mullender, 1996). Ptacek (1988) found abusive men eager to excuse and justify their behaviour. Ninety four percent of Ptacek's sample of 18 men made appeals to losing control. They explained this occurred because of alcohol, drugs, and/or a build-up of frustrations. Forty four percent of the sample blamed the victim for their violence, claiming that she had provoked him physically or verbally. The same percentage denied their behaviour was violent, maintained women's fears were exaggerated, and/or minimised the women's injuries (for example, their partner bruised because women bruise easily). Seventy eight percent justified their violence by claiming their wife was not good enough, for example, she was not a good cook, was not sexually responsive enough, was not faithful, or did not know when to be silent.

Unfortunately, evasion of responsibility does not end with the perpetrator. Attitudes, prevailing myths, and "half-baked theories of causation" (all of which utilise available discourses) assist in this process (Mullender, 1996, p. 37). "Like the abusers themselves, wider society - and the welfare agencies that serve it - tends too often to treat men as if they are less than fully to blame and women as if they share the blame for domestic abuse" (p. 37).

A study that examined New Zealand men's attitudes to family violence (Leibrich et al., 1995) found that 25% of their sample said some type of physical abuse of a woman partner is okay in some circumstances. The types of physical abuse that were most condoned were throwing something at her, slapping her, and pushing, grabbing or shoving her. Fifty eight percent of their sample said psychological abuse of women partners is okay in some circumstances. The five most condoned behaviours were preventing her having money for her own use, putting down her family and friends, throwing, smashing, hitting, or kicking something, insulting or swearing at her, and trying to keep her from doing something she wants to. Leibrich et al. (1995) mentioned that society's acceptance of domestic violence in some circumstances had also been found in other studies.

Leibrich et al. (1995) also examined the circumstances in which men approved of hitting a woman partner. Initially, they found that most New Zealand men do not approve of hitting a woman. For seventeen of twenty circumstances, only one percent of men approved of hitting a woman. However, 2% of men approved of hitting a woman if during an argument she hit him first, 5% approved if she was physically abusing their child, and 5% thought it appropriate if she was caught in bed with another man. While approval of hitting a partner is low, they found the level of disapproval concerning. For example, 14% of men disapproved of hitting a woman to a little or moderate degree in each of the following situations: if a man finds out his partner has been lying to him, if a woman is yelling at her partner at the top of her voice, and if a woman won't stop nagging.

Leibrich et al. concluded that New Zealand men show an underlying acceptance of domestic abuse, and have a tendency to blame women as well as men for being abused.

Domestic violence is still surrounded by myths and misconceptions that do not correspond with the experiences of many or some women who suffer abuse and violence from their male partners (Mullender & Morley, 1994). Myths relate to the causes of domestic violence, the women victims, the violent men, and the solutions to domestic violence (W.I.S.E., 1998). Many people in society, including survivors and perpetrators of domestic violence, hold them. They are unhelpful to women who are abused by their partners and can affect the responses of those who know or work with victims and perpetrators of domestic violence. Examples of myths include: men and women are equally abusive of each other, alcohol is the main cause of domestic violence, violence only occurs amongst lower socio-economic people, women deserve or provoke violence, women enjoy or are addicted to the violence, women can easily leave the violent relationship, violent men are brutish louts who act like the scum of society, men cannot control their tempers, and abuse stops when the woman leaves the relationship (Wilson, 1997; W.I.S.E., 1998).

Explanations of Domestic Violence

Many of the controversies in the domestic violence area have a common beginning: their failure to agree on conceptual and theoretical frameworks (Gelles & Loseke, 1993). Three main approaches/stances include the psychological approach, the sociological approach, and the feminist approach (Gelles & Loseke, 1993)⁷.

The psychological perspective is the oldest perspective. It conceptualises problematic behaviours, such as violence towards a partner or family member, as related to individual or relationship pathology (Mullender, 1996; O'Leary, 1993). Some studies have examined the psychological characteristics of male perpetrators of partner violence. Findings suggest that abusive men have lower self-esteem (Dutton, 1988a; Goldstein & Rosenbaum, 1985; Hale, Zimostad, Duckworth, & Nicholas, 1989), high levels of jealousy and possessiveness (Dutton, 1998; Flowers, 1994), an insecure dependence on women (Dobash & Dobash, 1992; Mullender, 1996), higher levels of hostility and anger (Date, 1997; Dobash & Dobash, 1992; Gavazzi, Julian, & McKenry, 1996; Mullender, 1996), an aggressive attributional style (Elliot-Eckert, 1997), higher levels of depression (Gavazzi et al., 1996; Hale et al., 1989; Hammond-Saslow, 1997), higher levels of anxiety (Gavazzi et al., 1996), poor communication and social skills (Holtzworth-Munroe & Anglin, 1991), alcohol and substance problems (Dutton, 1988a; Hale et al., 1989; Hotaling & Sugarman, 1986; Leonard, 1999),

⁷ This is only one of the ways of categorising theoretical explanations of domestic violence. For example, Gelles (1993b) classifies the approaches into three categories based on their level of analysis (the intra-individual level of analysis, also known as the psychiatric model; the social-psychological level of analysis; and the sociological or sociocultural level of analysis).

impulsiveness (Hale et al., 1989), lack of respect for social standards (Hale et al., 1989), and dual personalities, where abusive men are both especially charming and extremely cruel (Flowers, 1994). Some studies have focused on identifying batterer typologies (Bartels, 1997; Freeman, 2000; Hamberger & Hastings, 1986; Holtzworth-Munroe & Stuart, 1994; Marvian, 1998; Saunders, 1992). Other studies examine whether women survivors possess certain pathological characteristics that trigger their victimisation. For example, research has asked whether abused women have deficiencies in problem solving ability compared to women who have not been abused (Lanius & Jensen, 1987). Methodological problems sometimes make it difficult to establish whether such characteristics are triggers or consequences of men's violence towards women.

In contrast to this, some psychological approaches purport that the cause of domestic violence is the dysfunctional relationship itself, not pathological individuals. For example, family systems theory argues that both the violent party and the abused party contribute to the maintenance of homeostasis in the relationship, even when this is achieved through violent, abusive, and maladaptive means (Avis, 1992; Goldner, 1998; Nichols & Schwartz, 2000; Piercy, Sprenkle, Wetchler, & Associates, 1996; Shapiro, 1984; Trimble, 2000).

The psychological approach generally offers solutions that are generally based in therapy, e.g., individual therapy, family or marital therapy, alcohol abuse programmes, and anger-management programmes. Therapy often focuses on issues other than violence, such as the couple's communication skills, or the client's paranoia, self-esteem, alcohol problem, or anger problem (O'Neill, 1998).

Psychological explanations of domestic violence have been criticised for overlooking and minimising social and structural factors. From a sociological viewpoint, social and structural factors are deemed important (Gelles, 1993b). One sociological theory supposes that the social institution of the family is an important contributor to domestic violence (Gelles, 1993b; McCall & Shields, 1986). Factors that have been deemed important in making the families violence-prone, include the large amount of time spent together, the intensity of involvement between members, the number of activities that have the potential for conflict (e.g., what television channel to watch, what type of car to buy), the insulation that families have from wider society (i.e., privacy), and the extensive knowledge that family members have of other family members (e.g., strengths, vulnerabilities, loves, fears) (Gelles, 1993b). Certain structural features, such as age, gender, socioeconomic position, and ethnicity, are also deemed important. For example, whilst domestic violence has been found to occur in all social and economic groups (Gelles, 1993b), it is reported to be more common and severe in lower socio economic groups (Gelles & Cornell, 1990; Gelles & Straus, 1979; Straus et al., 1980; Sugarman & Hotaling, 1989). This is presumably because people who have lower incomes, more unemployment, poorer housing, and poorer health consequently experience more stress and frustration (Bowker,

1984; Gelles, 1974; McCall & Shields, 1986; Straus et al., 1980). This stress, frustration, and inner tension is manifested through violence⁸.

The feminist approach criticises other approaches for insufficient consideration of the gendering of domestic violence, and for lacking political commitment to eradicating violence (Yllo & Bograd, 1988). Indeed, feminism's political involvement in ending violence against women and children is thought to be a strength of a feminist analysis of domestic violence (Gelles, 1993b). Feminist activists and researchers do not believe that the root of domestic violence is pathology, stress, or family dynamics (Mullender & Morley, 1994). Rather, they argue that the patriarchal norms and structure of our society lay a strong foundation for men's violence against women partners. Domestic violence is a consequence of, and reproduces, men's domination and control over women (Bograd, 1988; Dobash & Dobash, 1980; Gordon, 1988; Mullender, 1996; Mullender & Morley, 1994; J. Radford, 1987; Yllo, 1993). Gordon (1988) also points out that violence against women partners is not only a consequence of the subordination of women, but because women contest this subordination. Societal supports of violence against women include devaluation of women, power inequity between men and women, and the history of women being treated as property (Sampsel et al., 1992). As a consequence, women experience a wide range of abusive behaviours in their everyday lives in addition to violence by male partners. These include stranger rape, pornography, obscene phone calls, and sexual harassment (Mullender, 1996). To make matters worse, the public condones much violent behaviour by excusing and justifying the violence and/or blaming the women survivors. There is also a tendency to counter feminist arguments with the claim that women frequently abuse men. Feminism strongly opposes explanations that blame women, or that emphasise abuse of men by women (Mullender, 1996). As mentioned in the previous section, men's abuse of women partners is more frequent, more serious, has greater consequences, and induces greater fear in the victim than women's abuse of male partners (Demaris, 1992; Herzberger, 1996; Johnson & Bunge, 2001; Pagelow, 1984). In response to 'loss of control' explanations used by men and advocated by some practitioners and theorists, feminists assert that human beings always have choices over their behaviour, and hence, men need to take responsibility for their violence (Mullender, 1996). Violence is not an indication of loss of control, but a means of establishing control (Horsfall, 1991; Yllo, 1993). Men's control over their violence is present in that they choose who to be violent or abusive to (i.e., their partner, not their boss), where this occurs (e.g., in private not in public), where to inflict physical violence (e.g., in areas that bruises will be less visible, or in places presumed less or more vulnerable), and what psychological abuse to use for maximum effect (Ptacek, 1988).

⁸ This sociological explanation is not distinctly sociological. It is also described as a psychosocial theory (Mullender, 1996).

By talking with and listening to women about their experiences of abuse and violence, a feminist resource known as the power and control wheel was developed. This wheel identifies many tactics that are used by abusive men to exert power and control in relationships. The psychologically abusive behaviours are classified under eight categories: using coercion and threats, using intimidation, using emotional abuse, using economic abuse, using isolation, using male privilege, using children, and minimising, denying and blaming the women for the violence and abuse. These categories comprise a multitude of actions: making and carrying out threats to hurt her, making a woman afraid by using looks, actions, and gestures, destroying her property, abusing pets, displaying weapons, putting her down, making her think she's crazy, humiliating her, preventing her from getting or keeping a job, making her ask for money, controlling what she does and who she sees, treating her like a servant, making all the big decisions, using visitation to harass her, threatening to take the children away, denying and minimising the abuse, and saying that she causes or provokes the abuse. The power of these tactics may also be reinforced by physical assaults and sexual abuse. The presence of physical and sexual abuse does not need to be frequent to be effective (Pence & Paymar, 1993).

The feminist approach emphasises that researchers in the area listen to and validate the lived experiences of women who have had violence and abuse perpetrated against them by male partners. It also considers it very important that the researcher be politically accountable for her work and its implications for women.

The different theoretical explanations of domestic violence, which are not limited to those explained above, can be thought of as comprising and perpetuating several discourses of domestic violence. Research undertaken by O'Neill (1998) examined the social science literature about the etiology of men's violence and abuse of women partners with the intention of identifying the discourses that were operating. Five discourses were subsequently identified. These were labelled 'pathology', 'violence as an expression of inner tension', 'violence as an instrumental power strategy', 'wife abuse as a consequence of the normative social system', and 'violence as learned behaviour'.

The discourse of pathology constructs men's violence to their partners "as a rare and abnormal phenomenon and is explained through pathological causes of behaviour, of which wife abuse and violence in general is considered to be one symptom" (O'Neill, 1998, p. 460). Many psychological explanations pathologise the perpetrator or survivor, and hence utilise this discourse. Because the perpetrator is constructed as having some kind of deficit (e.g., low self-esteem, from a family of violence, with alcohol problems), he is not held fully accountable for his behaviour. Rather, men are positioned as "victims of an etiology that is beyond their control" (p. 463). Therapy is considered a suitable treatment or intervention by proponents of this discourse.

The second identified discourse constructs violence as an expression of inner tension, stress, or frustration. "The dominant metaphor is one of a hydraulic substance that builds up in the organism and is released through aggressive activity" (O'Neill, 1998, p. 464). This release of inner tension is naturalised as part of the human condition. Because the perpetrator of abuse is positioned as someone who is subject to these powerful inner forces, over which he has little control, he is somewhat divested of responsibility. Within this discourse, anger management programs are advocated as ways of non-violently managing inner tension. The discourse also informs social political initiatives that aim to reduce stress accentuated through poverty and unemployment.

The instrumental power discourse explains violence as a means or strategy used intentionally to obtain particular goals. Hence, the parts of the feminist perspective which stress that men use a variety of abusive tactics for the purpose of controlling their female partners and maintaining their own dominance utilise this discourse. Perpetrators of abuse and violence are constructed as free-willed, in control of their behaviour, and accountable for the choices they make. Feminist-based programmes raise participants' awareness that men choose to be violent, as opposed to having no control over it.

The fourth discourse identified by O'Neill (1998) is the social system discourse. This discourse constructs wife abuse as a "logical extension of various cultural norms and institutional practices in Western society" (p. 470). Men are socialised to become violent, and women are socialised to become victims of men's abuse. That is, our culture provides a context for male violence towards their partners through its norms and values regarding violence, masculinity, femininity, family, and heterosexual relationships. Within this discourse, men are considered less accountable for their violence than they are in the previous discourse, as their agency is somewhat over-ridden by the social system and cultural norms. Educational campaigns that challenge existing cultural beliefs surrounding domestic violence are informed by this discourse.

Finally, the learned behaviour discourse holds that all behaviour, including violence, is learned from experience. The theory of intergenerational violence is one of the theories that is informed by this discourse. Because people can be socialised to learn behaviours, this discourse also implies that violent men can change their behaviour by learning alternatives to violence.

Explanations about the etiology of domestic violence are not limited to the social science literature. Indeed, O'Neill and Morgan (2001) also examined which discourses were utilised by a domestic violence education group for men. Four of the discourses were employed by the group, with the pathology discourse being intentionally omitted.

In another research project (Family Violence Prevention Co-ordinating Committee, 1988), New Zealanders that identified as Maori, Pacific Island, and Pakeha, were asked what they believed the causes of domestic violence to be. Participants identified a range of different factors that can be considered in relation to the discourses identified by O'Neill (1998). Maori and Pakeha respondents identified family background as relevant, in that persons brought up in a violent background are more likely to be violent themselves. This intergenerational explanation of violence fits within the learned behaviour discourse⁹. Maori, Pacific Island, and Pakeha respondents all considered financial pressures as a cause of domestic violence. This explanation fits within an expressive tension discourse in that financial pressure induced frustration and other forces that drove people to be violent. The low-self esteem and helplessness that was associated with financial pressure and unemployment explanations of domestic violence probably draw somewhat on a pathological discourse. Another explanation utilised mainly by Pakeha respondents, was that the media's showing of excessive violence in films, on television, and on videos led to an acceptance of violent behaviour. This explanation is consistent with a social system discourse, which features the importance of socialisation, cultural norms, and values. Sex-role stereotyping, which sets unrealistic expectations for male and female behaviour, was also considered a contributing factor by Pakeha respondents. This explanation also relies on the social-system discourse. The use of alcohol, which was cited by Maori, Pacific Island, and Pakeha respondents as the biggest trigger of domestic violence, is normally considered part of the pathological discourse (in that men who are violent drink excessively). In this research, the use of alcohol as an explanatory factor also relied on other discourses at times. For example, the expressive tension discourse was utilised by those people who explained that alcohol caused violence by reducing a perpetrator's inhibitions (i.e., their 'hydraulic' threshold for violence is lower when drinking alcohol). Some, but not all, Maori cited the denigration of Maori culture as a major contributor to violence involving Maori (this issue shall be described more fully when I discuss issues that have been raised by Maori in the domestic violence area).

Another New Zealand study that examined perceived causes of domestic violence (Leibrich et al., 1995) found that 37% of the men interviewed thought that the control of women is a major reason for hitting. This utilises the instrumental power discourse. Other common explanations were alcohol, economic and job problems, general stress, dynamics of the relationship (e.g., lack of communication, jealousy/infidelity, relationship stress), individual men's personalities (e.g., desire to control women, low self-esteem, sense of powerlessness), and family background. Some of these explanations (e.g., economic and job problems, general stress, lack of communication, relationship

⁹ Note that the research by Leibrich et al. (1995) and the Family Violence Prevention Co-ordinating Committee (1988) is not discursive research. Rather, these studies have summarised the reasons New Zealanders give for the etiology of domestic violence. I have then looked at how the discourses identified by O'Neill (1998) might relate to these explanations.

stress, and inability to control women when jealousy was present) were linked in some way to a loss of control, and hence to the expressive tension discourse. Some (e.g., jealousy/infidelity, sense of powerlessness, low self-esteem) were linked to a desire or need to control women, and hence to the instrumental power discourse. Sixty five percent of participants in their second study considered loss of control (expressive tension discourse) as a major reason for men hitting women; 37% thought the desire to control women (instrumental power discourse) was a major reason.

Other discursive research in New Zealand has focused on the discourses and rhetoric that male abusers use when they discuss their violence towards women (Adams et al., 1995; Towns, Adams, & Gavey, 1996). Towns et al. (1996) interviewed 18 men who had been violent to their partners and examined the issue of 'control' in their talk. Lack of control was conveyed with metaphors of something breaking or snapping, of explosion points being reached, and of mechanical failures. Men who utilised these metaphors avoided using personal pronouns and discussing the harm their partner incurred (e.g., "it just snaps" rather than "I snapped" and "I hurt her"). Men also described themselves as having two personalities like Dr Jekyll and Mr Hyde. Interestingly, whilst men talked about having a lack of agency over their violence, many also articulated an immediate intention for their actions. For example, they were trying to calm her down, silence her, make her listen, or prevent her seeking help. Also, whilst their use of breaking and exploding metaphors conveyed a lack of conscious awareness of their actions, some men were also able to describe being conscious of their immediate intentions. Interviews of 14 violent men in Adams et al.'s (1995) study also revealed the use of such metaphors: metaphors of people snapping, of emotions building up like a pressure system, and of temperature rising.

A Maori explanation, and solutions, for male violence against women partners amongst Maori¹⁰

There is no niche in society that is unaffected by family violence. It occurs in all groups, irrespective of age, social status, and ethnicity. Any woman can be abused; any man can be a perpetrator (Flowers, 1994). Along with Pakeha, Pacific Island, and Asian women in New Zealand, Maori also suffer from the effects of domestic violence. Indeed, as mentioned above, research indicates that on average, Maori women experience more frequent and more serious violence by their partners than non-Maori women. For example, whereas 10% of non-Maori women in Morris's (1997) study experienced physical or sexual abuse from a current partner within the previous 12 months, 28% of Maori women experienced abuse. Similarly, whilst 1% of all women with current partners and 8% of women with recent partners reported that they had been treated or admitted to hospital as a result of

¹⁰ I would like to thank Dr. Ephra Garrett, kuia of the School of Psychology, Massey University, for reading and supporting this section.

their partner's violence, the comparable figures for Maori were 2% and 19%¹¹. Women's Refuge statistics also show that Maori are significantly affected by family violence, with 45% of all women accessing services being Maori, and 53% of children being Maori. Forty one percent of all abusers were reported as being Maori (National Collective of Independent Women's Refuges, 1997). Maori women are also more likely than non-Maori women to report all forms of violence and abuse (e.g., controlling behaviour, physical and sexual abuse, multiple victimisation, and more serious violence) (Morris, 1997).

There has been very little research specifically examining Maori women's experiences of partner violence. Recognising this, Glover (1995) undertook research, and represented in story format seven Maori women's experiences of male partner violence. Her cross-case analysis identified that men used male privilege as the most frequent form of abuse against these women. As part of this, they acted as if they were the boss and could do whatever they liked. Women were expected to do all the housework, cooking, washing, ironing, bill-paying, to fulfil his sexual needs, and be completely responsible for looking after the children's needs. The men also had double standards, where they expected certain behaviours from women, but were unwilling to behave like this themselves. Other abusive behaviours included using children to hurt the mother, using isolating tactics, and using intimidation and threats. Men were also economically abusive, and physically and sexually violent. Furthermore, they directed an array of emotionally abusive behaviours towards their partners. Men denied their violence, minimised it, and blamed their partner for it.

Glover's (1995) research indicated that whilst these Maori women sometimes blamed themselves, modified their behaviour, tried to please their partner, affirmed their love, and tolerated the violence, they were not passive victims. Instead they "actively and strenuously attempted to change their situation" (p. 127). For example, they refused to accept conditions their partners tried to impose on them, fought back, left or tried leaving, called the police, ran to neighbours, cried, yelled, screamed, and begged.

The violence and abuse directed towards these women had a range of immediate and longer term effects on them and their children. Whilst physical violence did not always result in physical injuries, all women had incurred bruising or bumps from physical assaults. Other injuries included cuts, and blackened and swollen eyes. One woman was hospitalised, her jaw broken. Women also incurred an extensive range of mental effects. Initially, they felt shocked, confused, shameful, and angry. As their partner's abuse continued, they doubted themselves more, and they began to lose their

¹¹ It is important to point out that whilst a greater proportion of Maori women in Morris's (1997) research experienced partner violence, this was not solely violence by Maori men. Indeed, one third of Maori women were abused by partners they described as non-Maori. Presumably, Maori men also abuse non-Maori women.

confidence and self-esteem. Women also felt they were losing their sanity, and they had bouts of depression. At the extreme, some women believed they would die (Glover, 1995).

In addition to the significant harm that violence and abuse has on individual Maori women and children, domestic violence causes Maoridom to suffer as a whole (Balzar, Haimona, Henare, & Matchitt, 1997). "Daily, women's lives are being destroyed, some are dying, children are losing their childhood and Maoridom suffers from the tragedy and anguish of it all" (p. 10).

Maori family violence needs to be viewed within the historical context of colonisation and the far-reaching consequences that this has had on Maori as a whole (Balzar et al., 1997). Prior to colonisation, Maori did not consider themselves as individuals. Rather, Maori were "linked through their whakapapa to their whanau, hapu, iwi and ecosystem" (Balzar et al., p. 21). Women and land were revered because of their life-giving role, and hence, their contribution to the preservation of the people (Balzar et al., 1997). Furthermore, because of Maori's sense of collective identity, any attack on one member of a hapu was considered an attack on the whole hapu (Balzar et al., 1997; New Zealand Ministry of Health, 1998). Hence, violence by a man towards his wife was an affront to her and her whanau (Milroy, 1996). Because of these factors, family violence was treated seriously and effectively by Maori (Balzar et al., 1997; Milroy, 1996). Balzar et al.'s (1997) research provides accounts where abused women were removed from their husband's hapu and brought home to their own hapu. In such cases, contact by a perpetrator was prevented, sometimes permanently. Sometimes, perpetrators were exiled from their own hapu so that the whakapapa (geneology) could be protected.

Throughout and since colonisation, Pakeha have not respected the heart of Maori culture. Legislation forbade the use of te reo Maori (Maori language) in schools up until the 1960's (enforced widely through corporal punishment), resulting in many Maori losing their language. As te reo Maori is viewed by Maori as "the heart and soul of the mana of Maoridom", (i.e., the essence of Maori culture), the mana and identity of Maori was eroded considerably (Balzar et al., 1997, p. 15). Maori identity was further diminished because the state and church undermined Maori beliefs, values, and philosophies, such as wairuatanga, whanaungatanga, kotahitanga, and manaakitanga¹². Traditional

¹² The following definitions are provided by Balzar et al. (1997). 1) Wairuatanga: A spiritual dimension, which is a base from which all things extend. The physical realm is immersed and integrated with the spiritual realm. A belief in things spiritual governs the way one reacts with the environment and other people. 2) Whanaungatanga: an important value interlinked with the spiritual dimension, and based on kinship ties that are ancestral, historical, traditional, and spiritual. It gives a feeling of belonging, value, security, and identity. 3) Kotahitanga: Kotahitanga or unity is both spiritual and physical, and ties in with all other dimensions or values of Maori philosophy. Although it means a oneness, there is respect for the individuality of people within the group. Collective resolutions are strived for. 4) Manaakitanga: An unqualified, reciprocal caring. It is tied very closely with kotahitanga and whanaungatanga, and like all other dimensions is immersed in spirituality.

Maori structures and systems were replaced with Western patriarchal and hierarchical ones, and urban drift in the mid 60s placed strong pressure on Maori to conform to Pakeha lifestyles. With the changes in ideology and lifestyle, the treasured and valued position of Maori women declined (Balzar et al., 1997; New Zealand Ministry of Health, 1998; Pouwhare, 1999), so that they were increasingly viewed as a commodity, instead of “vital members of the hapu and the life, health and continuation of the people” (Balzar et al., 1997, p. 19). The collective identity of Maori, which is anchored to the land and based on their immediate link to a sacred mountain, river, waka and whakapapa, became fragmented and replaced with individualism. This process of fragmentation was accelerated by Maori losing caretakership of the majority of New Zealand land (97% being owned by non-Maori). An education system devised by Pakeha based on Pakeha language, culture, history, values and way of life, has proved largely alien to Maori, and has led to lower educational attainment by Maori and higher levels of unemployment (Balzar et al., 1997).

The loss of identity and land, high unemployment, and unequal distribution of power and social control ensuing from colonisation, are recognised by Maori as contributing factors to violence and family violence today. Maori resisted state control and interference in their lives, preferring to shield the violence and abusers from state intervention. Alongside this, traditional methods of dealing with violence declined, and some Maori justified or rationalised the violence away. Nevertheless, many Maori women have been actively involved with the establishment and provision of services for victims and survivors of family violence, sexual abuse, and rape (Balzar et al., 1997).

Balzar et al.'s (1997) research sought ideas and directions from Maori practitioners, which could be implemented to establish non-violent communities that benefit Maoridom. Informants firmly identified that solutions must originate from Maori communities and be actively supported by Pakeha culture and institutions. They also thought it important that there be diverse responses that reach all Maori, including those who do not have continuing contact with their marae or with Maori institutions. Raising awareness about the unacceptability of violence and the right for women and children to live violence-free was considered important, and this required leadership and guidance from kaumatua and kuia. Informants thought a framework was required where batterers are made accountable and feel responsible for their abusive/violent actions. That is, “the emphasis must be on individual accountability of batterers” (Balzar et al., 1997, p. 18). Sufficient resourcing of services was considered important, as were systems of monitoring and accountability. Balzar et al. (1997) also mentioned the need for Pakeha institutions to review policies and practices in relation to the Treaty of Waitangi, and to engage in close consultation with Maori communities in the area of Maori family violence. Such implementations are hoped to reduce the incidence of domestic violence within Maori families, and to restore recognition of Maori women's value in New Zealand.

Conclusion

Research indicates that in New Zealand, many men use psychological, sexual, and physical abuse and violence against their former and current women partners, often in combination. This violence includes an array of controlling, fear-inducing, painful, and injurious behaviours. Domestic violence affects the physical, psychological, mental, cultural, and spiritual wellbeing and health of New Zealand women and children. Culturally appropriate resolutions are required to address and respond to the problem of male violence against women intimates.

In that the New Zealand legal system plays an important role in both convicting and sentencing offenders of domestic violence, and protecting family members that are abused by other family members, it is now time to examine the New Zealand legal system and its response to domestic violence. Chapter 2 describes relevant features of the New Zealand legal system, whilst Chapter 3 examines the legal response to domestic violence.

FEATURES OF THE NEW ZEALAND LEGAL SYSTEM: SETTING A CONTEXT FOR THE LEGAL RESPONSE TO MALE VIOLENCE AGAINST WOMEN PARTNERS

Like many countries, New Zealand now treats domestic violence as a social problem requiring a legal solution (Seuffert, 1996). As part of this, domestic violence has been constructed as a crime. This chapter and the next provide background information about the New Zealand legal system and its response to domestic violence, respectively. Whilst particular attention is given in this chapter to the courts, the judiciary, and the legal profession, the following chapter considers the wider legal system response to partner violence.

More specifically, this chapter starts by presenting information on the main features of the New Zealand legal system and the different courts in New Zealand. It then goes on to discuss the roles and composition of the legal profession and the judiciary. Finally, because of its impact on the legal system's response to women who have experienced partner abuse and violence, the legal system's gender bias is discussed. In that Maori women comprise some of the group using the legal system, the legal system's monoculturalism is also discussed.

The New Zealand Legal System

The law is well-recognised as a means of social control, regulating the conduct of the members of a society or community in a manner which is considered to be the most advantageous for its members - or as critics argue, for the most dominant class of its members (McDowell & Webb, 1995). The New Zealand legal system has been strongly influenced by its British colonial roots. Notwithstanding the Treaty of Waitangi, it is predominantly a Pakeha institution, or a series of Pakeha institutions, which fulfil lawmaking, application, interpretation, and enforcement functions (McDowell & Webb, 1995). Largely inherited from Britain, the New Zealand legal system is based on a fundamental set of principles, known as "rule of law". Such principles include all persons being subject to the law, all persons being equal before the law, the Courts being available for all to redress a grievance, and the legal process being open to the public (Mulholland, 1999).

The New Zealand legal system has several features that make it distinct. Amongst other things New Zealand has inherited a common law system; it has no comprehensive statutory code; Parliament

has lawmaking supremacy; there is judicial independence; and dispute resolution within our Courts is largely based on an adversarial system (McDowell & Webb, 1995).

In a common law system, the judiciary (i.e., judges) have the ability to develop new law from cases that have gone before the Courts, and to apply legal principles from a particular case to other cases with similar fact situations. This process is known as the doctrine of precedent (McDowell & Webb, 1995). Whilst case law was the main source of law for a significant period of time, legislation (also called statutory law) has become an important source in the last century (McDowell & Webb, 1995). This has occurred to the extent that legislation is now more important than case law, the historical reversal of the position 50 years ago (Lawrence, 1998).

Statutory law is created and must be passed by Parliament, although other groups, including pressure groups, may contribute directly or indirectly to its development. In New Zealand, Parliament has supreme lawmaking powers that cannot be challenged. Unlike almost all other countries, there is no constitutional limit on the lawmaking power of Parliament: it can create, amend, and pass any law. This law cannot be altered outside of the parliamentary process. Whilst legislation can be vague or ambiguous in some situations, the content of legislation is generally more certain than case law. Its rules are supposedly set out explicitly (McDowell & Webb, 1995).

Because Parliament passes legislation in an ad hoc fashion, New Zealand has thousands of different statutes on many different areas. Because of this, law on any one area might be contained within several different statutes. Whilst judges interpret and adhere to the legislation of Parliament (as they are subordinate to Parliament), they are still able to use case law. Where legislation and case law contradict each other, legislation overrides (McDowell & Webb, 1995).

Judicial independence means that judges are apolitical. That is, they have no public political allegiance and political parties should not influence their decisions. There are several ways that judicial independence is advanced in New Zealand. Unlike the United States of America, judges are not appointed on the grounds of their political allegiance, nor do they serve political functions. Furthermore, Members of Parliament are not able to criticise the views or ability of any judge, and judges must refrain from participating in political discussions or replying to criticisms directed against them (Auckland District Law Society, n.d.; McDowell & Webb, 1995).

In the adversarial system of the New Zealand legal system, each party submits its argument in support of its own case, whilst the judge acts as an independent and (arguably) unbiased adjudicator who ensures that correct procedure is followed. Much like a contest, after hearing the

evidence and argument, the judge determines a winner¹. Lawyers play an important role in providing legal advice and assisting their client submit their case. Not all legal systems are adversarial. For example, France uses an inquisitorial method where the Court determines the truth of the matter by finding all the relevant facts (McDowell & Webb, 1995). As is discussed shortly, the Family Court in New Zealand has moved away from using an adversarial system.

The New Zealand Court System

There are three separate branches of the New Zealand government: Parliament, the executive, and the judiciary. The judicial branch of government comprises the Courts and the judges who preside over them (McDowell & Webb, 1995).

There are now four Courts of general jurisdiction: the Judicial Committee of the Privy Council; the New Zealand Court of Appeal; the High Court; and District Courts. These courts form a hierarchical system, and are listed here in descending order of authority. The Judicial Committee of the Privy Council (situated in London) is the highest Court of Appeal for New Zealand, hearing appeals from the Court of Appeal. The Court of Appeal (situated in Wellington) also hears appeals only, those from the High Court. The High Court's jurisdiction includes the hearing of the major criminal offences such as murder, particularly serious armed robberies, and some sexual violation trials. It also hears civil cases where over \$200,000 is at issue, bankruptcies and liquidations of companies, and appeals from the District Court. One judge presides over each case, and there is a jury for all criminal trials and some civil cases (Lawrence, 1998; McDowell & Webb, 1995). There is only one High Court of New Zealand, which sits in various provincial centres around the country. There are 36 High Court Judges, plus the head of the New Zealand Judiciary, the Chief Justice (New Zealand Department for Courts, n.d.-a).

District Courts deal with all criminal cases other than the most serious and important (which the High Court handles). They also deal with the debt collecting side of civil claims, and with civil claims that are not dealt with by the Disputes Tribunal or the High Court (those between \$7,500 and \$200,000) (New Zealand Department for Courts, n.d.-b; Lawrence, 1998; McDowell & Webb, 1995; Mulholland, 1999). There are 66 District Courts around New Zealand, each being a separate entity. The District Courts are presided over by District Court Judges. The number of District Court Judges is restricted to 120; in 2002, there were 116 (K. Keir, personal communication, September 2, 2002). One is appointed to the position of Chief District Court Judge, the senior Judge of the District Courts.

¹ As stated by McDowell and Webb (1995), crime is a distinct area of the law in that it does not involve disagreement between two parties in dispute. Rather a government agency (e.g., Police) acts on behalf of the public against the accused (defendant).

The procedure followed by the High Court is very formal and traditional (McDowell & Webb, 1995). That followed by the District Court is less formal than the High Court (Spiller, Finn, & Boast, 2001), but still reasonably formal and traditional. Certain rules and procedures must be followed. In regards to criminal cases², the judge must be impartial, and there is the presumption of innocence unless the accused pleads guilty. Government funded legal aid must be available so that parties who lack finance are able to be represented by lawyers. A jury must be used in serious cases, though sometimes the accused can elect a jury trial for less serious offences if he or she wishes (Lawrence, 1998). A trial follows a series of stages. The case is first put forward by the prosecution (a lawyer in the High Court, and usually a senior police officer in the District Courts). The prosecution then calls witnesses and examines them. These witnesses might then be cross-examined and re-examined by the defence and prosecution, respectively. The defence then puts forward its case and calls witnesses. In a similar fashion these witnesses are examined, and possibly cross-examined and re-examined. The judge, who has exercised a supervisory role up until this time, then sums up the case for the jury if there is one. A verdict is then reached by the jury or by the judge if there is not a jury. If the accused is convicted, the judge sentences him or her, usually at a later date (Lawrence, 1998; Mulholland, 1999).

The Family Court is a specialist division of the District Court, as is the Youth Court and the Disputes Tribunal. The primary objective of the Family Court is to provide a suitable forum for the resolution of family disputes (McDowell & Webb, 1995). Matters that go before the Family Court include issues related to adoption, care of children (e.g., custody, access, guardianship), care and protection of children who are being neglected or abused, marriage, separation, divorce, matrimonial and relationship property, and protection from domestic violence (New Zealand Department for Courts, 2002). The Family Court is presided over by Family Court Judges. These judges are District Court Judges who are “selected on the basis of their legal training, personality, experience, and interest in the family law arena” (McDowell & Webb, 1995, pp. 244-245). All Family Court Judges have a warrant allowing them to preside in the Family Court, and are legally and socially trained in the area. In 2002, there were 35 Family Court Judges in New Zealand, one being the Principal Family Court Judge, the senior Judge of the Family Court (K. Keir, personal communication, September 2, 2002).

The environment of the Family Court is less intimidating and less formal than the District and High Courts (McDowell & Webb, 1995; Mulholland, 1999; Spiller et al., 2001). The procedures followed are non-adversarial where possible. Unlike other courts, defended hearings are used as a last resort. Instead, there is an emphasis on conciliation and mediation (Lawrence, 1998; McDowell & Webb, 1995). Proceedings are closed to the public. Counsellors, psychologists, psychiatrists, social

² I have not elaborated on procedure for civil matters, as domestic violence features as a criminal matter within the District Courts.

workers, and other social support services are used at different stages, either for support, conciliation, or for their expert opinion. If an agreement cannot be met through counselling, the matter proceeds to a mediation conference. Here, the Family Court Judge works in the capacity of a mediator rather than an adjudicator, attempting to facilitate agreement between the parties. If agreement still cannot be reached, the matter then proceeds to a hearing (McDowell & Webb, 1995). Lawyers often represent parties before the Family Court. Where the matter before the Family Court involves a child, the Court might specially appoint Counsel for the Child to represent the child, because the welfare of children is the “first and paramount consideration of the Family Court in all proceedings that involve children” (Mahony, 2001, Introduction section, ¶ 1). Counsel for the Child has the role of putting before the Court the wishes and views of the child, as well as any other factors that impact on the welfare of the child (Mahony, 2001).

The Legal Profession

The role of the legal profession is vitally important because lawyers often occupy the “privileged position of gatekeepers of the justice system’s processes” (Morris, 1999, p. 204). Lawyers are at the front-line of the legal services industry and are generally a person’s main contact with the legal system (New Zealand Law Commission, 1997b, 1997d).

Lawyers in private practice provide the most comprehensive range of legal services, including legal information, legal advice, and legal representation. Legal information includes general information about the law, legal services, and legal processes. Legal advice includes law-related information that explains how the law and legal processes apply to a person’s particular situation. Lawyers providing legal representation, give advice and advocate on behalf of a person in a proceeding before a court or tribunal (Morris, 1999). Legal representation is provided almost exclusively by qualified lawyers in private practice. Whilst legal advice is provided predominantly by qualified lawyers in private practice, it is sometimes provided by community organisations, such as community law centres, Citizens’ Advice Bureaux, and Women’s Refuge. Lawyers and a wide range of state sector, private sector, and not-for-profit sector agencies and organisations provide legal information (Morris, 1999). Lawyers in private practice also advise and prepare legal documents to record commercial transactions, sale and purchase of real estate and other assets, lending and financing, formation and control of corporate bodies, insolvencies, taxation and revenue issues (Statistics New Zealand, 2001). In exchange for services, lawyers are paid directly by clients or through criminal and civil legal aid. Legal aid is a state-funded scheme, which pays part or all costs incurred in proceedings for low-income earners that are eligible. It is meant to fulfil the government’s responsibility of ensuring justice for all citizens, especially considering the high cost of lawyers’ services and the low incomes of a significant proportion of New Zealand’s population (Morris, 1999).

In 2002, there were 8,518 lawyers with practising certificates in New Zealand (M. Bryson, personal communication, September 3, 2002). Of these, approximately 72% were in private practice and an additional 12% were barristers sole³. The remaining 16% worked for the government (7%), were corporate lawyers (6%), worked for professional or trade associations (1%), or were in other employment (e.g., as academic staff) (1%) (M. Bryson, personal communication, September 4, 2002). Lawyers tend to be concentrated in large cities and areas of high population density (Morris, 1999).

The public perception that lawyers are an elite group of people who are highly educated, highly paid, mainly male, and predominantly Pakeha is confirmed by statistics (Morris, 1999). Because of their training requirements, lawyers are a highly educated group relative to the general population. According to legislation (the Law Practitioners Act 1982), lawyers must study for and pass a law degree (LLB degree) at one of five universities in NZ, and then undertake a 13 week, full-time skills training course through the Institute of Legal Studies (New Zealand Law Commission, 1997d). Approximately half of lawyers also have another qualification other than their LLB, with women being more likely to have additional qualifications (Gatfield & Gray, 1993). It is compulsory that practising lawyers are members of the District Law Society in which they practice, and are members of the New Zealand Law Society. Once admitted to practice, ongoing professional training is voluntary (New Zealand Law Commission, 1997d).

Lawyers are a highly paid group of individuals. In 1996, lawyers with up to two years' experience received an average income of \$31,000, and those with six to ten years experience received an average income of \$56,000. Principals with over five years experience had an average income of over \$100,000, whilst those who had 16 to 20 years experience had an average income of almost \$150,000 (New Zealand Law Society, 1996, as cited in Morris, 1999). In comparison, in the same year, Statistics New Zealand (1998) reported that almost one third (32.6%) of New Zealanders 15 years and over receive a personal income of less than \$10,000, and over one half (58.6%) have a personal income of less than \$20,000. Women are over-represented in these low-income groups. That is, whilst 22.5% and 46.2% of men 15 years and over have a personal income of less than \$10,000 and \$20,000, respectively, the comparative figures for women are 39.5% and 70.3%. Less than one quarter (23.8%) of New Zealanders 15 years and over has a personal income over \$30,000, the approximate average income of a lawyer with up to two years experience. Only 13.9% of women enjoy an income this high, whilst 34.2% of men do. Furthermore, only 7.3% of New Zealanders 15 years and over (2.7% of women, and 12.1% of men) enjoy a personal income of over \$50,000, the approximate average income of a lawyer with six to ten years experience, and only

³ A barrister sole is a lawyer who holds a practising certificate as a barrister only. Barristers practice law in the court, but they do not have personal interactions with clients.

1.5% of New Zealanders 15 years and over (0.5% of women, and 2.7% of men) enjoy an income of over \$100,000, the average income of a principal with over 5 years experience.

Historically, the legal profession has been a predominantly male profession. Prior to 1896, law prevented women practising as lawyers in New Zealand. Despite the legal barriers being removed in 1896, very few women entered the legal profession between then and 1970. Employment opportunities were biased against them, with women's prospects in the profession being largely controlled and significantly affected by male lawyers and the 'old boys' network'. During these years, women were undervalued, expendable, cheap, and generally employed in the role of law clerks, not lawyers (Gatfield, 1996c). Women only began entering the legal profession in any numbers approximately 30 years ago. In 1971, 1981, and 1985, women comprised 4%, 30%, and 45% of those entering the legal profession, respectively. 1991 was the first year that a greater percentage of women than men entered the legal profession (Morris, 1999). Not surprisingly then, the proportion of women lawyers with practising certificates has slowly been increasing. In 1996, just over one quarter of the legal profession were women (New Zealand Law Commission, 1997b); in 1998, just under one-third of lawyers with current practising certificates were women (Morris, 1999); in 2001, 34% were women (M. Bryson, personal communication, July 30, 2001); and in 2002, 36% were women (M. Bryson, personal communication, September 3, 2002). However, despite the increasing numbers of women entering the legal profession, in 2002, only 15% of principals were women (M. Bryson, personal communication, September 3, 2002).

Women lawyers are over-represented in family law, an area that does not offer great prospects for advancement relative to other areas (Gatfield, 1996c) or have high status (Wilson, 1993). The latest figures (M. Bryson, personal communication, September 4, 2002) indicate that 34.0% of lawyers do some family law work⁴, with the majority of these lawyers (65.1%) spending less than or equal to one quarter of their time doing work in this area. Of lawyers who spend more than 50% of their time doing family law work (a total of 616 lawyers), 71.9% are women; of those who specialise in family law (i.e., spend more than 75% of their time doing family law work), 75.8% are women.

As mentioned above, the legal profession is overwhelmingly Pakeha. The latest figures (M. Bryson, personal communication, September 3, 2002) indicate that 86.0% of lawyers whose ethnicity is known and recorded by the New Zealand Law Society⁵ identify solely as Pakeha/New Zealand European, and 88.0% identify solely as Pakeha, or refer to Pakeha/New Zealand European heritage

⁴ This percentage is calculated using the lawyers who were in private practice or barristers sole, and so does not include lawyers who worked as corporate lawyers, for the government, for professional or trade associations, or in other employment.

⁵ 16.6% of lawyers either did not state their ethnicity or requested that the New Zealand Law Society not record this.

in addition to another ethnic group. The corresponding figures for Maori are only 2.2% and 3.5%. Other ethnicities (Pacific Island, Asian), together, comprise 4.9% and 6.0%, respectively.

The Judiciary

Judges preside over judicial proceedings, interpret and apply the law in relation to such proceedings, and pronounce judgements in courts of law. As outlined by Statistics New Zealand (2001) in the *New Zealand Classification of Occupations*, their tasks include: listening to the presentation of cases for prosecution and matters of procedure; establishing rules of procedure on questions for which no standard procedures already exist; inquiring into and weighing evidence presented by parties and determining the rights and obligations of parties in light of the established facts, or summarising facts of case for juries and instructing them on relevant points of law so that a decision can be reached; and pronouncing judgements in light of own findings or those of the jury.

According to statute, a prospective judge must be a lawyer who has held a practising certificate for at least seven years (Auckland District Law Society, n.d.; Gatfield, 1996c; Statistics New Zealand, 2001), though in practice the years of experience required are closer to twenty years than ten (Gatfield, 1996c). This means that unlike other branches of government, members of the judiciary are appointed from a small, homogenous, self-selected pool in one profession (Harris, 1995). Indeed, New Zealand judges are even less representative of the New Zealand population than lawyers (Morris, 1999). Women and Maori are substantially under-represented (Gatfield, 1996c). In 1975, the first woman was appointed to the judiciary; in 1993, the first woman was appointed to the position of a High Court Judge (New Zealand Law Commission, 1997d); and in May 2002, the first woman was appointed as a Court of Appeal judge⁶ (M. Nixon, personal communication, September 10, 2002). Whilst the appointment rate of women to the judiciary has increased in recent years, very few women judges are in the higher status courts, with most being disproportionately presented at the District Court level (Gatfield, 1996c; McDowell & Webb, 1995). In 2002, there was one woman judge in the Court of Appeal (excluding the Chief Justice). There were three women High Court Judges (excluding the Chief Justice), and 28 women District Court Judges. For the same year, there was one known Maori High Court Judge and there were five known Maori District Court Judges (M. Nixon, personal communication, September 10, 2002).

Criticisms of gender bias in the legal system

The legal system, like many other social institutions, has been criticised for its gender bias against women. Whilst gender bias is amorphous and difficult to describe, it “includes the exclusion of women because they are women, the improper use of incorrect and unchosen stereotypes, the use

⁶ This does not include the Chief Justice who is a member of the Court of Appeal by virtue of her position.

of double standards, the use of a male-defined norm, the failure to incorporate and be sensitive to the perspectives of women, not recognising or valorising women's harms because they are done to women, being gender-blind to gender-specific realities, and using sexist, inappropriate and imprecise language" (Martin, 1999, p. 5).

Lawmakers and writers have predominantly been Pakeha/European men: "it is undoubtedly true that most law and legal thinking has historically been written by men" (McDowell & Webb, 1995, p. 26) for men (Jones, 1994). Whilst there is more than one feminist viewpoint, all maintain that the law is infiltrated with this male viewpoint, is non-representative of women's perspectives and interests, and maintains male interests (Edwards, 1989; Jones, 1994; Martin, 1999; McDowell & Webb, 1995; Morris, 1999). Dichotomies that man-made legal definitions construct (e.g., lawful versus unlawful, crime versus no crime, innocence versus guilt, and good versus bad) do not necessarily coincide with women's more complex experiences. An example of this is the issue of consent and non-consent in rape-related law (Radford & Stanko, 1996).

Not only does the law have a male-dominated history, there is much research and literature that details the prejudice and discrimination experienced by women lawyers and women judges in New Zealand (Auckland District Law Society Working Party on Women in the Legal Profession, 1981, 1989; Auckland Women Lawyers Association, 1987; Gatfield, 1996a, 1996b, 1996c, 1996d; Gatfield & Gray, 1993; Martin, 1999; Sargisson, 1982; Wellington District Law Society, 1983; Wilson, 1999) and overseas (Canadian Bar Association, 1993; Equal Opportunities Commission, 1978; Kennedy, 1993; S. E. Martin, 1996; Thornton, 1996). New Zealand research shows that women lawyers are under-represented as partners or principals; are over-represented as employees; take far longer to achieve partnerships than their male colleagues; are paid less even when other factors are taken into account; are under-represented in legal areas that offer better prospects for advancement; have lower status; have more difficulty finding jobs in private practice, despite achieving higher grades on average, and being more likely to have qualifications in addition to their LLB; experience gender prejudice and discrimination from clients, partners, and colleagues; are also more likely to experience all sorts of discrimination including that related to appearance and body shape; and experience sexual harassment and unwanted sexual advances (Auckland District Law Society Working Party on Women in the Legal Profession, 1989; Gatfield, 1996c; Gatfield & Gray, 1993; Wellington District Law Society, 1983).

In New Zealand research regarding gender equity in the judicial system (Barwick, Burns, & Gray, 1996), women judges felt that the appointment process discriminates against them because systemic discrimination in law firms makes it difficult for women in the legal profession to get the profile and experience required. They also felt that the male culture of the judiciary, legal profession, and police, together, make the courtroom a place which reflects male perspectives.

Ninety percent of women judges in the survey had observed other judges making remarks, gestures, or jokes within the workplace that they considered demeaning to women. A much larger proportion of women judges than male judges thought that the law reflected and validated male interests and concerns, and that women in the law, and in society generally, are not afforded the same credibility as men.

The assertion that gender bias exists in the law and legal system has tended to generate much controversy and resistance within the legal system (Martin, 1999). This is perhaps not surprising: to acknowledge the presence of gender bias is to acknowledge the existence of something that is contrary to core legal system values like equality, fairness, impartiality and objectivity (Gatfield, 1996c; Martin, 1999). Interestingly, whilst women lawyers and judges consider gender discrimination to be a serious problem, male lawyers and judges tend to downplay the significance of it (Barwick et al., 1996; Gatfield, 1996c). Several obstacles to change and methods used to rebut the claim that gender bias exists have been described (Gatfield, 1996c; Martin, 1999). The 'old boys' network', which has changed appearance but still remains a powerful force, is among the factors thought to perpetuate gender discrimination. Another factor is entrenched attitudes. For example, the majority of employers in the profession believe that true merit and ability are determinant of success, not bias towards men or against women. Many lawyers also believe that women lawyers are less compatible with male colleagues and clients, and will ultimately choose family over careers, despite the fact that male lawyers are twice as likely to have children than women lawyers (Gatfield, 1996c).

Another obstacle to change is the use of legal positivist discourse (Martin, 1999). Whilst there has been a profound theoretical shift away from a positivist view of the law, Martin (1999, p. 3) points out that "it is interesting to note the recurrence and tenacity of the narrow positivist view of the law when the claim is that the law politically disadvantages women". Feminists, and some other critics, reject the legal positivist view that the law is rational, objective, politically neutral, and separable from its social context. Rather, the law and approaches to the law are believed to have a subjective content which cannot be divorced from the identity and characteristics of those who create it, manipulate it, or who hold that view (Matoesian, 1993; McDowell & Webb, 1995). This leads to the view that the law is political; a tool of oppression used to perpetuate patriarchy and the interests of the dominant culture (male, Pakeha/European, and wealthy) at the expense of other members of society.

Another form of resistance is a seemingly impossible burden of proof, where conclusive evidence is demanded (Gatfield, 1996c). When evidence of gender bias is found, methodological criticisms abound. Statistical analyses are discounted; individual stories and personal histories are dismissed as anecdotal and experiential. Even reviews of decided cases are problematised. This is despite the fact that the latter in particular is otherwise considered an acceptable method of legal analysis (Martin, 1999).

Not surprisingly, it has primarily been women who have made a stance against gender inequality and bias. That is, the impetus for change has remained on the fringe. Subsequently, women have been dismissed because they were/are seen as a politically motivated interest group seeking special treatment. It is only since important people and organisations in the legal system took some interest in the gender bias issue that it has been treated more seriously. Indeed, women who have been voicing the problem of sexism in the legal system have been discriminated against and ignored partly because of the problem they are fighting against (Martin, 1999). Gatfield (1996c) also mentions that women lawyers may not speak out about discrimination, prejudice, or harassment for fear of being tagged derogatory names, such as “feminist”, “rebels”, and “complainers”. Equally concerning is their fear of experiencing reprisal from colleagues, including not being considered for promotion. As Gatfield also points out, discrimination can be used tactically: it is potentially an effective way of eliminating or controlling competition.

Another form of resistance is the complete denial of women's inequality in society as a whole (Martin, 1999). Rather, women in society and in the legal profession are thought to have ‘made it’ (Wilson, 1999). Attention becomes focused on the achievements of a couple of women lawyers within the profession. Similarly, male lawyers tend to believe that the problem of sexual harassment is exaggerated, that some women like the attention, or that the behaviour deemed sexual harassment was only intended as a joke (Gatfield, 1996c).

One of the largest obstacles to implementing change is the time and numbers argument. That is, the predominant belief that the larger numbers of women entering the profession will lead to the elimination of gender prejudice and discrimination over time. Gatfield (1996c) rejects this notion. She reminds us that despite the fact that women make up slightly more than half of the New Zealand population, women do not enjoy equality in general society. It seems that gender equity issues in the legal profession and judiciary still require attention.

Obviously, women judges and lawyers are not the only ones to experience gender related problems with the legal system. Considerable problems are also experienced by women using the legal system. Because serious concerns were raised about women's access to the justice system and the justice system's responsiveness to women's needs, a large research project by the New Zealand Law Commission focused on this issue. Consultation was extensive, with over 3,000 women being involved between September 1994 until late 1997 through meetings, interviews, and submissions. Maori women, lesbian women, and women with disabilities were amongst those consulted. Community organisations, and members of the legal profession, the judiciary, and government agencies were also involved in this process. Six consultation papers were consequently published, addressing information about lawyer's fees, women's access to legal information, women's access to legal aid, women's access to legal advice and representation, lawyers' costs in family law

disputes, and the education and training of law students and lawyers (New Zealand Law Commission, 1996a, 1996b, 1997a, 1997b, 1997c, 1997d). These papers provided the basis of more consultation, research, and analysis, with the ultimate result being the provision of a paper titled *Women's Access to Legal Services: Women's Access to Justice: He Putanga Mo Nga Wahine ki te Tika* (Morris, 1999), and another concerning the experiences of Maori women (New Zealand Law Commission, 1999).

Not only did women lawyers confirm the direct and indirect discrimination they experience within the legal profession (Morris, 1999; New Zealand Law Commission, 1997b), the study provided “disturbing grounds for concern” regarding the justice system’s response to New Zealand women and their access to it (Morris, 1999, p. xiii). The study clearly supported the conclusion that “there are substantial barriers to many New Zealanders’ ability to obtain the legal services they need to invoke the justice system’s protection... Because of the nature of those barriers, it is clear that women are particularly adversely affected by them” (Morris, 1999, p. 28).

One main problem was the perceived distance between the legal system and women’s everyday lives (Morris, 1999). The legal system was described by women as alien, mysterious, and daunting. This was because of the complexity of the law, the specialised language associated with law, the array of institutions involved in upholding the law, the formal rituals of the courts, the elite image of judges and lawyers (and the fact that most are white middle-class men), the costs of lawyers’ services, and the significance of tasks performed by the justice system (Morris, 1999). Women regularly mentioned that women historically played, and presently play, minor roles in the design and administration of the justice system. Many were critical of the male culture of the judiciary and the legal profession, and felt this was an impediment to being treated fairly (Morris, 1999). Women described the whole experience of dealing with lawyers and judges as being in another world: “a foreign, aggressive, confusing, and expensive one” (New Zealand Law Commission, 1997c, p.12). This alienation is particularly problematic because whilst the legal system is perceived to be quite remote from women’s everyday lives, the problems that lead to its involvement are very central to women’s lives (Morris, 1999).

Women also mentioned that there was a lack of information about the law, and about how to get legal advice and representation (New Zealand Law Commission, 1997b). With many women lacking confidence in the legal system, and a disturbingly large number fearing lawyers and the law, this meant that women did not know how good different lawyers would be (Morris, 1999; New Zealand Law Commission, 1997b).

Lawyers and judges were also thought to lack awareness of women’s lives and the situations that led them to seek legal assistance (Morris, 1999; New Zealand Law Commission, 1997d). Not only

were they thought to lack awareness of gender issues, including many women's socioeconomic position, lawyers were thought to be "ignorant of or indifferent to women's fear of the cost of legal services, the violence that may be dominating their lives, and the urgency with which they need matters resolved so they can ensure their own security and that of their children" (New Zealand Law Commission, 1997d, p. 4). For these reasons, many women said they would choose a lawyer with whom they could identify because of their culture, gender, and/or sexuality, or who had some knowledge of women's circumstances (Morris, 1999). At the same time, however, because many women described the legal system as a game (New Zealand Law Commission, 1997c), some said they would choose male lawyers because they thought women lawyers would be discriminated against in this context (Morris, 1999). Furthermore, women realised that the gender or ethnicity of a lawyer did not guarantee ability (New Zealand Law Commission, 1997d). Women often said they found it hard to believe that a young lawyer who had only recently started their career as a lawyer would adequately understand their problems (Morris, 1999).

One of the most commonly mentioned complaints by women was that lawyers had poor interpersonal communication skills (Morris, 1999). One report (New Zealand Law Commission, 1997b) mentioned that comments made by New Zealand women mirrored a statement made by the Canadian National Council of Welfare (1995, p. 31, as cited in New Zealand Law Commission, 1997b): "at worst... clients perceive lawyers as exploitative, untrustworthy, intimidating, patronising, impatient, and rude people who are insensitive to women, persons of other cultures and the disadvantaged in general, and who cannot communicate in a straightforward manner but insist on speaking an incomprehensible jargon". Many women said their lawyers did not listen well enough, evaded their questions and concerns, did not understand their needs, did not explain things clearly, and used alien legal language (Morris, 1999; New Zealand Law Commission, 1997c). When concepts and processes were poorly explained, many women felt awkward asking for clarification. Lawyers and judges were not thought to respond well to women who were feeling emotional or distressed about their circumstances (Morris, 1999). "While many women said that they resented having their emotions treated as irrelevant and quite separate from their often intensely personal problems, lawyers have indicated that dealing with clients' emotions is not their responsibility and that emotions are quite irrelevant to legal matters" (New Zealand Law Commission, 1997b, p. 14). Nor did lawyers inform clients about other services relevant to their problems (Morris, 1999). Good interpersonal skills have been rated as very important for client satisfaction with legal services. Their need can only be emphasised when one considers that women are often in the midst of life crisis, and subsequently find it difficult to articulate their situations adequately, absorb information, or feel confident in their own ability to interact effectively with others (New Zealand Law Commission, 1997c).

The other main problem that dominated women's accounts time and time again was the perceived, actual, and sometimes shocking financial cost associated with using lawyers (Morris, 1999; New Zealand Law Commission, 1997b, 1997c). Legal costs were thought to be far beyond what women could afford, particularly considering the affects of gender on women's socioeconomic status (Morris, 1999; Woods, 1999). Expense sometimes meant that women were deterred from engaging lawyers except in the most traumatic of circumstances, or were not able to continue until a good outcome was reached (Morris, 1999; New Zealand Law Commission, 1997c). The legal aid scheme was also criticised (Morris, 1999). Many women had little knowledge about legal aid, found it difficult to meet the \$50 initial contribution, did not meet the eligibility threshold but were not in a position to afford legal costs, had found the level of money given was insufficient to cover costs especially when their ex-partner used stalling tactics, felt the service they received was inferior to that they would have received if they were regular paying clients, and felt stressed that legal aid was recoverable if and when matrimonial settlements involving property were finalised (Morris, 1999). Many women felt they received inadequate information about how much a lawyer's services would cost and/or were not advised about whether they would be entitled to legal aid (Morris, 1999). Frequently women bore considerable emotional costs about being involved in such an expensive process (Morris, 1999). Furthermore, low income women often felt that they were treated as second-class citizens (New Zealand Law Commission, 1997d). Women frequently mentioned that lawyers were self-interested and primarily concerned with making money, rather than being concerned with their clients' needs (Morris, 1999; New Zealand Law Commission, 1997c, 1997d).

Another significant problem included lawyers assuming too much control, and not providing enough information for women to make their own decisions (Morris, 1999; New Zealand Law Commission, 1997b). This was considered particularly inappropriate because lawyers and judges were not seen to have an adequate awareness of many women's circumstances (Morris, 1999). Some felt upset because they had been cut out of the decision-making process whilst their lawyer and the other party's lawyers had come to a solution (Morris, 1999). Some felt forced to behave in ways their lawyer expected (New Zealand Law Commission, 1997d).

Legal matters were also thought to take too much time without adequate reasons being given (New Zealand Law Commission, 1997b). There were frequent complaints about the length of time lawyers took to get back to women (New Zealand Law Commission, 1997d), and of phone calls not being returned (Morris, 1999). The excessive length of time taken undermined women's confidence in legal processes and personnel, and made many feel their problems were not being taken seriously by lawyers (New Zealand Law Commission, 1997b).

Another problem included no provisions for childcare in lawyers' offices and in the courts, and/or insufficient consideration of how caring for children, or older parents, might affect some women's

availability for appointments (Morris, 1999; New Zealand Law Commission, 1997b). Access to lawyers' offices was also problematic for disabled women and rural women (New Zealand Law Commission, 1997b).

Interactions with lawyers sometimes resulted in women abandoning pursuit of their legal rights. Others were deterred from attempting to use the legal system because they anticipated experiencing difficulties with lawyers (New Zealand Law Commission, 1997d). Whilst few women knew about formal complaints processes, those that did believed that the legal profession "looks after its own" in disciplinary processes (Morris, 1999, p. 211).

According to the New Zealand Law Society (1997), 4% of adult New Zealanders have consulted a lawyer in relation to family violence, 10% in custody and access matters, and 16% in matrimonial matters. Research by the New Zealand Law Commission (e.g., 1997c) found that women who have used the legal system in relation to family law disputes raised concerns not unlike those raised by other women. A very concerning and prevalent example of lawyers' lacking an awareness of women's lives was their failure to respond appropriately to women who were seeking protection from violent partners, with some women being told they were vengeful (New Zealand Law Commission, 1997b). This inadequate understanding of domestic violence was thought to put their safety at risk (Morris, 1999). Another frequent problem women mentioned involved former partners deliberately delaying matters, stonewalling progress, and bringing issues to court again and again in an attempt to control them. Lawyers were often seen to play an active part in this, or as failing to respond to these delays by the other party (New Zealand Law Commission, 1997c). Some women felt aggressive, adversarial approaches were still adopted by the Family Court, though women clients and lawyers both thought this type of behaviour was more often used by inexperienced lawyers or lawyers who were not used to practising family law (New Zealand Law Commission, 1997c). Lawyers, themselves, complained that there were backlogs in courts, that inexperienced lawyers were being delegated family law work, and that the volume of serious cases involving seriously dysfunctional families and allegations of abuse and violence, was increasing (Morris, 1999). The higher emotional costs of family law work was also mentioned (New Zealand Law Commission, 1997c). Lawyers generally complained that law school did not adequately prepare them to practise law in the complex milieu of New Zealand society (New Zealand Law Commission, 1997d).

In that the perception of the legal system is important (New Zealand Law Commission, 1997d), and the issues at stake are often critical to women's lives, particularly in the family law area (New Zealand Law Commission, 1997c), the New Zealand Law Commission proposed that changes be made. It recommended more women lawyers and judges, and a greater ethnic diversity of lawyers. It also recommended communication skills training, and gender and cultural training so that the legal system is more responsive to clients and the needs of women, Maori, and persons of other ethnic

backgrounds. A suggestion was made for greater contribution by non-lawyers regarding provision of emotional support (New Zealand Law Commission, 1997b, 1997d). The judiciary was said to have shown considerable leadership by improving judges' awareness of gender issues (Morris, 1999).

Criticisms of a monocultural legal system

As stated earlier, the New Zealand legal system has been strongly influenced by its British colonial roots, and is predominantly a Pakeha institution (McDowell & Webb, 1995). Lawmakers and writers have mostly been Pakeha. Furthermore, those who operate as administrators within the legal system, such as lawyers and judges, have also mainly been Pakeha: Maori have been substantially under-represented within the legal profession and judiciary. Statistics presented earlier in the chapter confirm that this situation still exists at present. In 2002, 88.0% of lawyers identified solely as Pakeha/New Zealand European or referred to Pakeha/New Zealand European heritage; only 3.5% identify as solely Maori or refer to Maori heritage (M. Bryson, personal communication, September 3, 2002). In that same year, there were only six known Maori judges (M. Nixon, personal communication, September 10, 2002); two were Maori women (M. Nixon, personal communication, September 11, 2002). In that the law has a subjective content that cannot be divorced from the identity and characteristics of those who create and manipulate it (Matoesian, 1993; McDowell & Webb, 1995), it is strongly argued that the law is infiltrated with this Pakeha viewpoint and non-representative of Maori perspectives and interests. Furthermore, the law is political; a tool of oppression used to perpetuate interests of the dominant culture (wealthy, Pakeha, men) at the expense of other members of society, including Maori. For Maori women, the situation is compounded further (Milroy, 1996).

Prior to British colonisation, Maori had their own customary law, known also as 'tikanga Maori'⁷. Tikanga Maori comprised a spectrum of rules and values that Maori used to guide, monitor, and control social relationships for centuries (Jackson, 1989; New Zealand Law Commission, 2001; Project Waitangi, 1989). Tikanga Maori is based on several core values, the most pervasive being 'whanaungatanga' (New Zealand Law Commission, 2001). This is defined by Maori commentators in the following way: "it denotes the fact that in traditional Maori thinking relationships are everything – between people; between people and the physical world; and between people and the atua (spiritual entities)" (New Zealand Law Commission, 2001, p. 30). Because the individual was important as a member of a collective, and defined through that individual's relationships with others, the individual

⁷ Whilst "tikanga Maori" is the closest Maori equivalent to concepts of Maori law and custom, Maori concepts hardly ever exactly correspond with the Pakeha concepts they seem to resemble. Furthermore, tikanga Maori does not only refer to Maori customary law before Pakeha contact. Rather, tikanga Maori should be considered dynamic; a collection of underlying values and fundamental principles, which can and should be developed in relation to the present and future through ongoing dialogue with, and using the wisdom and knowledge held within, Maori communities (New Zealand Law Commission, 2001).

was responsible to the collective. Failing to recognise one's responsibility to others by acting in an anti-social manner, would damage that person's 'tapu' (sacredness), and threaten the order of the community. Such behaviour could consequently invoke 'utu'. Utu, as a concept, encompasses the notion of reciprocity: the return of what is received. Whilst utu includes the return of good gifts for good gifts and good behaviour, in the context of anti-social behaviour against the collective, it refers to the return of bad gifts or revenge for the wrongdoing. Sometimes in a process known as 'muru', allied groups took appropriate compensation in the form of goods from the offending group. This cancelled out the negative relationship between the groups and re-established a positive one (Joint Methodist/Presbyterian Public Questions Committee, 1994; New Zealand Law Commission, 2001). Through utu, Maori customary law has the purpose of ensuring balance between the inter-linked animal, plant, spirit, and human worlds (Jackson, 1989; Project Waitangi, 1989).

In the early days of colonisation, when Maori made up the majority of New Zealand's population, Pakeha recognised and respected Maori customary law (Jackson, 1989; New Zealand Law Commission, 2001; Project Waitangi, 1989). Indeed, some Pakeha officials considered that Pakeha should adhere to the Maori customary law, or that certain Maori values should be incorporated into the English system of law (New Zealand Law Commission, 2001). Pakeha recognition of Maori customary law was temporary. Increased numbers of, and lawlessness by, Pakeha settlers led both Maori leaders and Pakeha missionaries to desire improved social order through "good government and law and order" (Jackson, 1989, p. 47). Pakeha assumed that Maori wanted to submit to British law and order, whilst Maori expected there to be two systems of law, with Maori maintaining their own system of law (Jackson, 1989; Project Waitangi, 1989). From these different viewpoints the Treaty of Waitangi was signed in 1840, with the British promising to protect Maori custom and values. However, the different perspectives of Maori and Pakeha is reflected in the different interpretations of the Treaty (Maori versus English language versions). Article II of the Maori version of the Treaty of Waitangi guaranteed 'te tino rangatiratanga': the right of Maori to possess and control what is theirs in accordance with their own cultural preferences (Joint Methodist/Presbyterian Public Questions Committee, 1994; New Zealand Law Commission, 2001). In contrast, Pakeha believed that Maori had submitted to British sovereignty. Fostered by belief that English-based institutions were innately superior to Maori institutions, Pakeha imposed their own institution of law on Maori (Jackson, 1989; New Zealand Law Commission, 2001; Project Waitangi, 1989). The rule of law notion of one law for all became one English law for all (Jackson, 1989; Joint Methodist/Presbyterian Public Questions Committee, 1994; Project Waitangi, 1989). In time, Pakeha denied that Maori society had had their own system of law (Jackson, 1989; New Zealand Law Commission, 2001; Project Waitangi, 1989).

Moana Jackson, who works for Nga Kaiwhatamarama I Nga Ture (Wellington Maori Legal Service), is an active proponent of the elimination of discrimination against Maori by the criminal justice

system. He argues that Pakeha criminal law is an instrument of oppression, control, and subjugation because it denies the rights of Maori, and dismisses their realities (Jackson, 1989, 1990). In that there is more than one way of achieving justice, Moana Jackson advocates for the re-establishment of a parallel Maori system of justice for Maori that is consistent with the principle of te tino rangatiratanga (Jackson, 1991).

His research, *The Maori and the Criminal Justice System: He Whaipanga Hou – A New Perspective* (Jackson, 1988), was commissioned by the Justice Department in 1985 in an attempt to provide insights into why some Maori men become criminal offenders and how the criminal justice system responds to them. At the time, a largely disproportionate number of Maori men were in the prison population: Maori comprised 12% of the general population but over 50% of the prison population. Maori men were stopped more by police, arrested more, and were sent to prison and mental institutions by the Court more than Pakeha men (M. Jackson, 1998). Consequently, his research asked Maori two main questions: why so many Maori people end up in prison, and what could be done about it? Responses to the first question were often sad, bitter, and/or angry. They ranged from poverty to family breakdown; all were linked to the past and colonial dispossession. Respondents of the research also felt that institutional racism led to disproportionate numbers of Maori being imprisoned (M. Jackson, 1998). Whilst many recommendations were given about how the legal system could be improved, and some of these have been slowly implemented, Moana Jackson reported ten years after his initial report that little has changed. Offending and imprisonment statistics are even worse for Maori, and poverty and unemployment has increased (M. Jackson, 1998).

Other research that is particularly relevant to the issue of Pakeha monoculturalism within the system as it effects Maori women's access to justice, has been undertaken by the New Zealand Law Commission (1997b, 1997d, 1999). This research recognised that there are disparities between Maori women and non-Maori women, and between Maori women and Maori men, which make Maori women's experiences of using the legal system important in their own right. Through a process of extensive consultation with Maori women, these women's experiences of using the legal system were obtained so that justice sector institutions and employees would better understand the needs and values of Maori women.

Due to the fact that the legal system is a Pakeha institution, the distance between women's lives and the justice system was conceived as even greater for women who are Maori, Pacific Island, or from non-European ethnicities. The legal system was described as insufficiently responsive to Maori cultural values and the needs of diverse cultural and ethnic groups. Maori women were distrustful that non-Maori lawyers could provide appropriate legal advice, and they provided many examples of unsatisfactory interactions with lawyers. Not only did some Maori women feel discriminated against,

they found the mispronunciation of Maori words by lawyers and court personnel offensive. Overall, they had a higher level of disillusionment with, and alienation from, the legal system (Morris, 1999; New Zealand Law Commission, 1997d). Pacific Island women also shied away from seeking legal assistance because they felt shame and humiliation sharing intimate details with a complete stranger, preferring instead to use other avenues such as church ministers (New Zealand Law Commission, 1997b). Some refugee and migrant women had never considered approaching lawyers for help because they had made the assumption that since the legal system was corrupt in their own countries, it would be corrupt in New Zealand (New Zealand Law Commission, 1997b).

The findings from the New Zealand Law Commission's (1999) most recent research on Maori women's access to justice were also disturbing. Many of the Maori women expressed concern that they did not have access to, nor feel part of, the legal system. They felt irritated and angry that the system failed to acknowledge Maori cultural values, and their desire to participate in society as Maori. Because the legal system afforded them little value, Maori women had no or little confidence in it. In relation to domestic violence, this meant that some women chose to live with their partner's violence rather than deal with a system that treated them with little value.

The New Zealand Law Commission considered the legal system's failure to meet the needs of Maori concerning: "the consequences for the rule of law within our community, when those at the heart of Maori families are disillusioned, angry, and frustrated with the system, are deeply troubling" (New Zealand Law Commission, 1999, p. xxii). Maori women's access to a secure cultural identity, and their full participation in society and the economy, were considered two major goals that could improve Maori women's access to justice.

Conclusion

In conclusion, research shows the New Zealand legal system does not appear to serve the needs of women, particularly Maori women. As theorised by legal critics, this is due to the male, Pakeha base of the legal system, and its consequent gender bias and monoculturalism. With this as a starting point, we would not expect a consistently satisfactory response by the legal system to male violence against women partners. Chapter 3 addresses the legal system response to male violence against women.

THE LEGAL SYSTEM RESPONSE TO MALE VIOLENCE AGAINST WOMEN PARTNERS

This chapter specifically examines the relationship between the legal system and domestic violence. It facilitates an understanding of how the New Zealand legal system responds to domestic violence, and an awareness of research findings on the effectiveness of this response.

First, I provide a historical outline of the legal system's response to domestic violence. I then provide information about relevant law. A particular emphasis is placed on detailing the Domestic Violence Act 1995, as this is the predominant piece of current New Zealand legislation offering protection to victims and survivors of domestic violence. It is important to consider, because like other relevant legislation and case law, this Act constrains legal outcomes that can be pursued. The context is then expanded by discussing the different roles of legal system personnel in domestic violence work, particularly the judiciary, the police, and lawyers. I also provide an overview of the research findings on the implementation of the Domestic Violence Act 1995 and the responsiveness of the aforementioned legal personnel to domestic violence.

History of the New Zealand legal system response to domestic violence

In more recent times, domestic violence has become increasingly recognised as an extensive, undesirable, and debilitating social problem that contravenes women's and children's rights to live free from harm. Parallel to other Western nations, New Zealand has targeted the legal system as an important way to reduce and eradicate domestic violence (Carbonatto, 1994).

Historically, this has not been the case. The law did give limited recognition to domestic violence in that cruelty could be used as grounds for separation and divorce¹. General criminal law was also available for use against a violent partner. However, this was negated somewhat by provisions that allowed husbands to physically chastise their wives (McMaster, 1999; Webb et al., 2001). For example, English common law between 1782 and 1891 allowed a husband to beat his wife as long as he did not use a stick thicker than his thumb (Erez, 2002). Provisions have also allowed parents to discipline their children, and for husbands to have immunity from prosecution for raping their

¹ This was within since repealed sections of the Matrimonial Proceedings Act 1963 and Domestic Proceedings Act 1968.

wives so long as they were living together at the time². Rape within marriage has legally been considered a crime since 1985 (Butterworths, 1999).

One of the largest impediments to an adequate legal response has been the construction of domestic violence as a 'private matter' in which other people should not be involved. Being a private matter meant that it generally fell outside the scope of legal intervention. This changed somewhat with the implementation of the Domestic Protection Act 1982.

The Domestic Protection Act 1982 was introduced to improve "protection of parties caught in a disturbed or violent family environment" and to provide "a quasi-criminal remedy, the non-violence order, which was aimed to involve the police directly in a domestic dispute and to give them powers of arrest without formally having to charge the perpetrator with a criminal offence" (Webb et al., 2001, p. 1503). The Domestic Protection Act 1982 has been described by Judge Douglas Graham as "marking a turning point in the state's responsiveness to domestic violence issues" (Graham, 1995, p. A2).

There have also been changes to police policy and practice. Prior to 1987, police primarily played a mediation and reconciliation role at the scene of domestic 'incidents'. In 1987, the New Zealand police adopted a national pro-arrest policy in relation to domestic violence (Webb et al., 2001). This family violence policy clearly instructed police to arrest perpetrators of family violence whenever there was evidence of an assault, without having to rely on victims laying complaints. That is, the decision to arrest was transferred from the victim of domestic violence to the police officer at the scene. This policy statement, which was re-issued in 1993 and combined with police media campaigns, has assisted in strengthening the message that 'family violence is a crime' and not 'just a domestic'. The key objectives of the police family violence policy include the primacy of protecting the victim, the importance of holding the respondent accountable, and the need for consistent policies and practices across agencies and groups. It has the objectives of stopping the violence and bringing the offender into the criminal justice system. Police officers are expected to treat family violence calls seriously, and to arrest when there is sufficient evidence of violence and/or when police officers have good cause to suspect a respondent of a protection order has committed a breach of that order. Whether or not there is sufficient evidence for arrest, police officers should ensure there is immediate support for victims and their children (e.g., through Women's Refuge or Victim Support Services). They must also complete a Family Violence Report known as a Pol 400. This change in policy has led to decreased use of the category 'domestic incident' by police, and the simultaneous elevation of the category 'domestic offence' (Triggs, 1997). Consequently, domestic offences recorded by police, including male assaults female, child assault and abuse, and common

² The latter was contained in the Crimes Act 1961 and has since been abolished.

assault (domestic), quadrupled between 1986 and 1996 (Triggs, 1997). As a result, more perpetrators of family violence were then prosecuted through the criminal justice system.

The catalyst to reform was provided by a report, *Protection from Family Violence: A Study of Protection Orders Under the Domestic Protection Act 1982 (Abridged)*, prepared by Ruth Busch, Neville Robertson, and Hilary Lapsley for the Victims Taskforce (New Zealand Victims Taskforce, 1992). This report outlined 101 recommendations where improvements could be made. Following this, the Ministry of Justice published a discussion paper on the 1982 Act with the intention of focusing public debate on the options (New Zealand Department of Justice, 1993). One hundred and ten submissions were received in response (Parliament Select Committee Section, 1999). In turn, this led to the development of new legislation, namely the Domestic Violence Act 1995.

Before examining the Domestic Violence Act 1995 more closely, it is important to point out that the legal system response to domestic violence has not occurred independently from other groups and developments. For example, in 1985, a conference on family violence at the New Zealand Police College, Porirua, took place, organised by the co-ordinator for the National Collective of Women's Refuges, and an inspector of the New Zealand Police. From this conference, the Family Violence Co-ordinating Committee was set up as a partnership between government and community agencies. This committee undertook considerable research and was involved with important media campaigns and education programmes. The national conference of the Family Violence Co-ordinating Committee in 1991 introduced the Duluth Abuse Intervention Project, a co-ordinated response to domestic violence, used in Minnesota, USA. The Duluth project was then used to form the Hamilton Abuse Intervention Pilot Project (HAIPP), an integrated response to domestic violence with the intention of maximising the safety of victims and ensuring abusers are held accountable for their use of violence³. In 1993, the Crime Prevention Unit was established in the Prime Minister's Department, with the purpose of developing a strategy to reduce family violence in New Zealand. One of its seven crime prevention goals was to reduce the incidence of family violence; another was to address the concerns of victims and potential victims of crime (New Zealand Crime Prevention Unit, 1994).

Reform has largely been influenced by the activities of the women's movement and advocates for victims of rape and domestic violence (Erez, 2002) in an attempt to prevent women's exclusion from and oppression through the law. Of the many community agencies that have played an important

³ The Hamilton Abuse Intervention Project (HAIP), as it is now known, still operates in Hamilton. Similar models have been adopted in other areas of New Zealand. DOVE in Hawkes Bay, WAVE in West Auckland, the Hutt Family Violence Prevention Network, and the South Auckland Family Violence Prevention Network all have the objective of providing services for stopping and preventing family violence.

role in the area of violence against women and children, special recognition must be given to the Women's Refuge movement and to Rape Crisis Centres. In particular, Women's Refuge have consistently demanded attention be given to the problem of men's violence against women partners. Along with other groups, Women's Refuge have collectively created the climate for legal initiatives. They have maintained that domestic violence is a political issue and therefore a responsibility of the government to address. They have advocated for legislative change and have been recognised for their lobbying towards domestic violence related legislation and policy, including but not limited to the Domestic Protection Act 1982, the Domestic Violence Act 1995, and the 1987 Police Arrest policy (Bradshaw & Moore, 1995). Refuge also played a key role in the establishment of HAIPP. Each Refuge provides a 24-hour service of support, information, and advocacy to women and children in the community and those who reside in their safe house accommodation. Refuges also play a significant educational role, including the provision of educational programmes for women and children who are affected by domestic violence. Women's Refuge is committed to the promotion of lesbian visibility and rights. They are also committed to Parallel Development, the provision of complementary cultural services for Maori. In 2000, there were 51 Refuges affiliated to their central body, the National Collective of Independent Women's Refuges (National Collective of Independent Women's Refuges, 2000).

The Domestic Violence Act 1995⁴

The Domestic Violence Act 1995 took effect on 1 July 1996. Its objective was to reduce and prevent violence in domestic relationships. This was to be achieved in two main ways. First, it intended to promote the view that all forms of domestic violence are unacceptable behaviours, with no room for any form of domestic violence to be morally defensible or excusable. Second, the Act was meant to ensure effective legal protection for victims of domestic violence (Butterworths, 2000; Webb et al., 2001).

The protection order is at the heart of the Domestic Violence Act. Protection orders are granted by the Family Court when it is satisfied that: a) there is or has been a domestic relationship between the parties; b) domestic violence has been perpetrated by the respondent against the applicant or a child of the applicant's family; and c) the order is necessary for the protection of the applicant or the applicant's children. As will be elaborated further, when an applicant is granted a protection order, the respondent must not be violent to the protected person or have contact with the protected person unless the protected person agrees to contact. If a respondent breaches a protection order,

⁴ I have sometimes used pronouns to help explain the Domestic Violence Act 1995: "she" to refer to applicants and protected persons, and "he" to refer to respondents, who have been abusive and violent. Whilst these are accurate pronouns for the vast majority of cases, I recognise that they are not limited to this within the Domestic Violence Act 1995. I also recognise that men sometimes apply for protection orders, and that women are occasionally respondents.

he has committed an offence. Offences are dealt with through the District Court, not the Family Court. This means that the Domestic Violence Act 1995 falls within the jurisdiction of the Family and the District Courts.

The Domestic Violence Act 1995 has several main features, and is significantly different to the Domestic Protection Act 1982 that preceded it. First, it has expanded the definition of 'domestic relationship' so that persons in a wider array of relationships are offered protection. Under the newer Act, someone can apply for a protection order against a partner, family member, someone they share a household with, and/or someone they have a close personal relationship with. Each of these is broadly defined. Indeed, the Courts will make an effort to classify a relationship as a domestic one so that the applicant is afforded protection (Darlow, 1997). Landlord/tenant, employer/employee, and employee/employee relationships are covered by other legislation, not the Domestic Violence Act (Adams & Kearns, 1996; Webb et al., 2001).

A 'partner' can be a present or former, married or de facto partner, of the same or a different gender to the applicant. 'Partner' also includes non-cohabiting parents of a child, including casual or brief unions around the time the child was conceived (Webb et al., 2001). 'Family member' includes any person related by blood, marriage, de facto relationship, or adoption. It also includes persons who belong to the same whanau and to other culturally recognised family groups. Case law exists so that an applicant's new and/or former partners are covered under the definition of a family member. Children are considered family members with a parent's new cohabiting partner even if the children are living elsewhere. The definition of 'sharing a household' includes flatmates. 'Close personal relationship' includes boyfriend and girlfriend relationships, and close friends, depending on the intensity and duration of the relationship. A boyfriend and girlfriend need not have a sexual relationship nor live together.

In contrast to this, the Domestic Protection Act 1982 only covered cohabiting, or previously cohabiting, heterosexual relationships. It did not offer protection to boyfriends and girlfriends, same-sex couples, or to persons in a flatting relationship. It excluded non-sexual relationships, such as those between a parent and child and between siblings (Adams & Kearns, 1996; Webb et al., 2001).

A second feature of the Domestic Violence Act 1995 is the expansion of 'domestic violence' to include psychological abuse, sexual abuse, and physical abuse. Psychological abuse includes, but is not limited to, intimidation, harassment, damage to property, and threats of physical, sexual, or psychological abuse. Causing or allowing a child to hear or see domestic violence, or putting a child at real risk of seeing or hearing domestic violence is considered psychological abuse against a child. One single act of abuse/violence can be sufficient to constitute domestic violence, as can acts that seem trivial in isolation but together form a pattern of behaviour. This broader definition of domestic

violence is more consistent with a power and control analysis of domestic violence offered by feminists (Seuffert, 1996).

The third feature of the Domestic Violence Act 1995 is that a single protection order offers protection from both violence and contact. This replaces the separate non-violence and non-molestation orders that were granted under the Domestic Protection Act 1982 for these respective purposes. The protection order's standard condition against violence means that the respondent must not physically, sexually, or psychologically abuse the protected person or any children covered under the applicant's protection order; nor must he threaten abuse, damage property, or encourage a third party to be physically, sexually, or psychologically violent towards the protected person or her children. This standard condition of violence also applies to any friends or associates of the respondent who are named on the protection order and who have been abusive to the protected person(s) because of encouragement from the respondent. The standard condition against contact means that the respondent must not come on to, loiter around, prevent or hinder access to properties and places occupied or frequented by the protected person(s). Nor can he follow or harass the protected person. Telephone calls, letters, or e-mails are not allowed, except in specific conditions, e.g., when it is necessary in an emergency, or when it is permitted under an access or custody order or agreement. Whereas the non-violence conditions apply always, the non-contact conditions apply only if the protected person does not want the respondent to have contact with her. If the protected person gives her express consent for the respondent to live in the same residence, the non-contact conditions do not apply. If she later withdraws her consent, the non-contact conditions come into operation. The non-contact conditions may operate and then be suspended many times if consent and withdrawal occur on a number of occasions. This avoids a significant problem that existed under the Domestic Protection Act 1982 (Busch, Robertson, & Lapsley, 1993), where the non-molestation order would cease to exist whenever a protected person and respondent resumed living together. This meant that if violence resumed and the applicant wanted to reinstate the protection against harassment and contact, she needed to reapply for another non-molestation order.

Another standard condition provided under the Domestic Violence Act 1995 is that a respondent must not hold a firearms licence, and must surrender weapons (firearms, airguns, pistols, restricted weapons, ammunition, and explosives) and licences to the police within 24 hours of receiving notice of the order. Whilst this can be negated or varied by the Court, overriding consideration is meant to be given to the protected person(s).

Special conditions can also be included in the protection order by the Court should these be necessary to protect the protected person from further domestic violence. For example, special

conditions might relate to access arrangements or the appointment of a representative who handles issues of consent on behalf of the protected person.

The Domestic Violence Act 1995 has a rehabilitative focus. It is now mandatory for respondents of protection orders to attend a court-approved education programme, which aims to stop and prevent the respondent from engaging in domestic violence. Sometimes the Court decides there are special reasons for exemption. There are also approved Court-funded programmes that are provided by persons or agencies such as Women's Refuge for protected persons and children. Applicants' lawyers are meant to ensure applicants know they are able to request programmes for themselves and their children (Webb et al., 2001). If an applicant does not have a lawyer (as protection orders can be applied for without a lawyer), the Court must ensure the applicant is aware of her rights to request a programme for herself and her children.

Children are afforded much better protection under the Domestic Violence Act 1995. They can apply for their own protection orders through a representative, they are automatically covered by an applicant's protection order, and they are able to attend programmes if this is requested. Influenced in part by the tragic deaths of three children (the Bristol case), the Domestic Violence Act also makes important and revolutionary changes to the custody and access provisions under Section 16B of the Guardianship Act 1968 (as amended by the Guardianship Amendment Act 1995). If allegations of violence against children are substantiated in the Family Court, the violent parent is not given custody or unsupervised access unless he can satisfy the Court that the children will be safe. Violence is defined under Section 16 of the Guardianship Act as physical and sexual violence, but judges have extended this to include psychological and emotional abuse, and to situations where violence is not directed specifically at the child (Darlow, 1997). As mentioned above, causing or allowing a child to hear or see domestic violence, or putting a child at real risk of seeing or hearing domestic violence, is considered psychological abuse against a child.

Another feature of the Domestic Violence Act 1995, which differs from the Domestic Protection Act 1982, is how the orders become final. Under the Domestic Protection Act 1982, an applicant's interim order would lapse if she did not apply for the order to become final, and hence, she was no longer afforded legal protection through her order. With the Domestic Violence Act, temporary protection orders⁵ automatically become final after three months, unless the respondent takes steps to challenge the order or the Court decides on its own volition that a hearing is required.

⁵ A temporary order is granted when the Court does not inform the respondent about the protection order application before the order is made (known as "without notice"). This occurs because the violent situation affords such urgency that delaying the granting of an order, by giving notice to the respondent, would or might lead to a risk of harm to the applicant and/or children. If notice is given to the respondent before a protection order is made, and he does not challenge it, or unsuccessfully defends it, a final protection order is granted by the Courts.

Protection order breaches invoke higher penalties under the Domestic Violence Act 1995. Maximum penalties have increased to six months in prison or a \$5000 fine, as compared to three months in prison or a \$500 fine for breaching a non-molestation order. Under the newer Act, the maximum period of imprisonment increases to two years if the offender has been convicted of three offences (not including failure to attend a programme), and two of those have been committed within a three year period (Webb et al., 2001).

Also covered under the provision of the Domestic Violence Act 1995 are the Occupation, Tenancy, and Furniture orders. One or more of these orders can be applied for, usually at the same time as a protection order application. Basically, an occupation order gives the applicant rights to occupy the house in question to the exclusion to the other party (this house being one that either party owns or has a legal interest in). A tenancy order applies to the situation where the parties have lived in rented accommodation, and gives the applicant sole tenancy of the property. A furniture order gives the holder of the order exclusive rights to possess furniture and household items specified in the order.

Under the Domestic Violence Act 1995, a final protection order stays in force permanently or until the order is discharged. An application to discharge the order, by either the protected person or the respondent, must satisfy the Court that the protection order is no longer necessary for protection.

Research findings on the implementation of the Domestic Violence Act 1995

There have been at least three research studies that have focused on the implementation of the Domestic Violence Act 1995 (Barwick, Gray, & Macky, 1998, 2000; Darlow, 1997). These studies sought the opinions of judges, family lawyers, police, domestic violence agencies, Family Court co-ordinators and staff, programme providers, and applicants and respondents of protection orders from several New Zealand centres.

These research projects found that the Domestic Violence Act 1995 is widely considered to be a good piece of legislation, substantially better than the Domestic Protection Act 1982 (Barwick et al., 1998, 2000; Darlow, 1997). Lawyers and police in Darlow's (1997) study believed the Domestic Violence Act had succeeded in changing people's perception of domestic violence, and police felt that the Court is reinforcing this message. Darlow commented that, "the Courts are taking the legislation seriously and treating abusive behaviour with the fervour that it requires" (p. 15). Case law tended to indicate that judges err on the side of safety and protection, and often extend the definition of relationship so applicants can be afforded protection. However, lawyers thought that this was dependent on the individual judge concerned.

Many of the aforementioned features of the Domestic Violence Act were considered advantageous. For example, broader definitions of domestic relationship and domestic violence were thought to

make protection available to a wider range of people who had experienced a wider spectrum of abusive behaviour. Also identified as improvements, were the containment of both the non-contact and non-violence conditions in a single protection order, the non-expiration of orders in situations where applicants and respondents resume living together, the permanence of the order, the way that temporary orders automatically became final orders, and the rehabilitatory provisions in the Act through respondents' and applicants' programmes (Barwick et al., 1998, 2000; Darlow, 1997). However, as agencies in Darlow's research point out, whilst the Domestic Violence Act is a useful tool, it does not guarantee protection.

Women were the main users of the Act (92% compared to 8% men) and men were usually respondents (92% compared to 8% women) (Barwick et al., 2000). Approximately 80% of the time, respondents were current or previous partners of the applicant⁶ (Barwick et al., 2000). Most of the partner relationships were heterosexual ones. Indeed, lawyers, court staff, and community groups noted that few lesbian women and even fewer gay men use the legislation (Barwick et al., 1998, 2000).

There was considerable concern that some groups are not being afforded the legal protection they require. This includes women whose partners control access to money, and women who are above the legal aid threshold but still on too low an income to be able to pay for legal assistance (Barwick et al., 1998, 2000; Darlow, 1997). This problem was exacerbated when protection order applications were defended by respondents (Darlow, 1997). There was also concern that women from the Pacific Islands and other cultures were not likely to apply for protection orders; nor were women who had gang connections or criminal convictions (Barwick et al., 1998, 2000). Whilst many Maori women use the Act (just over a quarter of applicants are Maori), it is suspected that some who need to do not (Barwick et al., 2000). This may be because Maori lack confidence with Pakeha institutions like the legal system and the police, and are sometimes confronted with racism by these institutions (Barwick et al., 1998). According to Family Court staff, other groups not getting protection are women who fear that a protection order will provoke further violence, higher socio-economic women who think they may not be taken seriously, and young women who have very few community networks and may not be aware of the process open to them (Barwick et al., 1998, 2000). Other barriers for women included: their feeling that nothing could protect them from the violence; fear, distrust and lack of confidence in the system; lack of knowledge about how protection orders work and are obtained; shame and embarrassment; and perceptions by either women or their lawyers that the violence they experience is 'normal' or not serious enough (Barwick et al., 2000).

⁶ Ten percent of respondents were family members of the applicant, 6% were in a close personal relationship with the applicant, and less than 0.5% shared a household with the applicant only.

High proportions of applications were made on the grounds of physical abuse (82%) and psychological abuse (78%), with Maori being more likely than non-Maori to apply on the grounds of physical violence and less like to apply on the grounds of psychological abuse (Barwick et al., 2000). Those who applied on the grounds of psychological abuse were more likely to be put on notice (Barwick et al., 1998), and less likely to be granted orders than those who applied on physical grounds (Barwick et al., 2000). Many lawyers believed that a higher standard of proof is required for psychological abuse (Barwick et al., 2000).

Whilst the Court responded quickly to without notice applications, the service of them on respondents was identified as a significant problem (Barwick et al., 1998; Darlow, 1997). First, sometimes it took weeks to locate and serve orders on men. Because the order cannot be enforced until it is served, many women and children were not being legally protected during a critical and dangerous period (Barwick et al., 1998). A second problem was the complexity of orders, with respondents being unwilling to comprehend the order, or unable to because of literacy problems or language barriers. Furthermore, respondents primarily respond with anger, confusion, denial, and a sense of outrage and injustice (Barwick et al., 2000). Researchers recommended a system where service of orders is prompt (Darlow, 1997) and where orders are explained to respondents (Barwick et al., 1998).

Informants in Barwick et al.'s (1998) study strongly believed that the Domestic Violence Act protects children and addresses their safety issues. However, there was considerable variation in child access decisions by judges (Barwick et al., 1998, 2000). Some frequently or always made supervised access a condition of protection orders; others did not address access orders at all (Barwick et al., 2000).

Whilst respondents who had attended domestic violence programmes spoke positively about them (Barwick et al., 2000), many other informants expressed ambivalence about the quality and effectiveness of such programmes (Barwick et al., 1998, 2000). With only one third of men referred to programmes completing them (Barwick et al., 2000), non-attendance was thought to be poorly enforced by courts (Barwick et al., 1998, 2000). Agencies had some concern about the lag in providing programmes for protected persons, particularly children's programmes (Darlow, 1997).

Participants in these studies directed criticisms at judges, lawyers, and police. One lawyer in Darlow's (1997) research believed that in deciding the necessity of orders, some judges still lack a basic understanding about the nature and effects of domestic violence, hence requiring victims to establish necessity to a very high standard. Furthermore, agencies believed some lawyers frighten women because of how they say things to women who are already frightened. Some lawyers were thought to be unfamiliar with the Act and did not refer clients on to family lawyers with more

expertise (Darlow, 1997). Protected persons in Barwick et al.'s (2000) research mostly described their lawyers as efficient and helpful. However, a number of women mentioned that they still felt some confusion at the end of the legal process.

Police were the target of criticisms, particularly in two of the studies (Barwick et al., 1998; Darlow, 1997). They were not thought to be enforcing breaches of protection orders consistently or effectively (Barwick et al., 1998). Instead of following policy, they were thought to be acting on their own personal beliefs (Darlow, 1997). However, Barwick et al. (2000) pointed out that many judges, Family Court staff, lawyers, and community groups believed that the police response had improved significantly in the time since their 1998 study. Despite this, lawyers thought protected persons find it difficult to get police enforcement when breaches constitute psychological abuse.

Domestic violence agencies strongly emphasised that judges, lawyers, and police (and all others working with the Act) require more training (Darlow, 1997). Training for lawyers was particularly emphasised so that applicants were not further victimised whilst seeking protection orders.

Implementation of Guardianship Act 1968 as it relates to domestic violence

Section 16B of the Guardianship Act 1968 was amended in conjunction with the Domestic Violence Act 1995 so that persons found to be using violence within a domestic situation (including violence against a partner) cannot be granted custody or unsupervised access of any children unless they can satisfy the Court that the children will be safe. Violence is defined under Section 16A of the Guardianship Act 1968 as physical and sexual violence but judges have extended it to include psychological and emotional abuse, and to situations where violence is not directed specifically at the child (Chetwin et al., 1999; Darlow, 1997; Robertson & Busch, 1997).

Since implementation of this legislation, research endorsed by the New Zealand Ministry of Justice has examined the operation of the supervised access amendments, and assessed whether these provisions are protecting children (Chetwin et al., 1999). This study involved examination of Family Court files between 1 July 1996 and 30 June 1997 involving protection order applications where children were involved, and applications for custody and access orders where there were allegations of violence. Fifty three key informants, including Family Court judges, Family Court co-ordinators, lawyers, and supervised access providers, were interviewed. Interviews were also conducted in 1998 with 82 custodial and non-custodial parents who were recipients of protection orders, and five people who had supervised access informally.

Examination of the Court files showed that there were no directions about access in 58% of cases. Unsupervised access, and no access, was ordered in 12% of cases (24% of cases altogether). In only 18% of the cases did the Court order supervised access. Of these cases, the type of

supervised access (either formal or informal) was only specified in a minority of cases (28%). The researchers concluded that there were no specifications about access in the majority of the cases because the court was provided with insufficient information (e.g., through affidavits) to assess the risk to children (Chetwin et al., 1999). Whatever the reason, one could argue that a large proportion of children is not being protected through supervised access when violence has occurred within a domestic setting.

Interviews with custodial and non-custodial parents found that they perceived the court process to be complex, costly, and lengthy. A large proportion of custodial and non-custodial parents was dissatisfied with the information they received from their lawyers (Chetwin et al., 1999).

Finally, this research clearly found formal supervised access to be most closely associated with children's safety and women's safety. Key informants (e.g., judges and lawyers) thought the amendments to legislation had increased children's safety in the context of violent families. Although some custodial parents worried about their children's emotional safety during formal supervised access, most believed their children were safe in this context. When the custodial parent provided supervision, children often witnessed conflict and abuse by the non-custodial parent, and hence, children's safety and happiness was compromised. When supervised access was provided by extended family, children benefited from the relationship with extended family, but were sometimes emotionally unsafe because little information had been provided to supervisors about what their role entailed. Unsupervised access was least satisfactory. Approximately half of the custodial parents reported that their children were neglected and/or physically and emotionally abused during this type of access. The impact of no access was mixed. Some children were happy; others grieved for their father (Chetwin et al., 1999).

Although custodial parents felt safest with no access, formal supervised access offered the most safety when there was some level of access, and the least opportunity for further violence and abuse. Even so, the majority of custodial parents experienced harassment from their ex-partner in supervised access centre carparks. Almost all custodial parents who supervised access felt personally unsafe because of the history of their ex-partner's abuse, and because of the non-custodial parent's continuing abuse. Similarly, custodial parents felt unsafe and experienced abuse within the context of unsupervised access. Although there were several suggestions for improving children's welfare, such as guidance for informal supervisors, and providing the Court with more detailed information about children's safety, the researchers concluded that amendments to the Guardianship Act 1968 promoted children and women's safety (Chetwin et al., 1968).

Robertson and Busch (1997) have also examined the implementation of amendments to the Guardianship Act 1968. More specifically, they analysed judges' decisions regarding supervised

access and the explanations associated with ordering supervised access, no access, and unsupervised access. Their analysis indicates that in some cases, judges have carefully applied the criteria set out in Section 16B to advance the protection of women and children through access arrangements. Their analysis also reveals cases where despite the intention of the amended legislation, there is limited reference to Section 16B and utilisation of discourses unhelpful to women and children, such as talk of women provoking violence. Their findings suggest that judges are not consistently implementing Section 16 of the Guardianship Act 1968 to promote the safety of women and children.

Other law that relates to domestic violence

The Domestic Violence Act 1995 (and the associated amendment to the Guardianship Act 1968) is not the sole piece of legislation or law that relates to male violence against women partners. Several offences under the Crimes Act 1961 are relevant to partner violence, including murder, sexual violation (i.e., rape), offences relating to assaults and injuries to a person, and offences related to threatening violence. Offences comprising the category 'assaults and injuries to a person' include wounding with intent to cause grievous bodily harm, injuring with intent to cause grievous bodily harm, aggravated wounding or injury, aggravated assault, acid throwing, poisoning with intent, assault with a weapon, male assaults female, and common assault. Male assaults female carries a maximum sentence of two years imprisonment. Less severe assaults against a female partner normally come under the common assault offence. This carries a maximum sentence of one year. The offences associated with 'threatening violence' include threatening to kill or do grievous bodily harm, threatening to destroy property, and threatening acts. More information about each of these offences can be found in the Crimes Act 1961 (Butterworths, 1999; France & Pike, 1997) and related texts (e.g., Simester & Brookbanks, 1998). As mentioned in the section above, breaching a protection order is also considered a criminal offence, not a civil offence. If a breach of a protection order involves physical violence, the respondent might also be charged under the Crimes Act 1961 (e.g., for male assaults female).

Proceedings may be initiated under the Children, Young Persons, and Their Families Act 1989 where a child has been abused or neglected.

However, many behaviours comprising domestic violence are not recognised by criminal law.

The different roles of legal system personnel in the area of domestic violence

There are three main legal institutions involved in the domestic violence area: the Courts, the Police, and the legal profession. The judiciary and court registrar are the personnel principally involved with the Courts, whilst police officers and lawyers are those principally involved in the police, and the

legal profession, respectively. The role of these personnel will now be discussed briefly. The role of lawyers will be further elaborated.

As has been discussed above, judges oversee the Courts, and interpret and apply the law in relation to cases over which they preside. Specific to domestic violence, District Court Judges, and in more serious cases, High Court Judges, apply the Crimes Act 1961, the Domestic Violence Act 1995 (as it relates to breach of protection orders), and relevant case law. If a judge (or jury) determines that the defendant has committed an offence, s/he will sentence the person convicted (e.g., imprisonment, fine, supervision). In the Family Court, judges make determinations and administer the Domestic Violence Act 1995 and relevant case law in relation to protection order applications. They apply Section 16b of the Guardianship Act 1968 in custody and access cases where domestic violence has featured. Where there are allegations of child abuse, they administer the Children, Young Persons, and Their Families Act 1989. Judges, or alternatively the court registrar, are also required to explain to respondents or associated respondents the purpose, terms, and effects of any protection order and the consequences that follow if the persons fail to comply (Adams & Kearns, 1996). The Court (through judges) also have the power to: direct a hearing with either or both the applicant and respondent present before a temporary protection order becomes final; to appoint a lawyer to represent a child, or represent a person lacking capacity; call as witness any person whose evidence may be of assistance to the Court; and summons a respondent who has failed to comply with a direction to attend a programme (Adams & Kearns, 1996).

The Domestic Violence Act 1995 confers a variety of powers and obligations on the Court registrar (Adams & Kearns, 1996). Such tasks include: allocating dates for defended hearings or Court initiated hearings, as soon as practicable, but within 42 days of an application for a hearing being made; providing information about programmes to applicants not represented by a lawyer, and arranging referrals to programmes where applicants have requested a programme for themselves, their children, or another specified person; ensuring that respondents and associated respondents attend programmes, and informing the judge without delay when respondents fail to comply with directions to attend programmes; providing the District Commander at the appropriate Police District Headquarters with copies of protection orders; and making the appointment of representatives for applicants who are unable to make the application themselves (Adams & Kearns, 1996).

The police generally play a law enforcement role. They normally get involved in the area of domestic violence because they are contacted by members of the public (e.g., by a victim of domestic violence, a neighbour, a family member, or Women's Refuge). Contact might require their attendance at a scene where domestic violence and/or a breach of a protection order has occurred. Whilst attending the scene, they have the responsibility of ensuring victims are safe and put in contact with appropriate community agencies. They also have the responsibility of charging the

offender and retaining him in police cells if there is sufficient evidence that an offence has occurred. Necessary information and evidence (e.g., from the victim and any witnesses) is collected for prosecution purposes and a Pol 400 (i.e., a Family Violence Report) is completed. Obtaining corroborating evidence reduces the necessity for the victim to give evidence in Court. Police prosecutors prepare and present criminal cases for Court. This means that women who are victims of an offence do not require lawyers to present their case in Court: the police do this. Police also serve protection orders on respondents (as do Court bailiffs and private servers), and have the responsibility of confiscating firearms when conditions of a protection order necessitate this. Police involvement might also be initiated by Women's Refuge for the purpose of ensuring worker and client safety whilst assisting women and their children. For example, when Women's Refuge collects women and children to take them to safehouse accommodation, often after a violent incident, they might contact police to accompany them because of the potential dangerousness of the situation. Aside from responding to domestic violence when it occurs, the police also promote awareness of domestic violence in the community.

Lawyers can be involved with domestic violence work in different capacities. Criminal lawyers represent clients charged with breaches of a protection order and/or violent offences. Family lawyers apply for and defend protection order applications on behalf of clients. Some family lawyers can be appointed as Counsel for Child. As mentioned in Chapter 2, Counsel for Child has the role of putting the wishes and views of the child before the Court, as well as any other factors that impact on the welfare of the child. Family lawyers representing victims of domestic violence typically prepare protection order applications and provide advice and information about the orders. Indeed, despite the intention of the Domestic Violence Act, only 4% of orders are made without the assistance of a lawyer (Barwick et al., 1998, 2000).

As part of the protection order application process, lawyers assist in the preparation of the women's affidavit. An affidavit is a sworn statement that outlines information about the nature of the applicant and respondent's relationship, the occurrences of physical, sexual, and/or psychological abuse, and the necessity of the order for her protection and any children's protection. Ideally, lawyers should also include the victim's perception of the nature and seriousness of the violence, its effects on her, details about children and current custody and/or access arrangements, and any special conditions (e.g., relating to firearms) (Adam & Kearns, 1996; Barwick et al., 1998). Affidavits should provide a 'balanced' picture of the circumstances, including any violence or abuse of the applicant, and/or any surrounding circumstances that 'help explain' the violence. Lawyers are meant to write them with consideration of the contexts in which they appear. For example, judges considering applications may well be pressed for time, the respondent will typically be aggrieved, and if a hearing is required, an affidavit will come under close scrutiny for the defence (Adam & Kearns, 1996). Research shows that most lawyers include details of the history and context of the violence, the most recent episode,

police involvement, visits to doctors or the hospital, children's experiences of witnessing abuse and/or actual abuse of the children, any threats made by the respondent, and the applicant's fears for the future. Many lawyers find it challenging to demonstrate and substantiate psychological violence (Barwick et al., 2000).

Once the affidavit is completed, the lawyer files the protection order application with the Courts, either 'on notice' or 'without notice'. When known, the lawyer informs the applicant of the outcome, i.e., whether or not the Court granted a temporary or final protection order. If the respondent defends an on notice application or a temporary protection order, and the woman wishes to continue, the woman's lawyer will represent her at the defended hearing.

During the protection order application process, the lawyer might also apply for legal aid, occupation orders, tenancy orders, and/or furniture orders. They might also address custody and access issues, informally with the respondent lawyer, or through the Court system. If women have queries about their protection orders, lawyers might have ongoing contact with their client. Ideally, lawyers should also encourage women to attend education programmes, and explore matters such as maximising personal safety and laying criminal charges where relevant (Barwick et al., 2000).

Many family lawyers also work with respondents, and some lawyers work principally with respondents. Such work involves explaining the implications of a protection order or a protection order application, defending an on notice application or a temporary order, and/or objecting to one or more of the conditions of a protection order. Respondents defend orders for a variety of reasons. Some wish to rescue the relationship, some deny allegations made in the protection order, and some are concerned about custody, access, or firearm implications of a protection order.

Respondents' lawyers use a variety of strategies to assist their client. As well as telling the story from the respondent's perspective, the lawyer might inform the Court of any remorse, and/or of any client-initiated attendance at counselling or programmes. Where the respondent desires to improve their relationship with the applicant, they might tell the Court of this. They might also speak of any promises made by the respondent, and of the respondent's respect for the applicant and the time that might be required for her to come to a decision about the relationship (Adams & Kearns, 1996).

When defending the respondent's conduct, lawyers might first find out whether the judge has any particular approaches to the matter. In Court, they might point out that the violence was a one-off event that is unlikely to be repeated, and/or that the violence occurred so long ago it is no longer relevant. They might question whether the applicant really needs protection because the applicant and respondent are living far apart, because the respondent has disengaged from the relationship, or because the respondent has taken steps that remove the risk. Lawyers might also raise concerns

about the needs, views, or wishes of any children. Respondents' lawyers are not supposed to mislead the Court (Adams & Kearns, 1996).

Domestic violence work done by lawyers is inter-related with, not independent from, that done by the police and judges (Hendricks, 1992). Decisions made by one group about domestic violence cases affect the other groups. The decisions of judges undoubtedly affect police and lawyers. For example, if judges are unlikely to grant protection orders based on psychological abuse only, lawyers are unlikely to advise clients to pursue protection order applications in these types of cases. Similarly, if certain protection order breaches consistently fail at the Court-level because judges do not convict offenders, police officers are less likely to arrest or prosecute respondents who make these types of breaches. Conversely, when police officers do not charge violent offenders with breaches of protection orders or with offences under the Crimes Act 1961, or when police prosecutors decide not to follow through with certain prosecutions, these cases do not come to the Court's attention. If lawyers dissuade women and men from pursuing or defending protection orders, such cases will not filter in to the Courts either. Furthermore, women might not consider applying for protection orders through lawyers if police officers do not inform them about the existence of protection orders or if they do not refer them to domestic violence agencies like Women's Refuge.

Research findings on the responsiveness of the legal system to male violence against women partners

Since women in the feminist movement brought men's violence against women partners to the attention of the public in the 1970's, the police and other legal agents have been criticised for failing to provide women with adequate protection (Hilton, 1993). Overseas research findings and literature have particularly highlighted problems with the police and judicial system response to domestic violence (Australia Law Reform Commission, 1994; Bourlet, 1990; Dobash & Dobash, 1980; Edwards, 1987; Edwards, 1989; Erez, 2002; Hanmer & Saunders, 1984; Harwin & Brown, 2000; Hester & Radford, 1996; Jones, 1994; Kjervik, 1992; Mullender & Morley, 1994; Murty & Roebuck, 1992; L. Radford, 1987; Stanko, 1988) and to rape (Matoesian, 1993). Women who involve legal personnel are not taken seriously (Erez, 2002), and police officers and judges have been found to blame the victim and used excuses and justifications of violent behaviour (Governor's Battered Women's Working Group, 1985, cited in Ptacek, 1988). Many criminal justice personnel, including police, prosecutors, and judges, view physical and sexual assaults by men against women intimates as less serious than other types of assault (Koss et al., 1994). For example, Lees (2000) found that judges' comments strongly suggested that marital rape has less serious effects on women than stranger rape, despite research and literature on the effects of marital rape suggesting otherwise (Lees, 2000; Painter, 1991; Russell, 1990). Indeed, it seemed that judges equated men raping their women partners to sex, not violence (Lees, 2000). Women have also been accused of lying about domestic violence in order to gain an advantage in custody and access proceedings (Australia Law

Reform Commission, 1994). A study that looked at domestic violence and child contact arrangements in England and Denmark (Hester & Radford, 1996, p. 6) found “a mismatch between the actual experiences of women and children living with domestic violence, and the awareness and understanding of domestic violence by many of the professionals interviewed”. Particularly in England, contact tended to take precedence over child safety, and women who challenged contact were considered hostile. To avoid being labelled unreasonable or hostile, women in England found themselves under pressure to agree to unsafe contact arrangements (Hester & Radford, 1996).

New Zealand research has also highlighted problems with the police and judicial system response to domestic violence (Barwick et al., 1998, 2000; Busch, 1994; Busch & Robertson, 1994; Busch et al., 1993; Darlow, 1997; Morris, 1999; New Zealand Law Commission, 1997c; New Zealand Victim’s Taskforce, 1992) and to rape (Oxley, 1983; Petterson, J, 1983; Stone, Barrington, & Bevan, 1983; Young, 1983).

Ruth Busch, Neville Robertson, and Hilary Lapsley have conducted much research on the legal system response to domestic violence before the introduction of the Domestic Violence Act 1995. Research by these authors has identified a significant gap between the reality of dangers faced by women and the way in which the legal system responded to their victimisation (Busch, 1994; Busch & Robertson, 1994; Busch et al., 1993; New Zealand Victims Taskforce, 1992). Much of Busch, Robertson, and Lapsley’s research focused on the response to domestic violence by the police and by judiciary in the Family and District Courts (Busch, 1994; Busch & Robertson, 1994; Busch et al., 1993). Of the women interviewed, many were dissatisfied with the way their cases were dealt with by Family Court Judges and those who had unsatisfactory responses from the police were discouraged from using the police again (Busch et al., 1993).

In relation to the judiciary, these authors found that on occasions certain judges lacked knowledge about the dynamics of domestic violence. A significant “gap” or “limbo” was identified between women’s experiences of men’s violence and the response of the judiciary to those same experiences (Busch, 1994, p. 137; Busch et al., 1993). Some judges seemed unaware of the high risk of continued victimisation by abusers, not believing a victim’s fears about future violence to be realistic. Some judges gave ambiguous messages about the unacceptability of violence. Sometimes, judges used language that trivialised, minimised, or effaced the violence that had occurred. Women were sometimes blamed for the violence and/or their experiences were disbelieved. Some judges considered violence to be a symptom of real problems in the marriage. Some held both parties responsible, perpetuating the notion that it takes ‘two to tango’. Sometimes, judges denied victims’ protection because they were concerned that the perpetrator of violence would be provoked further. Judges sometimes appeared to value reconstitution of the family over the protection of order applicants. Some were happy to grant the violent party access or custody to

children when children had witnessed abuse. One judge mentioned that it is in the best interest of children to have access to both parents; another that the performance of a parent cannot be judged on their behaviour to a spouse in a collapsing marriage. Parenting was deemed quite separate from domestic violence, in that a man could abuse his partner but be a good parent. Also problematic was the view by judges that unworthy applicants sometimes use orders as weapons (Busch, 1994; Busch et al., 1993).

Criticism was also directed at the police. Whilst the majority of police supported the pro-arrest policy, it was poorly implemented: only 15% (approximately) of domestic incidents resulted in an arrest. Despite there sometimes being legitimate reasons that police do not arrest (e.g., the incident does not involve a criminal offence or there is insufficient evidence to sustain a prosecution), this figure was considered unjustifiable. As with judges, a significant gap was found to exist between the experiences of women who have been abused and the police response to that abuse. Some of the reasons identified by the authors for non-arrest included: police preferring to resolve the incident instead; an informal policy within the police to have minimal interventions in domestic violence incidences; misogynistic attitudes, such as a tendency to sympathise with the aggressor; not wishing to contravene the wishes of the victim; the victim being a frequent caller; insufficient resources; and low prosecution success (Busch et al., 1993).

As Busch (1994) points out, when legal personnel minimise and trivialise an abuser's violence, or blame the victim for it, they utilise the same tactics of power and control that are employed by the abuser. In this way, the legal system ends up colluding with the perpetrator. Whilst the woman is further victimised, the abuser's perspective of violence is legitimised. Research by these authors after the introduction of the inter-agency approach in Hamilton (HAIPP) found that the justice system response had improved (in that region). Women seemed more satisfied with police intervention; District Court judges were giving clear, unambiguous messages about the criminality of domestic violence in the majority of cases; and Family Court judges seemed to better understand the dynamics of domestic violence. Despite this general improvement, some women found police officers rude, unsympathetic, and victim-blaming, and there were still times when judges minimised violence, or accepted the abuser's rationalisation for his behaviour (Busch & Robertson, 1994).

Although there has been considerable research focusing on the response to domestic violence by police officers and judges, there has been very little research regarding the effectiveness of lawyers assisting women survivors of partner violence. As mentioned in Chapter 2, the New Zealand Law Commission's research on women's access to justice more generally, reported that some lawyers failed to respond appropriately to women who were seeking protection from violent partners. They also reported that some women were told they were vengeful (New Zealand Law Commission, 1997b). Nash and Read (1992) have looked at women's satisfaction with their lawyers in the context

of partnership breakdown, and custody and access proceedings. They found that a significant proportion of women felt they were not listened to carefully enough, that the speed of communications and making things happen was too slow, and that they hadn't been given sufficient information or explanations. Over one-quarter described their lawyer as "not at all supportive". Women particularly appreciated lawyers who had a caring attitude, who dealt to things promptly, treated them as an equal, and understood their point of view.

In New Zealand, Nan Seuffert's (1994, 1996) research seems the only research to have specifically examined lawyering in relation to domestic violence. Prior to the implementation of the Domestic Protection Act 1995, she (1994, 1996) interviewed both women survivors of domestic violence, and lawyers who represent survivors of domestic violence. Supplementing this project was an analysis based on Maori women's perspectives (Milroy, 1996). The women interviewed for Seuffert's (1996) research reported that like police, judges and society generally, their lawyers held attitudes which tended to minimise and trivialise the domestic violence and blame them for it. The women also reported that their lawyers did not understand the dynamics of domestic violence (Seuffert, 1994, 1996); some lawyers admitted this (Seuffert, 1996). Furthermore, women claimed that lawyers did not prepare them adequately for court hearings or other parts of the legal process, and did not provide them with adequate advocacy (e.g., by doing little or nothing on their case, or making few or no arguments in their favour in court). Some women noted a lack of respect, and/or patronising and condescending attitudes from their lawyers (Seuffert, 1996).

Mirroring findings of other research, women in Seuffert's (1996) study, felt that the legal system is gender biased. Many women felt silenced, either by not having a chance to tell their story, by having to keep their emotions separate from their story, or by not having their harmful experiences legally recognised. A number of women felt that their lawyers were also gender biased, because they doubted their credibility and/or discredited them.

Many of the same concerns were raised as those in Morris's (1999) research, and the New Zealand Law Commission's (1996a, 1996b, 1997a, 1997b, 1997c, 1997d) research. For example, women found legal terminology difficult to understand (particularly when overwhelmed by emotions), and had difficulty asking their lawyers questions. Many complained that they were not included in the decision-making process, and some felt that the lawyers were treating their case like a game. Although many women preferred women lawyers, some were concerned about how these lawyers would be treated in the system (Seuffert, 1996).

Unfortunately, as in Busch et al.'s (1993) study, some women described their treatment by the legal system as comparable to the abuse that they had suffered from their partners: what has commonly been referred to as a double-victimisation (L. Radford, 1987; Seuffert, 1996; Williams & Holmes,

1981). Furthermore, several women discussed how abusers use the system to continue the abuse. Many commented that their (ex-)partners lied throughout the proceedings. In this regard, they felt concerned that whilst they themselves were not being believed for telling the truth, their partners were being believed when they were lying (Seuffert, 1996).

Several of the women mentioned some positive aspects about their interactions with lawyers, such as having a lawyer who listened to them, who supported them and their decisions, who seemed to understand their situation (this factor was mainly associated with female lawyers), who involved them in the decision-making, and who provided clear explanations of the process. When asked, women said they would also appreciate a lawyer who offered emotional support, who understood women's lives as well as domestic violence, and who had a pleasant office conducive to making them more relaxed. Despite these positive comments, Seuffert (1996) concluded that her research raised some serious concerns about lawyers. It seemed that instead of being facilitators to justice for women who are survivors of domestic violence, lawyers sometimes end up being barriers to accessing justice.

Conclusion

New Zealand and overseas research strongly indicates that the response of legal personnel to women abused by male partners and ex-partners is far from adequate. Whilst legal system views of domestic violence can be seen as representing societal ways of thinking about domestic violence (Lees, 1995), legal personnel also perpetuate these views.

Because the responsiveness of lawyers and judges affects the safety and protection of women, as well as their satisfaction with the legal system, this research aims to explore the meanings that lawyers and judges give to domestic violence, psychological abuse, victims and perpetrators of domestic violence, protection orders, and the legal response to domestic violence. The meanings lawyers and judges attached to domestic violence and the legal response might be related to issues of responsiveness. To identify issues of responsiveness, the research also examines and represents women's experiences of the New Zealand legal response to male partner violence. As will be discussed next, in Chapter 4, feminist poststructuralism was considered an appropriate theoretical stance for such research. It was from this stance that appropriate methodologies were developed.

THEORETICAL UNDERPINNINGS: FEMINIST POSTSTRUCTURALISM

In this chapter, I elaborate on the feminist poststructuralist underpinnings of the present research. Because feminist poststructuralism fits within a feminist orientation, I first introduce feminism. In this section, I start by describing three central features of feminism and their relevance to the research project. I then provide a feminist critique of psychology, which as an institution has historically ignored women's presence within extensive areas of social reality, or viewed and presented it in sexist and distorted ways. Because feminist research practice significantly differs from that in mainstream psychology, I highlight some specifications of feminist research that were considered important for this research. In the next section, I describe feminist poststructuralism, or at least my version of feminist poststructuralism. In particular, I discuss feminist poststructuralist notions of knowledge, language, discourse, and subjectivity. I also discuss the political utility of feminist poststructuralism for eradicating oppression in women's lives, and the implications feminist poststructuralism has for the conceptualisation of experience, and reflexivity and writing. Because poststructuralism has been considered both theoretically/politically useful and problematic for feminism, their integration is discussed in some detail. Of course, along the way, I attempt to make a convincing argument, to you the reader, for the (cautious) utility of feminist poststructuralism.

FEMINISM

Despite there being a collective goal and some shared themes within feminism, there is not one intrinsically feminist perspective or position (Burman, 1994a; Gill, 1998; Grant, 1993; Hoff, 1992; S. Jackson, 1998; Johnson, 1997; Tuana & Tong, 1995; Ussher, 1999; Weedon, 1987; Wilkinson, 1997). Feminists are an eclectic group with a diverse array of conflicting theories. These theories offer different conceptualisations of the category 'women', different explanations of the causes of women's oppression, and different strategies for eliminating subordination and oppression in women's lives. Based on these conceptualisations, different categories have emerged: liberal feminism, Marxist feminism, radical feminism, psychoanalytic feminism, socialist feminism, anarcho-feminism, ecological feminism to name a few (Tong, 1998; Tuana & Tong, 1995). Academic feminisms have also been categorised into three main groups according to their epistemological approach: empirical feminism, standpoint feminism, and postmodern/poststructuralist feminism (M. Gergen, 2001; Harding, 1986). Whilst empirical feminism utilises mainstream scientific methodology

to draw attention to women's issues, standpoint feminism rejects this strategy, using mainly qualitative research methods. More specifically, standpoint feminism produces distinct knowledge about women by allowing women to tell their own stories and listening to their experiences. Feminist poststructuralism radically critiques the theoretical assumptions underlying both these perspectives. As described later in this chapter, it is sceptical about the nature of truth, knowledge, and language (M. Gergen, 2001).

Despite such delineation, no definitive boundaries or walls exist between the different feminisms. Consequently, not all feminists find such labels appropriate (Tuana & Tong, 1995), or feel they fit neatly within one category (Stanley & Wise, 1993). Many feminists feel comfortable within several schools of feminist thought, shifting between methodological approaches as the content of their analysis shifts (Tuana & Tong, 1995), and/or as their feminist consciousness shifts over time (Stanley & Wise, 1993). Whilst the present research is most consistent with a feminist poststructuralist stance, this version is not upheld as the one 'correct' and 'real' feminism, or as necessarily superior or more sophisticated than other feminisms. Indeed, as advocated by Stanley and Wise (1993), feminists should have mutual respect for the work of other feminists, even when they do not agree with their approach.

Despite the variance within feminism, Stanley and Wise (1993) identify three central themes which feminisms cohere around. First is the indisputable belief that women are oppressed. Second is the theme that the personal is the political, and third is the theme of consciousness raising.

Women's oppression encompasses the subordination of women's interests, discrimination and segregation based on gender, objectification of women as sexual objects for male consumption, and all other forms of abuse and violence against women (Sarachild, 1978; Weedon, 1987). Collectively, feminisms' principle objective is to emancipate all women from oppression and subordination. It is "a politics directed at changing existing power relations between women and men in society" (Weedon, 1987, p. 1); it aims to promote women's rights and interests.

The well-known feminist slogan, "the personal is the political", simply means that personal aspects of women's experience (e.g., sexuality, division of household labour, coercion and abuse in intimate relationships) are politically and socially relevant (Wetschanow, 1999). Women's personal and collective experiences of oppression need to be made known and addressed. Some feminists feel women's oppression should be thrust into the institutional political realm to be addressed by government policy and legislation (Welch, 2001). Conceptualising the personal as political juxtaposes with the traditional conceptualisation that 'political' is something quite separate from everyday life (Stanley & Wise, 1993).

Consciousness raising refers to women sharing their experiences and ideas to raise awareness and understanding of women's lives and realities. It is an empowering method to awaken women and get them thinking, a means to produce insight. Sharing one's own feelings and experiences and linking these with the experiences of others, enables women to collectively analyse the situation of women, and to develop theories that mirror the experiences, feelings, and necessities of women. These theories then form the basis of political action. Hence, consciousness raising not only has an emphasis on clarifying and validating women's experiences; it has the goal of changing the conditions women face, of eradicating oppression and male supremacy, and establishing equality for women. In doing this, consciousness raising is hoped to awaken more and more women, so that we might progress as fast as possible towards women's liberation (Sarachild, 1978; Welch, 2001).

The present research embraces these three themes. It shares the goal of emancipating women from oppression and subordination, and aims to contribute to improving women's lives. In particular, it intends to assist women who experience oppression from male violence and abuse within their intimate relationships, and discrimination and oppression via the New Zealand legal system. Women's personal experiences of psychological, sexual, and physical abuse by their partners and ex-partners are considered socially and politically relevant, as are their personal experiences of using the legal system. Indeed, it is by representing shared personal experiences of women, and raising awareness of the problems they face, that this phase of the research intends to contribute towards women's lives. This research also means to benefit women by raising awareness of how lawyers make sense of domestic violence and the legal response, and the implications of their constructions. Findings of the research will be disseminated in ways that contribute to this process.

Feminist criticisms of knowledge production in psychology

Most feminists share a critique of traditional social science research (Gill, 1998). Essentially, feminists have radically positioned the social sciences as oppressive institutions, whose theory and research has historically excluded, marginalised, or distorted women's social realities (Stanley & Wise, 1993). Not only was social science research performed almost exclusively by men, it neglected women's lives and interests, and lacked or omitted women participants. Consequently, many of psychology's classic theories (e.g., Erikson's theory of lifespan development) were derived from research findings of all-male samples, which were then generalised 'unproblematically' to all of humankind (Wilkinson, 1997). The problematisation of men's privileged position as knowledge producers and social actors has been described as one of the most important achievements of feminist research and politics (Wetherell & Edley, 1998).

In psychology, and elsewhere, feminists claim that women have consistently been compared and defined in relation to men. This has occurred whether women are described as similar to, different to, or complementary to men (Grosz, 1989; McDowell & Pringle, 1992). Male is the reference point;

male is the norm. Hence, women have consistently been constructed as 'non-men' or 'other' (Stanley & Wise, 1993), invariably in a position of deficit (Johnson, 1997). Along this line of reasoning, feminists assert that the attributes and status of men and women have been constructed around a whole series of dichotomous and hierarchical categories (e.g., rational/irrational or emotional, mind/body, strong/weak, active/passive). Whilst males have normally been associated with the first, positively valued part of each pair (e.g., rational, mind, strong, active), women have been subjugated through each pair's supposed inferior (e.g., irrational, emotional, body, weak, passive) (M. Gergen, 2001; Stanley & Wise, 1993; Tong, 1998; Tuana & Tong, 1995). The construction of the world through male eyes and in male terms has meant that women's power for naming their experiences has been taken away from them (Smith, 1988).

Psychology's characterisation of women as inferior to men, has been used to socially control and oppress women (Wilkinson, 1997). It has been used "to confine women to the kitchen, the bedroom and the nursery. It has been used (historically) to deny women access to education and to professional careers; and (more recently) to 'explain' and justify our limited success within these spheres" (Wilkinson, 1997, p. 251). The assumption that women are inferior still informs mainstream psychological research and theory in more sophisticated formulations. Wilkinson exemplifies this by juxtaposing some prevalent notions within psychology, where women are positioned as inferior relative to men, with some alternative interpretations. For example, instead of women having 'lower self esteem', this could be contrived as men being more conceited than women. Similarly, the notions that women have more difficulty in developing a separate sense of self, and lower self-confidence, could be constructed as men having more difficulty in forming and maintaining attachments, and men being less realistic in assessing their abilities.

It is not only the reproduction of the 'inferior women' that has led feminists to suppose that psychology is acutely involved in the patriarchal control of women (Wilkinson, 1997). Psychology's therapeutic, theoretical, and research focus on the individual, instead of the social context, is also implicated in perpetuating and obscuring mechanisms of oppression. For example, psychology treats post-natal depression as an abnormal or pathological aberration of 'normal happy motherhood' that occurs within the individual. Little recognition is given to the social context; the material difficulties and losses of autonomy, time, appearance, and occupational identity faced by many mothers (Nicolson, 2001; Wilkinson, 1997).

Standpoint feminists in particular also criticise scientific/quantitative methods as being 'male methods'. They claim these methods are sexist tools or weapons, which deny the voice and experiences of women, and which produce a hierarchical relationship between the researcher and the researched. Feminists have also condemned mainstream psychological research for its sexist notion of 'objectivity', where researchers supposedly produce knowledge independent of their beliefs

and values. Instead, 'objectivity' and 'subjectivity' are different names for the same thing (Stanley & Wise, 1993); 'objectivity' being the term men have given to their own subjectivity (Rich, 1979). Claims of 'objectivity' by men, and now women, minimise the researchers' involvement in constructing knowledge, and cleverly perpetuate and disguise male voice and perspective as valid knowledge. Mainstream psychology's writing also contributes to this by using language that conceals the researcher (Gill, 1998; Stanley & Wise, 1993).

In providing alternative theory and research practice to mainstream psychology, feminists located within the field of psychology have further been subject to the institution's oppressive forces and power. Like other critical approaches outside or in opposition to the mainstream, feminist psychology has been shaped, controlled, and constrained by the institutional power of mainstream psychology (Henwood, Griffin, & Phoenix, 1998; Wilkinson, 1997). For example, because of mainstream psychology's 'value-free' stance, it has arduously opposed overt politics within psychology and the formation of internal groupings clearly identified as feminist. Consequently, feminist psychological work has generally been done under the guise of "psychology of women" instead of "feminist psychology".

Even though women are now represented in psychology's enterprises, and within academia, all researchers and practitioners operate in an institution that remains profoundly patriarchal and positivist in orientation (Henwood et al., 1998). Consequently, sexism, and sexist marginalisation of feminist work continues to the present day.

However, feminists have made much progress within psychology and have changed how research is conducted. For example, most research includes women participants; when it does not, it is no longer acceptable to generalise findings to women. Other improvements include increased publication of issues relevant to women, restrictions on sexist language in publications, and gender equity in selecting, hiring, and promoting employees working within psychology (M. Gergen, 2001).

Considerations of feminist research practice

Because of the different epistemological approaches within feminism, there is no intrinsic feminist method or methodology (Burman, 1994a; Tuana & Tong, 1995). Indeed, 'appropriate' research practice is controversial and contested. Is quantitative methodology appropriate to use? Can men do feminist research? Should only women be included as participants? Despite the variable responses to such questions, all feminist research has the same underlying goal: it is transformative in that it works "toward the feminist project of creating an oppression-free world" (Burman, 1994a, p. 123). Women's lives are central; contributing towards improving the lives of women a primary goal (Bowles & Duelli-Klein, 1983; Duffy, 1985; Mies, 1983; Miller, 1991; Reinhartz, 1992).

There are several important expectations of feminist research, many which are relevant to the present research. First, it is important to ground research in women's everyday experiences (Burman, 1994; Driscoll & McFarland, 1989; Du Bois, 1983; Duffy, 1985; Harding, 1987a, 1987b; Mies, 1983; Miller, 1991; Nielsen, 1990; Stanley & Wise, 1993). Accessing, validating, and representing women's experiences of the legal response to male partner violence was the rationale behind the first phase of the present research.

Feminists maintain that it is important to recognise the differences that exist within the category 'women' (Harding, 1987a; Reinharz, 1992; Stanley & Wise, 1993). Women vary with regard to sexual preference, ethnicity, class, age, mental health, able-bodiedness, and so on, and hence, women's experiences, including their experiences of oppression vary. Because women participants in this research had experienced abuse in heterosexual relationships, were mainly Pakeha, were able-bodied, and currently had good mental health, their experiences with the legal system cannot necessarily be generalised to women who have abusive women partners, women who identify as Maori, Pacific Islander, or Asian, women with disabilities, or women with mental health difficulties. Indeed, the latter women might experience even more dissatisfaction with the legal system because they are being oppressed on multiple levels. Furthermore, women's experiences within any one group will also be diverse. As argued by Stanley and Wise (1993), there is not one, unseamed social reality for women; there are multiple social realities.

Feminist research should also recognise that the researcher is not superior to women participants of research; rather, they are equal. Hence, feminist research should be committed to equalising the hierarchical relationship that has generally existed between the researcher and the researched (M. Gergen, 1988a; Mies, 1983; Miller, 1991; Stanley & Wise, 1993). Although this was a consideration for both phases of the research, it was particularly relevant for the first phase because of the lesser status that society gives women (particularly 'abused women') compared to lawyers. As illustrated in the methodology chapters, an effort was made to equalise the relationship between researcher and researched by carefully attending to ethical issues, by establishing friendly interview contexts and rapport, by having semi-structured interviews, and by respecting women's right to edit their interview transcripts and stories. Semi-structured interviews gave women the opportunity to share what was important to them, and their approval and editing of transcripts and stories gave them more control over how the information they provided was represented. Validating and representing women's experiences itself is important because it reduces the elitist tendency of researchers to place more authority on their own interpretation of others experiences, or to ignore the experiences of others altogether. I certainly recognise that women participants played an integral part in this research, and I value their personal stories of male partner violence and the legal system response. Furthermore, I kept in contact with women throughout the research, and I will continue to support two women who are still involved with the legal system. When suitable, I have sent women information that they will

find useful or interesting, and have informed them of extra support services that are available when this has been requested.

In recognition of the general hierarchy that exists between women in academia and women outside academia, it is important to make research findings accessible to all women (Stanley & Wise, 1993). Once this thesis is completed, careful consideration will be given to presenting the findings in a way that is accessible to the women participants, and to women more generally (for example, in negotiation with groups such as Women's Refuge). Indeed, effective dissemination of the findings to a range of audiences will be an important part of the research process.

Because feminism has strongly critiqued psychology's adulation of 'objectivity', it is necessary to leave this concept behind, and to acknowledge that one's own position, experiences, and consciousness will be involved in the research process (Duffy, 1985; M. Gergen, 1988a, 1988b; Harding, 1987a; Miller, 1991; Reinharz, 1992; Stanley & Wise, 1993). Furthermore, one needs to make one's presence explicit and vulnerable in one's research and writing. I have attempted to do these things throughout this thesis.

Finally, all feminist work should be politically oriented and ethically answerable to women in what it achieves (Burman, 1994a; Gill, 1998). This has been a prevailing consideration throughout the development and enactment of the present research. As mentioned above, it will also be relevant when I publish and disseminate the findings.

(FEMINIST) POSTSTRUCTURALISM

Defining poststructuralism

To attempt to define poststructuralism and its key features is to stand on "somewhat shaky ground" (Gavey, 1989, p. 460). This is partly because poststructuralism resists the realist notion that objects and phenomenon are singular and fixed, and comprising some essence that can be neutrally and objectively defined. Like other objects, poststructuralism is multiple, dynamic, and constructed by those that talk and write about it. Furthermore, notions, like poststructuralism, only become understandable through continued use and exemplification (Hollway, 1989).

Poststructuralism means different things to different people. It spans a range of different disciplines including, but not limited to, psychology and feminism. It has also been influenced by a range of profoundly different founders and academic descendants (Gill, 1995). Well-known founders include Derrida, Barthes, Lacan, Kristeva, Cixous, Irigaray, Laclau, Mouffe, Althusser, Lyotard, and Foucault (Gavey, 1989, 1990; Gill, 1995; Sarup, 1993; Weedon, 1987).

In the following sections, I give only a version of (feminist) poststructuralism. This representation is limited to my interpretation of particular readings in the area; these readings being those that resonated with me (e.g., Gavey, 1989; M. Gergen, 2001; Weedon, 1987). I feel this version is useful for understanding women's oppression, and for assisting women who experience abuse, violence, and tyranny in their intimate relationships.

In brief, poststructuralism offers a radical critique of knowledge and truth. Utilising the less conventional conceptualisation of language as organised into discourses and constitutive of the social world, it provides a completely different, and hence, highly contested theorisation of subjectivity and experience than provided by mainstream psychology and by some feminisms. I now discuss several central themes of poststructuralism and feminist poststructuralism, including knowledge, language, discourse, subjectivity, political change, and reflexivity.

Knowledge

The natural sciences, mainstream psychology, and many practices of the social sciences are based on foundationalist conceptions of knowledge and reality. That is, they are underpinned by the belief that there is one, universal, unseamed reality 'out there', which is knowable under certain conditions. Indeed, scientific research aims to 'discover' and 'reveal' this reality using highly evolved methodology, replete with scrupulous, 'objective' techniques, and sophisticated statistical methods. Only particular kinds of persons have access to this knowledge, for example, those who are experts, trained, and/or scientists (Burr, 1995; Cherry, 1995; K. Gergen, 1985, 1991, 1997; M. Gergen, 2001; Lovering, 1995; Nicholson, 1990; Potter & Wetherell, 1987; Rogers, Stenner, Gleeson, & Rogers, 1995; Stanley & Wise, 1993; Woolgar, 1996).

Poststructuralism has offered a radical critique of epistemology and taken for granted knowledge, which is sometimes referred to as the crisis of representation (Gavey, 1989; Gill, 1998). Broadly speaking, the crisis of representation refers to "the uncertainty and instability brought about by the interrogation of the epistemologies that have operated as foundations for the production of (scientific) knowledge in the West for the last 300 years" (Gill, 1998, p. 19). Poststructuralism rejects the prospect of absolute truth, and it does not presume there to be a pre-existent, fixed, universal reality, nor for value-free research to be possible. Independent, neutral, and objective 'facts' simply do not exist (Gavey, 1990). Rather, poststructuralist theory views knowledge as socially constructed, culturally and historically situated, transient, and partial. Consequently, there are multiple truths and realities (Gavey, 1989).

Importantly, poststructuralism goes further than claiming knowledge and meaning to be plural, arguing that society does not consider all versions of truth and meaning to be equally valid. Knowledge is considered interdependent with power (Gavey, 1989) in the Foucauldian sense that

some knowledge is hegemonically authorised as truth (e.g., through appeals to science, commonsense, and sometimes experience), whilst other competing explanations are rhetorically marginalised and rejected.

Having recognised the plurality of knowledges and their differential status, poststructuralism provokes us to deconstruct commonsense truths (Burman & Parker, 1993; Marshall, Woollett, & Dosanjh, 1998). Because our methods of knowing become problematic, all knowledge becomes contestable: “there is no transcendent standpoint from which the ‘real’ can be apprehended” (Gill, 1998, p. 20). Scientific discourses are no longer privileged. Instead, they are considered one amongst many, and no more or no less valid. This means space is created for marginalised and oppressed groups and their previously excluded or subjugated knowledges (Gavey, 1989). Whilst some feminists have taken advantage of this potential, others have criticised poststructuralism’s approach to knowledge and truth. As discussed later in this chapter, these feminists argue that eliminating a transcendent place to judge truth undermines the voice of women and feminism, and consequently paralyses possibilities of political change.

A poststructuralist conceptualisation of knowledge has important implications for the area of male violence against women partners. Knowledge produced and perpetuated by the social sciences and the legal system about domestic violence can be challenged and deconstructed, whilst space can be created for subjugated knowledge (e.g., from women and feminism). Poststructuralism creates scepticism about taken for granted knowledge about domestic violence, and examines the power relations that are supported by such constructions.

Based on Foucault’s work, some poststructuralists examine the history (genealogy) of a particular form of knowledge practice so that attention is directed on the kinds of objects and categories these knowledge practices have produced, the subjects that are produced, and what power relations operate within this constitution (Wetherell & Edley, 1998). Historically, our patriarchal and monocultural legal system has produced knowledge that constructs domestic violence and the legal system in particular ways, which positions women and women who experience domestic violence in particular ways, which either constrain and enable women and legal personnel in particular ways.

Language

Closely connected to the poststructuralist critique of knowledge, is the assertion that “all meaning and knowledge is discursively constituted through language and other signifying practices” (Gavey, 1990, p. 22; Weedon, 1987). Hence, poststructuralism is suspicious of claims by scientists and others that it is possible to reveal a world, or experience any aspect of ourselves, outside of language (Burman & Parker, 1993). Because language has been used to categorise objects and phenomenon before our entry into the world, our experience of the world is not so much reflected by

language, but dependent on how language has categorised the world. Language constructs our social world, our sense of self (subjectivity), our experience, as well as anything else we attach meaning to (Weedon, 1987). Emotions like 'love', 'jealousy', and 'anger' are no longer cognitive substrates originating from and hidden within the individual (Burman & Parker, 1993; Potter & Wetherall, 1987). Instead these and other cognitive substrates (e.g., attitudes, prejudice) are created by the language that is used to describe them. In making this shift, attention is drawn away from particular individuals (Willott, 1998) to the spoken and written texts that construct individuals, like the social science literature, talk-back radio, and legal texts (Burman & Parker, 1993).

This poststructuralist conception of language contrasts significantly with the liberal humanist view that has infiltrated many spheres of life, including mainstream psychology. Instead of conceiving language as constructive, liberal humanism views language as transparent and expressive, reflecting and describing reality, objects, phenomenon, ourselves, and our experiences in a non-problematic and mirror-like fashion (Burr, 1995; Hare-Mustin & Marecek, 1997; Potter & Wetherell, 1997; Wetherell & Edley, 1998; Wooffitt, 1992).

For poststructuralists, the founding insight that language divides up and constitutes the world rather than reflects a universal, fixed social reality, was taken from the structuralist linguistics of Ferdinand de Saussure. de Saussure proposed that language was a system consisting of signs; each individual sign comprising a signifier (the sound or written image) and a signified (its meaning) (Weedon, 1987). For example, the sign 'psychological abuse' consists of the words 'psychological abuse' (the signifier) and its meaning (the signified). No sign has intrinsic meaning. Rather, its meaning is acquired through its difference to other signs in the language chain. The sign 'psychological abuse' gets its meaning from its difference to other signs like 'physical violence', 'sexual abuse', 'normal behaviour', and 'loving behaviour'.

Based on the work of Derrida, poststructuralism postulated that signifiers and the meanings attached by readers/interpreters are always dependent on the particular discursive context. Because of shifts in discursive contexts, meaning is multiple, changing, always open to challenge and reinterpretation, and impossible to fix once and for all (Brown, 1998; Weedon, 1987). For example, the meaning of 'psychological abuse' depends on whether the discursive context is a feminist based education group for women victims of violence, a cognitive-behavioural therapy session for a couple who want to address issues in their relationship, talk between men about their partners, or domestic violence research by a feminist-poststructuralist researcher. Additionally, its meaning is historically and culturally specific. For example, it is questionable whether 'psychological abuse' existed as a sign in New Zealand a century ago, or whether it exists as a sign today in some niches of culture. Although interpretation is at best temporary, there are important social implications of these meanings.

To assert that objects and phenomenon in the world, including self, are at least in part socially constructed by language is not to deny the existence and continued existence of a material world independent from language. Amongst other things, this would be anthropocentric. Rather, the material and social worlds only exist to humans to the extent that they are meaningful through language (Gavey, 1990).

This debate is particularly relevant to male violence against women partners. Because 'domestic violence' is interpreted, and hence its meaning is constructed in and through, language does not mean that it does not have material affects on people's lives. Domestic violence clearly has material consequences: women are killed, women bruise and bleed, women fear, and women struggle psychologically and emotionally because of violence perpetrated by their partners and ex-partners.

Discourse

(Feminist) poststructuralism is particularly influenced by the Foucauldian notion that language comprises historically, socially, and culturally specific discourses (Gavey, 1989; Weedon, 1987). Discourse has a multitude of meanings, both within and outside poststructuralism. For some poststructuralists, discourse extends beyond written and oral forms to include social practices of everyday life (Weedon, 1987). In relation to domestic violence, socially situated practice includes the meaning attached to domestic violence in linguistic interactions between people. It also includes a man killing a woman, punching her, sexually coercing her, intimidating her through body language, and/or yelling obscenities at her.

Parker (1992, p. 6) defines discourses as "delimited tissues of meaning" which are "reproduced in any form that can be given an interpretative gloss". Because of their visibility and ease of access, there is a tendency to focus on written and spoken texts when a researcher attempts to locate discourses. Within this context, discourse can be defined as a coherent system of statements that construct an object, such as domestic violence, in a consistent and meaningful way.

It is through temporally available discourses that we ascribe meaning to particular phenomenon or objects. For example, how we understand domestic violence is dependent on the discourses we have available within a particular social, cultural, and historical context. Whether we understand domestic violence as a consequence of the broader social system, as instrumental in gaining power, as a result of pathology, as an expression of inner tension, and/or as learned behaviour is dependent on our access to one or more of the discourses described in Chapter 1 (O'Neill, 1998).

As elaborated below, the different meanings we ascribe to objects or phenomenon through discourse have implications for our subjectivity. These meanings and social practices also have material effects on people lives, and produce or contest power relations (Gavey, 1989; Marshall et

al., 1998; Weedon, 1987). Burman and Parker (1993) recognise the immense power that discourses have to shape the way that people experience and behave in the world. The discourses utilised to constitute domestic violence (e.g., the five mentioned above) have implications for the modes of subjectivity available to women, children, and men, how women and men behave in relationships, and whether women stay in or leave the relationship. They also affect how domestic violence is addressed as a social problem, and the reproduction and contesting of power relationships between women, children, and men.

The meaning contained within discourses operate at various arbitrary levels. For example, discourses have been described as operating at a macro- or institutional level, and at a micro-level. The former refers to discourses that are interdependent with social structures, including social divisions where there is an imbalance of power, such as gender and class, and institutions, including any system that is regulatory, such as government departments, the law, the economic-market, medicine, education, work, the church, and the family. The micro-level refers to everyday interchanges between people. These interchanges can be as diverse as a conversation between friends, reading a magazine, a debate between a talkback radio announcer and a caller, an argument between a parent and adolescent, or a letter to the editor in the paper.

Although it is useful to refer to these separate levels in order to illuminate the ubiquitous realm in which discourses operate, the reification of the macro-level as existent in its own right, separate from the micro-level, has led to ambivalence about how it operates and is maintained. It gives the impression that the macro-level is a force that operates separately and on top of everyday practice, instead of being interdependent with everyday discursive interchanges. Indeed, 'macro-level' discourses infiltrate the micro-level; and it is through the perpetuation of discourses in the seeming trivia of everyday talk (as well as those within institutions) that social structures like gender, and institutions like the legal system, are constituted, maintained, and contested (Willott, 1998). The divide between the macro-level and micro-level becomes even more arbitrary when one considers that those operating at the institutional level (e.g., writing policy, making amendments to law) do it as part of their everyday practice. Hence, social structures and institutions are not macro-entities that operate 'down on us' from 'up there'. There is no clear division between where the macro-level ends and where the micro-level begins. The hegemonic power relations that operate in social structures and institutions are only possible through their reproduction in everyday interaction. In effect, they are inseparable.

As alluded to above, discourses produce and reproduce differential power relations (Gavey, 1989, 1990; Marshall et al., 1998; Weedon, 1987). The degree to which meanings are vulnerable to subjugation at a particular moment will depend on the discursive power relations within which they are located. Dominant discourses, which are strongly implicated in the maintenance of hegemony

are considered more legitimate than others within particular contexts, are in wider circulation, and are particularly effective because they have a material base in established social institutions and practices (Weedon, 1987). They are often privileged by incorporating appeals to science, nature, God, or commonsense. Other discourses are marginalised: they are considered less valid, less credible, and are less accessible¹. Consequently, the 'reality' constructed by marginalised discourses may be unavailable to certain groups, including those whom these discourses might benefit (M. Gergen, 2001).

Hegemonic power relations are most effectively maintained by discourse when subjects reproducing them are unaware of the deleterious effects of them on their lives, when their interests appear served, and/or when the discourse appears neutral (Gavey, 1990; Weedon, 1987). So, though particular discourses might maintain certain hegemonic relations and be used by those that benefit from that hierarchical position, these discourses can also be perpetuated by those who are oppressed by them.

Feminist poststructuralism is particularly interested in the discursive reproduction of meaning which construct and reinforce gender-based power relations which oppress women (Willott, 1998).

Subjectivity

Like other objects and phenomenon, (feminist) poststructuralism considers subjectivity (our sense of self), to be constituted and reconstituted discursively in the social realm through language and discourse (Burman, 1995; Burman & Parker, 1993; Burr, 1995; Gavey, 1989; Hollway, 1994; Parker, 1992; Weedon, 1987). This is in stark contrast with humanist assumptions, which inform and shape the social organisation of Western society. Humanist discourses presuppose an inherent essence at the heart of the individual which is unique and fixed: a self that is unified, coherent, and rational, who is the author of her/his experiences and their meanings (Burr, 1995; Gavey, 1989; Weedon, 1987). Such conceptions of the self are informed by the commonsense notion that language is transparent and descriptive, and hence, can be used to describe and express the 'inner' self. Much social-psychological theorising of mainstream psychology perpetuates a humanist discourse (Willott, 1998).

Against this, (feminist) poststructuralism asserts that language, through discourses, makes available subject positions for us to take up (Davies & Harre, 1990; Gavey, 1990; Parker, 1992; Wetherell & Edley, 1998). Some discourses refer directly to the subject, whilst others make subject positions

¹ This is somewhat simplified. As pointed out by Weedon (1987), discourses do not exist in simple bipolar relations of power and powerlessness. The same discourse can be utilised with many different effects.

available more indirectly. For example, the expressive tension discourse of domestic violence indirectly refers to a violent subject who has little or no control of the inner tension within him. A statement consistent with a pathological discourse (e.g., “he’s a crazy animal”, or “there’s something wrong with her for being with him”) directly refers to the subject. People referred to by a discourse either accept or reject the subject positions offered, taking up a position either way (Parker, 1992). This conceptualisation of the subject means we are not passive vehicles of discourse, which make perpetuation of discourses possible (Weedon, 1987); we have choice in the positions we take up in relation to discourses that are available (Gavey, 1989, 1990). The subject positions taken up through a discourse subsequently constrain and enable what that subject can do and say (Davies & Harre, 1990), that is, the manner in which one conducts oneself (M. Gergen, 2001).

Because of the multiple and often contradictory discourses utilised in ascribing meaning to objects and phenomenon in our social world (including the self), subjectivity is consequently multiple and contradictory, and to some extent incoherent (Gavey, 1990; Henriques, Hollway, Urwin, Venn, & Walkerdine, 1984; Weedon, 1987)². As asserted by Sarup (1993), the subject should be understood as a locus of multiple, dispersed or decentred discourses.

Not only does (feminist) poststructuralism propose a socially produced subject who is fragmented, inconsistent and contradictory (Gavey, 1989, 1990), it is a subjectivity which is “constantly being reconstituted in discourse each time we think or speak” (Weedon, 1987, p. 33). S/he is fluid and shifting, dependent on the different discourses operating moment by moment, within a particular social, cultural, and historical context (Willott, 1998). Hence, a woman who has not left an abusive relationship might be positioned in different contexts (e.g., within a domestic violence education group, in counselling, by her friends, by her lawyer), by herself and/or others, as: unable to escape because of the power and control tactics of her partner; unsupported by social institutions and wider society; suffering from a ‘condition’ known as ‘learned helplessness’; committed to her relationship, family, and partner through ‘thick and thin’; and/or ‘crazy’, ‘mentally deficient’, or ‘irresponsible’ for remaining in a situation which is not in hers or her children’s best interest. She is multiply positioned all the time.

Women who experience violence in their relationships are not only positioned by discourses that construct domestic violence. A woman is further constrained or enabled by her subject position within discourses that construct other objects. For example, women are also positioned through discourses about race, sexuality, marriage, motherhood, spirituality, employment, unemployment, smoking, fitness, love, and so on. How a woman positions herself, and how she is positioned by

² Because of the popular conception of self as unified and coherent, we usually experience ourselves as coherent beings. This is further enabled through socially prevalent linguistic devices, such as narratives.

others, will depend on what is brought to the fore within a particular discursive context. Her subjectivity is surely multiple, inconsistent, and fluid. In this way, subjectivity resists being pinned down. In a different social, cultural, or historical context, other constructions of self would be available.

As mentioned earlier, our location in discourse brings with it an array of different power relations (Brown, 1998). The variety of experiences of oppression needs to be acknowledged. Not only can someone be multiply positioned as both privileged and subordinate in relation to a range of hierarchical binaries (e.g., women, Maori, lesbian, middle-class, and able-bodied), because of the multiplicity of discourses and subject positions available about being any one of these, one's actual position in relation to oppression/power is even more complex, and continually shifting dependent on how one is positioned in a particular context at any one time. As Foucault suggests, power infiltrates everything, like a network with threads everywhere (Sarup, 1993).

Political change: Is it possible to emancipate women from oppression through feminist poststructuralism?

As described in the first part of this chapter, feminism has a strong political commitment to emancipating women from oppression and subordination. It aims to promote women's rights and interests and to change existing power relations between women and men in society. So, how does feminist poststructuralism theorise change?

Weedon (1987) claims that "we need to theorise both women and language in a way that opens them up to political change" (p. 82). As described above, feminist poststructuralism conceptualises oppressive gender relations to be constituted, reproduced, and challenged through a multitude of temporally, socially, and culturally available discourses (Gavey, 1989; Weedon, 1987). Because discourses are not stable and fixed, and subjectivity is not intrinsic or essential in nature, possibilities are opened up for contesting power relations and innovating social transformation. New, more empowering discourses and subjectivities may be made available for those in oppressive social relationships, such as women, Maori, gay persons, disabled persons, and so on. Feminist poststructuralism also opens up the possibility of more empowering subjectivities for those who are part of a binary norm, but marginalised by it, e.g., the subordination of some men by other men (Willott, 1998).

Weedon (1987) claims that an understanding of how discourses are mobilised in a particular society, at a particular time, is the first stage in intervening in order to initiate change. Raising awareness of the utilised discourse, and their effects and implications for women is important. Discourses with negative implications for women can then be deconstructed, and more empowering discourses perpetuated or constructed. The second phase of this research examines lawyers'

discourses of domestic violence and the legal response to domestic violence, as well as the implications of these discourses for women who are abused by male partners and ex-partners. In doing this, this research hopes to take a step towards initiating social change.

Unfortunately, as Willott (1998) mentions, change is not an inevitable outcome of using a poststructuralist stance. Neither does the use of alternative discourses lead automatically to alternative non-oppressive social forms (Parker, 1992). A discourse can have a multitude of effects, some positive and some negative. This means that 'emancipatory' discourses for women and other oppressed persons can sometimes be used in another context with deleterious effects.

Weedon (1987) has identified several factors that enhance the likelihood of change. First, change is more likely when physical coercion has no role in blocking social change, and when there is a negligible effect on those who benefit most from using existing (oppressive) discourses. It is also more likely when the discourses and social positions which afford change make sense to and fit the experience of those who will benefit most from using them. Finally, change is also more likely when there is space to develop new discourses. Such space exists when discourses that consider change possible are circulating, as opposed to discourses that imply things can never be changed and it is unrealistic to try. These factors have relevance for changing oppression caused to women through domestic violence and through the legal system. For example, for women to be free from violence in their lives, this possibility needs to be available. Discourses that construct domestic violence as inevitable obstruct change. Furthermore, discourses that significantly affect the status enjoyed by heterosexual men and the legal system will be resisted more strongly than those that have a negligible impact on these groups.

Implications for the conceptualisation of experience and women's stories/narratives of their experiences

As described in the first part of this chapter, feminism brings women's experience to the fore and hence renders the personal as the political. Giving a voice to women both challenges the past androcentric bias of academic work, and ensures that women are heard, and continue to be heard where they have been previously silenced (S. Jackson, 1998). It is through raised awareness of women's experiences that women's oppression can be addressed and changed.

In accordance with feminism, feminist poststructuralists also consider women's experiences as very relevant. However, feminist poststructuralists conceptualise 'experience' quite differently. From a (feminist) poststructuralist perspective, experience is never separate from the way it is talked about and conceptualised (Smith, 1997). Whereas liberal-humanists consider experience to exist prior to its expression/reflection by language, (feminist) poststructuralists consider experience to be

constituted in language (Gavey, 1989, 1990; Hollway, 1989; Marshall et al., 1998; Weedon, 1987), and open to a variety of contradictory and conflicting interpretations (Weedon, 1987).

What we experience, and the accounts we give of that experience, are contingent on the meanings/discourses we have access to at a particular time and within a particular context. Not only will our understanding and experience of an event be constrained to the meaning we can attach to it whilst it occurs, but it is possible that how we describe/remember that same experience might change over time. Consider the example of a woman whose partner restricts her social interaction with others because he claims that “he doesn’t like other men looking at her and wants her all to himself”. She might interpret this to mean her partner really loves her and cares about her; that she is in a healthy relationship with a man who is acting normally. Alternatively, she might interpret this as intentional manipulation and control; that she is in a psychologically abusive relationship with a man who wishes to have power over her in the relationship. How she experiences her partner’s behaviour at the time of occurrence and how she describes and remembers it later will depend on which of these (and other) meanings/discourses she has available. It will also depend on the context where she is recounting her experience, for example, whether she is describing the situation to her friends and family whilst she is still in the relationship, or to a group of women who have just listened to a feminist-based documentary on psychologically abusive relationships. Hollway (1989) also adds that people’s accounts are contingent on the self-threatening implications of particular versions; some meanings are more anxiety-producing than others are. In this way, discourses and their subject positions might be rhetorically managed to avoid anxiety.

Because experience involves reflexive construction of meanings, it can no longer be considered as given (S. Jackson, 1998). In other words, even at the time of original occurrence, because we give an “interpretative gloss” (Parker, 1992, p. 6) to what is occurring, it can not be considered as a true reflection of some underlying reality.

In rendering accounts of experience problematic, remembered experience becomes a narrative construction, rather than a ‘true reflection’ of past events (Hollway, 1989; S. Jackson, 1998). According to Jackson, a narrative is quite simply a story: “a form in which we typically recount remembered events and experiences”, entailing processes of “representation, interpretation and reconstruction” (p. 49). In the process of constructing narratives, we draw on available discourses, and construct a sense of self. Not only are our accounts and narratives important in constructing our subjectivity (Hollway, 1989), the relationship is reciprocal. That is, the modes of subjectivity we take up constrain or enable the accounts and narratives we can provide.

As discussed further in the Chapter 5 (the narrative methodology chapter), this feminist poststructuralist theorisation of experience has implications for how women’s experiences are

understood in a research context. First, the interpretative and constructive component of participants' accounts is realised. Similarly, when researchers reproduce accounts of women's experience, these re-presentations are also conceptualised as constructions, based on interpretation and contingent on the researchers' own location in particular discourses (Gavey, 1989, 1990). Likewise, the audience can attach a multiplicity of meanings to these re-presented accounts.

Second, in obtaining accounts through interviews, feminist poststructuralists also consider the specific context within which women participants produce an account of their experience. For example, participants accounts are dependent on hierarchical positioning practices between the interviewer and interviewees, the questions that are asked and how these are interpreted, and the time that is available for the interview. They are also affected by the reason interviewees have for participating, and their understanding of the purpose of the research. Different contexts could produce alternative accounts of these women's experiences. Alternative accounts are not necessarily more true or false than others that are narrated. To judge their truth would be adhering to the assumption that it is possible to do so, and would assume that language reflects pre-existent experience independent of language (Hollway, 1989). Rather, our focus should shift to the conditions in which accounts are produced, to the different discursive resources they utilise, to the subject positions they offer, and to the effects these have for continued oppression of marginalised persons.

Perhaps not surprisingly, the conceptualisation of experience by feminist poststructuralists has been criticised by other feminists with a different epistemological stance. This is discussed further below, in the section on the uneasy relationship between feminism and poststructuralism. I argue that considering accounts of experience as discursive constructions need not be considered a tension in practising feminist poststructuralist research.

Implications for reflexivity and writing

Reflexivity has been considered an important component of doing feminist poststructuralist work (Burman, 1998; Gill, 1995, 1998; Henriques et al., 1984; Henwood et al., 1998). Being reflexive incorporates many things. It is to acknowledge our own texts and re-presentations of others' narratives as construction, and to make explicit our own historic and cultural position in academic, feminist, feminist-poststructuralist, and other discourses (rather than leaving this covert). It also includes being politically accountable. That is, to consider the effects of our research and constructions on women and other oppressed groups, to theorise gender without reproducing pathological discourses of gender, and to make political action part of the research process. It also involves reflecting back to readers the problems of enquiry at the same time as the enquiry is conducted. Finally, it is to make ourselves present in our writing (Gill, 1995, 1998; Henwood et al., 1998; Hollway, 1989; S. Jackson, 1998; Willott, 1998).

Interestingly, Gill (1998) claims that postmodern writing has generally mirrored the mainstream's lack of attention to writing in traditional texts. That is, writing has continued to remain "for the most part invisible, naturalised, and treated as if it were simply the neutral disinterested recording of research" (Gill, 1998, pp. 18-19). For those in the mainstream, who conceive language as a reflective/representative medium, their lack of attention to writing is not surprising. However, for poststructuralists and others who consider language to be constructive and action-oriented, the lack of critical attention to our own research claims/constructions is problematic. Research and theoretical texts, whether mainstream or poststructuralist, need to be considered for what they are: rather elaborate rhetorical accomplishments. As mentioned in the preface, this thesis is no exception. The review of the research and literature so far, and other information that I provide in this and later chapters, are not neutral, but part of an argument; an attempt to engage the reader and persuade her or him that: male violence against women and children is harmful; the legal response to such violence should be improved; research on the experiences of women, and discourses of lawyers is necessary; feminist poststructuralism is a useful theoretical stance; the methodologies chosen are suitable for the two phases of the research; and that the findings are justified. My writing is undeniably linked to my position as a feminist poststructuralist researcher.

FEMINISM AND POSTSTRUCTURALISM: THEIR TENSIONS AND COMMON GROUND

There is much debate about whether poststructuralism is compatible with or useful for feminism (e.g., Henwood et al., 1998; Nicholson, 1990; Wilkinson & Kitzinger, 1995). They have been described as both natural allies and uneasy bed-fellows (Nicholson, 1990; Willott, 1998).

In this section, I start by briefly describing what feminism and poststructuralism have in common. I then discuss how feminist poststructuralists have managed several feminist criticisms against poststructuralism.

Their common ground

It is argued that poststructuralist theories of discourse can coexist with a feminist approach and can even be instrumental to it in many ways (Seu, 1998; Willott, 1998). Both share a critique and scepticism towards traditional social science knowledge and other hegemonic knowledge. Indeed, "it was partly feminist attacks on social science knowledge which heralded the crisis of representation in postmodernism" (Gill, 1998, p. 23). In critiquing knowledge, both have attacked the notion of objectivity, claiming the producer of knowledge is relevant. That is, their position in the world in terms of gender, class, ethnicity, and so on, is significant and should not be concealed. It is this notion which informed feminist claims that "truth" merely reflected the experience of white Western males and, more recently also, white middle-class feminists (Gill, 1998; Wetherell & Edley, 1998). Hence, both have provided a critique of assumed truths and the truth claims of dominant groups

(Willott, 1998). Along with feminists, poststructuralists have also shared an interest in explicating how traditional writing has been used to systematically efface the producer of the text (Gill, 1998).

Feminism and poststructuralism also share an emphasis on the importance of language. Both are sensitive to issues of power and oppression, emphasising its presence in everyday social practice (micro-level), and social structures/institutions (macro-level). *Feminist* poststructuralism is particularly aligned with feminism because it theorises how language is utilised (through discourse) to create and perpetuate power relations that oppress women. Poststructuralism further highlights the inevitable messiness of these power relations.

In briefly mentioning the common ground, it is also important to illuminate that the common ground between feminism and poststructuralism is constricted or expanded depending on the version of feminism and poststructuralism that one is considering. For example, Stanley and Wise's (1993) feminist position, which they advocated for almost two decades ago, shares much in common with feminist poststructuralism. Furthermore, because feminist poststructuralism is an integration of feminism and poststructuralism, it is more closely aligned with feminism than other versions of poststructuralism. Both are committed to eliminating oppression in women's lives; both start with the particulars of women's lives, and hence, render the personal political; and both recognise the complex power relations that arise in the course of doing research (Willott, 1998).

Tensions

Feminism has made several criticisms of poststructuralism. As discussed now, it has criticised poststructuralism's untimely emergence, its lack of attention to gender, and its inaccessibility to women and much of academia. Feminism has also criticised how poststructuralist relativism renders it apolitical, how it decentres the subject, and how it undermines women's experience and their accounts of their experience.

Poststructuralism's untimely emergence³, and blindness to gender

Suspicion and hostility has been raised by feminists about the timing of poststructuralism's emergence (Stefano, 1990; van Mens-Verhulst, 1998). More specifically, it is argued that it is more than coincidence that at the same historical moment that women and other marginalised groups start speaking out, self-theorising, and claiming an agentic subjectivity, the concepts of subject and truth are made problematic (Stefano, 1990). This is particularly concerning when one considers that the founders of poststructuralism arguably belong to the Western, white, male elite; a group that has typically oppressed and marginalised women and other ethnic groups.

³ This is also referred to as "the timing of the funeral" (van Mens-Verhulst, 1998, p. 202).

When one considers the social position of poststructuralism's founders, it is perhaps not surprising that much mainstream poststructuralist theory has been "remarkably blind and insensitive to questions of gender in its own purportedly politicized rereadings of history, politics, and culture" (Stefano, 1990, p. 76). Nor is it surprising that this lack of attention to gender has attracted criticism from feminists.

Whether the emergence of poststructuralism was a deliberate attempt to quash marginalised groups, like women, when they were gaining gusto, or whether the potential for poststructuralism to do this was an unintended or little-considered consequence, feminist poststructuralism does not suppress feminism's fervent aim to liberate women from subjugation. Nor is it blind to gender. Indeed, as illustrated above, like feminism, feminist poststructuralism is strongly committed to liberating women (and other marginalised groups) from oppression. It also theorises how oppressive power relations between men and women are constituted, perpetuated, and challenged through language and discourse.

Although feminist poststructuralism stems from poststructuralism, Weedon (1987) advocates that it is important to consider the political potential and usefulness of a theory, regardless of the authors own affiliations or use of it.

Poststructuralism's inaccessibility

Based on the commitment by many (but not all) feminists to ensuring their writing is clear and accessible to women within and outside academia, poststructuralism has been accused of being inaccessible and excessively complex semantically (Gill, 1998; Henwood et al., 1998). Consequently, the audience to much poststructuralist work is very specialised even within academia.

Up to a point, I believe this criticism is well founded. During the time that I familiarised myself with poststructuralism, I experienced the opaqueness and abstractness of the theory and writing. Whilst I understood that some poststructuralist authors circumvent definitions of concepts in fear of reifying them as discrete, singular, fixed objects, I found this often made reading frustratingly laborious. I also resented extremely lengthy sentences that were crammed with excessive jargon and long strings of multi-syllabic words⁴. Indeed, I am almost certain that the style of writing and abstractness of theory influenced my navigation through poststructuralism at times.

⁴ Having just criticised some of the poststructuralist material I read, I am left wondering how I would have found this very chapter at the outset of my journey. Although I have attempted to explain the theoretical assumptions that inform my research as simply as possible, my own immersion and increased awareness of this 'abstract' approach may mean I have underestimated the complexity of my own explanations.

However, in defence of the complexity of poststructuralist theory and literature, one might expect cognisance to be prolonged and difficult when presented with such a radical approach. Poststructuralism critiques the very assumptions (e.g., about reality, knowledge, subjectivity, and language) we have been subject to in almost all other spheres of our lives. Furthermore, any new terminology takes time to comprehend. In the poststructuralist literature, this is exacerbated because some concepts have been ascribed different meanings by the disciplines that have informed poststructuralism.

Regardless, because of criticisms of inaccessibility, feminist poststructuralists should write as simply as possible, and consider their audience. Whilst the complexity of this thesis is tailored to a largely academic audience, the summary reports for women and lawyer participants will be worded as intelligibly as possible. Other reports, articles, and seminars I prepare will also be worded carefully so that women survivors of male partner violence benefit, and the potential for political change is maximised⁵.

Relativism and political paralysis

One of feminism's most rampant criticisms of poststructuralism is that its relativism renders it apolitical. This is because poststructuralism treats all knowledge claims with scepticism, asserts no version of the world is fixed, and considers all knowledge/versions of the world to be historically and culturally bound and provisional. As mentioned earlier, from a poststructuralist perspective, there is no transcendent place to determine the 'realness' of a particular claim to truth, and hence all claims become contestable (Gill, 1995). As no version of truth is free from this questioning and scepticism, feminism as an enterprise is transformed into just one of many competing and antagonist versions of the world. Not only is the foundation of feminism (and all other disciplines and theories, including poststructuralism) shaken by this, but so are the claims of the women that feminism is politically committed to representing. Indeed, as Willott (1998) remarks, because feminism is a practical social movement that is "interwoven with emancipatory politics", relativism has become "a theoretical and political thorn in the poststructuralist flesh" (p. 185).

In response to this, Gill (1995) has advocated for a combination of epistemological scepticism and passionate inquiry which has become known as a politically informed relativism (Gill, 1995; Marshall, et al., 1998). Here, she claims that because there is no way to guarantee or distinguish truth, political effectiveness or value must be positioned at the heart of the analyses. Furthermore, she denounces the importance of attaining truth in attaining social transformation. Echoing Flax (1992),

⁵ It would be misleading to suggest that the research findings will be accessible to all. This is because not all persons are literate, use English as a written or oral language, are intellectually able, or likely to come into contact with the dissemination of findings.

she suggests that to believe truth will bring liberation is to indulge in a “dangerously blind innocence” (Gill, 1995, p. 178). Just as ‘false’ knowledge is used to perpetuate oppression, establishing the truth or being closer to the truth is no guarantee that oppressive social relations will change. In this way, feminist poststructuralism resists being value-free, and takes on board the challenge to be politically useful.

Several ideas have been proposed to assist feminist poststructuralism be politically useful. First, feminist poststructuralists should be accountable to the goal of feminism and the emancipation of other oppressed groups (Gill, 1995; Willott, 1998). As part of this, political action should be part of the research process (Willott, 1998). Not only should we provide research reports and articles that are politically useful to the respective audiences (Marshall et al., 1998), we should feel accountable for our interpretations and findings, and situate these in the political realm where they can be interrogated and argued about. Hence, feminist poststructuralism need not be politically paralysed. By taking on a position of politically informed relativism, feminist poststructuralists propel themselves into the political realm, and in my opinion, effectively avert this criticism.

Antagonism surrounding the decentring of the subject

Feminists have also claimed that poststructuralism’s view of subjectivity undermines the self that feminists have struggled to achieve in their plight to eliminate oppression (Weedon, 1987). That is, the notion of a fragmented, inconsistent, and contradictory subject, who is socially constructed by discourse each time we think or speak, supposedly collides with the humanist and essentialist self advocated by many feminists (and mainstream psychologists). In poststructuralism’s defence, advocating that we are socially constructed within discursive practices, does not exclude the feeling many have of a coherent, unitary, and stable self. This is because of the pervasiveness of liberal humanist discourse.

Furthermore, although the poststructuralist notion of subjectivity as fragmented and inconsistent has generally been considered by feminists to have negative implications for women, it need not be judged in this way. As Weedon (1987) has pointed out, many women acknowledge feeling different persons in different situations, because of the different modes of femininity that are expected whilst working, mothering/caregiving, romancing, and so on. Rather than feeling fraudulent or unhealthily fragmented, women can be comforted with the normality of this inconsistency, considering it a consequence of the multitude of discourses in operation and the multitude of subject positions they offer.

Feminist poststructuralism does not remove subject agency either. Indeed, it theorises a “thinking, feeling subject and social agent” who is “able to reflect upon the discursive relations which constitute her and the society in which she lives, and... to choose from the options available”, albeit her

existence in hierarchical power relations (Weedon, 1987, p. 125). Very importantly, in theorising subjectivity in this way, women are not reduced simply to biology or other fixed orders. Rather, through language, the possibility of political change is opened up (Weedon, 1987; Willott, 1998).

Also, despite claims that poststructuralists have deconstructed women as a gender into oblivion, most feminist poststructuralists would claim that as long as women are categorised as 'women', we have a firm place to stand and advocate from. Whilst recognising our affiliation as women, poststructuralist versions of subjectivity are also useful for highlighting and explaining the differences between women resulting from power relations of class, race, and sexual orientation. In this way, feminist poststructuralism actually deflects criticism directed towards feminists of universalising theories that reflect the viewpoints of white, middle-class women (Nicholson, 1990; Stanley & Wise, 1993; Weedon, 1987).

Undermining women's experience by treating it as text

As discussed previously, feminism promotes the need to give women voice (S. Jackson, 1998), and argues that women's experiences constitute a key resource for knowledge production. Although the precise nature of this is highly contested (Gill, 1998), the dominant assumption in much feminism, and society in general, is that experience gives access to truth (Weedon, 1987). Typically, feminists take women's accounts at face value because of the egalitarian commitment of the researcher to the researched (Hollway, 1989).

Opposed to this, poststructuralism considers experience to be contingent on language and the discourses available to interpret ourselves and what is going on around us. Accounts of experience are not considered a direct reflection of subjective reality or fixed once and for all. Rather, they are representations of experience, which are dependent on the discourses one has access to at a particular time and within a particular context. Consequently, some feminists have been critical that poststructuralism undermines the voices of women that they are actively representing (S. Jackson, 1998).

In response to this criticism, it is important to point out that the problematisation of experience is not exclusive to poststructuralists. It has also been the prerogative of some feminists for some time (S. Jackson, 1998). For example, Stanley and Wise (1990) postulate that experience is always subject to lay theorising and hence constructed.

Second, feminist poststructuralists should not stand accused of undermining women's accounts. Whilst accounts are considered discursively constructed like everything else that is given meaning, this does not imply that they are false. Indeed, feminist poststructuralists try not to get entangled in the dichotomy of truth and falsity: to ask questions about truth or falsity of accounts assumes that

there is a prior experience which words then represent, and that determination of truth is possible (Hollway, 1989). Instead, feminist poststructuralists are attentive to considering the conditions in which accounts are produced, the different discourses that are drawn on, and the subject positions that are available to different women and men. It is these things which are important in determining power relations, and hence, the material perpetuation of (differential) oppression in the lives of women and other marginalised persons. The material reality that structures women's experience is not denied (S. Jackson, 1998). As Stanley and Wise (1993) suggest, what we experience as real has real material consequences in our lives.

In summary, the feminist poststructuralist stance is a "means of taking personal experience seriously whilst recognising that it is always and inevitably a construction" (S. Jackson, 1998, p. 60).

Conclusion

Feminist poststructuralism is a useful theoretical stance, which can challenge and deconstruct oppressive knowledges, and open up space for marginalised groups to speak of their realities. It argues that oppression is maintained, perpetuated, and resisted in socially, culturally, and historically situated discourses. These discourses offer subject positions that constrain and enable the persons that take them up or resist them.

In the present research, narrative methodology was utilised to represent women's experiences with the legal system, and discourse analysis was used to examine lawyers' discourses of domestic violence and the legal response. These methodologies, which are discussed in the next chapters, are both consistent with feminist poststructuralist theory.

METHODOLOGY/METHOD FOR THE NARRATIVE REPRESENTATION OF WOMEN'S EXPERIENCES OF USING THE LEGAL SYSTEM FOR PARTNER VIOLENCE

As mentioned in the preface to the thesis, the present research project has two main components. First, it explores how well the legal system serves the needs of women who experience abuse and violence from their partners and ex-partners, and second, it explores how lawyers make sense of domestic violence within the context of their work. The former phase of the research aimed to find out and represent women's satisfaction with different aspects of the legal system. This included their experiences of legal personnel, the Family and District Court, protection orders, and child custody and access issues. For reasons I discuss shortly, narrative representation was considered a useful way to present women participants' experiences of the legal system. The second phase of the research aimed to explore the meaning that lawyers give to domestic violence, psychological abuse, victims and perpetrators of domestic violence, protection orders, and the legal response to domestic violence. Discourse analysis was considered an appropriate way to examine this. Consequently, there are two methodology chapters for the present research project. The current chapter addresses methodology specific to the narrative representation of women's experiences of the legal system. Chapter 6 addresses the discursive analysis of lawyers' talk about domestic violence and the legal system.

In this chapter, I start by discussing why it is important to represent women's experiences of the legal system as it relates to partner violence. I then introduce narrative inquiry, and how 'narrative' has been conceptualised and utilised in the present research. I also discuss several issues relevant to narrative methodology. This includes Labov's (1997) structural approach to narratives, the contextual factors that influence narrative production, the multiple levels of representation involved in representing experience and someone else's experiences of events, and the ethical concerns that arise when researchers represent others' experiences. In the latter part of the chapter, I outline the method used to collect and represent women participants' experiences of domestic violence and the legal system. I describe the recruitment process used to involve women participants, the interview process, the transcription of these interviews, and the method that was used to narratively represent what the women told me during the interviews. Lastly, I discuss ethics that were relevant to this phase of the research, including two ethical problems that were encountered.

Why represent women's experiences of the legal system?

In a feminist research project examining lawyers' explanations of partner violence and the legal response to this violence, it was critical to first learn of and represent the experiences of women who have been involved with the legal system in relation to domestic violence.

First, in accordance with feminist theory and research practice, women's experiences (and their accounts of their experiences) were considered a legitimate form of knowledge, worthy of representation. Enquiring after, and representing, women's experiences of the legal system gave women survivors of male partner violence a voice where this has previously been silenced, dismissed, or overlooked. As pointed out by Carbonatto (1994), "despite the rhetoric that spousal abuse will not be tolerated and offenders will be treated just 'like other criminals', not enough thought has been given to the experiences, thoughts, or feelings of actual victims" (p. 24). Instead, the 'success' of the legal response to partner abuse is all too often gauged in terms of cost-effectiveness, numbers of arrests, and clearance rates (Carbonatta, 1994). Hence, including women survivors in the present research and representing their accounts of their experiences with the legal system gave them an opportunity to speak, be heard, and have their experience affirmed. Other researchers interested in the legal response to domestic violence have also advocated the need to do this (Busch et al., 1993; Hilton, 1993; Seuffert, 1994). Interestingly, the phenomenon of losing voice within the legal system was explicitly mentioned by women interviewed for the present research:

Jenny: "You never feel, really feel like you've got a voice when you get entangled in the legal system... that's been my whole experience. And that's interesting because I've talked to a lot of women who have felt similar."

Also consistent with feminist theory and practice, this process hoped to contribute towards political change for women. Raising awareness of the problems women face was considered an important step towards initiating change, specifically for women who are oppressed in their heterosexual relationships and/or by the legal system.

In sharing their experiences of the legal system, I also hoped women participants would find their involvement in the research personally empowering (feedback I received suggested it was). Their accounts and perspectives were considered valuable, and they knew that positive change for women like themselves was an intention of the research. Several women disclosed that they had participated at least partly for this reason. That is, they hoped the legal system response to partner violence would improve for other women who needed to use it.

Learning about women's experiences was also considered valuable in anchoring and contextualising the research for myself and readers of this thesis. Hearing their stories provides us with some awareness and understanding of what (some) women who use the legal system in relation to domestic violence encounter, as well as the effects this has on them. Although my involvement with Women's Refuge and Manawatu Women's Learning Group had enriched my understanding of men's violence against women, I thought my understanding of women's legal experience was somewhat limited. As a Women's Refuge advocate, I had supported one woman throughout her legal proceedings, mainly by attending appointments with her. I had also heard a few women refer to their experiences of parts of the legal system (particularly the police) through facilitating women's education groups. However, I still thought much could be learned from women sharing their experiences of the legal system as a topic in its own right, particularly as it related to their own experience of partner violence. Indeed, this broadened my understanding of what women encounter, and ensured I was well informed before I interviewed lawyers on topics that women considered relevant¹. As mentioned above, I also hoped to raise others' understanding of what women encounter when they use the legal system. Representing women's experiences as readable stories, or narratives, is an appropriate way to do this (Polkinghorne, 1995).

Narrative inquiry

Over the last decade and a half, many social scientists, including those in psychology, have become increasingly interested in narratives and narrative analysis (Freeman, 1993; Murray, 1999; Polkinghorne, 1988, 1995; Riessman, 1993; Sarbin, 1986). "According to narrative psychology... we are all storytellers and live in a storied world. Narratives or stories permeate our everyday life such that we interpret the world and define ourselves through stories" (Murray, 1999, p. 47). The impulse to narrate occurs across cultures, social backgrounds, and the life span (Riessman, 1993).

Within this approach, stories/narratives are conceptualised as a linguistic form that brings a sense of order and meaning to the countless number of often chaotic and incompatible events that constitute our lives. They assist us to construct and describe our experiences and our lives as they occur through linear time. "Just as a painting is a *visual* representation which shapes or configures *space*, so narrative is a *verbal* representation of reality which shapes or configures *time*" (Vanhoozer, 1991, p. 37).

Narratives linguistically organise events and actions that occur in a temporal dimension through use of a plot. A plot delimits the period of time over which relevant events and actions contribute to a

¹ As mentioned in Chapter 6, I also familiarised myself with the criminal court context to broaden my understanding of the legal system.

particular outcome (Polkinghorne, 1995). In the present research, the boundaries of time extended throughout women's experience of partner abuse and their use of, or involvement with, different components of the legal system; the outcome was women's satisfaction or dissatisfaction with the legal system, and their protection, or not, from abuse. In sharing their experience of the legal system, women also drew on narratives where the plot established the beginning and end of much narrower segment of times. For example, individual women meaningfully storied a specific series of events and actions occurring within a particular hour of a lawyer's appointment, or a criminal court trial cross-examination. The plot determines which happenings are directly relevant to the outcome and end of the story, and hence those that are storied (Carr, 1986; Polkinghorne, 1995). For example, if a plot concerned a lawyer's inappropriate treatment of a woman during the process of writing her affidavit, central events and actions were shared (e.g., the lawyer's rude remarks) and insignificant ones were not (e.g., what her lawyer was wearing).

Within narrative psychology, researchers often collect stories through interviews, which they then analyse or represent in some way (described shortly). Whilst science-based traditions have subjugated storied narratives as unacceptable - with the "power to lead people dangerously astray" - narrative researchers treat these stories as a legitimate form of knowledge (Polkinghorne, 1995, p. 9). This is consistent with a feminist approach, in which women's stories are heralded and reclaimed as relevant.

Polkinghorne (1995) has identified two main types of narrative inquiry. The first he labels 'analysis of narrative'. In this type of inquiry, researchers collect stories as data (e.g., through interviews, or from a variety of sources) and analyse them so that they might recognise particular instances of notions or themes that appear across them. In the second type of inquiry, which he labels as 'narrative analysis', the researcher constructs individual stories as an outcome of the research. To do this, the researcher bounds the focus of the research (for example, to women's experiences of domestic violence and the legal system), and integrates collected data of events and happenings (e.g., from an interview) into a coherent account. Polkinghorne advocates that more researchers should engage in this latter form of narrative inquiry, which synthesises the data into a coherent whole, as opposed to separating it out or fragmenting it into its constituent parts. In this way, participants' stories are not dismembered, but are more fully represented (Murray, 1999; Riessman, 1993). Not only does this form of inquiry 'fit the data', it brings "an order and meaningfulness that is not apparent in the data themselves" (Polkinghorne, 1995, p. 16). This process also enables disconnected data elements to be presented in a coherent and interesting way.

The present research utilised 'narrative analysis' for the phase of the research examining women's experiences of the legal system in relation to domestic violence. This style of analysis was thought to be more consistent with the feminist notion of women sharing 'stories' as consciousness raising². Because I *represented* women's tellings of their experience in the form of a *narrative*, I chose to use the term 'narrative representation'. This terminology was also chosen because it acknowledged the feminist poststructuralist notion that experience is never separate from the way it is talked about and conceptualised (Gavey, 1989; Hollway, 1989; S. Jackson, 1998; Marshall et al., 1998; Smith, 1997; Weedon, 1987). That is, the stories presented in this thesis are my representations of women's tellings of their experience, not mirrored reflections of their 'actual' experience (discussed in depth shortly). Finally, the terminology 'narrative representation' avoided confusion with other terms of narrative inquiry dissimilar from that used in this research, particularly that identified by Polkinghorne (1995) as 'analysis of narratives'.

The format used to narratively represent each participant's experiences of domestic violence and the legal system was developed with the feminist objectives of the research in mind. First, it had to exemplify how women personally experienced the legal system in relation to partner violence, for example, their experience of lawyers, applying for protection orders, being a witness in the District Court, resolving access issues, and so on, depending on their legal involvement. Because what women shared was valued, and meaningful and relevant to them, as much of their account as possible was included in my representation.

Second, the format chosen also had to include *their* words, not just my interpretation of what these words meant. For this reason, each story consisted of both my words and theirs in a split-page format. In the left column, I coherently organised my version of what women shared during the interview. In the right column are her words, or at least direct excerpts from her interview transcript, as they correspond with the left column. In this way, the two columns are conceptualised as a "chorus of voices" (Riessman, 1993, p. 17). The process used to format the stories is discussed later in this chapter.

As is characteristic of the 'narrative analysis' identified by Polkinghorne (1995), *individual* women's stories were represented. Individual stories were thought to better capture how the legal system *personally* affects women's lives, and hence to provide the reader with insight and understanding (Polkinghorne, 1995). Having a profile or set of women's stories alongside each other was expected to provide greater insight and understanding than any single story. Not only do these represented

² Within this feminist context, 'stories' signify women's experiences, not necessarily the organisation of experience into narratives. Sharing 'your story' about something is equivalent to sharing your experience, usually to other women, and usually for the purpose of validation and empowerment.

stories show the uniqueness of women's experiences, they exemplify common difficulties that women face when they use the legal system in relation to domestic violence (some of these are discussed in Chapter 8). Whilst the ten women interviewed are by no means representative of all New Zealand women who encounter the legal system for domestic violence, and Maori and immigrant women are particularly under-represented, the individual focus 'paints a detailed picture' for ten different women. By just summarising this group of women's experiences, or worse still, by using questionnaires or surveys to gather data from a large sample of legal service users, the richness of experience for individual women would have been lost.

Finally, utilisation of individual stories was hoped to impact the reader. "Hearing a *storied* description about a person's movement through a life episode touches us in such a way as to evoke emotions" (Polkinghorne, 1995, p. 11, emphasis added); that these stories are derived from unique *individuals* gives additional "power" (p. 18). Such impact was considered more likely to lead to action that could change oppression in women's lives.

Narrative structure

Narrative psychologists claim that we live in a world permeated by stories (Murray, 1999). Being storytellers, we utilise this culturally available resource so frequently in understanding events and our own and others' actions that narrative has been described as a part of our cognitive repertoire (Kemper, 1984). Although we utilise narratives freely without necessarily understanding the underlying components that constitute them, in the context of a thesis it is necessary to theorise how narratives are structured. This was relevant because I would be transforming somewhat unreadable interview material into a coherent, readable structure resembling a narrative. I also planned to locate and preserve narratives used by women during this narrative construction. Because stories are not always linear, clearly bounded, or easily located (Riessman, 1993), an understanding of narrative structure proved useful in the early stages for identifying women's narratives, and narratives within these narratives.

There is considerable disagreement about the precise definition of a narrative and what constitutes one (Riessman, 1993). William Labov's model of the narrative structure of personal experience (Labov, 1997; Labov & Waletzky, 1967, 1997) has been particularly influential (Linde, 1993; Riessman, 1993; Toolan, 1988). In this model, a narrative is conceptualised as a linguistic technique consisting of a beginning, middle, and an end (Labov, 1997). More specifically, a fully formed narrative consists of six elements: an abstract, orientation, complicating action, evaluation, result or resolution, and coda. Each of these elements is illustrated below using a narrative from the interview transcript of a participant known as 'Alana'. Her narrative describes/constructs her experience of Mark dragging her outside to a carshed where he takes out his rifle.

The *abstract*, alternatively known as the announcement or preface (Linde, 1993), is the first part of a narrative, and is optional (that is, this component is not always present in narratives). It provides either a summary or an evaluation of the narrative to follow. Evaluations give the audience some indication of how to understand or respond to the upcoming narrative. When a speaker provides an abstract, s/he indicates to others that s/he intends to elaborate further; that an extended narrative will follow. Of course, this is done in negotiation with an audience.

Alana indicates that she intends to tell a narrative by giving a brief summary of what will follow:

Alana: "Anyway, this particular night, something had happened. Nothing bad, just talking, I don't know what. And all of a sudden he just bloody well lost it..."

Hearing this during the interview, I expect her to continue speaking. More specifically, I expect her to tell me more about 'him losing it'.

Although not always near the beginning of a narrative, almost all narrators provide material about *orientation*. The orientation generally answers at least some of the following questions: who, when, where, and what? That is, the speaker gives information about the protagonists, time, place, and circumstances to set the scene.

Alana provides some orienting information in the abstract (repeated below) and in the clause immediately after this. She shares that it is night-time, her partner (now ex-partner) is the protagonist, something had happened (which she qualifies), and that their baby, Liam, is asleep.

Alana: "Anyway this *particular night, something had happened*. Nothing bad, just talking, I don't know what. And all of a sudden *he* just bloody well lost it. *Liam was in the cot asleep...*"

The *complicating action* of narratives answers the question, what happened next? That is, it gives the sequence of events that followed. The ordering of these events is important; presenting them in a different order can change the meaning. In Alana's narrative, this comprises a temporal series of events starting with Mark standing up and hitting a cup in her direction, right through to him pulling out a rifle.

Alana: "...And he stood up and he just hit this cup, man. Not actually at me, but in my direction. It just smashed on the mantelpiece. And I thought, 'Ah,' you know. I just was like immediately almost in shock, because it was so like scary. And then he grabbed, we lived in an old house, solid old house, and he grabbed the door and he flung it

back. And that missed me by about that much and made a big hole in the wall. And then he was like yelling, and I don't even know what he was saying. It was just like this noise, just this angry man. And he grabbed me, and he dragged, started like, well dragging me in that I wasn't, I couldn't not go because he was making me go out of the room. And like all I can remember thinking, like, my mind was pretty much a white-out, except for, 'My god, my god, please don't let him do anything to Liam, don't let him hurt Liam,' 'cause we were going towards Liam's bedroom door. And as soon as we passed that it was like, you know, this relief. And then I, he kept dragging me outside, and eventually took me out to the carshed. And I was hysterical. I didn't know what was going to happen, but I knew it wasn't going to be anything good. And funny thing, but my only instinct, I guess, made me take the blame. I didn't even know what was going to happen. I didn't even know what it was about. But I kept saying, 'It's my fault, it's my fault, I'll get help, I'll do this, I'll,' you know. And I don't even know why I was doing that, but looking back I was probably trying to calm him down, because I guess, yeah. But we got to the shed and he pulled his bloody rifle out, and I didn't know whether I was going to get shot or he was going to shoot himself. And I mean you can imagine the bloody mess I was in. And, and then he." {Rachael: "It sounds terrifying. And unpredictable as well."} "Oh, really, really unpredictable. And he just said to me, I, I'd sort of calmed him down a little bit I think, 'Please don't do this Mark, don't do this,' you know, ra ra ra ra, all the bloody carry on that you can't even really remember what it was, just a feeling for it."

The *evaluation* component is socially the most important part of the narrative (Linde, 1993). Occurring anywhere throughout the narrative, and indicated by a wide range of linguistic devices, it is the means by which the speaker conveys the significance of the story or why it is worth telling. It communicates to the audience how the story should be understood and what response is required.

Alana's narrative is full of evaluative information. For example, having mentioned at the beginning of her narrative that "something had happened" to upset him originally, she then qualified this with evaluative information:

Alana: "...Anyway, this particular night, something had happened. *Nothing bad, just talking, I don't know what...*"

By doing this, she ensures that the audience understands this 'happening' was insignificant³. It also assists the audience (me) to understand how unreasonable and volatile her ex-partner was.

Another example of evaluation is near the end of her narrative. Here, Alana directly addresses me, clarifying why she is telling me the story:

Alana: "...Why I started even telling you is that if he hadn't of done that I probably wouldn't have got my Order. Because that was quite a big thing. And I, I think I, that's what I'm saying, I think there needs to either be violence or a threat of actual physical violence before they take psychological stuff seriously and give it any weight..."

Labov's (1972) fifth narrative element is the *result or resolution*. This element tells the audience what finally happens. That is, it is the culminating event towards which complicating actions contribute.

It is quite difficult to isolate just one of these in Alana's text because narratives are rarely clearly bounded. If we consider the plot as delimited to 'the rifle incident', Alana can be seen to have induced a state of suspense in her narrative. Her audience (me during the interview, and you, now) does not know what will finally happen, in the same way that she did not. Will taking the blame be useful for Alana's immediate safety? Or does he try to shoot her or himself? As it happens, the culminating event (resolution) is expressed as:

Alana: "...And he said to me, 'If you ever leave me this is what's going to happen.' And we went back inside, and he went and got Liam out of his bed, and, and we sort of sat on the couch. And I guess I was just shell-shocked really..."

That is, Mark threatens to shoot either himself or Alana if she ever leaves him⁴. They subsequently return inside, her in a state of "shell shock".

The *coda* is the final element of a fully-formed oral narrative, and like the abstract, it is optional. It signals the end or potential end of the narrative and returns attention back to or closer to the present. Alana gives the effect of the events just narrated.

Alana: "...And I guess I was just shell-shocked really..."

³ Note that it is not uncommon that more extraordinary events of a story follow an initial description of more everyday, mundane events (van Dijk, 1993; Wooffitt, 1992).

⁴ Alana was never clear whom he intended to shoot if she ever left him, her or himself.

As mentioned above, narratives in research interviews are rarely clearly bounded (Riessman, 1993). Different interpretations of their beginning and end have implications for the classification of other components of the narrative structure⁵. Furthermore, some statements in a narrative can serve more than one part of the narrative structure.

So, how were these narrative principles (discussed in the sections on narrative inquiry and narrative structure) applied to the representation of women's tellings of their experience in the present research?

First, each narrative representation was temporally organised within a *delimited period*, the time spanning the woman's experience of partner abuse and her use of the legal system. It was also loosely organised around a particular *outcome* for women: their satisfaction or dissatisfaction with specific parts of the legal system, and their protection, or not, from partner violence^{6,7}. In a feminist sense, the representation of emplotted stories for these women also had relevance for another outcome: the provision of a voice for women, and the confirmation that storied representation of women's voice is a legitimate knowledge form.

Second, the less ordered tellings of women's experience during interviews were organised into as coherent a form as possible, so that in the end they resembled a narrative. Each began with an abstract, and orienting information about the bounded temporal period, relevant information about the particular woman (e.g., her ethnicity and approximate age), the significant others in the story and their relationship to her (e.g., ex-partner, children, lawyers), and the particular legal settings encountered (e.g., Family Court hearing, criminal court proceedings). The woman's experience of domestic violence was also presented near the beginning of the narrative representation. This was conceptualised as orienting information in the telling of her experience with the legal system⁸. Throughout the narrative representation, particular complicating actions, such as first utilising the police, involving their first lawyer, getting a protection order, and so on, were presented in as similar an order as their original occurrence in chronological time. Utilising the women's tellings, the representations also include substantial evaluative information. Indeed, evaluative information,

⁵ Alana also provided several other temporally bounded plots with different culminating events. For example, one ends in her becoming aware of how dangerous her situation is, another ends in her realisation that her relationship was not going to work, and another in her rationale for why she was granted her protection order. Each of these interpretations results in 'the rifle incident' being one in a continuing series of complicating actions.

⁶ This outcome related to the broader research question of how well the legal system meets the needs of individual women who use it in relation to domestic violence.

⁷ As mentioned previously, parts of the narrative representation were temporally organised within a shorter space of time with a more specific outcome (e.g., women's experience of a criminal court hearing).

⁸ Alternatively, this could be conceptualised as the first complicating action of her narrative.

about continuing abuse or protection as a consequence of legal involvement was considered an important part of the narratives. A resolution or culminating event, such as giving up, or being safe from their partner, was also presented when women gave these. A coda was given at the end of each narrative representation in the form of a summary of the woman's positive and negative experiences of the legal system as conveyed throughout the interview. In these ways, as many of the narrative and non-narrative components of each woman's interview were incorporated into an ordered and synthesised resemblance of a narrative or story as possible.

Third, as explained earlier, in the initial phase of reading the interview transcripts, narrative principles and structure were useful for identifying narratives used by the women so that these could be preserved.

The contextual nature of narratives

Whilst Labov's (1972, 1997) model considers the structural element of narratives, it directs somewhat less attention to the historical, cultural, social, and interpersonal context in which storytelling occurs.

First, the accounts that people give are always contingent on the plurality of discourses and meaning-making systems that are available in a particular time and culture (Hollway, 1989; Marshall et al., 1998). Some experiences can be difficult to talk about because political conditions constrain their narration through the marginalisation of particular discourses (Riessman, 1993). For example, women who are psychologically and/or sexually abused by their partners are less likely or unable to talk of their relationship experiences in this way if such discourses are not available or if they are subjugated. Considered within the context of the present research, women participants' accounts of partner violence and the legal system will be dependent on the meaning-making systems available to them at the turn of this century in Aotearoa/New Zealand.

Narratives are also contingent upon the *specific* point in time that accounts are produced. Not only are they constrained by the particular point in history, storylines are frequently re-appraised, malleable to the present situation, encounters just passed, and events anticipated in the future (Murray, 1999; Widdershoven, 1993). An incident once considered trivial and irrelevant might be later reconstructed as momentous, whilst a seemingly critical event can be diminished, even forgotten. Value can also be reassigned, in that a positive event can be transformed into a negative event, and vice-versa (Murray, 1999).

In the same way, women participants' stories are not fixed. Their accounts of their experience with the legal system might have been different if they had been interviewed whilst they were still involved with the legal system, or later. This is because their memory, their understanding, and the

significance of particular events change. Indeed, this became evident during the present research, when one woman acknowledged (approximately one-year after the interviews) that her perspective had shifted. Her change in perspective was hence included at the end of her narrative representation.

People's tellings of their experience are also contingent on the specific context they are shared and the power relations within this context. In the present research, women's experiences were shared within an interview context. Power relations between the researcher and researched are hence relevant, for example, the formality/informality of the interviews, the interview structure, and rapport between the interviewer and participants. As discussed below, an attempt was made to reduce power differentials and make women participants feel as comfortable as possible.

Women's accounts are also dependent on what they perceive the purpose of the interview to be (Marshall et al., 1998). Women in the present research knew that I was interested in their experiences (both positive and negative) of the legal system as it related to violence and abuse from their (ex-)partner. They also knew that the research project hoped to contribute towards a better legal response to women experiencing domestic violence.

Narrative production is also dependent on a person's audience. Within the context of an interview, I (as interviewer) am a woman's most obvious audience. Her narration will depend somewhat on how she perceives me before the interview and moment by moment throughout the interview. For example, does she regard my understanding of domestic violence, psychological abuse, and the legal response as similar to hers or as completely different and opposed to her own? Does she perceive me as attentive, disinterested, suspicious, supportive, or empathic as she shares different aspects of her experience? Although I am the most obvious and present audience to women participants, women were also aware that their experiences would be incorporated into a written thesis (and possibly other publications), which would be read by others. Some participants might have also utilised the political potential of the research, and directed their tellings to an audience beyond me, whoever they perceived this audience to be.

Within the interviews, tellings were constructed in a process of dialogic interaction. The preliminary orientation I provided, as well as any questions I subsequently asked, would have both facilitated and limited what women spoke about. If I had given a different orientation, had asked different questions, or had worded my questions differently, it is quite possible that participants might have shared completely different experiences, emphasised different aspects of their experience, or provided a different version of their experience. At times, interjecting comments and questions

would have caused elaboration, long or brief divergences, and changes of focus⁹. Sometimes, my comments or feedback were incorporated into women's accounts of their experience. Whilst I attempted to use a non-directive and affirming interview style (i.e., I acknowledged the meaning women placed on events, and did not usually provide alternative analyses of their situation), it is important to realise my contribution to participants' stories.

Women's tellings about their experience of the legal system and domestic violence were also constrained by the limited time frame of interviews. Obviously, only a limited proportion of their experiences of domestic violence and the legal system can be shared within ninety minutes (or the length of the interview for a particular participant).

Finally, Hollway (1989, p. 39) claims that people's accounts are "contingent upon power and the defences in operation against formulating different versions because of their self-threatening implications". In that narratives are "inevitably a self representation" (Riessman, 1993, p. 11), we are also aware of the picture we create of ourselves for our audience whilst sharing stories of our experience. Hence, women participants' tellings would be influenced by the implications they have for self.

All these contextual factors shape what narrators (in this case, women participants) say, and hence their narratives and accounts should not be considered as reservoirs of unitary truth. In fact, many aspects of experience remain unvoiced in interviews for a variety of reasons (Marshall et al., 1998). Furthermore, as pointed by Riessman (1993) people forget a lot, exaggerate, sometimes lie, become confused and get things wrong when they talk about their lives. As considerable attention has been given to the structural and contextual nature of narratives, it is now time to consider the "thorny problem" of narratives and truth (Riessman, 1993, p21).

Narratives as representational

As discussed in Chapter 4, a poststructuralist stance conceptualises experience as constituted in language, and narrative constructions of it as being somewhat problematic (Gavey, 1989, 1990; Hollway, 1989; S. Jackson, 1998; Marshall et al., 1998; Weedon, 1987).

⁹ Even without interviewer interjections, narratives are not always linear, discrete, or fully formed. Storytellers diverge from their narratives when they remember important subsidiary points, sometimes returning to their earlier narrative, sometimes abandoning it and constructing another. Narratives that are formed around a subsidiary point can also be diverged from, as another important point is remembered and described, and so on.

Narratives do not provide direct access to lived experiences, and it is not possible to establish an authentic version of experience (Hollway, 1989; Marshall et al., 1998). They are only representations of it, with interpretation being an inevitable part of this process. The women, the researcher, and the reader all interpret and/or represent experience: none do this neutrally or objectively.

Interpretation is unavoidable when we make sense of and attach meaning to our own lives and the experiences that constitute them. We attach meaning to these experiences through language and discourse, and through the construction of narratives. Interpretation is also involved when we make sense of others' narratives of experience. Within the context of the present research, I had to interpret what women shared with me (i.e., their representations of their experiences) in order to re-represent their experiences in a story format. My narrative representations are then to be interpreted by those who read them. This means that by the time the women's stories presented in my thesis have been read, the women have made sense of, or interpreted, their own experience and created a text of it, I have interpreted their narrated version of it and created a written text of it, and the reader has created a text based on their interpretation of this. "Simply stated, we are interpreting and creating texts at every juncture" (Riessman, 1993, p. 15).

Riessman (1993) identifies five levels or kinds of representations in the research process¹⁰. They include attending to the experience, telling about our experience, transcribing experience, analysing experience, and reading experience. Consequently, representational decisions enter at numerous points in the research process.

Riessman (1993) suggests that prior to reflection, our surroundings are part of a pre-linguistic realm that passes through the stream of our consciousness (that is, our surroundings exist in some form independent of our reflection). It is from this position that the first level of representation occurs: *attending to experience*. In attending to experience, we "isolate certain images, which are known in a given language community by certain words" (Riessman, 1993, p. 9), making certain phenomena meaningful. In the earlier example of 'the rifle incident', Alana attended to many things, including the cup smashing on the mantelpiece, the door making a big hole in the wall, Mark's yelling, him dragging her, and him pulling out his rifle. These images (and others not mentioned here) were those that she attended to at that time and that became imbued with meaning for her. This attention and meaning-making was made possible through language, by the meaning attached to words like 'cup', 'yelling', and 'rifle'. Whilst these images were attended to, others passing through her 'stream

¹⁰ Riessman (1993) acknowledges that the borders between these levels of representation are porous and that there is the danger that representing them separately will make them appear more real than they are.

of consciousness' were not. For example, at the time, it is unlikely she attended to the feel of the carpet or floorboards against her feet or any traffic noise audible from the carshed.

Riessman's (1993) second level of representation is *the telling of this experience*. By this she means "the performance of a personal narrative" (p. 9). Within the research setting, this involved women giving accounts of their experience of the legal system and domestic violence. As discussed earlier in this chapter, events and happenings are sometimes emplotted within a structured narrative, which is told in interaction with the audience. Resources from the narrator's cultural context will be drawn on, and despite the narrator making the experience as real as possible to the audience, there will be an inevitable gap between the lived experience and any talk of it. Although language limits what can be said, at the same time the experience and images within the experience cease to exist without language.

The third level of representation described by Riessman (1993) is *transcribing experience*. In a research context, interviews are usually audiotaped and then transcribed. However, the transcript never completely captures the narration and conversation within an interview: like other levels of representation, transcription is "incomplete, partial, and selective" (p. 11). Transcripts lose detail such as emphasis on certain words, facial expression, and tone. Whilst Riessman points out that transcription omits important information because of this, the significance of this loss is questionable in light of what the present research is aiming to achieve. That is, readers are still able to gain an understanding of women's level of satisfaction with the legal system in domestic violence matters; and women who have used the legal system achieve 'voice'.

Analysing experience is the fourth level of representation. Because oral story telling does not fit the form utilised in a book or within academia (regardless of the talent of the narrator), the analyst/researcher edits and reshapes tellings in the narrative analysis/representation. "Although a kind of betrayal... the stop-and-start style of oral stories of personal experience get pasted together into something different" (Riessman, 1993, p. 14). In the present research, this fourth level of representation is relevant in that I organised and reshaped the women's interview transcripts into a more coherent, easy-to-read form. For example, talk about something at the beginning of an interview might end up near the end of the narrative representation, or vice versa. Similarly, all instances of talk about a particular theme might be clumped together instead of dispersed intermittently as they occurred throughout the interview. I attempted to narrow the gap between women's tellings and my narrative representations by including excerpts from interview transcripts alongside my version of women's experiences. Not only did this provide additional representation of the women's experiences, it enabled the reader to compare the two versions and 'check' my

interpretation. Indeed, sometimes, more detail about a particular event can be obtained from reading interview transcript excerpts¹¹.

The final level of representation described by Riessman (1993) is *reading experience*. This refers to meaning placed on the written report by readers when they encounter it. Readers include my supervisor (who came into contact with and made suggestions about the women's stories before I gave them to women for feedback, and then afterwards), those women participants who read my version of their story, you, and others who read the women's stories presented in my thesis. By being drawn into the text whilst reading it (i.e., becoming an agent of the text), all readers attach their own meaning to the stories. Any text, including the women's stories, is open to multiple interpretations because all readers bring with them their own theoretical and personal histories. Furthermore, different readings can be made by the same reader at different times, as meanings are historically and culturally contingent.

In terms of this level of representation, it cannot be guaranteed that readers understand the women's experiences as I, the writer, meant them to be understood. It is even more impossible to guarantee that readers understand them how women participants intended. The distance between the women's actual experience is further expanded by the imperfection of translation between the fourth and fifth level of representation.

In summary, all five levels of experience representation provide "limited portraits" (Riessman, 1993, p. 15). Each level involves both an expansion and a reduction. Women participants select features from their "whole" experience to narrate but add other interpretative elements, as does the researcher during transcription and analysis, as does the reader during interaction with the text. The 'actual' experience of participants is interpreted and reconstructed many times: we have no direct access to it.

Because I construct and represent the women participants' tellings of their experiences, it becomes interesting to consider whose stories those in this thesis really are. Are they the participants' stories? Are they mine? And when they are read, what about your contribution? And what about the voices of those who have informed and led up to each of our positions at the times of our interaction with the text?

Riessman (1993) suggests that stories like these are best conceived as a "chorus of voices" (p. 16). Whilst realising that mine and the reader's contribution to these stories is significant and should not be ignored, it is important to acknowledge and respect that it was women participants who lived

¹¹ This is because I sometimes had to omit detail to provide a coherent, readable story.

through partner violence and the legal response to this violence. Similarly, it is important to acknowledge that it is women's voices that have traditionally been excluded. In consideration of these factors, the research recognises that each story consists of a chorus of voices, but it attempts to foreground the women's voices.

The relationships between the participants, the researcher, and the readers

As evidenced in the previous section, "the business of specifying how many... roles are involved in the process of narration can soon get remarkably complex" (Toolan, 1988, p. 76). So far, the 'roles' of people involved in the research have been discussed in reference to two phases of the narrative research: the interviews, and the representation of women's stories. During the interviews, women participants were interviewees/narrators and the researcher (myself) was the interactive audience. Regarding the representation of women's stories, transformation of interview material into narrative representations involved the women participants as initial narrators of personal experience, the researcher as second narrator with interpretative authority, and the reader as audience to the stories.

Here, it is evident that my role as researcher is transient throughout the research process. Whilst I am an interactive listener within the interviews, I become a narrator when I represent the participants' stories¹². Furthermore, the role that participants play also changes throughout the research process from predominant narrators during the interview to co-narrators in the narrative representation. The audience changes too. Whilst I am the predominant audience during the interview phase, you, the reader are the predominant audience when reading the narrative representations.

Obviously, the power relationships that exist within this web are complex. The relationship between the researcher and the researched is significant. Although participants are given rights when they consent to participate in the research (e.g., the right to withdraw from the research), and although an effort was made to reduce the hierarchical power relationship that ordinarily exists between researcher and researched, they are inevitably less powerful than the researcher (me) who is the predominant decision-maker through much of the research process.

Ethical concerns related to researchers representing others' stories

Attention to ethics is important in any psychological research. Generally, ethical issues in feminist research and domestic violence research are even broader in scope. This is because of the dangers faced by women victims of male partner violence who may participate in the research, and because

¹² I can also be considered the narrator of this thesis.

of the attention feminists give to factors like power relations between the researcher and researched. At the end of this chapter, general ethical issues and those specific to domestic violence research are discussed as they relate to the present research. Right now, ethical issues relevant to narrative methodology are discussed.

In narrative work, it is important that researchers recognise and acknowledge the dangers and pitfalls of representing and analysing others' stories. It is likely that many people, including participants/interviewees, enjoy being listened to and understood (Miller, 1996), and that the representation of their stories can have positive potential for them, for the audience, and for society (e.g., for women or marginalised groups). However, there is also the capacity for hurt and harm, particularly to those who have shared very sensitive personal information about their lives (Bakan, 1996).

First, it is not uncommon for participants to feel misrepresented by the researcher (Bar-On, 1996). This is not surprising considering the multiple levels of interpretation and representation that occur between the time the participant experienced an event and the time she reads the researcher's version of her experience. A feeling of misrepresentation might occur for several reasons. It is possible that the interview time limit and context limits participants' ability to represent their experiences fully or adequately. It is also possible that the researcher partially or completely misinterprets what a participant meant, or re-represents her experiences in a way she interprets as incomplete¹³. It is also possible for participants (now readers) to misinterpret what the researcher means in their written account of their experiences. Furthermore, a feeling of misinterpretation can occur because the meaning participants attach to an experience can change over time. Because of the potential for misrepresentation, in the present research, women participants were given the opportunity to read the narrative representation that was prepared from their interview, and to comment on whether they felt this represented their experience of the legal system. Participants could also make changes to their narrative representation, for example, they could add details where they thought they were missing, or alter my interpretation where they thought this was incorrect. If women's perspectives had changed, this was acknowledged by adding their new perspective after their narrative representation. Indeed, one of the women participants did feel her perspective had changed and so this was added at the end of her narrative. The other women who returned their narrative representations made very minor changes and indicated they were pleased with how their experiences of the legal system had been represented.

¹³ For example, a participant not might feel their experience has been fully represented because the researcher has pieced together an account of an experience based on brief, intermittent references to it throughout the interview.

Participants can also be worried that they will be recognised by someone who reads a narrative of their life experiences. This is less of a concern for quantitative research where participants become unrecognisable even to themselves because they are statistically masked by the mean. In the present research, the likelihood of recognition was reduced by getting participants to remove identifying information from their interview transcripts, and by getting them to check through their narrative representation and approve it. I also employed tactics like keeping towns and cities where women had lived and/or involved the legal system anonymous. Despite such efforts to conceal women's identities, it is always possible that a woman participant could be identified by someone who knows her well and reads her story.

The interpretative authority of researchers over participants' stories also renders participants vulnerable (Chase, 1996). This vulnerability is accentuated by the presence and permanence of their story on paper. In this form, shared experiences feel more real and substantial than when they are only spoken and prone to the limitations and degeneration of memory (Josselson, 1996b). Even researchers who are committed to challenging the conventional hierarchy between the researcher and the researched, and subsequently give participants the opportunity to give feedback about work in progress (e.g., the prepared stories or analysis) have interpretative authority. This is because involving participants in the process does not necessarily lead to agreement¹⁴, and it is still the researcher who decides how to respond to feedback received (Chase, 1996; Josselson, 1996a). Consequently, it is imperative for researchers to acknowledge their interpretative authority (i.e., power) in the process of representation, and to determine situations where participants should or should not be involved (Chase, 1996). For example, it might be important to involve participants to check prepared stories are representative of what they shared during the interview, but it might be less suitable to get their approval of any analyses that occur after this. In the present research, women were given the opportunity to provide feedback on my narrative representation of their experience, when they were still able to be contacted and were interested in doing this. Conclusions generated from the women's stories and the discourse analyses of lawyers' interviews were summarised for all participants of the research, but they were not directly involved in this process.

June Price (1996) has also spoken of the dilemma of representation and interpretation in relation to the researcher's greater power. She claims it is difficult for researchers to reproduce the words of participants without distorting their experience; the researcher's voice effectively masks that of the narrator's. Additionally, she claims that the 'discovery' or 'uncovering' of themes by the researcher is really a euphemism for researchers *imposing* themes. Whilst it is not possible to avoid the

¹⁴ In searching the literature for examples of feminist research where the researcher shared their work in progress with participants, Chase (1996) found collaborative attempts often resulted in less than cheerful reactions from participants.

representational problems in reproducing someone else's experience, or my greater interpretative authority, I can acknowledge their occurrence, and be sensitive to how this might affect women participants. Indeed, on several occasions, I felt cautious and carefully considered how the research process might affect women participating in the research. Josselson (1996a) considers feeling uncomfortable during the research process protects us from going too far, contributing to better ethical practice. It is more concerning not to care during the representational and interpretative process.

Before I describe the procedure used to represent women's experiences of the legal response to partner violence, it is probably useful to summarise the main points so far. First, congruent with feminist goals, it is important and necessary to represent the experiences of women participants so that these women have a voice, and so that readers and I have an adequate understanding of what women encounter when they use or become involved with the legal system in relation to domestic violence. Narrative representation was considered an appropriate way of providing (some) women with voice, and for raising awareness of the difficulties women encounter when they use the legal system in relation to their partner's violence. Labov's structural model (Labov, 1997; Labov & Waletzky, 1967, 1997) theorises that fully formed narratives consist of six elements: an abstract, orientation, complication action, evaluation, resolution, and coda. However, narratives are not only textual; they are contextual, constrained and enabled by the interpersonal, sociocultural, and historical context. Narratives do not provide direct access to experience, rather they are representational of experience. There are multiple levels of representation and interpretation involved in the process of making sense of experience and representing it to another, particularly when this also includes its representation by another person (i.e., researcher) to another audience (i.e., reader). And finally, there are ethical implications as a result of the interpretative authority (and other power) that the researcher has over the researched.

PROCEDURE FOLLOWED TO ACCESS AND NARRATIVELY REPRESENT WOMEN'S EXPERIENCES OF PARTNER VIOLENCE AND THE LEGAL SYSTEM

Recruitment of women participants

Women participants were recruited using two methods: advertisement in a free, weekly, newspaper (local to a district in the North Island); and through Manawatu Women's Learning Group.

Recruitment through a local paper

An advertisement was publicised in the community news section of a free local newspaper once a week until enough participants were obtained for the research. The advertisement informed readers

that the research was interested in women's experiences of lawyers and the court system in relation to domestic violence, and that participation would involve a one-hour interview. It invited *women* who had experienced *any* form of abuse from a *partner* to make contact if they were interested. Although the advertisement made it clear that participants must be women, the type of violence/abuse was not defined or limited by the researcher, enabling women to self-define their own experiences in this way. Furthermore, the advertisement did not directly state that the abusive (ex-)partner be a man¹⁵. Initial contact was with a woman secretary in the School of Psychology. She obtained the caller's name and a contact telephone number, and passed these details on to me.

I then contacted each interested woman to discuss particular areas further, and to answer any questions she might have. The questions I asked ensured that she fitted the broad predetermined criteria for a participant, and that I had appropriate details to safely and conveniently contact her. Some questions further explored her involvement with the legal system. As much as possible was recorded on an initial contact/information form. If asked or offered, her and her abusive (ex-)partner's ethnicity was also recorded. She was informed of my involvement with Manawatu Women's Learning Group and Palmerston North Women's Refuge. At the end of the phone conversation, I asked whether or not she was interested in receiving more information about the research. If so, she was sent a freepost envelope, a cover letter that provided summary information about the research and instructions (see Appendix A), the information sheet for women participants (see Appendix B), and a slip to indicate one's interest in participation. The information sheet fully informed interested women about the study, what would be involved for them, and what they could expect of the researcher should they choose to participate.

The research was discussed further with women who returned the slip or contacted the researcher saying they were interested in participating. They were asked if they had any further questions and any questions were answered. They were then sent the consent form for women participants (see Appendix C). The consent form outlined her rights and when signed was considered as her agreement to participate in the research under the outlined conditions. Unlike lawyer participant consent forms, it also asked whether she wanted to have a support person present at the interview (e.g., a friend, or an advocate from Palmerston North Women's Refuge or Te Roopu Whakaruruhau), and whether she consented to the use of her interview transcript for analysis.

¹⁵ Unfortunately, the word limit placed on community news advertisements did not enable me to specifically mention that the abusive (ex-)partner could be male or female as I had originally intended.

Recruitment through Manawatu Women's Learning Group

Having first obtained permission from the Manawatu Women's Learning Group collective, a collective member was elected to send pre-packaged information about the research to past participants of the education groups. This ensured that my position within this agency did not give me privileged access to the names and contact details of these past clients. The non-direct contact was also meant to prevent clients feeling obligated to participate in the research if they knew me. The information package included a freepost envelope, a cover letter, the information sheet for women participants, and a slip to indicate one's interest in taking part or talking further about the research.

Similar to the recruitment process through a local newspaper, I contacted interested women to discuss the research further. I obtained relevant information from them and gave them the opportunity to ask any questions themselves. Information about individual women was recorded on her initial contact/information form. Because women recruited through Manawatu Women's Learning Group had already received and read the information sheet, they were next sent a consent form, which they could complete if they were still interested in participating in the research. Women who consented to participate through either recruitment process were then contacted to arrange a suitable date, time, and place for the interview. Any other questions they had were also answered at this time.

The women participants

Eleven women participated in the interview phase of the research. To be considered suitable for participation, women had to have experienced abuse/violence from a partner, have been involved with the legal system in relation to domestic violence (either by their own initiation or as required by police for a prosecution), and no longer be experiencing abuse from her partner/ex-partner or be at any risk from participating in the research. These original criteria were extended for two women because they were enthusiastic to participate, and it was thought their perspective would be interesting and valuable to the research topic. One of these participants was the mother of a woman who had used the legal system in relation to domestic violence (and hence, though this participant had been involved with the legal proceedings of her daughter, it wasn't regarding domestic violence she had experienced herself). The other woman had experienced abuse and violence from an ex-partner but had specifically chosen not to use the legal system. Stories were prepared for ten of these women¹⁶.

¹⁶ In the end, I did not represent the interview material for the participant whose daughter had been involved with the legal system. This was for two main reasons. First, because she spoke of her own experience of the legal system in relation to domestic violence perpetrated against her daughter, it seemed unethical to represent her telling without her daughter's consent. Consent could not be obtained because this participant moved and could not be contacted; this meant her daughter could

Women participating in the research were not only from the Manawatu region. Their legal involvement extended through various parts of New Zealand.

Of the ten women whose stories were represented, only one self-disclosed that she was Maori. Seven women self-disclosed as Pakeha or as having European background and one of these was born in Australia. Two women did not mention before or during the interviews the ethnicity with which they identified. All women described the perpetrator of domestic violence that led them to being involved with the legal system as male. Two of these men were described as being Maori; the ethnic identities of the remaining men were not disclosed.

Individual interviews with the women participants

Eleven women were interviewed between November/December 1999 and early March 2000. Seven of them elected to have the interview take place in their home, whilst the remaining four were interviewed in an interview room in the School of Psychology. Most of the interviews were about 1½ hours long, with one being less than an hour, and two being considerably longer than this¹⁷. One of these longer interviews occurred in 1 - 1½ hour time blocks over three days. All of the interviews were audiotaped, as agreed to by participants.

Although all women were asked if they wanted to have a support person with them at the interview, no one chose to do this.

Prior to interviewing, I constructed a semi-structured interview schedule. A semi-structured interview format was considered the most appropriate means to cover the main parts of the legal system that women experience in relation to domestic violence, whilst allowing women participants the liberty to discuss topics they considered important and relevant in their own words. In this way the interviews were a process of negotiation, with the interviewer and interviewee being considered collaborators in the construction of knowledge. Key discussion areas on the interview schedule included the women's experiences of: lawyers (their own, their ex-partner's, and their children's); Judges in the Family and District Court; procedures followed by the Family and District Court (e.g., hearings, mediation conferences); protection orders; and legal resolution of custody and access matters. I

not be approached either. Second, during the interview, this participant turned off the tape recorder several times due to the confidential nature of what she was sharing. The resultant gaps in the interview transcript made it difficult to comprehend her telling, and to construct a narrative representation. Although her telling was not represented, it still added to my understanding of women's experiences of using the legal system. In particular, it highlighted that family members (and others) assisting women survivors of partner violence, can also incur much distress as a consequence of a significant other being involved with the legal system.

¹⁷ It is not possible to give more detailed information about the lengths of the interviews because the tapes were stolen before this was more specifically determined.

practised using this interview schedule to increase my confidence, and familiarised myself with the recording equipment.

It was important to me that participants felt as comfortable as possible throughout their interview, and that I was warm, friendly, approachable, and understanding. To this end, I informed women in advance what to expect, and allowed each woman participant to decide where she wished to be interviewed (of course, this place had to be a safe venue, and it also had to make it possible for the interview to be audiotaped). When the interview occurred in the School of Psychology interview room, I made the room more inviting by having flowers on the table. I also offered the participant a hot or cold drink and refreshments. My style of dress was casual but presentable (as opposed to formal or dressy) as I did not wish to wrongly give the impression that the interviews were formal. I always initiated friendly conversation before the actual interview, and made it clear that the interview was intended to be informal and relaxed.

When we were ready to begin the interview, I re-explained that I was primarily interested in the participant's experiences of the legal system in relation to domestic violence, and gave some examples of the topics she might choose to talk about (e.g., her experience of lawyers, Judges, the Family and District Court, protection order applications and breaches, and other law related to domestic violence such as assault, custody, and access). In this way, women were not specifically asked to tell 'their story' of the legal system and domestic violence. Rather, the interview was intended to elicit information about their experiences of different aspects of the legal system, and their satisfaction or dissatisfaction with their legal involvement. Women were told they had the liberty to discuss, or not discuss, anything they wished. Because women could emphasise whatever they wanted to about the legal system and domestic violence, participants knew I would not be asking a series of formal, standard questions (though I did have some questions related to key areas if these were required).

What participants chose to talk about depended partly on what involvement they had had with the legal system, and presumably what issues they felt most strongly about, what questions I asked (when I asked questions), and where the flow of conversation led them. Because participants had the liberty to discuss anything they wished, some chose to speak about their experiences with the police, or about topics that were less directly related to my research topic (e.g., their experience of counsellors, of WINZ¹⁸, or poverty). Questions specific to the abuse and violence they had experienced in their relationship were not usually asked, this being left up to individual women to

¹⁸ WINZ, also known as Work and Income New Zealand, is part of the New Zealand Ministry of Social Development. WINZ helps job seekers find employment and pays income support on behalf of the Government.

raise if they wished. As expected, all women provided some information about this, their partner, and their relationship, often incorporating this information into other areas being discussed (several women dedicated a substantial part of the interview to discussing these and related topics). Questions, when asked, were usually open-ended.

At the end of the interview, women were warmly thanked for their participation in the research. They were told that once their interview was transcribed, they would be sent a copy of their transcript, and would be able to make any changes they wished (deletions, alterations, and/or additions). A couple of women said that this was probably not necessary, approving their transcripts in advance. These women were told that they would be sent one in case they changed their mind but that they need not read through it if they preferred not to. Friendly chatter (normally unrelated to the interview) resumed before we parted company. Many women commented that they felt very comfortable throughout the interview process.

Transcription of the interview audiotapes

Having conducted the interviews, I then transcribed the audiotapes from the interviews.

There are many different ways of transcribing conversation. Some more detailed forms (e.g., that used by Potter and Wetherell (1987)) represent overlap between utterances, pauses (including pauses as small as a tenth of one second), extension of vowel sounds, emphasis of particular words, audible intake of breath, false starts, nonlexicals (e.g., uhm) and listener participation (e.g., mmhmm). Some less detailed forms of transcription represent spoken language much the same as written language, despite the significant difference between the two. For example dialogue heard as, "and um everybody I think everybody around me who was my family knew they knew I was in a really bad situation", might be represented as, "I think my family knew I was in a really bad situation".

My transcription process was not so detailed as that used by Potter and Wetherell (1987). I did not represent pauses or their length (with the exception described below), audible intakes of breath, syllable or word emphasis, or many other details of speech. However, I did represent all decipherable words as they would be found in an English language dictionary (not how they were pronounced) and several nonlexicals. Of course, listening to the text to transcribe it involved interpreting what was actually said, and the reader has to trust that I was reasonably accurate in doing this. When I was not confident that transcribed words were the same as those that had actually been said, I enclosed them in parenthesis. Places where speech was not audible or interpretable were also indicated. I also represented where laughter or crying occurred, and where pauses were particularly lengthy (though I determined this subjectively, rather than through precise measurement). Though I did not punctuate the text at this stage (with the exception of including question marks where questions were obviously discernible), I did this at a later date so that

excerpts from interview transcripts were more readable. Although overlap was not represented with symbols, I did try and represent every word that both parties said during the overlap.

Format used to represent women's tellings of their experience with the legal system

Each woman's narrative representation consisted of both my words and theirs in a vertical split page format. In the left column is my representation of the woman participant's experience of domestic violence and the legal system, whilst the right column contains excerpts from the woman participant's interview transcript that correspond with the left column. Each story starts with an initial orientation prior to the split-page format. This orientation provides some preliminary information about the woman participant, such as her pseudonym, approximate age, ethnicity, how many children she has, her (ex-)partner's pseudonym, the length of their relationship, and how long they have been separated. It also contains an outline of her involvement with the legal system, for example, whether she had applied for or been granted a non-molestation, non-violence, and/or protection orders, whether she had been involved with the Family Court or the District Court, how many lawyers she had used, and so on. Not only does this provide some orienting information, it gives the reader some expectation of what will be covered in her story. At the end of her story, I summarise the problems and commendations of the legal system as experienced by that woman and shared during her interview.

Constructing a narrative in the left column

Initially, I immersed myself in each woman's interview transcript by reading it several times. As I was reading a transcript, I highlighted all material that I wanted to include and represent in her 'story'. This material included all references to herself, her partner, her relationship, domestic violence, and components of the legal system. I also highlighted talk about areas that were not specifically being examined in my research but that contributed to the broader topic of domestic violence, for example, women's experiences with the police, counsellors, Women's Refuge, and/or other agencies. I decided that if women participants had thought such experiences were important enough to raise during the interview, they were important enough for me to represent. I did not highlight text that seemed completely unrelated to domestic violence or the legal response to domestic violence. So, whilst I would include a discussion about her cat or swimming lessons if it was some how implicated in domestic violence (e.g., her partner had threatened to kill or harm her cat, or her partner would not allow her to attend her swimming lessons), I would not include it if the cat or swimming lessons were unrelated to domestic violence or the legal response. Whilst I was highlighting text from an interview transcript I briefly indicated the topic that was being discussed or referred to in the margin (e.g., 'partner', 'first lawyer', 'leaving the relationship', 'access problems', 'physical violence', 'applying for a protection order', 'children', 'effects of legal system response'). By the end of the process, the majority of each interview transcript was highlighted to be represented and included.

Next, I identified main themes that each woman participant had talked about during her interview, with each theme having at least one interview excerpt corresponding to it (not surprisingly, many of these corresponded to areas that the research was investigating, e.g., experiences of lawyers, experiences of protection orders, etc). Many of the same themes emerged for each woman, probably because of where I directed the interview, and the questions I had asked. However, there were also themes discussed by only one or two women. For example, one woman discussed in detail her (ex-)partner's violence towards his previous partner. Another participant devoted a large part of the interview to chronologically describing the break-ups and make-ups during their relationship.

Identified/imposed themes were used to structure and organise the text in the left column. Themes were first ordered (in what was perceived to be a logical order), so that my version of her experiences would flow as coherently as possible. For example, themes to do with the domestic violence were usually discussed before themes to do with legal system so that the reader understood why a woman had involved a lawyer and applied for a protection order before reading about her lawyer and the process of applying for a protection order. The themes and their order were not fixed at this stage.

I then interpreted and summarised in my own words as much of the information provided by the interviewee on each topic/theme. This coherent construction of the left column's text was not an easy task. Not only was I changing the style of presentation from an interview-elicited conversation to a formal, readable structure, I was attempting to mould the information provided during the interview into the themes I had imposed. Not all conversation fitted neatly under these themes. Also, oral conversation is generally convoluted and fraught with gaps, as women get sidetracked, did not complete stories they had begun, and (understandably) did not provide all the information required to have a succinct passage of written text on a particular theme, with all the linking paragraphs and devices used in writing. This problem was particularly noticeable when I was retrieving information about a particular topic from diverse parts of an interview transcript. For example, I often provided information about her (ex-)partner and abusive relationship under a suitably named heading, with the purpose of 'setting the scene'. Whilst many women had provided information about this throughout the interview, I had usually not asked specific questions about this (for example, I had not asked, 'how would you describe your (ex-)partner?', or, 'what was your relationship like?'). This meant that whilst a woman might have talked about, say, her (ex-)partner several different times during the interview, these comments were often within the context of what she was saying, and weren't necessarily easily interlinked together (also, what she said would have been different, possibly much more encompassing, if she had been specifically asked to describe her (ex-)partner). All this meant that some themes were collapsed together, others were created, and the text was

(laboriously!) constructed and edited several times for the purpose of readability. Needless to say, there were many different ways that information could have been organised.

Representing women's tellings in the right column

I then arranged the interview excerpts that corresponded with my text into an appropriate position on the right column¹⁹. The beginning and end of excerpts was determined using Labov's criteria for a narrative, or as it related to the theme or issue being discussed. This process was not an easy one. As discussed earlier, and illustrated with Alana's narrative about the rifle incident, where a narrative begins and ends is sometimes inconclusive. If a woman participant had mentioned something several times, all relevant excerpts were included alongside my representation of this in the left column (unless it had been referred to already). These excerpts were numbered and cross-referenced in my representation in the left column, so that the reader could easily locate corresponding excerpts. Page numbers were included with each excerpt to indicate its position in the original interview transcript. If part of a previous excerpt had been duplicated, this was also indicated.

As alluded to earlier, the style of transcription in the original interview excerpts was adjusted slightly in the excerpts for the purpose of readability. Commas and fullstops were added to improve comprehension. This is illustrated below in 'Sally's' response to whether she would recommend other women to use lawyers or the legal system.

Sally: "I would and um I would but for me personally um I think it was a waste of time even getting the order and I wish I hadn't have bothered if I had known the way the outcome of it I would never have put myself in that embarrassing humiliation of going and doing that because you know I just haven't had much luck with it getting recognised through the police or the judges and that."

Sally: "I would, and, I would. But for me personally, I think it was a waste of time even getting the order. And I wish I hadn't have bothered. If I had known the way, the outcome of it, I would never have put myself in that embarrassing humiliation of going and doing that. Because, you know, I just haven't had much luck with it getting recognised through the police or the judges and that."

¹⁹ One woman (Alana) also provided writings of her experience of domestic violence and the legal response. Some excerpts from this are also provided in her narrative representation.

However, I did not 'brush up' women's texts by removing false starts, changes of direction, and repeated words. Whilst this would have improved readability, I decided it was more important to retain an auditory dimension to their voices.

Occasionally, I made minor alterations to a woman's interview transcript to increase clarity. For example, I might exchange a pronoun for the noun it represented because removing the excerpt from the interview transcript had made its status ambiguous. Clarifications of this sort were enclosed in square brackets to alert the reader to them. Alterations made to increase a person's anonymity were also represented in square brackets. For example, in the excerpt below, I exchanged the word "it" for "custody", and I replaced 'Hayley's' son and (ex-)partner's names for 'Sam' and 'Allistair', respectively.

Hayley: "The only problem I had with [custody] was that even though I had custody of [Sam], it was stated really clearly by the judge that I had fifty percent guardianship and [Allistair] has fifty percent guardianship. And that has caused huge problems ever since."

I represented my speech during the interview in braces with my name. Whilst I did not indicate affirming words of mine like 'mmhmm', 'mmm', 'yeah', 'oh definitely', I did represent text where I asked questions, where my speech was required to make sense of her next comment, and/or where my speech significantly affected what she next said. For example:

Jasmine: "Never been to court before in my life. I didn't have any support or backup then. It was just the threats were coming, and I was, just it wasn't worth it." {*Rachael:* "And what ended up happening with that charge, do you know?"} "Got chucked out. So, as soon as it got chucked out it was back on all over again. Same drama, same bullshit."

I decided this style of presentation was less disjointed and more compact than if it had been presented like this:

Jasmine: "Never been to court before in my life. I didn't have any support or backup then."

Rachael: "Mmm."

Jasmine: "It was just the threats were coming, and I was, just it wasn't worth it."

Rachael: "Oh definitely, yeah. And what ended up happening with that charge, do you know?"

Jasmine: "Got chucked out. So as soon as it got chucked out it was back on all over again. Same drama, same bullshit."

Whilst the former somewhat underplays my contribution to her text, it provides more continuity and gives more emphasis to *her* voice.

I removed women's use of non-lexicals (e.g., 'um', 'ah'). I decided including these over-compromised readability. For example, the former is an example of text from an interview transcript; the latter is how I represented this in the woman's story.

Rebecca: "I think too, um, because I had real sudden changes in my life, where one moment there I was, um, employed, and, you know, received an injury at, um, work, so I ended up unemployed and, um, stuck with a injury. And, um, then my marriage broke down because, um, I could no longer bring the money home either."

Rebecca: "I think too, because I had real sudden changes in my life, where one moment there I was employed and, you know, received an injury at work, so I ended up unemployed and stuck with a injury. And then my marriage broke down because I could no longer bring the money home either."

Laughter, lengthy pauses, and inaudible/indecipherable speech were represented in braces. When I had reservations about my interpretation of women's speech (whilst transcribing an interview), I represented these words in ordinary brackets. Examples include:

Aroha: "There was a real battle going on in me. I wanted him but I couldn't. Oh no, that's not it, {pause}. It wasn't right for me to be with him at that time. I was sick in heart, sick in my head. I just didn't know what the heck I was doing {laugh}."

Jasmine: "And I realised, well, shit, this guy's {inaudible}, he's not just what I thought he was, he's worse, much worse."

Rebecca: "Yeah, I felt that that's what she was doing, 'I can't cope with this, oh, it's too much, calm down, (maybe we should put her on) tranquilisers, {inaudible},' you know."

I also used ".." (i.e., two full stops), and "..." (i.e., three full stops) to represent places where I had missed out text. Two full stops indicated where I had not included a comment or question of mine, during the interview, either because it was not required for making sense of her next statement or because it contributed very little and would only make the excerpt more disjointed.

Three full stops replaced text that had been removed because its inclusion would compromise someone's anonymity. For example, one woman participant mentioned that her lawyer had been the

prosecuting or defending lawyer for a well-known case in New Zealand. Including this section of her transcript would make the participant's lawyer recognisable to certain readers and compromise ethics. Hence, I indicated removal of this section of her transcript with three full stops.

I also used three full stops to indicate text that I removed because it was an insignificant interchange between myself and a woman participant that would disrupt the flow of the text. For example, in the following excerpt, I used three full stops to represent the interchange below this.

Hayley: "The conflict between him and I had continued and had snowballed again to the point that I really needed another non-mol, another protection order, because again he was abusing me, threatening me, he'd killed the dog, all those sorts of things... And we came out of there after being told that we were naughty sort of people, and he was then entitled to overnight access."

Rachael: "How long ago was this last time Hayley?"

Hayley: "Um."

Rachael: "A year or two ago?"

Hayley: "Oh, only about a year ago."

Rachael: "Yep, okay, sorry to interrupt."

I also used three full stops when I removed text that was so confusing it significantly affected readability. For example, in the first of the excerpts below, three full stops indicate the position of the words, "there hasn't, and, been". This excerpt is more readable than the excerpt below it.

Hayley: "[He's] manipulated everything, but to a negative degree. And... as far as I know, he's within the law doing what he's doing."

Hayley: "[He's] manipulated everything, but to a negative degree. And there hasn't, and, been, as far as I know, he's within the law doing what he's doing."

Finally, I used three full stops to indicate the position of a section of talk that was included under a different theme and/or in a different place in the woman's story because it improved coherence of the woman's story. For example, one woman participant explained how her partner used 50 percent guardianship to be difficult and create conflict regarding decision making over their son. To illustrate this, she provided an example of how her ex-partner would only agree to their son having private schooling, which was well beyond what she could afford. Whilst discussing this, she diverged, providing a complete (and reasonably lengthy) narrative about how he earns a lot of money, but avoids paying child support by manipulating the books for his business. After much consideration, I

removed this mini-narrative, represented its removal with three full stops, and represented it in its own right under the heading of "Child Support". In doing this, the text concerning her 50 percent guardianship problems seemed more focused and coherent.

Once the left and right column had been drafted, I re-read through the woman participant's transcript to ensure that all relevant statements or narratives had been included. The first draft was then polished, and given to my supervisor for feedback. After necessary alterations were made, copies were sent to women participants for their feedback. Only one woman could no longer be contacted. Of the women who could be contacted, about half were interested in reading through their story. The other half chose not to read their story because they felt it covered a period of their life they did not want to revisit. One woman asked to be sent the dewey classification of the thesis when it was in the library so that she could choose to read her story at a later date should she wish to. If women suggested changes to their stories (two women suggested a couple of words be added), these were made accordingly.

The final version of women participants' stories are presented together in Chapter 7. A couple of the women's stories are lengthy because the women provided detailed information in their interviews, and all relevant interview information was included. Having both my version of women's experiences, and their own words, challenges conventional reading practices because the two columns cannot simply be read consecutively. To shorten the length of the stories, and to reduce the challenges presented by the layout, I explored the possibility of having the excerpts in the right column transferred to an appendix. Whilst this would have still made the women's own words accessible, I decided it had the effect of demoting the women's voices and perpetuating researcher-participant differentials. This somewhat contradicted the objective of giving women voice and recognising women's accounts of their experience as legitimate knowledge. To make the stories shorter and more reader friendly, I also considered the option of removing some of the women's shared experiences (e.g., the abuse they experienced from their (ex-)partners). This was not appropriate either. It undermined the significance of some experiences, and/or removed important elements of the narrative plot. In the end, the length of the stories was considered secondary to representing women's experiences thoroughly and in their own words (as well as being represented by the researcher). Women's accounts of domestic violence and the legal system needed to be heard and readers should have the willingness to listen. Suggested methods for reading the stories are given at the beginning of Chapter 7.

Ethical considerations and problems

Ethical guidelines are necessary to protect participants of research from any potential harm that may result from their involvement in research. Approval for this research was obtained from the Massey

University Human Ethics Committee in September 1999. The research project was also conducted within the ethical guidelines of the New Zealand Psychological Society.

Ethics approval for this phase of the research was mainly contingent on informed consent, anonymity, confidentiality, and elimination of potential harm to women participants. Informed consent meant that all women who contacted me regarding their potential participation in the study were informed, both orally and in writing, about the aims of the research, the process that they would be involved in should they choose to participate, their rights within this, and what they could expect from me as a researcher. They also had the opportunity to discuss the research further, and raise any questions they might have. This enabled enquiring women to make an informed decision about whether or not they wished to participate. They were not pressured with regard to participation. Written documents were specifically worded in a way to avoid this, and if anyone expressed any doubt whatsoever, I suggested they take more time to think about it before making their decision. Consent forms were sent to interested persons only after they had received written and oral information about the research, so that they had plenty of time to consider whether they really wished to be involved. All participants were made aware that they could withdraw from the research at any time, and that they would be given the opportunity to censor information they provided during their interview. To achieve the latter, each participant was given a copy of their interview transcript so that they could make any necessary adjustments and indicate anything they did not want included in the thesis or subsequent research reports. All participants received oral and written information about the research before being sent or given written consent forms, which they read and then signed if they agreed to participate in the research.

Conforming to the guidelines regarding anonymity and confidentiality meant that the identity of all women participating in the research remained confidential to me and were not identifiable from this thesis or in any research reports. To achieve this, all materials produced in relation to participation (e.g., initial contact/information form, audiotapes, written transcripts, and any documentation given to me by participants) were stored in locked cabinets and filing cabinets. Only pseudonyms were used on tapes and transcripts, and the list linking codes to real names was securely stored separate from the tapes and transcripts, as was all other documentation that contained participants real names. I was the only person who could directly access material of a personal nature. No information or quotes that might make identification possible were included in this thesis, nor will they be included in subsequent research reports. This was achieved in part, by giving participants the opportunity to censor their transcripts and remove any identifying information.

Because domestic violence research requires special attention to safety protocols and ethics (Ellsberg & Heise, 2002; Langford, 2000), potential harm to women participants was a pertinent consideration. Their safety, and my own, was attained in several ways. First, women could only

participate if they were no longer in an abusive/violent relationship. Nor could they participate if they or I thought they would be negatively affected by participating in the research. Women who were currently experiencing abuse from a partner were not considered because their involvement could increase their risk of harm, particularly if their partner found out. Such women also have more pressing needs, and are likely to benefit more from support than involvement in research. It is also questionable whether such women should participate in research because of the inevitable power relationships that exists between researcher and researched. Such power relationships are particularly tenuous considering these women are currently being harmed by power differentials in their intimate relationships. Fortunately, all women enquiring about the research were no longer in a relationship with their abuser. This is presumably because women who have used the legal system and feel in the position to consider participating in research are more likely to have ended their relationship. One woman was excluded from participating because both my supervisor and I thought the research experience could be emotionally stressful for her considering other stressors she was encountering at that time.

Because some women might still have occasional contact with their ex-partner (e.g., because of access arrangements, or through no choice of their own) I obtained information required to make safe and convenient contact at the earliest opportunity. I never left messages on an answerphone until I was convinced that she was the only person who had access to her messages. Even then I preferred to speak to women directly. I also checked whether it was suitable to send written information about the research. Because one woman acknowledged there was a chance her ex-partner might check her mail, I re-discussed whether she might be at risk from participating. Although she assured me she was not at risk, we negotiated an alternative way for her to receive the information sheet and consent form. I continued to assess safety issues related to each woman's contact intermittently throughout the research process, particularly if some time had lapsed since our last contact. For example, when it was time to send interview transcripts, and later stories, I first phoned women and checked it was appropriate to post them.

Safety and comfort during the interviews was also a priority. Women could choose where they were interviewed. I made an interview room available when the women or I felt it was best to be cautious, or when this was more convenient for the women. Women were also given the option of having a support person present at the interview. Whilst they could choose a friend, I also made available women who were experienced in the area of domestic violence should they request this (including Maori and lesbian women should this be necessary). As mentioned above, all women participants declined the invitation to have a friend or support person present. Because I was aware that women might become distressed or get upset during the interview because of the nature of the topic, I was sensitive and empathic to how they were feeling. I also offered women avenues of support when they felt they might benefit from this. All participants were informed at the interviews that they could

choose how much they disclosed to me. They had the freedom to discuss or not discuss anything they wished.

At the outset of the research, it was important to develop an ethical process for recruiting women participants. As mentioned in the procedure section, it was important that I did not have privileged access to women participants because I worked for Women's Refuge and Manawatu Women's Learning Group. It was also important that women should not feel obligated to participate in the research because they knew me through their involvement with one of these agencies. An ethical process was achieved by first obtaining permission from Manawatu Women's Learning Group²⁰. Another collective member then wrote the names and addresses of past clients on pre-packaged envelopes and sent them this information. Information sent emphasised that women should not feel obligated to participate. These precautions meant that the process paralleled what would have been used if I did not work with Manawatu Women's Learning Group (i.e., someone other than the researcher would have invited them to participate). It also meant that women I knew would not feel embarrassed if they chose not to participate.

Whilst such ethical guidelines are certainly useful in promoting participant safety and good research practice, two ethical problems arose unexpectedly during the research. One occurred, quite fortunately, during the interview of the *first* women participant, and so I was able to make a necessary adjustment to avert it occurring again. 'Aroha' had been separated from her ex-partner for several months. During this time, she had not heard from him; neither did she expect he would contact her or cause any more problems. After further discussion, we decided it was perfectly suitable for the interview to occur at her home, as she preferred. However, during the interview, Aroha casually mentioned whilst explaining something else, that her ex-partner had made contact with her the day before at church. She continued to explain that though she had rung the police, he had left before they arrived. I immediately became alarmed that he might turn up at her home, and that both her safety and mine was compromised. However, when I raised my concern, she shrugged it off, laughingly telling me that he would be taken away in a police car if he did turn up. This did little to reassure me. What was particularly interesting was that I had contacted her that morning to confirm the interview. During this phone-call, I checked it was still suitable to interview her at her home. She said nothing about the incident of the day before, perhaps because she did not consider it compromised our safety. Had she mentioned it, I would have arranged to interview her at Massey University, and only then if it there were no negative implications for her. Although her ex-partner did

²⁰ In the end, I chose not to use Women's Refuge because I recruited enough women through Manawatu Women's Learning Group and the newspaper advertisement. Also, on reflection, I did not think it was justifiable to recruit more women when there was the possibility that some ex-clients of Refuge might have returned to their partner or still be living with their partner.

not turn up during the remainder of interview, this incident certainly made me aware that my conception of safety and danger was not necessarily the same as the women participants. Consequently, I became more specific in my probing so that any compromising circumstances (in my opinion too) were recognised and avoided.

The other ethical dilemma was particularly disturbing. Someone burgled the address where my interview audiotapes were stored. The locked cabinet, which contained 19 participants' tapes was stolen along with much other household furniture and belongings²¹. Because of the quantity of property stolen, and because the burglars would not have known the contents of the cabinet, it is extremely unlikely that the tapes were a motivating factor for the burglary. Ironically, if the cabinet had not been locked, it is likely that they would have left the tapes behind as most items not considered valuable were removed from furniture and left at the scene. Other research materials such as participants' transcripts, contact forms, and the list linking pseudonyms with participants names were not affected by the burglary because they were kept at a separate location.

Not surprisingly, I found the theft of the tapes very distressing. Any burglary feels very invasive, and like many crime victims, I felt violated. For me, this angst was heightened because participants of my research were also affected. I had assured them that information they provided would be secure, and despite circumstances being beyond my control, I felt I had let them down. I was also worried about potential consequences for participants whose tapes had been stolen. What would happen if the burglar/s, or someone else who got access to the tapes (in the worst possible scenario, an ex-partner), listened to them and identified one of the women through her voice or through information she provided during the interview? What if they recognised one of the lawyers or a case discussed by one of the lawyers? It was particularly unsettling to have no idea about the location of the tapes or where they could end up – whether they been dumped, taped over, or left lying around. I was also worried how participants would react when they found out. They might feel alarmed, upset, hurt, and/or even angry. I also began worrying about how the burglary might affect my research. What if a participant or several participants withdrew from the research when I informed them about the burglary and their stolen tape/s? Had any data been lost? Fortunately, because all women's tapes had been transcribed, and the untranscribed tapes of ten lawyer participants were in the possession of a transcriber, no data was lost. Had these latter tapes not been, a copious amount of data would have been irretrievable, and the effort involved for these participants and myself would have seemed wasted.

²¹ The stolen tapes belonged to eleven women participants and eight lawyer participants. Fortunately, tapes of ten lawyer participants were not affected by the burglary because they were in the possession of the transcribers.

Processes had to be hastily enacted as a result of the burglary. Having involved the police, I promptly informed my chief supervisor, who in turn promptly informed relevant persons within the School of Psychology, and the Massey University Human Ethics Committee. Under the advice of this committee and a university lawyer, letters were written and sent to all participants who were affected by the burglary and still able to be contacted²². The letter writing process followed ethical guidelines of the research. Once drafted by a lawyer and the Human Ethics Committee and reviewed by my supervisor and I, I personalised the letters and sent them to individual participants. This was because I was the only person who had access to participant names and contact details. The constable who had attended the scene of the crime was also written a letter, advising him that if the tapes were recovered, they were confidential and should not be listened to by anyone.

Although all participants affected by the burglary were invited to ring the Chair of the Massey University Human Ethics Committee, my supervisor, or me if they wished to discuss the matter further, only one lawyer participant made contact. She wrote a letter to me, and rang my supervisor, to express her sympathy and enquire if there was anything she could do to help. When I next contacted several of the women and lawyer participants over other matters, many brought up the burglary and gave their condolences. None expressed any concern for negative implications for themselves, and hence I was relieved that no one felt anxious or distressed over the matter.

As stated by the Chair of the Massey University Human Ethics Committee, the burglary certainly emphasised the importance of strict adherence to ethical procedures. The situation was not as serious as it could have been for two main reasons. First, in accordance with ethical guidelines, the tapes were labelled with pseudonyms, like 'Woman 1' or 'Lawyer 1', instead of the participants' names. Hence, this concealed participants' identities²³. Second, the list that linked names of participants with their pseudonyms, and all other identifying information, was stored in a separate locked filing cabinet. Should this information have been stored with the tapes, contrary to the ethical guidelines, their identities and contact details could have been determined.

²² One woman and one lawyer participant could no longer be contacted.

²³ There is still the possibility that participants could be identified by their voice or by personal information disclosed on the tapes if one of the burglars or someone who subsequently gained access to the tapes listened to them.

METHODOLOGY/METHOD FOR THE DISCOURSE ANALYSIS OF LAWYERS' ~~AND JUDGES'~~ TALK ABOUT PARTNER VIOLENCE AND THE LEGAL RESPONSE

As mentioned in Chapter 5, the present research project has two main components. The second component explores how lawyers make sense of domestic violence generally and within the context of their work.

This chapter specifically outlines the methodology used to examine lawyers' discourses of domestic violence and the legal response to domestic violence. After introducing discourse analysis as an appropriate methodology for feminist poststructuralist research, Parker's (1992) guidelines for discourse analysis are presented and discussed in the context of this phase of the research. These guidelines were informative for the analysis of the lawyers' interview transcripts, and adequately addressed several theoretical considerations discussed in Chapter 4. The remainder of the chapter looks more specifically at the actual process used for the discourse analysis. I provide information about the lawyer participants and how they were recruited. I also describe the interview process, transcription of the interviews, and the discourse analysis of the transcripts.

The use of discourse analysis for feminist poststructuralist research

Discourse analysis is one way of engaging in social research that is consistent with (feminist) poststructuralist theory (Banister, Burman, Parker, Taylor, & Tindall, 1994; Gavey, 1989; Parker, 1992). However, discourse analysis is not prescribed by a single method. Because of the diversity of approaches to language, there is an array of different styles, and not all are informed by or congruent with poststructuralism.

Furthermore, though guidelines for doing discourse analysis exist, these intentionally fall short of how-to-do-it instructions (Burr, 1995). That is, discourse analysis "defies simple exposition and... explicitly resists generalised description" (Burman & Parker, 1993, p. 161). Rather, each project requires the development of a method that is specific to that project (Burman & Parker, 1993; Coombes & Morgan, 2001; Gavey, 1989; Parker, 1992). In tailoring discourse analysis to each specific study, the analyst can focus on the facet/s of language that best relate to their topic and/or

that coincide with the researcher's interests. It is also necessary that the style of discourse analysis used is congruent with the theoretical assumptions that underpin the research.

Discourse analysts who identify themselves as working within a poststructuralist framework do not claim their analyses to be objective. Rather, they recognise that discourse analysis is an interpretative task and hence subjective. This means that all discourse analyses, including my own, are partial and incomplete. They are dependent on the researcher's position and limited to the social, cultural, and historical context of the research (Marshall et al., 1998).

Discovering discourses and tackling texts: Parker's guidelines for discourse analysis

After becoming familiar with several styles of discourse analysis, I decided that Parker's (1992) guidelines proved useful, at least as a starting point, for the analysis. This is because they adequately addressed several pertinent considerations of this research: discourse, subjectivity, power relations, and politics.

Parker's (1992) guidelines consist of seven primary criteria, and three auxiliary criteria, the former being sufficient for locating discourses within texts, the latter criteria being important because they consider the role of discourse in the broader social system and hence imbue the analysis with a political emphasis. These ten criteria are presented below. I talk about each within the context of my research about abuse and violence against women within intimate relationships.

Criterion 1: A discourse is realised in texts

Discourses, or at least parts of discourses, inhabit texts. Parker conceives 'texts' to supersede what is conventionally considered an appropriate medium for discourse analysis. Though normally applied to written and spoken forms only, Parker incorporates a much more diverse assortment: speech, writing, non-verbal behaviour, Braille, advertisements, fashion, stained glass, architecture, tarot cards, and even electronic games. Indeed, he defines texts as "delimited tissues of meaning reproduced in any form that can be given an interpretative gloss" (Parker, 1992, p. 6).

As discussed in Chapter 4, this research conceives domestic violence as a socially situated practice that assists in the perpetuation and/or resistance of oppression and power relations. Socially situated practice includes talk about domestic violence and the meaning people attach to domestic violence. It also includes a man killing his partner, punching her, sexually coercing her, raping her, intimidating her with his body language, and keeping her isolated and trapped within their home. Through this particular discursive lens, domestic violence is not "only words"; domestic violence comprises socially situated behaviours that are ordinarily considered to be part of an extra-discursive realm.

Parker's (1992) definition of text is similarly much broader than spoken and written words, incorporating anything that is imbued with meaning and interpretable. In that people give meaning to domestic violence, domestic violence can be considered textual and an appropriate object of discourse analysis. Because I was interested in the construction of domestic violence by legal professionals in particular, transcripts from interviews with lawyers were utilised as texts. Through these written texts, discourses pertaining to domestic violence were rendered visible.

Criterion 2: A discourse is about objects

Parker (1992) states that discourse analysis entails two layers of objectification: the 'reality' that the discourse refers to, and the discourse itself. The latter acknowledges that like any other object, 'discourse' itself is brought into being and given a reality by language through discourse. In other words, discourse is not exempt from discursive constitution. In this research, discourses are treated as objects: they are looked for, identified, named, described, and regularly referred to, all because their existence is thought to effect the lives of women, children, and men. It is only through this objectification of discourse that discourse analysis is plausible or possible.

In relation to the first layer, Parker (1992) suggests that researchers ask what objects are being referred to in the text, and then describe them. In this research, 'domestic violence' was considered an object constituted through different discourses. Whilst usually constructed as part of 'domestic violence', 'psychological abuse' was also examined as an object in its own right during the analysis. The 'legal response to domestic violence' was also examined, with 'protection orders' and 'supervised access' being the main objects constituted within this broader category of talk.

Although discourses and the 'reality' they refer to are treated as two layers of objectification so that discourse analysis can proceed, theoretically the boundary between discourses and objects is fused and indeterminable. 'Objects' are constructed through discourse; hence, objects are discursive constructions. Similarly, discourse (as an object within a discursive study) is constructed through discourse, and hence, is a discursive construction. Because there is no enduring or generalised sense in which 'discourses' and 'discursive constructions' constitute different objects, in the present research, the terms 'discourse' and 'discursive construction' are used interchangeably. I focus my analytic attention on objects that are regularly constructed by lawyers; I identify systematic ways these objects are constituted differently from each other; and I talk about these objects as discursive constructions.

Criterion 3: A discourse is a coherent system of meanings

"The statements in a discourse can be grouped, and given a certain coherence, insofar as they refer to the same topic" (Parker, 1992, p. 11). Though not completely watertight, a coherent map of an object is (re)produced by the discourse.

In this research, discourse analysis involved a search for statements that were interconnected in that they constructed an object or subject in a consistent and meaningful way. This process inevitably involved me, the analyst, bringing my own sense of what constituted a particular object in a coherent way. In doing this, I also brought a sense of how this object could otherwise be constituted, and hence, what was not coherent with an interconnected system of statements about an object. That is, what statements were part of another discourse, which coherently constituted a different version of domestic violence. For example, statements that I thought constructed domestic violence in a pathological way were considered interconnected, and together formed a coherent way of making sense of domestic violence. Statements that constructed domestic violence as an unacceptable behaviour were not considered part of this 'pathological discourse' but part of another coherent system of statements about the 'moral unacceptability' of domestic violence.

Determining what discourse statements belonged to was not always a straightforward task. For example, a series of statements in the lawyers' transcripts constructed domestic violence as a symptom of a relationship that is breaking down/ending. Were these statements part of a 'pathological' discourse because the relationship was constructed as 'breaking down' and no longer functioning healthily? Alternatively, were these statements not so related to pathology as they were to the 'normal' stress associated with relationships when they end? And if the latter, were these statements then part of another system of statements that constructed domestic violence as a consequence of frustration, stress, and inner tension within an individual? Because discourses are not as bound and watertight as discourse analysis can make them appear, the particular system of statements concerned could probably have fitted within any of these groupings. In the end, I decided to present these statements as a separate discourse of 'domestic violence as a symptom of a breaking down relationship'. This is because, whilst it could be considered a very specific and coherent articulation of the 'pathological relationship' discourse, it centrally focused on relationships ending, not pathology. Having made this decision, I then referred to its relationship with these other discourses. Because discourse analysis is a subjective process, it is always possible that another analyst would have decided differently. Indeed, although discourses inhabit texts, their emergence is dependent on intuition (Parker, 1992) and on the interaction between the researcher and her/his reading of the text. Discourses are produced through the process of analysis rather than being hidden away awaiting discovery (Parker, 1994). This research was no exception: the discourses I 'found' or 'constructed' were based to some extent on my interpretation, of say, what statements fitted within or outside a coherent system of statements.

Criterion 4: A discourse refers to other discourses

"A critical reflection on a discourse will often involve the use of other discourses... Discourses embed, entail and presuppose other discourses" (Parker, 1992, p. 13). In other words, discourses are co-articulated with other discourses.

This research considered the different objects that are constituted by contrasting discourses, as well as looking where these discourses overlap. For example, a discourse that constructed domestic violence as a consequence of the social system was sometimes co-articulated with a discourse that constructed domestic violence as being an expression of inner tension. In this particular co-articulation, poverty caused by the economic social system in New Zealand caused individuals such stress that they periodically released this tension in the form of domestic violence.

Criterion 5: A discourse reflects on its own way of speaking

"It is possible to find instances where the terms chosen are commented upon", where the "discourse itself folds around and reflects on its own way of speaking" (Parker, 1992, p. 14). This characteristic of discourse can sometimes be helpful for identifying a particular discourse. Locating reflections, including reflections that refer to contradictions between discourses, can also assist the analyst to identify other discourses.

As suggested by Parker (1992), this research also takes instances of reflection back to the speaker (e.g., lawyer participants) where possible. This seems particularly appropriate to do when one remembers that the speaker is an "active and reflexive performer" (Wetherell & Edley, 1998, p. 167). Interviewees sometimes reflect on a discourse to deal with their own accountability, that is, to position themselves favourably, and/or to avoid unfavourable subject positions associated with using a particular discourse.

Whilst I highlight how lawyers manage their self-presentation when this occurs in relation to particular discourses, I do not closely examine the rhetoric of lawyers as a research question. An investigation of the rhetoric used by lawyers to present their accounts as factual, and to manage their accountability and self-presentation within the interviews, is relevant but outside the scope of the present research.

Criterion 6: A discourse is historically located

Discourses constructing an object are not static. Their use changes over time, as does their interconnectedness with other discourses. Hence, discourses located within a specific discourse analysis are specific to the time the texts were produced.

Contemporary discourses refer to objects that have been constituted in the past by those discourses and other related discourses, which are socially and culturally specific. For example, the discourses presently used to construct 'domestic violence' have emerged or been utilised in the past. The presence and emphasis of historically available discourses of domestic violence has changed, so that whilst some are only infrequently or less frequently used now, others have become more predominant, and may be co-articulated differently with other discourses. The meaning attached to

domestic violence is not fixed or finite; it does not have an inherent essential nature that makes it 'domestic violence'.

Parker (1992) recommends that analysts look at how and where discourses have emerged and changed. Because the present research is not investigating the historical construction of domestic violence by the New Zealand legal system, it has not located and analysed relevant historic legal texts related to domestic violence. Instead, I have provided some of the historical context in Chapters 2 and 3. Part of Chapter 2 examines the historical basis of the present gender bias and monoculturalism of the New Zealand legal system. Chapter 3 reviews literature about how the legal system has historically viewed and responded to domestic violence, and how the women's movement has more recently influenced the legal response to domestic violence. It is presumed that discourses utilised by lawyers at the beginning of the current millennium will have emerged from this historical context. Whilst some will have emerged from many decades ago, I expect that lawyers' utilisation of feminist-based discourses will be more prevalent now due to the influence of the women's movement in recent times.

Criterion 7: A discourse contains subjects

According to Parker (1992), discourses make available positions that a subject may take up. Whether this subject accepts or rejects the position available through a discourse, s/he still takes up a position. The different positions on offer constrain or enable what the subject can do and what s/he can say (Davies & Harre, 1990).

Consequently, Parker (1992) suggests that discourse analysts specify what type of person is talked about in an identified discourse, and that they speculate about what rights s/he has to speak within that discourse. When specifying the type of person talked about within the text, we need to ask who the *text* is addressing as opposed to who the *author* of that text is addressing (Parker, 1992). This is because the *discourses* produce the subject positions for women and men.

Extending this criterion further, whilst some of these subject positions may be directly referred to as objects within the text, others are indirectly inferred from discourses that construct other objects, like domestic violence. For example, a discourse that constitutes domestic violence as a crime indirectly implies subject positions for abused women or violent men, the former being victims of crime, the latter being criminals.

This research examines subject positions that are made available through discourses identified within the lawyers' transcripts, as well as how these subject positions constrain and enable what women can do and say. Because lawyers use multiple, contradictory discourses of domestic

violence and the legal response to domestic violence, subjectivity afforded to women, men, and children is fluid, plural, and fragmented (Gavey, 1990).

Criterion 8: Discourses support institutions

Many discourses are "implicated in some way with the structure of institutions" (Parker, 1992, p. 17) and institutional practices. Hence, Parker suggests that critical discourse analysts should identify what institutions are reinforced or subverted when particular discourses are used.

This research project assumes that institutions such as the legal system, the family, and heterosexual relationships are legitimated and challenged by discourses of domestic violence and discourses of the legal response to domestic violence.

Criterion 9: Discourses reproduce power relations

As mentioned in Chapter 4, power relations are reproduced through social practices and discourse use. Whether or not particular discourses are institutionally entangled, or used intentionally or consciously for this purpose, certain persons (e.g., men) profit and others (e.g., women) forfeit as a consequence of their utilisation. This research specifically examines how women experiencing violence from a present or former partner benefit and lose through lawyers' utilisation of different discourses.

Criterion 10: Discourses have ideological effects

When Parker (1992) states that discourses have ideological effects, he is careful to alert the analyst to the danger of conceptualising ideology as equivalent to belief systems, or of distinguishing ideological discourses versus truthful discourses¹.

Parker considers it appropriate for discourse analysts to illustrate how discourses are co-articulated with other discourses that sanction oppression. Furthermore it is appropriate to consider how groups who use marginalised discourses are prevented from contributing to history whilst dominant groups justify the presence of oppressive discourses.

This research has highlighted in earlier chapters the oppression of women survivors of partner violence, not only by their partner, but also by the legal system and legal personnel. Where appropriate, the discourse analysis highlights those discourses that continue to oppress women who suffer partner violence.

¹ The conceptualisation of ideological discourses versus truthful discourses exists in Marxist-based theories. In this view, ideological discourses are falsely presented as the truth by dominant groups in society.

PROCEDURE FOLLOWED TO ACCESS AND ANALYSE LAWYER'S TALK ABOUT PARTNER VIOLENCE AND THE LEGAL RESPONSE

Becoming familiar with the criminal courts

Before my PhD research I had little practical experience of the District Court. Whilst my work with Women's Refuge meant that I sometimes attended lawyers' appointments, I had never had the opportunity to support women involved with proceedings in the court system. Consequently, an initial part of the research involved my familiarisation with the context of criminal court proceedings. This involved observing from the public gallery of the Palmerston North, Auckland, and Otahuhu District Courts. It was not possible to sit in on the Family Court proceedings because these are closed to the public.

Ethical considerations

As stated in Chapter 5, approval for this research was obtained from the Massey University Human Ethics Committee in September 1999. Ethical considerations for the lawyer participants were mainly determinate on informed consent, anonymity, and confidentiality. The processes used in respect of these issues were the same as those used for women participants (see Chapter 5). For example, potential lawyer participants were fully informed, both orally and in writing, about the aims of the research, the process in which they would be involved, and their right to withdraw. All materials produced in relation to participation were securely stored in locked cabinets, pseudonyms were used on tape labels and transcripts, and the list linking codes to real names was stored elsewhere². I was the only person who could directly access material of a personal nature. The only exception to this was when ten lawyers' tapes were transcribed by professional transcribers. Transcribers signed a transcriber's agreement, whereby they agreed to keep all information and names they became aware of completely confidential, and to securely store all cassette tapes and transcripts during the process of transcription. Lawyers were sent a copy of their interview transcript for censoring purposes, and their identities have also been masked in this thesis and other research reports.

Recruitment of lawyers

Lawyer participants were originally recruited from the Manawatu region. Having written to the New Zealand Law Society about my research, they suggested I contact the Manawatu District Law Society, who they thought might be able to send out relevant research material with one of their regular mail-outs. After providing information about my research to the Manawatu District Law Society, they sent information about my research to every practitioner in the Manawatu District. This included the cover sheet, information sheet, and a slip to indicate their interest in participating or finding out more about the research (see Appendix D, E, and F, respectively). They also provided

² A burglary that resulted in the loss of women and lawyers' tapes has been discussed in Chapter 5.

me with a list of practitioners and firms who were principally involved with family law (seemingly not associating my research so much with criminal matters). Five lawyers from the Manawatu region either sent back the slip or contacted me by telephone because of this recruitment process.

One other lawyer from the Manawatu region was encouraged to participate by a colleague of his who had just participated in the research. Interestingly, when I met him informally he expressed reservations about being involved because he was opposed to the (feminist) arguments being circulated by particular authors around that time (presumably he thought I might be an advocate of such arguments). When I told him more about my research, I let him know that his opposition to their ideas would make an interesting topic during the interviews. Because he had reservations, I emphasised that he was under no obligation to participate and should probably take some time to decide whether he really wanted to or not. Because he said he had not received information from the Manawatu District Law Society, I posted him a cover letter, information sheet, consent form, and slip. I received confirmation of his wish to participate within that week.

For the Nelson region, I contacted the Nelson District Law Society, whose secretary forwarded on the names of those who would be appropriate to participate in research. These lawyers were subsequently sent a cover letter, an information sheet, and a slip to indicate interest in talking to me further about participating in the research (the same as those in Appendix D, E, and F, respectively).

I contacted all lawyers who indicated they were interested in the research to discuss the research further and to answer any questions they had. I then sent them consent forms, with the proviso that they were under no obligation to participate. All but one signed and returned their consent forms promptly, and so interview appointments with these lawyers were arranged. The other Nelson lawyer contacted me two or three months after she had been sent her consent form to check it was not too late to participate. Although the interviewing of lawyers had been completed by then, an interview was arranged.

The lawyer participants

Eighteen lawyers participated in the research: 12 from the Nelson region (6 women, 6 men), and 6 from Palmerston North and surrounding towns in the Manawatu region (5 women, 1 man). All worked with domestic violence and abuse. Some did domestic violence work that related to criminal law, for example working with clients who had breached protection orders or had charges related to violence. Other lawyers worked with domestic violence through their involvement with family law. This consisted of protection order work, as well as custody, access, and property orders that sometimes accompany protection order work. Some lawyers were registered as Counsel for Child. Some lawyer participants did a combination of work within these areas, or had done a combination of these categories during their careers. All did work unrelated to domestic violence as well. No one

self-disclosed their ethnicity but all appeared to be of Pakeha/New Zealand European descent³. Regardless of their respective ethnicities, all work within a Pakeha institution, that of the New Zealand legal system. Their ages, and years of experience as lawyers, varied considerably. Some lawyer participants had been practising for at least two or three decades, a couple for less than two or three years, with most somewhere between these two extremes.

Individual interviews with lawyer participants

Lawyers from the Manawatu region were interviewed between late February and mid April 2000, whilst lawyers from the Nelson region were interviewed between late April and early June 2000. The only exception to this was the lawyer who contacted me after the interviewing phase was complete; she was interviewed in late August 2000.

Four of the Manawatu lawyers were interviewed at their work place, whilst two (both women) opted to be interviewed in their own homes. All Nelson lawyers were interviewed at their workplace, with the exception of two women. One was interviewed in the Nelson Court House library; the other (who had consented to participate later than the others) was interviewed at an agency in Wellington whilst she was there for a conference.

Prior to interviewing, a semi-structured interview schedule was constructed. This schedule was designed to cover most aspects of the legal system as they relate to domestic violence, as well as issues that had arisen during the women participants' interviews. Key discussion areas included: lawyers experiences of working in the area of domestic violence; the Domestic Violence Act 1995, protection orders, domestic violence education programs, and other aspects of the legal system and law that related to their specific work with domestic violence (e.g., the Family and/or District Court, criminal law, etc); the social and legal implications of partner violence on children, including parenting, custody, and access; and domestic violence and abuse more generally, including psychological abuse. Under each of these main discussion areas, a couple of sub-topics and sample questions were included. However, it was not intended that all discussion areas would be thoroughly covered at any one interview. Rather, the schedule provided the scope of areas that would be relevant to cover during the interviews, and where discussion could be facilitated if a participant exhausted a topic and did not initiate another topic of their own accord (i.e., for occasions when a participant paused and expected me to initiate a new topic). The sample questions were to be treated very flexibly and I expected that I might not need to refer to them. In part, they were there more for interviewer confidence and reassurance should I feel nervous or lost for words. Having an interview schedule with sample questions also proved useful for one lawyer, who wished to have some time to think about the different areas I was interested in before the interview. She thought this

³ This is only an assumption and should be treated cautiously.

would enable her to provide answers and discussion that were more well-thought through, as opposed to providing them off the top of her head, so to speak⁴.

The commitment to a semi-structured interview format was considered most appropriate for this research because the interview foci could then be negotiated between the interviewee and myself. The schedule's non-restrictive emphases enabled lawyer participants the latitude to discuss domestic violence in the legal system as they wished to and in their own words. It also enabled the discussion to go in an array of directions as considered relevant by the individual lawyers. Some of the issues they brought up may not have arisen using a more structured format.

Whilst the semi-structured interview format provided the freedom to talk about domestic violence and the legal system in a variety of ways, some structure was considered necessary. Otherwise the same objects and phenomena would not be constituted sufficiently by enough of the lawyers for discourse analysis and/or key issues might be missed out in their entirety.

Prior to interviewing any lawyer participants, I role-played imaginary interviews, and ensured that I was very familiar with my interview schedule. So that the interviews went smoothly for both myself and participants, I also prepared for each individual interview beforehand. This involved refamiliarising myself with the lawyer's background (using their initial contact sheet) and refamiliaring myself with the interview schedule. In addition, I checked that the recording equipment was working. I also checked that interviews had been successfully recorded when I returned home from an interview. I was particularly vigilant to checking this before interviews after I returned home from one interview and found that the microphone battery had been very low, and consequently, the recorded interview was less audible than usual. In this case, it was fortunate that the microphone had not deteriorated to a level where the interview was inaudible.

My style of dress at the interviews was presentable but not over-formal. Whilst I wanted to appear credible to these professionals, I was worried that wearing too formal an attire would make the interviews correspondingly formal and/or intimidating and would consequently constrict what lawyers would say. Hence, by choosing to wear clothes that were semi-casual/semi-formal, I was trying to promote a casual environment in which interviewees were comfortable to talk with me.

Once I arrived at the interview venue and met the lawyer participant in person, we usually became involved in casual conversation that was less related to the interview. This assisted in establishing

⁴ One unforeseen implication of providing her with the interview schedule and sample questions was that she brought them to the interview and spoke to each of them. This meant that this interview was much more structured than the others though there was some latitude for movement as well.

rapport and provided a more informal atmosphere. In the lead-up to starting the interviews proper, I reminded participants that I was interested in their experiences and views of the legal system in relation to domestic violence, and outlined some of the areas that they might choose to talk about. Because I intended the interviews to be semi-structured, I explained that they had the latitude to discuss any issues or topics that they themselves identified as important or relevant. I also explained that they were in control of how much they disclosed, and need not answer any questions I asked if they did not wish to. They were also reminded that they could stop the interview at any time, that they could switch off the audiotape when they did not want something recorded, and that all information they provided would remain anonymous. I then clarified with them the amount of time they had available, and checked if they had any questions about the research or the research process.

When the interviewee was relaxed and ready, the tape recorder was switched on and the data collection phase of the interview took place. This normally began with the lawyers describing what their work involved generally and in relation to domestic violence.

During interviews I was very attentive and provided evidence of this with my body language, eye contact, and regular conversational feedback that I was both listening to and interested in what they were saying. This attentiveness, which occurred quite spontaneously (as opposed to seeming forced or practised), was also meant to encourage the interviewee to continue talking about a topic, and to feel confident speaking about areas they felt relevant.

Whilst I was listening, I was also reflecting about how their conversation related to my interview interests and data collection intentions. I asked probing questions when appropriate, including when I was interested in them elaborating further about something and/or when I thought their talk was interesting discursively. Questions and comments were oriented to what lawyers were saying and in accordance with the position they seemed to be advocating. This meant I did not usually challenge views that were different from my own, preferring them to be talked about and explored further. When necessary, I would ask clarifying questions or would sum up what they had said and check this was what they had meant.

When they brought up something new during a discussion about something else (i.e., a potential tangent), I would respond to and ask follow-up questions then, or if more appropriate I would make a mental note to return to it as soon as they finished the other topic. The flexibility of semi-structured interviewing sometimes resulted in lawyers raising topics I had not anticipated. When a topic had been covered and conversation came to a lull, I would initiate a new topic, referring to my schedule if necessary.

Interviews typically lasted between one to 1½ hours with a couple being closer to two hours in length. At the end of the interviews, I warmly thanked participants for their participation in the research. All lawyers were informed that they would receive a copy of their interview transcripts, which they would be able to adjust accordingly. Overall, I was taken by the level of interest that lawyers showed in the research and the generosity of their time, particularly considering most chose to be interviewed in their working hours.

On a reflexive note, it is interesting to reflect on the power relations present during these interviews⁵. In accordance with a Foucauldian perspective, "power is not conceived of as a unidimensional quality that is possessed or lacked" (Burman, 1994b, p. 68). An array of factors may have contributed to any power relations present during the interviews. In the first place, a researcher carries undeniable power because they ultimately have control over the research framework and process as well as interpretative authority regarding the analysis (Burman, 1994b; Chase, 1996). Whilst feminist poststructuralist researchers attempt to reduce the researcher authority during interviews and other phases of the research process, the power imbalance between researcher and researched remains and cannot be disowned: "there are no techniques or analytic procedures that escape the dangers of exploitation" (Burman, 1994b, p. 67). Also adding to the complexity of power relations, is the high status that lawyers enjoy within society. Whilst I might be viewed as an 'expert' to some degree, lawyers presumably feel in a greater position of power to me in relation to their formal legal expertise. This would be even more so for lawyers who have many years of expertise and/or who have become well known and respected within their profession. Furthermore, regarding the legal expert/postgraduate student binary, all would have a much higher income than I would. Whilst power relations related to ethnicity do not seem to have been present (if I am correct in assuming all lawyer participants were of Pakeha/New Zealand European descent), those related to gender would have applied in my interviews with male lawyers. Despite the complexity of power relationships in operation, I certainly felt the interview relationship between the lawyer participants and myself to be very comfortable and connective. Indeed, it seemed that many of the lawyers felt enough at ease to share varying degrees of personal information during their interviews. They shared their plans for the evening or weekend, and information about their lives and their current or past relationships. For example, one lawyer spoke of her status as a single-Mum, another of the stress and demands she felt being both a mother and in the workforce, one about how his marriage had ended in divorce, and yet another about how her previous relationship had been very unpleasant and hierarchical. Lawyers also shared personal views about domestic violence and their work in this area. One lawyer commented after reading over his transcript, that he was surprised

⁵ Note that this is only speculative. I do not actually know how powerful or powerless an interviewee felt.

about how “forthcoming” he had been during the interview. A couple of lawyers edited out remarks they later deemed ‘inappropriate’.

As expected, interviewing proved a useful research strategy for eliciting considerable talk and discussion from lawyers on both domestic violence and about the legal response to domestic violence. As envisaged, this data was appropriate and relevant for discourse analysis, and contained a wide range of discursive resources that positioned women and men who are in abusive relationships.

Transcription of the interviews

Eight of the interviews were transcribed by myself using the same method used for the women participants' interview tapes. That is, I represented every decipherable word and non-lexical uttered by the interviewee and myself in the order they were spoken. I did not punctuate the dialogue. Audible intakes of breath, syllable or word emphases, and many other details of speech were not represented.

The remaining ten tapes were transcribed by professional transcribers, four by one woman and six by another woman. Because my original ethics application stated I would be transcribing the interviews, the Massey University Human Ethics Committee was informed of the change and given a copy of the transcriber's agreement that would be used. I also approached lawyers affected by the change and obtained their permission. Because I had been present at the interviews and was more familiar with the domestic violence and legal terminology, I checked the transcribers' transcripts and made necessary corrections. As promised, I then forwarded a copy of each transcript to respective lawyers so that they could make relevant alterations and provide feedback.

Discourse analysis of lawyers' transcripts

Having all the interviews transcribed, I immersed myself in the transcripts. Initially, I read all of the transcripts to give me an overall impression of the data, and an awareness of commonly occurring objects (e.g., domestic violence, psychological abuse, protection orders). Then, each transcript was carefully read and reread to locate recurrently used systems of statements that constructed these objects.

To assist in the identification of discourses, fragments of the text were coded and clustered together on the basis that they appeared to construct an object in a similar way. The ‘discourses’ that were emerging were labelled and developed further with excerpts from the remaining lawyers' transcripts. Each grouping of a ‘discourse’ was considered carefully throughout the analysis and alternative readings were also explored. Consequently, some discourses and categories were abandoned, some were transformed, and others were increasingly established.

At this stage, I consulted with my supervisor and received her feedback about my interpretation of the data. I also informally discussed my preliminary findings with friends and colleagues. This use of different vantage points, termed investigator triangulation, was done in recognition that meaning inheres not only in the text but in our construction and reading of it (Tindall, 1994). My interpretation of the transcripts was only one of several possible readings, and was somewhat dependent on my interpretative stance and position within different social structures (e.g., gender, ethnicity, class, etc)⁶. My supervisor's feedback and others' ideas were subsequently attended to.

Once I had secured my 'final' discourses, each was illustrated with several excerpts from the lawyer participants' transcripts. All excerpts used to illustrate a discourse were accompanied with a pseudonym indicating the lawyer whose interview that excerpt had been taken from. At this stage, I also specifically examined the implications of each discourse, and the subject positions made available for women and men in violent relationships.

The discourse analysis of the lawyers' interview transcripts is presented in Chapters 9, 10, 11, and 12.

SOME REFLEXIVE COMMENTARY

Changing the original objectives of the research: Non-participation of judges in the research

As discussed in earlier chapters, this research project consisted of two main components: women's satisfaction with using the legal system in relation to domestic violence, and how lawyers make sense of domestic violence and the legal response to domestic violence. Initially, there was another main research question concerned with how judges make sense of domestic violence generally and within the context of their work in the criminal and family courts. I was specifically interested in their use of discourses related to domestic violence and the legal response to this violence, as well as the implications these discourses had for women who have experienced violence from a male intimate. So that I had texts for discourse analysis, I hoped to interview District Court Judges, particularly those who had a licence to serve in the Family Court. Judges who have a Family Court licence have the advantage of encountering domestic violence within both the criminal court and the Family Court. This component of the research was an integral part of the study considering the pertinent role judges play within the legal system as it relates to domestic violence. Indeed, judges are probably the highest status professionals providing a service to women experiencing domestic violence. Because they have such high status and influence within the legal system, the discourses

⁶ Whilst triangulation facilitates a richer, more credible analysis through the multiple standpoints and perspectives it offers, it does not make any research completely valid, unchallengeable, or a 'truthful' representation of reality; all research is constructed and no knowledge is certain (Tindall, 1994).

they perpetuate and resist have particular relevance to the legal system's response to domestic violence and women using the legal system.

Because I had decided it was courteous and ethically necessary to seek permission from both the Chief District Court Judge and the Principal Family Court Judge, I wrote a letter introducing myself and my proposed research. I also provided a copy of the judges' information sheet and consent form for their perusal (see Appendix G and H, respectively), and explained the process that would be involved for judges who participated.

Subsequent correspondence from the Chief District Court Judge communicated that he and the Principal Family Court Judge were uncomfortable about approving participation in the research when the information sheet only provided "vague generalities" about what judges would be invited to talk about. He wrote that judges would need to see specific questions with a very clear focus. Consequently, I provided them with a list of over 20 possible questions for judges who work in the District Court but not in the Family Court, and an additional 60 or so questions for judges who worked in both. Potential participants could use such a list, alongside the information sheet, to assist with their decision, and to prepare for the interview should they wish to. I explained that time constraints would make it unlikely for all questions to be asked, but that this list comprised all questions that I envisaged could come up during the interview. I also mentioned that participants might like to choose particular areas or questions to speak about. In that texts are required for discourse analysis, I re-emphasised my preference that interviews be conversational (i.e., as opposed to formal and restrictive).

The Chief District Court Judge's letter of response firmly expressed that the Principal Family Court Judge had advised him that he was "strongly against judges being involved in answering many of the questions you have asked". The Chief District Court judge also took that view. This was reaffirmed at the end of the letter: "The specific questions you have identified has confirmed in my mind that it would not be possible for me to provide judges to answer the questions you have asked".

Comments made by these judges throughout their correspondence indicated several reasons why judges could not participate in the research. First, judges are not legally permitted to discuss policy issues. Second, these judges did not sufficiently understand my methodology. Third, these judges were concerned that domestic violence was a sensitive and contentious topic; judges' comments would be susceptible to criticism from particular groups in the public arena.

Their concern that judges are not legally able to discuss policy issues is perfectly understandable. They had raised this issue prior to receiving the list of potential interview questions, stating that

judges could only talk about “the practical effect and practical workability of statutes, i.e., whether they function in the way Parliament intended”. Although my interview questions were designed with this in mind and meant only to enquire about judges’ experience of the law in terms of its workability, the Chief District Court Judge and the Principal Family Court Judge may have interpreted these questions differently. Their concern may have been raised further because the interviews were semi-structured, and hence, it was possible that other ‘inappropriate’ questions could be asked.

As mentioned above, I believe that the Principal Family Court Judge and the Chief District Court Judge’s decision was partly due to the dominance and prevalence of quantitative research, and their misconceptions about discursive methodology. Indeed, much of their feedback about the proposed questions seemed consistent with a foundationalist/positivist view that researchers seek accurate facts that can only be accessed through particular methods. Placed within this paradigm, much of their feedback made sense. However, as explained in Chapter 4, the theoretical underpinnings of this present research are very different from a quantitative perspective. I was not interested in accessing objective facts through statistics or questions answered by ‘experts’ (i.e., judges) during interviews. Rather, interview questions were designed to elicit talk about particular objects and phenomenon, like domestic violence and the legal system. When audiotaped and transcribed, these texts would be a pertinent resource for the discourse analysis. It was through this process that judges’ discourses about domestic violence could be located and their political effects hypothesised.

To illustrate the quantitative paradigm they seemingly ascribed to, in their final letter, the Chief District Court Judge explained that they could not permit judges to participate because a large number of the proposed questions came under the categories of “general questions” or “statutory criteria”⁷. Regarding the first of these categories, the Chief District Court Judge explained that many of the questions were “so general and so broad as to be unanswerable accurately”. Using one of my introductory questions for Family Court Judges as an example⁸, he stated that “the reply you will get will be of course no more than a vague anecdotal guess of no use whatsoever”. He also explained that I could answer this by accessing statistical information produced by the Courts. He classed two other questions under this category⁹ and described them (“with respect”) as “so wide as to be worthless” and as “frankly worthless”.

⁷ The other problematic category of questions was “policy questions”. This issue has been discussed above.

⁸ The introductory question concerned was: “Could you describe a little about the sorts of cases that you preside over or that come before you (more common, more rare, extreme, minor)?”

⁹ These two questions were: “What kind of issues/problems do people present with?” and “What is it like working in this area (most difficult and most rewarding experiences, whether it is different to other work they did)?”

From my perspective, these three questions had been part of an introductory/warm-up set of questions that encouraged judges to talk about the work they do in the area of domestic violence, including their experience of doing this type of work. These questions were intended to make judges more comfortable within the interview context, as well as establishing my position as an interested researcher who had much to learn from them. Certainly, I could have accessed related information from Court-based statistics. However, I did not want a skeletal, impersonal version of it. I wanted judges to explain their work in their own words, and to talk about what was important or significant to them. Furthermore, general questions of this sort were required to elicit dialogue about domestic violence and the legal response, and hence, text for the discourse analysis. Interestingly, similar questions proved very worthwhile for lawyer participants. They welcomed the opportunity to talk about their work in the area of domestic violence, and their experiences of this work. In answering questions like this, lawyers often moved on to other topics and issues they wished to discuss. Their responses also proved valuable for the discourse analysis. Also interesting, and rather ironic, is that approximately one year later (March 2001), broad questions like this were answered in a New Zealand television documentary about the Family Court. In an attempt to educate the public about the Family Court, this documentary featured a day in life of a Family Court Judge. Anecdotal information about the Family Court was not "frankly worthless", nor were examples of this judge's work deemed "a vague anecdotal guess of no use whatsoever", even though they were meant to illustrate a much larger scope of work than that related just to domestic violence.

As mentioned above, the other category of questions identified by the Chief District Court Judge was "statutory criteria". He explained, quite simply, that the only factors taken into consideration when making particular orders were statutory factors, this being what the law requires. I was reasonably well versed with the statutory criteria required to make orders, having closely inspected the Domestic Violence Act 1995 for this research, and for my work with Women's Refuge and Manawatu Women's Learning Group. However, from a non-foundationalist theoretical stance, statutory criteria are still subject to interpretation. For example, a) the nature and seriousness of the violence, and b) the recency and frequency of the violence, are two of several criteria to be used by the Court when determining whether or not it is satisfied that a child will be safe during custody or access with a violent party. These criteria are dependent on interpretation, and hence, could mean different things to different people (judges not excluded). Indeed, it cannot always be easy to judge whether these criteria have been met. Is the violence serious enough? Is it too infrequent or not recent enough? How does one determine the answers to these questions, especially considering the array of scenarios that must come before the Family Court? This was the interpretative component I

was interested in learning about during my interviews with judges. Perhaps I should have explained more clearly that I was interested in how these statutory criteria were interpreted¹⁰.

As stated above, I believe the Chief District Court Judge and the Principal Family Court Judge were also concerned that domestic violence was a sensitive and contentious topic; judges' talk about domestic violence could be scrutinised and criticised not only by myself but by other interested groups. This seemed particularly evident from one of their first letters. Near the end of this letter, the Chief District Court Judge assured me that the difficulties he raised were not meant to be discouraging, but that "if a project is to be done it must be done properly". He said this was particularly relevant considering it was likely that the opinions of judges about a "sensitive and difficult issue" would be in the "public arena", and this needed to happen "in an appropriate way".

From their point of view, this is an understandable reason for declining judge participation. The judiciary likes to present a certain image to bestow and maintain public confidence in them. An 'inappropriate' understanding about domestic violence, particularly from those who do domestic violence work, is not part of the image the judiciary wants to convey. Such findings could undermine their perceived role in 'justice'. Unfortunately, however, excluding this group from discursive research means that judges' utilisation of discourses, which have implications for the welfare of the public and those affected by domestic violence, cannot be examined or addressed.

Whilst this is not the first domestic violence research that has failed to receive approval for judge participation (e.g., Darlow, 1997), I was very disappointed. This was particularly because several lawyer participants had indicated during interviews that they knew Family Court Judges who would be interested in the study and open to being involved¹¹. Whilst it was frustrating that individual judges weren't given the opportunity to accept or decline participation (i.e., they became inaccessible), I had to concede I had thought it ethically necessary to first get approval from the Chief District Court Judge and the Principal Family Court Judge. Having informed them about the research and requested their approval, they had refused to grant it, and this was quite within their right.

I was then left to decide what to do. Should I try persuading them to reconsider? And if so, what compromises would I have to make? For example, would I have to remove or reword all offending

¹⁰ I had included some of the statutory criteria alongside some of the questions he presumably deemed within this category, though I did not allude to the statutory criteria for every question of this type.

¹¹ Indeed, one lawyer participant had incorrectly guessed that the Principal Family Court Judge would be very supportive of the research!

questions? Alternatively, should I accept the non-participation of judges, and narrow my focus to lawyers' discourses of domestic violence and the legal response to this?

In the end, I decided against the first option and accepted the latter. The discourse analysis would be largely compromised if I could not include questions that elicit talk about domestic violence. Even if I convinced them about my methodology and obtained permission to interview judges in a satisfactory way (seemingly unlikely), I predicted they would want to view and approve the analysis to ensure that judges had not inadvertently made policy comments. Whilst legal constraints would make their censoring understandable, I guessed they might also screen out other quotes they did not wish to enter the public arena. This risk seemed even more of an issue in view of the projected financial cost of interviewing participant judges throughout the North and South Islands of New Zealand. However, future research could examine judges' use of discourses about domestic violence 'in vivo' by looking at judges' summary reports for criminal proceedings and protection order applications. Whilst this method would not make it possible to access judges' discourses about domestic violence outside the context of their work (as an interview would), it would access discourses used by judges in a specific context of their work.

Why use narrative representation for women participants, and discourse analysis for lawyer participants?

Two distinct types of methodology were used for this research: a type of narrative analysis, which I labelled narrative representation; and discourse analysis. The former was used to represent women participants' experiences of the legal response to partner violence; the latter was used to examine how lawyer participants made sense of domestic violence and the legal response to this type of violence.

Both narrative analysis and discourse analysis realise the constructive power of language, and its use in making sense of and representing reality and self. Congruent with a poststructuralist framework, objects and self are not considered fixed. Rather, they are created and recreated through the very process of narration or discourse use. Furthermore, both narratives and discourse are contingent upon the interpersonal context of the speaker, and the broader sociocultural context.

Despite a similar conceptualisation of language, narrative representation and discourse analysis achieve different goals. In narrative representation, the data elements are synthesised into a coherent account. In discourse analysis, there is a tendency to fragment a text into its constituent parts or discourses¹².

¹² In this way, discourse analysis is similar to types of narrative analysis that Polkinghorne (1995) labels 'analysis of narratives'. As discussed in Chapter 5, quite unlike narrative representation (or

Although I could have used discourse analysis, or a type of narrative analysis that determines the constituent parts of the women participants' talk, I chose to represent and produce women's shared experiences as coherent narrative accounts. Conversely, I decided to subject lawyers' interview transcripts to discourse analysis. This decision was based on the relationship differential that exists between lawyers and the law, as opposed to that between women and the law. Whilst lawyers can be considered experts of the law and service providers, women who utilise the legal system in relation to domestic violence are the service users. Their less powerful relationship with the law, and within the legal institution, makes them, to some extent, reliant on the expertise of legal professionals, and at the mercy of theirs' and judges' decisions.

Hence, my decision to do different things with the interview transcripts was ethically informed. The voices of women who have used the legal system in relation to domestic violence needed to be heard and validated. Representation of their experiences needed to occur in a way that respected and preserved coherence in the women's accounts, and that maximised coherence for the audience. Discourse analysis does not aim to represent experience in a coherent way. Its tendency to fragment texts into small excerpts as they relate to discrete discourses was not suitable. Breaking up women's texts and removing fragments of talk from the context in which it was articulated has also been identified as problematic by other researchers (Coombes & Morgan, 2001). Narrative representation, hence, avoided the deconstructive tendency of discourse analysis, and bolstered women's tellings of experience as legitimate knowledge.

On the other hand, the legal system is a hegemonic institution. The discourses that it perpetuates about domestic violence positively and negatively affect the lives of many women who become intertwined with it. This means that whilst lawyers' experiences of working in the area of domestic violence is interesting in itself¹³, it is more politically useful to examine the discourses lawyers use, and the potential effects these have on women and children in abusive relationships. Discourse analysis was an appropriate methodology for doing this. Narrative representation would not have deconstructed and critiqued the lawyers' talk in so useful a way.

'narrative analysis' as defined by Polkinghorne), analysis of narratives breaks down peoples' stories of events into their constituent themes.

¹³ For example, lawyers themselves are sometimes exposed to injustice through their work. Women lawyers can experience sexism by the legal system. Additionally, both male and female lawyers can encounter frustration with certain aspects of the legal system such as the law, judges, and agencies that are involved with the legal system response to domestic violence. Examination of such issues was beyond the scope of the present research.

So, consistent with a poststructuralist stance, the chosen narrative methodology still recognises that women's 'experiences' cannot be directly represented through women's accounts of their experiences; nor can they be equated with unequivocal 'truth'. Rather, experience is interpreted and representational, and both women and lawyers' talk constructs a social reality and achieves certain functions. However, due to the power asymmetry between (women) clients and lawyers, and the different roles women and legal personnel have played in relation to knowledge production (i.e., the experiences of women, and women survivors of partner violence, have generally been dismissed or overlooked whilst the legal profession assists in the process of determining what is 'real' and 'true'), their respective talk is analysed in an ethically appropriate way. Indeed, feminist poststructuralism is a useful theoretical stance because it enables oppressive knowledge to be challenged, and knowledge of marginalised groups to be privileged, for political ends.

Part 2

Narrative representation of
women's experiences of
the legal response to
partner violence

AN INTRODUCTION TO THE WOMEN'S STORIES

In this chapter, I present ten women's stories of their experiences of using the legal system for domestic violence.

The order of the stories is based on when women involved the legal system. The first four stories, told by Rebecca, Katherine, Jenny, and Rose, primarily involved the legal system before the introduction of the Domestic Violence Act 1995 (i.e., whilst the Domestic Protection Act 1982 was in operation). The four subsequent stories, told by Hayley, Sally, Jasmine, and Aroha, involve the legal system during both periods of legislation. Alana is the only woman who became involved with the legal system after the introduction of the Domestic Violence Act 1995. Lisa's story is presented last because she chose not to utilise the legal system regarding violence from her (ex-)partner.

As discussed in Chapter 5, the women's stories have two columns. In the left column is my version of the stories a woman shared during the interview. In the right column are direct excerpts from her interview transcript, as they correspond with the left column. It is possible to read the left column and then the right column section by section, or the left column from beginning to end, and then the right column from beginning to end. These two methods would suit readers who wish to get the benefits of a coherently organised account of women's experiences along with the women's own words for these experiences. Some readers might prefer to read the left column predominantly, and to refer to particular excerpts in the right column when they are interested in reading women's words about a particular experience. This somewhat reduces the emphasis on the women's voices, and also reduces repetition of content. The split page format was chosen so that extracts from the interviews are easily accessible, and have greater visibility/audibility than if they had been included in an appendix or not at all. It is also possible to read the left or right column only.

REBECCA’S STORY

Rebecca, a Pakeha woman, was married to Pete for 15 years, and experienced much psychological and physical abuse from him. She has two boys, Nathaniel and Joel, who were twelve and nine years old at the time of the interview. Rebecca first used the legal system in 1995, before the introduction of the Domestic Violence Act 1995. She applied for and was granted an interim non-molestation order. Because she felt too intimidated to appear in court, this was never made final. Rebecca also used the legal system to settle matrimonial property, and to organise Pete’s access to Nathaniel and Joel. Throughout this time, Rebecca used one lawyer (Lawyer A), and Pete used a lawyer friend (Lawyer X) and two other lawyers (Lawyer Y and Lawyer Z). Generally, Rebecca found the legal response extremely poor.

Rebecca’s relationship with Pete	
Rebecca described her marriage to Pete as “bad”: it was “the pits”. She went “through hell and back” ¹ . Within the first three months of marriage, he told her that he wanted to leave her, but then he would not go. He then confused her by telling her he did love her, and not to take any notice of what he had said. She found it hard to act because of his dishonesty ² .	1: “My marriage was bad anyway. It was the pits, you know. And I’d been through hell, to hell and back.” (p. 6)
Starting during their engagement, he had numerous affairs ³ . Sometimes, he would leave Rebecca for a new girlfriend, only to return when he was tired of her ⁴ . Again, she found it hard to cope with his dishonesty. She would have preferred if he had been honest about falling in love	2: “Three months after we were married he was telling me he wanted to leave me. But he just wouldn’t leave. He wouldn’t go. And he kept confusing me because then he’d say, ‘Oh no, no, I do love you, don’t take any notice.’ And I just couldn’t get sorted out there because of his dishonesty.” (p. 41)
	3: “We were phoning each other, and quite often end up arguing on the phone. And one night he triggered me off. He said ever since we were engaged he’d had girlfriends.” (p. 16) (from excerpt 33)
	4: “Because previously he’d left, and what he’d always done too, if he left because he had a girlfriend, gone off and done the business with her, got tired of her and come home again. And I’d always let him in the door. And this time I said, ‘No, I’ve had enough.’ And that floored him.” (p. 19) (from excerpt 19)
	5: “I just couldn’t understand that part, because in my thinking even like if you’ve got a girlfriend, come up front with it, instead

with someone else, and if their relationship had ended as a consequence. However, Pete never learnt to take responsibility for his behaviour. He always blamed the other party. She doubts this will ever change⁵.

Rebecca realises now that Pete never loved her or cared for her. It seems he hated her. He never gave her a birthday present of his own volition. When she did ask him to recognise her birthday, he did so begrudgingly. He would not take her out. He never danced with her. Instead, he preferred to go out and dance with other women. When she was ill, even seriously ill, he never cared for her. Instead, he got angry with her. When she cared for him whilst he was sick he took it for granted. He was never grateful. Every loving thing she did for him, he hated her all the more⁶.

When she gave birth to her two sons, he was very unsupportive. It certainly was not an intimate moment between a couple as it could have been. Instead, he sat and read a magazine. He would not talk to her. He would not even touch her. He was not there for her. He just wanted to know that

of this, sort of, I couldn't understand this whole dishonesty thing. And if there's somebody else, okay, you know, like the saying goes, 'There's no rules in love and war.' You know, if you've fallen for someone else, that's it, you know. I think the thing to be is honest, straight up, 'I've fallen for somebody else, now get out.' None of this dishonesty and then putting the blame, 'It's her fault this has happened,' you know. No responsibility.. as though, that's totally it. He's never learnt to take responsibility. It's always been the other parties fault. So, you know, and that's something that will never change with him." (p. 36)

6: "I look back now he never gave me a birthday present. Okay, if he did it was because I'd asked him to, you know, to recognise my birthday, and it was always begrudgingly given. He didn't have that care for me. He'd never taken me out anywhere. We never went out. We never even danced together, he'd dance with other women. Been out with other women but never with me, you know. He never cared like when I got sick. He just didn't give a hoot. I mean there were some times when I was seriously ill. He did not care, he got angry, he always got angry with me. When I had my babies he went in the delivery alright, but he was not supportive. When I was in labour with [Nathaniel], my oldest, he sat and read a Reader's Digest. He did not talk to me. He did not even touch me. You know, that was [meant to be] an intimate moment between a couple. He wasn't there for me. He wanted to just see the baby born and know that the baby was okay. And I had to make sure too, that I gave birth in the acceptable manner, that [Pete] found acceptable. You know, there was not to be too much crying, or pain shown either, or screaming, you know. It had to be acceptable to him, to what he felt. And then once baby was born, the baby had to be also acceptable and not cry so much, or otherwise I was a bad mother, and that sort of thing. And then when [Joel] was born he wasn't even there for the labour. He had the excuse of taking [Nathaniel] home, which I suppose was fair enough, but I sort of felt it was more an excuse. Same thing, he hardly, I actually, in one part there I was in a lot of pain,

the baby was okay. He would get angry if she cried out in pain, or if she expressed her pain in any manner he thought unacceptable. During one of her births, a complication caused her to be in complete agony. When she called out Pete's name and grabbed hold of him for support, he pulled away from her. Despite all the pain she was in, she remembers this moment vividly. It was like "a film being replayed". Once the baby was born, it also had to behave in an acceptable manner. Otherwise, she was a bad mother⁶.

Pete has also used much violence against her^{7,8,9}. At least once, she required stitches. On this occasion, she was too afraid to tell the doctor how her injury had occurred because Pete was in the room. She lied and said she had fallen over⁷.

Pete was sometimes very open about his absolute hatred for her. One day when she asked him why he kept returning to her, he told her he "absolutely" hated her, and that he hoped she would die. Rebecca told him to "fuck off". She said she could not understand why he kept coming back when he was free to

because I had two water bags, and one was still full of water, and I was giving birth to that in front of the baby, and it got lodged there. And I was in agony, and I did, I screamed, and I said, 'Oh [Pete],' and I grabbed hold of him. He actually pulled away from me. He wouldn't even lay a hand on me. I really noticed, it was like a film being replayed, it was something I really noticed at that moment even though I was in all this pain... They actually burst the water bag, and it was instant relief. And then [Joel] came through. And then they said at the end, 'Oh god, you've got two water bags and two placentas.' It was just something, it must have been a twin at some stage, one of those funny things. But, and he was just not there, he was not there to support me in any way, you know. And if he was ever sick, you know, I really looked after him and that. But it was never, it was very taken for granted, he was never grateful for it. He seemed to hate me all the more, any loving thing I did for him he hated it all the more. And I realise now, gosh, you know, I don't believe he ever loved me, and he just hated." (p. 41)

7: "You know, a doctor once said to me, because he knew, I went to him one day and got stitched up by him, and I lied for [Pete], because [Pete] was in the room. And he was whispering to me, 'I know what's happened [Rebecca]'... And he said, 'I know what's happened, you just need to tell me.' And I was too frightened to. I don't know, I just fell over, that was my excuse, because [Pete] was right there in the room. I wasn't going to say anything 'cause I knew this guy would tear into [Pete], but I wasn't quite sure how [Pete] would react. And I was so frightened and what not." (p. 42)

8: "[Pete's] communication was a fist between the eyes, you know." (p. 39) (from excerpt 60)

9: "Because he'd done me great harm, you know. This was a guy who'd been violent to me." (p. 39) (from excerpt 75)

10: "I know, [Pete], he once said to me that he wished me dead.

leave¹⁰.

At times, Rebecca felt her life was at risk. Just before he finally left her, he started planning a trip with her through a desert in America. She strongly believed that she might not make it out alive. She also had nightmares of him burying her in the desert. She planned not to go. When he "walked out the door", she immediately cancelled the trip¹¹.

Rebecca tried severing their relationship more than once. The first time, he kept coming around to where she was staying. He would knock on the windows and "haunt" her. One day, her friend let him in. Rebecca felt "totally disempowered". She "just went along with things, and got back with him". However, she did not want to be back in the relationship because she was frightened of him. It seemed that everyone was supporting Pete and nobody was really helping her end the relationship. Consequently, she started blaming herself more. She felt everything was her "fault" and her "failing". She remembers praying repeatedly for God to get her out of this situation¹².

He'd hoped that I would die. He said he'd hated me so much. Because I asked him one day, and I thought, 'Why do you do this to me and return still?' And he said, 'Because I hate you, because I absolutely hate you.' And he said, 'I wish you would die.' And he said it with such hate. He was looking across the table from me. And I said to him, 'Why don't you just fuck off [Pete]?' I said, 'Why do you leave and keep coming back?' And I said, 'Leave now, go,' you know. 'Just leave, you're free to go,' you know. I said, 'Why do you keep coming back?'" (p. 36)

11: "And I also felt my life was at risk. I really did. I strongly did. Just before he left, we'd arranged to go to America to stay. And he was, he was doing some great plans. He wanted to do this trip through the desert. And I felt, well, I wasn't going to come out the other end of it. I strongly felt. I had bad dreams and everything of him burying me in the desert. And I thought I'm not going. And that was the first thing cancelled when he walked out the door.. because I strongly felt that's how things were going." (pp. 40-41)

12: "The first time I left [Pete], he was knocking on my window and all sorts. He was haunting me where I was. And I didn't know anything about non-molestation at that stage, and that I could have him up for it. And my friend actually let him in the house and, you know, and I felt totally disempowered by that, and just went along with things, and got back to him when I didn't want to, you know, because I was frightened of him. And, you know, sort of, that's where I felt like everything was my fault because everyone seemed to be going out of their way to work things out for [Pete], and I felt for so long that, 'Gees, it must be my fault, it must be my failing,' you know, 'everybody's helping [Pete] and nobody's really helping me out of.' And that was my prayer. I remember praying and praying, 'Please Lord, get me out of this please.'" (p. 42)

13: "And anyway, this same guy delivered my baby, my first baby, [Nathaniel]. And he came in one night and there was a

Rebecca also felt inspired to leave the relationship by something a doctor said to her about a mongrel mob member who was suffering much pain in the emergency room. This doctor's comment made her realise that people continue to suffer the effects of violence when they remain in a violent environment. However, Rebecca found that leaving is not an easy process when the legal system is working against you as well¹³ (discussed shortly).

Near the end of their marriage, Rebecca suffered a back injury. This meant that she was no longer able to work and earn money. Subsequently, Pete left her^{14,15}. Rebecca was quite happy with him gone¹⁵.

Despite having left the relationship, Pete kept treating the house like his own. He would come around anytime. For example, one time whilst Rebecca was out and a friend was babysitting the children, he turned up, walked into the house, had a shower, and left. Although Rebecca told him that he could not treat the house like his own anymore, he ignored her. He continued to turn up under the

guy who'd been cut up by the mongrel mob and I could hear him screaming out up stairs above my room in the emergency room there. And I sort of mentioned it, and he said, '[Rebecca],' he said, 'if the likes of him want to remain in a violent situation, what do you expect.' And those words really hit home boy, they really hit home. And I thought okay so this is where I start making a step of getting out of this situation. And so I started trying to, but it's not as easy as people think, you know, especially if you have to go up on a stand and be cross examined by a lawyer. And also your confidence is knocked to hell." (p. 41) (from excerpt 71)

14: "I think too, because I had real sudden changes in my life where one moment there I was employed and, you know, received an injury at work so I ended up unemployed and stuck with a injury. Then my marriage broke down because I could no longer bring the money home either. And my ex-husband just left. Really if I'd known that earlier I would have got rid of him anyway, {laugh}. He was quickly out the door... You'd think that, right, you know, everything is so nice and stable in your life, but how very quickly it cannot be." (p. 4)

15: "And it came to the time where I had lost my job because I had a back injury and I was home on ACC and my ex-husband left. And anyway that was fine. I was really happy about that. And then he started just coming here and treating the house like his own still. He was out there living elsewhere and that, and he was treating the house like his own. And he'd walk in, what he'd do was call in, and he'd say, 'I've come to see the kids.' But he wouldn't, he wouldn't see the kids. Instead he'd sit in the kitchen and abuse the hell out of me. And you see he [knew this lawyer and this lawyer's wife really well]. He gets on very well with them... And he started coming to me, saying, because [this lawyer] was a very high lawyer, for murderers and things, defended them. And he was quite, on the media, I'd seen him on TV a few times. And [Pete] kept boasting what a good lawyer he was and all this. But anyway, he started coming back and

pretence of seeing the children. Instead of spending time with them, he would go into the kitchen and "abuse the hell" out of her. In particular, he would threaten that a high profile lawyer friend of his (Lawyer X) was going to ensure she was left with nothing. He asserted his power by telling her that he would even get the heirlooms she had inherited from her mother. He also threatened to use Lawyer X to take the children off her. Rebecca was "overtaken by it". She was left in "absolute pieces, just a wreck in tears". This was partly because she was very fearful of what Pete and Lawyer X might do¹⁵. It was at this time that someone suggested she needed a lawyer¹⁶ (A, in next section).

abusing me, and saying that he had [this lawyer] behind him and he was going to, you know, get everything, that I was going to be left with nothing. And he'd sit, and I can remember him pointing, because my mother not long ago died, and she'd left, like I'd been given her china cups and things like that. And these were they were of no great value but they were sentimental value. And he was pointing at these things, he knew that, and saying, 'And I'm going to get that and half of that,' and all of this sort of thing. And he even, like I told him to take the engagement ring, I said, 'Stuff you.' But even that was his, you know. And just this power thing. But it was in such a way that he had me in absolute pieces. And then he started with the kids, 'I'm going to take the kids away,' and all this sort of thing. And when he left I'd be in absolute pieces, just a wreck in tears. And he kept doing that. And he'd like come in any time of the day. It could be, like one time, 'cause I had a back injury, my friend, she was doing my home help for me. And I'd actually nipped into town to get something, or to go to the doctors or something, and she was here minding the boys and doing home help. And when I got back she said, '[Pete] just arrived, walked straight through,' she said, 'without saying giddyay or anything to me or the boys, had a shower and left again.' And you know this is what he was doing, and it could be any time. And 'cause I tried saying to him, you know, 'You can't do that.' And he said, 'Yes I can, and I've got this lawyer.' And that was really, it sounds stupid now, but I was just so overtaken by it. And yet now I'd probably go, 'cause I know my rights and everything, 'Oh poo,' sort of thing. And I think, because I was so frightened of him anyway that I was in a state where he had me with, you know, thumb down on me. And yeah and that was really a powerful thing for him to say to me." (pp. 6-7)

Getting a non-molestation order

Initially, Rebecca could not find a lawyer because it was around Christmas. This meant that her problems with Pete continued

16: "And 'cause someone said, 'You're going to have to go to a lawyer.' And it was Christmas time, and 'cause they all shut over Christmas, don't they? So, I had to go through that Christmas period like that. And it was horrible. And I was just absolute, like

until early 1995, when she managed to find a lawyer who could help her (Lawyer A)¹⁶.

Lawyer A was an experienced female lawyer who was recommended by Women's Refuge¹⁷. Rebecca used her through to 1997, when access and property issues were eventually addressed¹⁸.

By the time Rebecca met with Lawyer A, she was in full panic^{16,17}. Lawyer A suggested she get a non-molestation order. However, Rebecca thought this was a bit "heavy" because although Pete was "verbally attacking" her, he was not beating her up anymore. She could also see Pete's point of view: he was missing the children, and he could not accept the separation from the family home, nor the finality of her decision not to have him back. Realising that he must be finding things hard too, she wanted access to Nathaniel and Joel organised promptly, and property matters finalised so that he could get established and feel better^{16,19}.

Rebecca also thought a non-molestation order would be ineffective, that it was just "words

this. And by the time I got to her I was in full panic. And she was saying to me, 'Settle down, don't panic,' 'cause I was, 'Ohohohohoh.' And then, because she said, 'Look, I'll get you what's called a non-molestation order.' And I said, 'Well what's that?' And she told me. And I said, 'Oh no, no.' I said, 'He's not coming in and hitting me or anything like that. It's just that he's not dealing with the fact that he no longer lives here anymore.' And anyway, she said, 'Okay.' Then she said, 'I'll write a letter to his lawyer.' And 'cause we had to find out who his lawyer was, so I said, 'Oh, it's [Lawyer X].' So she rung him and then he said, 'No, it was another friend of his, [Lawyer Y] or someone, acting for [Pete].' So she wrote a letter to him and, just saying, just explained what [Pete] was doing, and could his lawyer please talk to [Pete]. That, you know, this was not good, this was not good for the children or the household and blah blah blah. And that I understood, you know, that he had to come to terms with the split and that, and so we should get on with, the access for the boys sorted out. Well, we got this real hooah letter back just, really ignoring what we'd said. Like, that is nothing, the fact that he was coming in the house, like this. And he, he actually denied it too. I think he said I had invited him... Because that hit me hard. So you're on the defence all the time. And then, so she, what happened? She said, 'Don't worry about it [Rebecca].' She said, 'we'll just have to get on with the non-molestation order,' because, you know, it continued. And so she did. And it got served upon [him] which must have been a devil of a shock for him. Because for me to stand up and do something like that, because for fifteen years I'd been very quiet about it. I'd gone to Refuge and things like that but still pretty quiet about things. I'd never really stood up, and I'd never actually said, you know, 'You are bad for hitting me.'" (pp. 7-8)

17: "I had a woman [lawyer]. And I, I was actually, she's one of the one's that's on the recommendation list at the Refuge, you know, that's been very good. But there were some things I did not find good at all with her. And actually it felt like I was at WINZ, you know, sort of feeling there and getting absolutely

on paper". Whilst she realises that a protection order provides certain boundaries, she did not believe it would stop Pete from coming around and hurting her if he wanted. She also knew his personal history, which included burgling places, spying on people, holding grudges indefinitely, and damaging other people's property. One night he had sneaked out and sprayed a neighbour's tree with round-up because he did not like it. He had also told her that Women's Refuge safe-houses are easy to locate²⁰.

Pete's comments also made her suspect he was sneaking around to her house and watching her. For example, he would tell her to pull her curtains in certain rooms because people could see in, or that someone could easily break into her house through the toilet window. Her dog would sometimes growl as if there was an intruder outside²⁰.

Because of Rebecca's reluctance to get a non-molestation order, her lawyer wrote a letter to his lawyer. This letter communicated that it was no longer appropriate for Pete to turn up at her house whenever he wanted; it was not

stressed out. And just sort of lack of interest {inaudible} my case, like I was treated like I was over-reacting. And I had a lot of the time said to me, 'Just don't panic. Look you're panicking. There is nothing to worry about,' you know. And I thought, 'You live with a man for fifteen years that's, you know, used your head as a punching bag, and then say 'Oh, just nothing to worry about.''" (pp. 5-6)

18: {Rachael: "How long ago did you use that lawyer?"}. "It would be about five years [ago]. I'm thinking five years that my ex left, and it's, the whole, the custody battle and the other property battle took two years... She was in it throughout the whole time, you know, she was my lawyer throughout the whole time, '95 through to 1997, yeah. So what's that, two years ago, not even that really because, yeah, yeah, it's not too long ago really when you look at it." (p. 6)

19: "[Getting the non-molestation order] was her idea, and I actually didn't want it, I actually didn't want that. I felt it was too heavy because he wasn't actually coming and beating me up. He was verbally attacking me. And I felt, I said to her at the time, 'It's because he can't accept.' I could see [Pete's] point of view. You know he was having trouble dealing with no longer being in the family home, and he was really missing, he was missing that side, the kids and that, even though he couldn't stand me and that, he was still missing us. And he was wanting to get back. And because I think too, the shock, I said no and that hit him hard. Because previously he'd left and what he'd always done too, if he left because he had a girlfriend, gone off and done the business with her, got tired of her and come home again. And I'd always let him in the door. And this time I said, 'No, I've had enough.' And that floored him. And, 'cause then he got real nasty, you know, with the lawyers and things like that. That was the only way he could think of going. Yeah, so I realised to that he was going through sheer hell, as well as dealing with it. And that's why I wanted the access organised.. everything to get organised. I wanted a letter written, what I wanted was a letter

good for the children or the household. The letter also mentioned that access to Nathaniel and Joel should be arranged¹⁶.

As it turned out, Pete was not using his friend, Lawyer X, but a friend of that lawyer's (Lawyer Y)²¹. This (male) lawyer wrote a "hooah" letter in response. They proclaimed nothing was wrong with Pete turning up to the house. Pete also denied coming around of his own choice, saying she had been inviting him. This letter of response did nothing to resolve matters¹⁶.

Because of this, Rebecca's lawyer suggested they go ahead with the non-molestation order. The application was made and an interim non-molestation order was granted and served on Pete. Rebecca guesses that Pete would have got a "devil of a shock". During 15 years of marriage, she had not done anything so bold against him. Although she had used Refuge and other avenues in the past, she had never actually stood up to him and said he was bad for hitting her¹⁶.

Preparing the affidavit for the

written to his lawyer, and just to say, 'Look, tell him you can't do this [Pete]. It's not the way to act. Calm down. We're going to get access sorted out.' That's, that's how I wanted it to go, get the access sorted out, get himself established, get his belongings so he can get out and get himself into a place of his own, get the kids visiting, you know, and, yeah." (pp. 18-19)

20: "And I said to her, 'No, [the non-molestation order] is a waste of time. Because I said, '[Pete] has burgled places. He has a game where he likes to hide and sneak up and spy on people.' And I said, 'You know, I've always got this feeling that he's watching us in some way, you know, and, or sneaking around snooping around at nights,' you know. [My dog] would growl and I'd think, 'God, is that him out there snooping around.' And he would say things to me like, 'Oh, you want to draw your curtains in such a such room, you can see in there... And that my toilet window,' even though I've got the netting over it, 'that a burglar would just laugh at that, that's no sweat to get through that.' Just things like that. And, you know, 'Yes, I've been around and seen these things,' and he knew. And another thing too, he once said to me when I was at Women's Refuge in [a New Zealand city], and he said, 'Oh,' he said, 'those Refuges are a joke being in secret places.' He said, 'I could have found my way there no sweat, and it doesn't take much intelligence to work that one out,' you know. 'All I need to do is follow you and I'd find my way there,' you know. And I thought, 'Mmm.' And it was just things like that. And, you know, like I say, he'd burgled places and never got caught... And I also knew what he was capable of. Like, our neighbour across the way there planted a tree in the driveway that he wasn't happy with. So, he sneaked up one night and [put] round-up [on] the tree. So, he was like that too. And getting across to the lawyer, this is what this guy is like. But when you haven't got the proof it doesn't mean anything. Yeah, you know, just, and when he did get a dislike for someone it was really, it never passed by. That was that. So it was really hard to sort of get them to realise that. And like the non-molestation, that was a joke, it's words on a piece of paper. In reality, you

non-molestation order application was a very unpleasant experience for Rebecca. This was almost entirely because of how her lawyer behaved. At the beginning, Lawyer A warned her that she was not a counsellor. She said she was only after the facts, and she might not be supportive or understanding. She also warned Rebecca that she might be tired and moody after a day's work. Nothing prepared Rebecca for what occurred. Whilst telling her story, Lawyer A made derogatory and exasperated remarks. She acted bored, and told her it was a "whole heap of shit", that it was as if they were writing "a bloody book". When Rebecca informed her about his drug use, which contributed to conflict in their marriage, Lawyer A told her not to "drag drugs into this, for god's sake". Consequently, she did not include anything about drugs in her affidavit. Rebecca was shocked by her lawyer's remarks. She felt unimportant, worthless, and a nuisance. She sensed that her lawyer viewed her in a condescending way and wondered how people got entangled in such messes. Because she had a history of being blamed by Pete when he

know, he was going to come here in time if he really wanted to come here and hurt me. It is, I suppose, a warning to him. 'Overstep the mark mate, you lose out.' In that respect, yes. But the one's that are going to go that step further it's nothing, because I think they get in their head, 'What the hell have I got to lose?' And, 'I can kill her, I've got nothing to lose.'" (pp. 34-35)

21: {Rachael: "So was [Lawyer X] actually representing him or was some other lawyer?"}. "In a silent way. [Pete] actually had two lawyers, [Lawyer X] and [Lawyer Y]." {Rachael: "And [Lawyer Y] was the one representing him, but he also had..."} "[Lawyer X] in the background. And then in the end, he, [Lawyer Y] stopped, he stopped going through [Lawyer Y] and went through [Lawyer X]." (p. 11)

22: "Putting in writing what he'd done, that was horrible going through that. She said to me, 'Look now,' she did warn me beforehand, she said, 'when you do this, when I write up your non-molestation,' she said, 'I am not a counsellor.' She said, 'I'm after facts,' she said, 'I am not a counsellor.' She said, 'And I mightn't be terribly good at giving you support through it, you know, understanding and that sort of thing.' So she said, 'Be warned.' And she said, also she said, 'I might be tired from a day and so I might be a bit moody, so do be warned,' yeah. So I went in there and it was the end of the day, I was the last appointment in there. And I didn't know then too, because I just went in there and just started talking and I didn't pre-plan what to say, and so I just went in there, because I didn't really know what was expected of me so I never sort of thought to myself, 'Well, what are the important points to say here, blah blah.' So I just went in there and just, and it all just fell out, you know. And she was sort of taping it and she was, I mean it was awful, it really was. That was, that was the first thing that really made me feel really yuck about the whole thing. And she was going, 'God,' like this, and, 'oh goh, what a whole heap of shit, oh goh, writing a bloody book,' and you know.. Yeah, to me, you know, and then... And it really shocked me, you know, and I thought, 'Oh

hit her, and of thinking she was at fault and deserving of such treatment, a similar dynamic emerged between Rebecca and Lawyer A. Rebecca took on her victim role, tried to please her, and felt like “a little wimp”. Her panic escalated and her self-worth plummeted. She felt “really yuck”²². This victim-abuser role between her and her lawyer emerged several times whilst Lawyer A was involved (discussed shortly).

To finalise Rebecca's interim non-molestation order, she and Pete needed to go to court. However, Lawyer X repeatedly stalled the defended hearing. He would go and see the court registrar and tell her/him that he could not make it on that date. The registrar seemed to accept this and changed the date several times. This was very frustrating for Rebecca because with each new date she would get prepared and worked up for the hearing. Rebecca also felt suspicious of the date-changing: it “didn't seem normal”; “there was something amiss”. She suspected that the “old boys were patting each other on the back, doing each other a favour”. Because other people also

my god,’ and I thought, you know. And because then I sort of got quite upset with that. And then I tried to bring in, I said to her, ‘You know, look he was into drugs too, and that was a big factor that played against a lot of the, you know, conflict in our marriage.’ And she goes, ‘Oh for god's sake, don't drag drugs into this, for god's sake.’ And she never even included it in, it just did not go in there. And I thought, ‘My god,’ you know... I felt unimportant that I was just imposing, that imposing, of no worth, that really I was just a nuisance... Actually, I was so used to me blaming myself and being the one in the wrong that, that just again, that set in. I was in that habit when [Pete] used to hit me, it was my fault, so it was my fault, it was something about me that, you know, was deserving that, that's how, that was it, you know. And so I was just right back into that role again. And when you're in that role your survival things kick in, so you're doing everything possible to please them, you know, so yeah.” {Rachael: “In terms of being supportive, how?”} “Nuh, no, she was doing her job and that's, that's the message I got straight from the word go, yeah, you know. This was the legal system and this is how it works, you know, yeah. So I was right into that role, you know, the victim-abuser role, and I felt like the little wimp, you know. I, yeah, the self-worth was just yuck. And of course the panic got worse.” {Rachael: “So, did you think she was understanding your experiences?”} “No. I, I actually felt she was sort of like, ‘Oh god,’ you know, ‘why do these people get themselves into this shit. Oh,’ you know. That sort of attitude.” (pp. 8-9)

23: “Here's something else that was really interesting too. Because [Lawyer X] was not responding to any of the letters. Ah, the court registrar, you know, is supposed to put through a court time so that you should go into court, to get the final molestation order come through, okay, you go through court. Well, he kept changing the times. [Lawyer X] kept going to the court registrar and changing times. ‘I can't make it then, I can't make it then,’ and the registrar would just accept it, and tell [Lawyer X], ‘Sorry, that's off.’ So I was continuously saying,

thought it was strange, she raised it with her lawyer. Lawyer A realised time was running out for Rebecca; her interim non-molestation order was about to lapse. Annoyed, she went to the court and “blew the heck out of the registrar”. A date for the hearing was finally set²³.

By then, Rebecca was feeling apprehensive. Pete had told her that Lawyer X was going to “get stuck into [her]” on the stand, and make her really upset. Rebecca asked her lawyer whether she would have to go on the stand. Her lawyer told her she would²³. Rebecca's instincts strongly told her that Pete's lawyer would give her “hell” and make “mincemeat” of her²⁴. Rebecca decided not to go through with it. Because she felt a mess, she knew she could not deal with being cross-examined or “the way lawyers speak and twist things around”^{23,24}. She also had a “general feeling of mistrustful of the legal system”²⁴. The court hearing was called off and her non-molestation order never became final²³.

Rebecca does not remember her lawyer telling her much about what to expect in court. However,

‘Well, the court dates this date,’ getting all thinged up for it and then, ‘No.’ And that happened on a number of times. And in the end, because I said to [Lawyer A], ‘This, this doesn't seem normal.’ I'd been talking to other people and they said, ‘That's, that's not normal, that's not a molestation.’ And then [Lawyer A] realised that time was running out, where my interim molestation would run out, and I was in danger of losing it altogether. And she got quite annoyed about that, so she went in and blew the heck out of the registrar and said, ‘Get us in, blah blah blah.’ And she said to me, she would say things like, ‘This is strange, this is not normal,’ and ‘cause, but she wouldn't explain to me. But I knew that there was something amiss there. I felt like old boys were patting each other on the back doing each other a favour, and I really felt that that had been happening between [Lawyer X] and the registrar. And anyway, she, she got it through to the court... By that time I gave up on it, and I said, ‘No, no, I can't go there, I cannot go to court.’ Because I was getting feedback from [Pete] that [Lawyer X] was really going to drum into me and get me really upset, you know, that lawyer thing, you know, once I was on the stand. And I went to [Lawyer A], and I said, ‘Do I have to go up on the stand?’ And she said, ‘Yes.’ And I said, ‘I can't do it. [Pete] has told me that [Lawyer X] is going to get stuck into me,’ and I said ‘I can't do it.’ I said, ‘I cannot deal with the lawyers and the way they speak and twist things around.’ I said, ‘I'm sorry, I'm not going through with it.’ And I didn't. I said, ‘Call it off.’ I said, ‘Stop it, I can't go through with it,’ ‘cause I was in such a mess.” (pp. 22-23)

24: {Rachael: “How much did [Lawyer A] tell you about the process of what was going to happen in court that day? Had she prepared you for it?”} “Well, put it this way, yeah, I can't remember, put it that way, I can't remember being told much at all. Whether it was because I was in such, there was a lot of shock going on, a lot of trauma at the time, and it just went in one ear and out the other. I don't know. But she kept, I can remember her saying, once I brought the matter up, ‘Don't worry about it, you'll be fine.’ And that's like a crocodile smiling at you

she thinks this might be because she was so traumatised that it went “in one ear and out the other”. She remembers being told “not to worry”; that she would be “fine”. Rebecca equated this to a crocodile smiling and telling you to sit on its nose, because everything will be okay²⁴.

Rebecca also felt uncomfortable that her lawyer lacked confidence in her likelihood of being granted a non-molestation order. She kept telling Rebecca that she was unsure; it depended on the judge²⁵.

saying, ‘Everything is going to be okay, sit right here on my nose,’ you know. It just did not go down well. And I found the whole idea of having to get up on the stand and being, what’s it called, cross-examined by a lawyer, too much, too much.. Too threatening, totally. Especially since I knew that I was going to get hell from [Lawyer X]. Too much. And also the general feeling of mistrust of the legal system, the way I was getting treated anyway. I just felt very strongly my instincts were telling me, ‘You get up there, they’re going to make mincemeat of you.’” (pp. 31-32)

25: “I felt that she was just legally looking upon it, and that was it. The only thing that she was concerned with was, what was going to get me that molestation thing in court and what wasn’t, and my chances. And also, you were never sure. She forever said to me, ‘I cannot be sure you will get this. I cannot be sure that things will come out in court because you just never know.’ She told me straight, ‘You never know what the judge is going to do or say.’ She said, ‘It depends on the judge.’ And she said, ‘I cannot say,’ yeah, you know, ‘we are going to get you through on this, you’ll get your non-molestation interim.’ Whatever it was, she said, ‘I cannot say’.” (pp. 9-10)

More about Lawyer A

As mentioned above, Rebecca was in full panic when she met Lawyer A. This panic emerged frequently throughout the two years that Lawyer A was involved. However, Lawyer A seemed disinterested in Rebecca’s case, and consistently told her that she was over-reacting and panicking; there was nothing to worry about. Rebecca disagreed. She doubts her lawyer would have thought

26: {Rachael: “Did you feel that [Lawyer A] had enough time for you?”} “No. She was always very busy. Very busy lady.” {Rachael: “And how did that impact on you?”} “Always felt like you were, well for a start, you felt lost for words. And you were trying in a hurry to get out things, and try and get her to picture what you were going through. Which she wasn’t really interested in anyway. And well, I felt she wasn’t. And it was, you never knew from visit to the next what she was going to be like with you, you know. Because she was going through her day too, and you don’t know what the hell, she’s probably heard tonnes of that one thing. ‘Oh god, not another one,’ you know. And you sort of look at that point too. So some days she’d be a bit more patient than others. But, yeah, it was really, it was real tough

this if she'd lived with a man for 15 years who'd used her head as a "punching bag"¹⁷.

Lawyer A was a very busy lady. Feeling hurried made Rebecca feel "lost for words". It was difficult to convey what she was going through under this pressure²⁶.

Rebecca did not feel Lawyer A was interested in what she had to say. Because she was moody, Lawyer A's behaviour was unpredictable from one appointment to the next. Rebecca tried looking at it from her perspective. Perhaps she'd had a hard day; perhaps she had heard "tonnes of that one thing", and hence, felt exasperated at hearing "another one". Occasionally, Lawyer A was more patient. It was really tough going for Rebecca. It would have felt nice to be heard and have someone take her seriously. In the end, she came to accept that this was as good as she was going to get²⁶.

Rebecca also found that her lawyer had difficulty remembering her case. Consequently, she would have to re-check her records, and Rebecca would

going. It was just, and just, I think to be heard or someone take you seriously, please. You know. And I sort of came to accept this is as good as I'm going to get." (p. 32)

27: "And another thing too. I guess, because they're working with so many clients throughout the day, to remember what you've been through, you see. You know, I'm coming in off the street, like, she knows exactly what's been happening. Whereas she's dealt with hundreds of other clients since she's seen me with all their bits and pieces of stories, so she's got to go, 'Now,' and go through her records. 'What's been going on? Now, let's,' you know." {Rachael: "Did she do that in front of you?"} "At times, you know, yeah. 'Now, where are we at?' And, 'Hang on, I seem to remember something on that.' And then I'd have to explain... 'Yep, here we are, here it is here.' And, you know, sort of doing the catch up thing again. It was, I can see the difficulty in that. It's a tremendous, I'd hate to be, I couldn't handle being a lawyer for Family Court, quite honestly. It's really" {Rachael: "Yeah, it would be hard separating. 'Now, is this the one that this happened, or is that that one?'" } "Especially if you've got people that are similar with looks or something." (p. 43)

28: {Rachael: "Did you feel that she was working for you?"} "No." {Rachael: "That she had your interests?"} "No... Legally, she looked at what looked good legally of course, in representation and everything like that. All of that was, yeah. But when it came to that communication between her and me, mmm." (p. 27)

29: "She wrote a letter which was very, you know, a very good letter. She did write good letters at times, and that, but I just, but I felt verbally she did not, you know, between her and me it was, the understanding wasn't there. And I felt, like I'd stuck up for myself, for my rights, 'cause I said to her, 'I will not be abused at [by Pete],' you know. And she said, 'I think you should go to your counselling, you know, the mediation.' Always shoved off to there. Always, 'Off you go, get out of my office and go to your counsellor, and they'll solve your problems,' sort of thing." (p.

have to re-explain things.

Rebecca assumes that this is because Lawyer A had seen so many other clients, all with their own "bits and pieces of stories", between appointments. Rebecca can understand the difficulty Lawyer A would have experienced²⁷.

Rebecca did not feel that her lawyer was working for her^{28,31}.

Whilst she was good "legally"²⁸ and could write good letters²⁹, her communication with Rebecca was less than desirable²⁸. Lawyer A also lacked understanding^{22,29}.

Rebecca did not feel believed. Her lawyer always treated her with suspicion. This is not what she had expected. On television, she had witnessed lawyers being supportive to their clients. In her experience, everyone seemed to be working for her husband, and they were more supportive of him³⁰.

As mentioned above, Lawyer A warned Rebecca that she was not a counsellor²². This was certainly true^{22,31}. Her lawyer focused only on the legalities of the situation²⁵. Whilst Rebecca realises that her lawyer had to be "professional" and "get the facts

18)

30: "She didn't, well, I felt like she didn't fully believe me, because like what facts did I have to back it up. And so I was always treated that, you know, there was always a doubt. I never felt like, because I've seen on TV how, you know, women got out of abusive situations, how the lawyers were really supportive and that, you know, that working role for them. I didn't feel like she was even working for me. I felt like everyone was working for my husband quite honestly." {Rachael: "So you actually felt she was more supportive of...". "...my husband." (p. 14)

31: "Well, I recognised that she had to be professional. I did recognise, I did realise, you know, that she had to be professional and stick to the facts, that she was no counsellor. See, that's an area I often think about. Because I do respect that she does have to do the job. She's got to get the facts out. I do respect that. But in the same token, I don't know, how is it, you know, like I really felt like she wasn't working for me, that I was the bad guy." (p. 42)

32: {Rachael: "How do you think that [Lawyer A] could have been better? How do you think it could be improved?"} "Mmm, 'cause that's a tough one. I've thought about it. Maybe they should watch those TV programmes. I don't know. Well, for a start I think, is be, try and be very strict with being professional. And not like how I got, 'Oh god, what a lot of shit,' and all this sort of thing, and, 'don't panic.' And you know she was actually reacting to me, wasn't she? She was getting into a habit where she was the person in power reacting to me. And I was just, 'Ohohohoh, yeah.' And I was hitting into my role play. Yeah, so I suppose trying not to get caught up in that. Be a little bit more understanding I guess. Things I'd say to her, like I tried saying to her, you know, 'Look, [Pete's] not paying the correct child support. He's done me.' I got back, you know, I said, 'He's only paying ten dollars a week.' I'd got back, 'Yeah, and quite often it's the other way around, the man's paying too much.' So that's

out", her lawyer's behaviour made her feel that she was "the bad guy"³¹. On an occasion that Rebecca stood up for her rights, and said that she would not be abused by Pete, Lawyer A brushed her off. She said that she should go to her counsellor to solve her problems²⁹.

As mentioned earlier, Lawyer A got into the habit of being in a position of power, reacting to Rebecca. For example, one time Rebecca mentioned that Pete was not paying the appropriate amount of child support; he was only paying \$10 per week. Rather than pursuing this issue, her lawyer told her that it is quite often the other way around (where the man is paying too much child support). Consequently, Rebecca did not persist any further with this³².

Another time, her lawyer "blew the shit" out of her for a phone call that she and Pete had. During the phone call Pete told her that he had cheated on her repeatedly since their engagement. Rebecca felt very upset. Because she knew he currently had a girlfriend, she told him that she could not understand why he wanted to go

being heard nicely, isn't it? So I didn't go any further with that." (p. 16)

33: "Another time [Pete], 'cause, you know, we were phoning each other and quite often end up arguing on the phone. And one night he triggered me off. He said ever since we were engaged he'd had girlfriends. He triggered me off. And what did I say, I was saying to him, because I'd discovered too that he had another girlfriend, and I said, 'So,' I was really upset and I said, 'so, why are you going wanting to go through marriage guidance when you've got a girlfriend?' And he went to [Lawyer X], and [Lawyer X] phoned [Lawyer A] and said that I'd made a you know those phone calls, obscene is it, what do you call those phone calls? .. harassing him phone calls, and to talk to me about it. And [Lawyer A] told me that, she'd actually, she wouldn't go into detail what [Lawyer X] had said I'd said, because I was like this and, and sort of quite confused, thinking, 'What's this?' you know. And he, she said to me, she had asked [Lawyer X] though if it had been taped, 'cause it sounded like it had been taped. And she said, 'Are you taping [Rebecca] without her authority?' And she said he went very quiet on that one.. I don't know why she said that to him but she did. Something must have required her to say that to him. And then she was very off to me, and 'cause I said, because I was confused then, and I said, and all I could think of was that conversation I'd asked him why go through the marriage thing when you've got a girlfriend. And I thought, 'How, how can that be an abusive phone call?' And I was just sort of saying that and she blew the shit out of me. And she said, 'You just stop phoning him, and you just leave him alone, and you just stop doing that sort of thing.' And I said, 'But I haven't done anything wrong.' And she said, 'You just stop it.' And she said, 'If you don't feel like you've done anything wrong then don't phone him at all.' And I said, 'Fine.' I said, 'If he's going to lie like that I won't phone him at all,' I said, 'I won't.' And I said to her, 'From now on, no, no telephone conversations.' And I said, 'I want you to write that down.' But she still didn't seem to believe me. She

to marriage guidance counselling. Consequently, Pete went to his lawyer, complaining that she had made a harassing phone call. Not long after, Lawyer A called Rebecca into her office. She was a little confused, and guessed it was about the phone call. However, when Rebecca said that it was not abusive, that she had not done anything wrong, her lawyer got angry. She told her not to phone him anymore, to leave him alone. In the end, Rebecca agreed to this. Her lawyer informed Pete and his lawyer that all communication was to now be in writing. Rebecca was upset that her lawyer would not believe her³³.

It was around about this time that Rebecca wrote to Pete about his abusive letters to her. She was tired of him swearing at her in them. She told him that she would ignore any letters that contained abuse. She also asserted herself about two other issues: the laundry, and his access during the holidays. Pete was supposed to be doing the children's washing before he returned them after access visits. However, he would return Nathaniel and Joel with several bags of muddy clothes for her to

really came down on me. And she still didn't seem to believe me.. And she just sort of wrote a letter back, you know, that all communication must be in writing, which I felt good about anyway. I said, 'Fair enough.' I feel really good double standards here. Okay, I've got letters from [Pete] that are swearing at me, swearing at me. And I wrote a letter back to him saying that if he was going to send such abusive letters that from now on I was going to ignore them. And I also had brought up another point, it was over laundry. I had said to him, because he was taking the kids, he was meant to be doing their laundry and everything, I would get bags and bags of laundry back, and they were real muddy clothes. Common thing with women I've read, common. So, I said to him, 'From now on I wasn't sending the kids to him with any clothes apart from what they were wearing because I was not his doormat to be doing the laundry.' Okay, that really set him off. Because also too, he'd asked for, he's only allowed up to seven days with the boys for holidays, and he'd asked for over that, and I said, 'Well, {inaudible}, no,' to that. And I said, 'If you refer to our agreement,' I told the {inaudible} and everything, 'and you'll see it in black and white there.' And I said to him, 'Because of this violence to us all, I hold very seriously.' Okay he, he went to his lawyer about that. I ended up in my lawyer's office on the defence again... She said to me, 'You write too much in your letters, way too much.' And I thought, 'This is very interesting.' And then she said to me, 'You're too emotionally involved still [Rebecca].' And she said something about, and I said, 'Well, I'm sorry, but I'm sick of the laundry thing. I'm still being sworn at.' And she said, 'Oh, all this is to do with is the power thing.' Because she was going, the days, how I'd made it clear to [Pete] the days, and she said, 'It's just the power thing, this sort of thing.' And I felt very small again." (pp. 16-18)

34: "At times I've wanted to go away on holiday. There was a time where I had to be out of this house so they could do the floors. And he was very uncooperative. And in the end I just stood my ground. I even ignored the, the counsellor, the mediator counsellor, because he said to me {inaudible}, he said

wash. She was tired of being his "doormat", and so she told him that from now on she would not be sending clothes other than those they were wearing. Because Pete had been wanting to have the children for more than the number of days outlined in their access agreement, she also told him that this was not possible, it breached their agreement. She thought it important to uphold the agreement because she treated the issue of his violence very seriously³³.

After receiving her letter, Pete went to see his lawyer, and Rebecca ended up back in Lawyer A's office on the defence again. Lawyer A told her that she was writing too much in her letters, and she was still too emotionally involved. Rebecca tried telling her that she was just sick of doing all the washing, and being sworn at. Lawyer A replied that both she and Pete were playing power games with each other. Again, Rebecca felt "very small"³³.

Pete threw many tantrums. When he did, everyone attempted to appease him⁵². Rebecca was expected to "bend

to me, I said, 'You know, [Pete's] in a big hoocha about not having his Tuesday with the boys.' I said, 'It's not something I can help because I've got to away while my floor's being done.' And he said, you know, he understood that, he, and he said, 'Well, why not suggest to [Pete] that he go to [Town A] so he can have the boys on his Tuesday night?' And I said, 'Because I don't want him following me all over this frigging country side.' I said, 'I should be able to go away and have a break from it, from him. The break,' I said, 'it's only night, one night that he was talking about,' you know. I said, 'I should be able to just freely go away and have that break. It's not as if I'm doing it on purpose or anything.' And I said, that is something I wish that they would just turn around at [Pete] and say, 'Look, grow up, you know, mate.' But they always seem to come to me to bend over backwards to accommodate this guy who's having a tantrum about something. But if I had a tantrum and got upset, 'Oh, you're too emotional. Oh, don't panic. Go to the counsellor,' you know. And, you know, I found that he could do that." {Rachael: "Everyone was trying to quickly appease him, fix it up?"}. "Yeah, that's it, and make it all better." (p. 20)

35: "Basically, [Pete] always seemed to, always get what he wanted. I felt like, that I was not of no importance. What I was saying, even to the fact that I'd been abused, that he was abusive towards the kids, it was of not importance, or of little importance. I once said that to her, and she said, 'How can you say that?' ... And she said, 'How can you say that [Rebecca]? ... You are of importance.' But I said, 'Honestly, you know, you don't feel it, you know, my point of view.' And I said that I was finding the legal system very hard to grasp, you know, very difficult to deal with." (p. 12)

36: "And then I went back to my lawyer, you know, [Lawyer A], and I said, 'This is just ridiculous,' you know. And she said, 'Well, look. How about Christmas Eve to like one thirty, lunch time, or something. Or because I was wanting actually to go to three. And she said, 'No, one thirty is plenty of time.' That was

over backwards" to accommodate him. However, if she ever got upset herself, she was told that she was too emotional, that she shouldn't panic, and that she should go to the counsellor. It seemed unfair³⁴.

Pete almost always got what he wanted, whilst Rebecca felt unimportant. It was almost as if his violence and abuse towards her and the children was considered insignificant. When Rebecca mentioned this to her lawyer, her lawyer acted surprised and denied it. She said that she was important. Rebecca told her that it didn't feel like her point of view was seriously considered. She also said that she was finding the legal system very difficult to grasp³⁵.

Rebecca remembers Lawyer A standing up for her on one occasion. Pete had been wanting to see Nathaniel and Joel for the majority of Christmas day. Although Rebecca was willing to please Pete and let him have them until 3pm, Lawyer A decided that 1:30pm was plenty. She advised Rebecca that if he would not accept this and took it to court, Pete's lawyer would be

one time she actually stood up and had a guts full of this guy. And she said, because I actually said, 'Well, to three o'clock, I'm happy with then, if that's what he wants.' And she said, 'No, blow him. One thirty, that's blimming generous,' she said, you know, 'stuff him.' And she said that if that went to court, 'If he was not happy with that [Rebecca], and he went to court about that, a judge would say, 'What are you doing here?' and would actually severely tell his lawyer off, under the circumstances too that his lawyer phoned me.' And so, she said, 'No.' I actually had ground to stand on for once. And so.. it actually worked out, yeah." (pp. 54-55)

37: "Just her way she was treating me too, the whole, you know, it was just so bad, the whole thing." (p. 39) (from excerpt 73)

reprimanded for ringing her at home (discussed shortly). For once, Rebecca “actually had grounds to stand on”³⁶.

Overall, Lawyer A had many characteristics that Rebecca “did not find good at all”¹⁷. The way she treated her was “so bad”³⁷.

Lawyer X, and interactions between Lawyer A and Lawyer X

Whilst Lawyer Y represented Pete in the very early stages, Pete’s lawyer friend (Lawyer X) ended up taking over the case²¹. Rebecca felt very uncomfortable about this. She did not believe that it was ethical for a lawyer to be personally involved in a case. She raised this concern with her lawyer. Lawyer A told her that she was panicking: Pete was just pretending that Lawyer X was involved to frighten her. Rebecca persisted further with her concern that Lawyer X was representing Pete. She explained that she had been around Lawyer X’s lunch table in the past when he and his wife were bragging about the free work he did for friends. Rebecca also explained that Lawyer X’s wife had stopped speaking to her and was giving her “filthy looks”³⁸. Consequently, Lawyer A mentioned in one of her letters to

38: “Because when I said to her too when I first met her, and I said, you know, ‘Look, [Pete’s] got [Lawyer X] behind him, and he’s a really good lawyer,’ you know. And I was all in this panic. And she laughed, ‘Ohhohhohhoh, oh no, not dear old [Lawyer X’s first name]. Oh no, [Lawyer X’s first name] wouldn’t do that. Ohhohhohhoh,’ like this sort of thing. ‘Oh no, that’s just like someone coming to you and saying, some child saying, ‘Yes, well my father’s the policeman and he’s going to get you, hahaha,’ sort of thing.’ You know, that’s, that’s, she did not, she did not believe me, okay. She just thought I was panicking. She did not, and I could not communicate to her that, no, there was more than this, than just that. Because I said to her, I tried telling her, ‘Look, [Lawyer X’s wife] will not even speak to me now. She gives me this filthy look and that.’ But no. And I said, ‘This is happening, this is true.’ And I said to her, ‘I’ve been around their lunch table and I’ve heard them boast how they’ve helped other people through and they don’t charge them anything for it either, it’s free.’ And I got told that, apparently she, on another time she said to me, ‘I’ve spoken to [a partner of our firm] about it and it is quite common knowledge that [Lawyer X] does that for people.’ It was quite acceptable.” (p. 10)

39: “It was the first time she actually half-heartedly admitted, ‘You are right [Rebecca]. I think [Lawyer X] is personally involved.’ Because I was saying, ‘He is not being professional

Lawyer X that Rebecca felt threatened he was representing Pete⁴⁰. Sometime later, Lawyer A conceded that it was well known that Lawyer X did free work for friends but that this was perfectly acceptable behaviour. She was told not to worry³⁸. Much later on, Lawyer A “half-heartedly admitted” that Lawyer X was personally and presumably non-professionally involved in the case. She organised a lawyer for the children and “things got sorted out pretty quick” after this. However, in between times, it had been at “great cost” to Rebecca³⁹.

Rebecca felt very upset with the content of one of Lawyer X's letters. It accused Rebecca of being jealous of Pete and vindictive against him and his friends. It was also full of lies about Pete's violence. Every violent incident was twisted around so that Rebecca seemed the guilty party and Pete the victim. This was quite different to what Pete had told her during their marriage. He had always told her that he could not remember violent incidents, or that he was sorry and would change⁴⁰.

about this in any of the ways he is acting,' you know, 'this is totally diabolical.' And for the first time she said, 'I, I, I think you are right that he is personally involved.' And that's where she made the kids to have their children's lawyer. And that got things moving. Communication started happening and things got sorted out pretty quick by then. But in the mean time it had been at great cost to me.” (p. 12)

40: “And the wording, even in [Pete's] letter from his lawyer were to that way. That, that's exactly what [Pete] said. Because [Lawyer A] actually wrote it in her letters. I think she thought it was a joke, and she included it in a letter, how I felt that [Lawyer X] was a good lawyer and, you know, sort of thing, and, and that, so felt very threatened by this. And [Pete] wrote a defence letter back. And what really threw me was that one, he, every hiding he'd given to me, he turned it around like I'd given it to him the victim. Now that floored me. I couldn't believe it because one, he'd told me he'd either forgotten, he did not remember, have any memory of it, or that he was really sorry and that he was going to really try and help himself. There was that story. And here it was in black and white how he was prepared to lie. And 'cause I said to [Lawyer A], 'That is lies.' And she said, 'Don't worry about it, it's quite normal.' And I said, 'But that's lies, it's all lies. It's making me look bad.' And I wanted to write a letter in defence, but she said, 'No, don't go there.' She said, 'It just goes backwards and forwards, it's a waste of time.' That was very frightening, you know.. I couldn't defend myself. That, that just had to stay as his word against mine like that. Yeah, and it really made me look like this wicked woman. And about [Lawyer X], he, he, he sort of wrote that I was jealous of him and that was why I was doing that, that I had something against him and I was just being like vindictive against him and his friends.” (p. 11)

41: “We [were] trying to get access worked out. We were trying to get the, the situation here with his belongings and the property sorted out. And like I've got this huge pile of letters that

Rebecca told Lawyer A that because it was all lies and made her look like “this wicked woman”, she wanted to write a letter of response. Lawyer A advised her not to. She told her that it was quite normal for an ex-partner to lie like that and it was not worth worrying about. Rebecca persisted. Lawyer A said a letter would make no difference; it would only go backwards and forwards and waste time. Rebecca found it very difficult to cope with how she had been represented, and to accept that she could not defend herself⁴⁰.

Almost without exception, communication with Lawyer X was impossible. He rarely responded to correspondence. This made it very difficult to resolve matrimonial property (discussed below). Rebecca felt a “mess”⁴¹. Feeling very frustrated, she decided to report Lawyer X's behaviour to the Law Society. However, she first told Lawyer A of her intentions. She also told her how Lawyer X's non-communication had empowered Pete and caused a lot of trouble and mental anguish for her and her family. Lawyer A discouraged her from reporting

went out, and I'm not joking, to [Lawyer X], okay. And he just did not respond. And that's how the communication went the whole way through. [Lawyer X] would not respond.. He just didn't respond. And my lawyer, I'd been chasing up my lawyer, because you can imagine what mess, that was me, when we weren't getting a response and nothing was happening sort of thing.” (p. 11)

42: “I wanted [Lawyer X], I said, ‘I think [Lawyer X] should be reported to the Law Society, that this is wrong, that not responding to my letters like that, that was very wrong, that it had only made more trouble. It had empowered [Pete], and it just made a lot more trouble. It hasn't sorted things out, and you know, it's just really bad news mentally on the family.’ And she said something that, ah, how did it get said to me? ‘Look [Rebecca],’ she said, because [Lawyer X] had not long ago had [some major health problem], she said, ‘look, ever since [Lawyer X's health problem], he's not been the same.’ And she said, ‘Just quietly, it is well known amongst us lawyers that he is not his usual lawyer self.’ And she said, ‘He's not doing, you know, quite the right moves, so to speak, as he should be, and you know, you should consider that with the [health problem] and things.” {Rachael: “She was trying to make you feel sorry for him?”} “Yeah, and I backed off, because I knew that, that too was going to go down badly if I did do something like that, I felt strongly. And [Pete] got wind of it somehow. And, ‘cause I asked her, ‘How would my husband know that I was thinking of taking [Lawyer X] to the Law Society?’ And she went, ‘Well, I don't know.’ And I said, ‘Well, you're the only person I told.’ And she said, ‘Well, I don't know,’ like this. She actually got on the defence. And I thought, ‘My goodness, what's going on here.’ And anyway, [Pete] actually said to me that [Lawyer X] told him, laughed at it, and said that he'd only get a smack on the hand anyway, that he wasn't worried. And I thought, ‘Yeah, old boys club.’ So that's the sort of thing that I would like to see stopped, that communication, there should be, it should, games like that should not be allowed to be played. If it had been in a work

him. She told her that he had recently endured a significant health problem, and consequently, it was well known amongst local lawyers that he was behaving differently from usual. Rebecca backed off. She also suspected that there would be negative consequences for her if she pursued it any further⁴².

Unfortunately, the matter did not end here. Pete found out that she had wanted to report Lawyer X to the Law Society. He told her that Lawyer X had laughed and said he would “only get a smack on the hand anyway”. Rebecca was not pleased. Lawyer A was the only person to whom she had mentioned her intention. This meant that Lawyer A had breached confidentiality and informed Lawyer X. When she mentioned this to her lawyer, she “got on the defence”. She then avoided responsibility by saying she doubted Lawyer X and Pete had ever had that conversation⁴².

Lawyer A breached confidentiality on another occasion. Rebecca told her something confidential about an incident of Pete's behaviour to Nathaniel. Rebecca made it clear that she did not want it mentioned to Pete or

situation where [Pete] was likely to do me a lot of harm, he would have had a lot of empowerment there to do it. You know, it was really horrible really to go through, to know that that sort of thing can go on. It was a bit of a reality hit for me.” {Rachael: “So you, so I'm just making sure I'm not putting words in your mouth, it actually seemed that they were, the lawyers were unprofessional? They were talking about things that had been confidential to you, and just passing what you'd asked...”. “...I actually felt that, yes. Because she was the only one I'd mentioned going to the Law Society about, and then [Pete] knew about it. And he said [Lawyer X] was laughing. And I told her that, and she said, 'Oh, don't listen to him,' she said, 'I doubt that a conversation like that even went between him and [Lawyer X],' you know.” (pp. 26-27)

43: “Yeah, I sort of had things like, especially like, I described to her what had happened to [Nathaniel]. And I made it very clear, though, that I did not want that, that was another thing that slipped out, that I did not want that, I knew what [Pete] had done, made know to [Pete] for [Nathaniel's] sake. I felt he would take it out on [Nathaniel], 'cause mentally, what he does is he ignores one, that is the punishment. Yeah, you know, I didn't want anything like that. But it got out. And I said to her too. Because I'd told no one about that. And because she actually slipped up with it. She said to me, '[Pete's] lawyer wants to know what is this about, the violence with the children with [Pete] got to do with [Pete].' And I said, 'Now, how did he find out about that?' And she said, 'Well you must have told him.' And I said, 'I haven't told him I know at all [Lawyer A].' And I said, 'I don't want him to know,' and I said, 'I'm not going to go there,' 'cause I said, 'this is something that [Nathaniel] has made me promise not to tell,' you know. He's really frightened that his Dad will, you know, get back at him. And I said, 'I'm not going to risk that,' 'cause I said, 'I feel he will,' you know. And.. then when I described to her what had happened, she said, 'Well really,' she said, 'in the courts view that's... {side of tape ends and Rebecca finishes this narrative while tape is being turned over}.” (p. 44)

Pete's lawyer because Nathaniel had made her promise not to tell anyone. She was particularly concerned about the likely implications for Nathaniel. Pete would "get back at him" and ignore him as punishment. Lawyer A told Lawyer X regardless. It was "another thing that slipped out". In defence, Lawyer A told her that she (Rebecca) must have told Pete. Rebecca had not. Lawyer A was the only person she had ever told⁴³.

Rebecca consistently felt very uncomfortable about the communication that was occurring between Lawyer A and Lawyer X^{44,45}. Some of this concern stemmed from her belief that they were friends, and hence, might not act professionally. For all she knew, Lawyer A might have been telling Lawyer X she was a "right bloody crank", and together work out how to shut her up⁴⁴. The communication occurring between Lawyer A and Lawyer X left Rebecca feeling powerless in the decision making process. She often sensed that the two lawyers were working out a plan between them, and then working on her to give in. When she

44: "I had a lot of times where [Lawyer A] said, you know, 'I've been on the phone to [Lawyer X].' I had that a lot. Conversation. And I did not like that part of it at all, because that was totally out of my, I did not know, what was said between them. I feel that if they're going to have telephone conversations then a tape recording should be played to me, or made available to me, so I know exactly what's been said in my case.. Either that or that telephone things just don't take place. Something, I don't know. That there's more, you know, more professional, that, not this {inaudible} behind the scenes. Because how do I know too that [Lawyer A] wasn't falling into that women's role and pleasing, 'Good old [Lawyer X],' you know, the male female relationship thing there? How do I know that she didn't believe me at all, and was saying to [Lawyer X], 'Look, this women's a right bloody crank, and she's going to make a lot of noise. What the hell can we do to shut her up?' Because that's what I felt like was going on. And I basically, I felt like I was being told to shut up, you know. And, 'cause I just sort of thought to myself, 'You know, this is just diabolical.' I lost all trust in the legal system quite honestly." (p. 27)

45: "That was another thing too. There were a lot of phone calls going between lawyers. And you just you had no record of what was being said. That part I don't like. You've got no record of what's being said. And I felt that they were hitting on agreement without your authority, and then they'd come back at you and work you around to that. [They'd work out] the ways that things were going to go and then they'd come back. This is what I was finding. And they'd work on you to come around to that agreement. They would not listen to you that you are not happy with it. A lot of things I was agreeing to that I wasn't happy with, because I just found that my lawyer would not really have it. She was very negative to anything that I wanted. And she would use too, 'I don't think the judge is going to,' you know what I mean, sort of thing. So you felt like nothing was really in your power. That was something that I quickly learned... I felt very strongly that her and [Lawyer X] had been on the phone, and then, yeah,

objected, she was ignored. When she made suggestions of her own, Lawyer A reacted negatively or told her that the judge would not agree to this. Because of all this, Rebecca often agreed to suggestions with which she was not happy⁴⁵. Really, she felt the situation was diabolical. She lost all trust in the legal system⁴⁴.

Something Lawyer A said one day implied that she knew Lawyer X personally. She fondly referred to him as "dear old lawyer X"³⁸. The way Lawyer A said this worried Rebecca. She envisaged an old boys club, where "they stick like glue to one another and cover up for one another". She felt that she was "in danger zone" and had to be careful. Her father also warned her "not to cause waves" for this same reason. Her precariousness meant that she felt unable to complain if she needed to. It seemed possible that neither lawyer would be looking after her interests⁴⁶.

Rebecca was also worried that her lawyer would fall into "that women's role" and try to please "dear old Lawyer X"⁴⁴.

It was not until her last

she'd, and I felt like it was me all the time that was worked on to give in." (pp. 11-12)

46: And yeah, and she said, 'Don't worry.' When she said, 'Not dear old [Lawyer X's first name],' I thought 'Great friends here.' And another thing too, from my [working] experience I had learnt how the old boys club [worked]. And like you were talking about WINZ, where that lady was going around chatting to everybody, they stick like glue to one another and they cover up for one another.. I felt there was no, yeah, I was in danger zone, that I had to be very careful here, that no one was going to really look out for me. And as my father described it, 'cause I was phoning him and telling him, and he said, 'Be very careful there.' He said, 'Be careful not to make waves [Rebecca].' He said, 'Just be very careful because,' he said, you know, you know how it's sort of like a little, they stick together and will make more trouble for me. And because I felt too, the matter, if I complained about [Lawyer X] that it would just come back on me, this stupid woman." (p. 10)

47: "I think there were a lot of things, yeah, she was saying inappropriate. I did bring up to her one day, 'cause my ex-husband said how he'd gone out to [Lawyer X's], because [Lawyer X has] become a judge now. And how he went out to this party and every lawyer in town was there. And he said it to me with the message, 'Every lawyer in town was there.' And because I said to [Lawyer A] this, 'cause I said, 'You two,' you know, not you two. I said, 'You're all caught up with one another. You all know one another. You all socialising and that.' And I said, this is where I felt so uncomfortable with all of this. I said, you know, 'I believe that you know [Lawyer X] personally.' And I said, you know, 'It just doesn't go down with me well.' She said, and this was very confusing to me, she said, 'I don't know the guy at all,' she said, 'I pass him on the street and I don't even talk to him.' And I thought, 'Christ. Then why say to me, 'Not dear old [Lawyer X's first name]. Oh no, not dear old [Lawyer X's first name],' you know. It's, yeah. And I didn't imagine those

appointment with Lawyer A that Rebecca became more aware of how Lawyer A felt about Lawyer X (at least, how she felt about him at the end). Pete had told Rebecca that he had been out to a party at Lawyer X's house. He emphasised that "every" lawyer in town had been there. Rebecca felt very uncomfortable that Lawyer A and Lawyer X knew each other at a level that they socialised together. When she raised this, Lawyer A's response confused her. She said that she did not know Lawyer X at all; when they passed on the street, they did not talk to each other. Lawyer A's other comments gave Rebecca the impression that she did not like him; that he was a "male chauvinist" and a "pig". Apparently, Lawyer A did not like that he "treated her as a mere woman", not professionally as a lawyer. Furthermore, Lawyer X thought that like Rebecca, Lawyer A exaggerated matters. Lawyer A found this attitude "quite shocking"⁴⁷.

Rebecca believes that certain behaviour should never have happened. First, Lawyer X should never have been allowed to be obstructive through non-communication (discussed

words. Otherwise I wouldn't be upset about, or, you know, felt threatened by it. Or, 'Shit,' you know, 'she knows him,' you know. And I thought, 'Well, where are you coming from?' you know. And then, of course, she said, she sort of said too, to deal with, I think, I won't quote her, the impression I got that she found him incredibly a male chauvinist. A pig, quite honestly... And, she said that, just the way, he had said to her, as a woman, he treated her as a mere woman, not as a lawyer. And that had got her back up a bit, that he had refused to really work with her professionally. And that she was only, also like me... making too much of things, exaggerating, yeah, that her and I were exaggerating, you know. And she said that she found that attitude quite shocking. And I thought, yeah, I thought, 'This is about my last visit,' and I thought, 'tell me now, I could have really done to hear that back then.' But then I suppose she couldn't risk saying too much. I don't know. I really don't know. It's hard to say." (pp. 42-43)

below)⁹⁰. Second, communication between the lawyers (particularly, breaching confidentiality) should not be tolerated⁴⁴.

Lawyer Y’s involvement of Lawyer Z

When matrimonial property was eventually finalised, Pete was actually using another (female) lawyer, Lawyer Z. Lawyer Z also attended the mediation conference to organise access (discussed below). Initially, things “dragged out a bit” because communication stopped. However, Lawyer A got things moving again by threatening Pete and Lawyer Z with court costs⁴⁸.

Rebecca was very displeased by Lawyer Z and Lawyer Y’s behaviour on one occasion. Lawyer Z rang Rebecca at home about a matter, instead of ringing her lawyer. When they could not resolve a matter, Lawyer Z invited her to come into her office and talk about it. Rebecca refused, and informed her that she had a non-contact order against Pete, which made this impossible. She told Lawyer Z that they were “diabolical” and that Pete was using her for a “power throw”. She then hung

48: “Towards the end, [Pete] got yet another lawyer, and that was when the property things were finalised. And it was the same thing again. Communication stopped again. And so that was dragged out a bit. And then finally it was, all came, you know, all got sorted out. Because [Lawyer A] actually threatened them with court, and what she actually threatened them with was court costs. And that sort of drew them out.” (pp. 52-53)

49: “Anyway, the lawyer actually phoned me, and it was this woman, and I didn’t even know who she was. She phoned me personally, and started going on about it. And I said, ‘What?’ I said, ‘Where are you coming from?’ I said, ‘The guy is bullshitting to you.’ I said, ‘He hasn’t even brought up about [this] with me yet.’ And she said, ‘Well, would you like to come in here and talk about it?’ And I said, ‘No, I would not,’ I said, ‘we’re on a, a non-contact order.’ Because that’s something I did get through the court, no contact order. I said, ‘Read your notes.’ And anyway, I told her what I thought of her and I hung up. And I said, ‘You people are just diabolical,’ you know. And I said, ‘He’s using you for this power throw and that.’ And I said, ‘You’re just idiots.’ And I hung up. And then I got thinking about it. And I thought, ‘Woman. He had a man lawyer.’ And I rung up [the court co-ordinator], the court co-ordinator. And I said, ‘I’ve just had this phone call.’ And I told her what had happened. And she said, ‘No. That’s, that’s not on. They, they shouldn’t be ringing you personally. They should be getting to your lawyer.’ And then I said, ‘Well, this was a woman.’ And I said, you know, ‘[Pete’s] lawyer is usually [Lawyer Y], I think it’s [Lawyer Y].’ And I said that this was a woman. And I said, ‘Does he have a woman lawyer in his office?’ And [the court co-ordinator] said, ‘No, not

up⁴⁹.

Because Rebecca was confused that a woman lawyer had rung, not Lawyer Y, she rang the court co-ordinator. This co-ordinator told her it was inappropriate for Pete's lawyer to ring her at home. Ethically, she was meant to ring Rebecca's lawyer. Because it was possibly a hoax, the court co-ordinator advised Rebecca to inform Lawyer Y. Rebecca "couldn't believe it" when Lawyer Y told her that he had authorised the call by Lawyer Z. He told her it was quite within his rights, and that the Law Society would agree that it was within the boundaries of professional behaviour. Rebecca stood up to him. She called him a "big power guy", and said how dare he treat someone like this. Lawyer Y got quite nasty. He told her that she better go to her lawyer because there was a case to answer. Rebecca refused, telling him to write to Lawyer A instead. Lawyer Y then started talking about the case. Rebecca realised that he was trying to get her to converse about it, and that her responses could be used against her. She told him to sort matters out with Pete. She then hung up on him. Afterwards, she rang Women's

that I'm aware of,' and she said, 'he hasn't had.' Well, I said, 'Is he away, and perhaps this woman is looking after the place?' And she said, 'No,' she said, 'I've just seen him in the court house here this morning.' And I said, 'Well, perhaps it was a hoax then.' And she said, 'Quite well [Rebecca], that could quite well be.' And then I said, oh, and she said, 'Look,' she said, 'if someone is ringing up like that and using [Lawyer Y's] name, law office,' she said, 'that's very serious.' And she said, 'I really do feel that perhaps you should contact him and let him know that this is going on, and also check with them that this, you know, doesn't happen.' So, I did. I rung up and I said, 'Could I speak to [Lawyer Y] please?' And I got put straight through to him when I told them who I was. And I just sort of said, expecting him to say, 'No, it was a hoax.' I said, 'Now I had a woman ring me up this, you know, morning.' And I said, 'Did you authorise it?' And he said, 'Yes.' And I couldn't believe it. And I said, 'Who the hell do you think you are?' And he said, 'Excuse me,' he said, 'I'm quite within my rights to authorise it, and she's acted accordingly, and, you know, it's within her profession.' And I said, 'No.' I said, 'You're supposed to get in contact with my lawyer.' I said, 'This is most out of the ordinary.' And he said, 'If it went before the Law Society,' he said, 'that it would be within the boundaries of acceptance,' or something. And I just said to him, I said, 'You're getting a big kick out of this, aren't you? The big power guy.' And I said, you know, 'You just really got carried away with yourself there.' And I said, 'How dare you treat someone like this.' I said, 'I can't believe this.' Anyway, he said, 'You'd better go to your lawyer,' he said, 'because there's a case here.' And I said, 'I'm not going to go to my lawyer.' And he said, I said to him, 'You write to her or whatever.' And he said, 'Well, you better get to her.' He got quite nasty. And anyway, I just said to him, because he started bringing up about the case, and then he started getting me conversing about it. And I realised that what I could be saying could be used against me, so I said to him, 'I don't want to talk about this any longer,' you know. And I said, '[Pete] {inaudible} communicating very well with you,' and I said, 'I think you should get together with him and sort out what

Refuge who suggested she visit her lawyer⁴⁹.

Rebecca felt very shaken by the experience, and hence, she visited her counsellor. She said that she was upset that no one would challenge behaviour that was inappropriate. "It was something to be swept under the carpet". Rebecca was also worried that because she had sworn at Lawyer Y, she would be accused of making a harassing telephone call. However, one of her friends was encouraging. This friend thought that Rebecca "had guts". Rebecca did not think it was guts. Rather, she felt backed into a corner and fed up. Indeed, her father has noticed that she has become more forward in recent times. Rebecca agrees. Because of her experiences with the legal system and domestic violence, "she's been in that corner too long". Consequently, she is "coming out"⁵⁰.

exactly has happened.' And I said, 'I've got letters here backing up too that he's been swearing at me, and I think you should have a bloody good talk to him about that as well.' And I hung up on him. And anyway, I rung the Women's Refuge. And that's when they said I should go into [Lawyer A]." (pp. 53-54)

50: "I felt, you know, I was really shaken. Though I still felt that that lawyer had got away with the way he, he phoned me. I really felt that he still got away with it... And because I, he had stopped going to counselling then, and I went to the counsellor. I was really shook up by that. And because it's a mental abuse thing. It's like it's always at you. And you know, I said, 'God,' you know. And she said that she knew of another woman that it had happened to too. Because I said to her, nobody, everybody was sort of saying, you know, 'No,' you know, 'this shouldn't be done.' But nobody was prepared to go this guy, even to say, 'Hey mate,' you know, you know, 'that is no way to act,' you know. Again it was not recognised. It was something to be swept under the carpet, I felt. Yeah. But you know, I was really glad that it worked out like that that, that for once, you know, I had some ground. I thought, 'My goodness.' But I just couldn't believe that lawyer. He's lucky he didn't get sworn at more. I did swear at him. Because I was really scared, 'Oh god. Now, am I going to get, now that I've done a harassing call to him,' you know. I was really scared on that, you know, how, and I really knew how they twist their words. And I, 'Oh no, is he going to say I was threatening him or anything like that?' I was really worried, really worried, you know. But, but I spoke to a friend after, and she said, 'Good on you.' And she said, 'God, you had guts talking to him like that.' But I said, 'Oh, it wasn't guts, I was just so fed up.' I'd just had enough, you know. It's like someone getting backed into a corner and you just.. yeah, I had to move, had to move, had to go, yeah, that's it... Well, I don't sort of think of it as guts, if you know what I mean. Like if I had, had really thought about it beforehand, and gone in there to say that, I wouldn't have. I think things just come out. But it's something that my father himself has actually said, that's he's recognised in

me lately, that I'm very forward and in coming out with what I think to people now. And I think that's just something that's come out from all of this. I've just, like I've been in that corner too long and I am coming out. But it's just sort of finding a balance... Yeah, it's just finding a balance. Because like, you've got to be careful too, that you don't burn bridges, so to speak, behind you, you know. Yeah." (pp. 55-56)

Matrimonial property issues

The settlement of matrimonial property proved a very stressful time, with Rebecca frequently being subject to Pete's underhand behaviour.

One time, Rebecca was called away to another part of the country to help a close family member who was in dire circumstances. She told Pete what had happened and asked if he could look after the children. He agreed to. Knowing she was away, he made the most of the opportunity. He broke into her carshed and removed belongings from it. He did this in front of the children⁵¹.

He was also devious over other property matters. Tools that were his own were suddenly his Dad's, so that they would not be considered part of the dividable matrimonial property. Property disappeared or ceased to exist. He sold his car, and lied about

51: "And in the end, there was a time where I had to, you know, when I said to you [a crisis happened with a close relative]. And well, I went home to [Town A] to [this relative]. And I said to, I rung up [Pete] and I said, 'Can you have the boys over night please? I have to go to [Town A].' 'Why?' he goes. I said, 'Because [a close family member] has been [involved in a crisis].' 'I'm really sorry to hear about that,' blah, blah, 'yes, I'll have them overnight.' I went off to [Town A] and I stayed there the weekend. In that time, in front of my kids, he came and broke into my car shed and took stuff from here." (p. 11)

52: "Another example was I had an old [type of car] here. And it was an old heap okay. You know how you've got to take everything and get valued, okay [Pete] came here, he came with a bloke, I never went outside because I didn't want anything to do with [Pete]. He sold his [vehicle] here okay. The boys said that he had quite, that he got quite a bit of cash from it, because they were there and witnessed it. He sold his [vehicle]. I never saw that money. He never divided it in half. And anyway, I told [Lawyer A], because he did not include that in his valuations. I said, 'He sold a [vehicle] here and he got cash from it.' He wrote a great big hoocha that the [vehicle] was not driveable, it did not have a registration or warrant of fitness and that he'd got very little money for it, and I think there was something like a hundred bucks or something that he got for it, or something anyway. So it was fifty dollars I got out of it okay. And then all of a sudden he had a lot of tools in the shed. All of a sudden they were his fathers, not his. That got heard. There

how much he had got for it, so that she would receive less. Her lawyer did not care much about all of this: she “just let that ride”. Although Rebecca was being fair herself, she came under suspicion when she refused to get her car re-valued a third time after Pete queried the amount. Her lawyer “came at [her] big time”. She thought Rebecca should value the car again. However, Rebecca thought it was unnecessary as it had already been valued twice. Nor did she trust the person that Pete wanted to re-value the car. In the end, a compromise was reached: the trailer was valued twice instead. Things like this made Rebecca feel that her lawyer was not fully on her side⁵².

Rebecca also found that she had little input into the division of property. Her status as main income earner was completely ignored. She tried explaining that Pete's earnings had largely been his own. That is, whilst she paid the mortgage, insurance, and other expenses, Pete had only paid the power and telephone bills. Even then, he had paid the bare minimum. Rebecca had not been allowed to make toll calls. Nor had she been allowed to let

were other things like that that he was doing. Things just simply disappeared, didn't exist anymore. But I took my old [car] into a garage okay. They rung up the, is it the auto traders, is it?.. Not the magazine, sorry, they auction cars. Car auctioneers. Well, he rung up for a second opinion [at the auctioneers]. This guy at the garage rang up for a second opinion, and they both agreed, yep, five hundred bucks was what the car was worth. And so, because I was really disappointed {laugh}, and anyway that was fine. [Pete] made a big song and dance about it and said that he wanted me to get it re-valued. And I said, ‘No, I'm not. It's written there on paper in black and white.’ I said, ‘I've done my thing, I'm not going to get it re-valued.’ He was saying it was worth more, yeah, and he wanted me, he said that in the letter, he said that he had someone at [the auctioneers] that would value it for us, and heard that, they'd told it was actually worth a thousand.. I didn't trust it. And I just said, ‘No, no way.’ So, what happened instead of, that was all a big thing. You see, that was taken note of. ‘But [Rebecca], you should go ahead and have it re-valued. Otherwise you're saying you've done something sneaky.’ ‘Ah [Lawyer A], yeah, you know it was all me then.’ Like nothing at [Pete] about the business [with his vehicle], or anything like that. Just let that ride, but this all came at me big time. And in the end she negotiated with me that I'd go down twice I think it was on the trailer instead of having my car re-valued. So, she put that to them I think and said, or something like that anyway. And it was forgotten about, so I just thought this just keeps coming back at you. You felt like you're on the defence the whole time. And I sort of felt like who you, who are you actually going for here, I sort of felt that.” (pp. 27-28)

53: “Another thing too that I didn't like was that, you see, I never got a chance really when it came to dividing the property up. I never got really much of a say in that. And I was trying to tell her at the time that I had been the main income earner, that I had never seen [Pete]'s income. I had actually been paying the mortgage here, the insurance here. [Pete] paid the power and

power usage exceed \$70 per month. If it did, he would "really go off" at her⁵³.

With her financial input being ignored, the house and belongings were divided strictly in half. This left Rebecca and the children in a very unsatisfactory financial position. They did not own many belongings before the split; now there were even fewer. Rebecca and the children had a shortage of blankets, plates, cups, and other essential items. The money she received from the settlement (\$5000) went on restocking these things. She also bought a video and some board games because she knew the children's recreational activities would be limited when she went on the benefit. The remaining money is now all gone. She had to spend it on necessities that the benefit could not cover over the years⁵³.

In contrast, Pete is living a rather wealthy life-style. He and his partner have just bought a life-style block and they have built a new house. They have a pedigree dog, and several vehicles, including a landrover and a motorbike. He does not have to feed Nathaniel or Joel

the phone. I was not allowed to make toll calls, and the power, we had to keep it down under seventy bucks a month, and if I got above that he'd really go off at me. And that was it. We never saw money from him. He even claimed family support because he was not the main income earner. We never saw it. Yet that meant nothing, that meant nothing. And when it came to dividing the house things up, it was strictly half. And yet he didn't have the kids. So being strictly half, I didn't, I needed cash, you know, I needed cash. Because we were very poor as it was, and I knew that rather than, we would lose the cash side of it... But I went down half with the belongings very much, but I did get it pretty on board, the valuer, I had a valuer come through, and it was pretty much half okay. And so that meant that I had a great shortage of blankets all of a sudden and things like that, cups, plates, you name it. It was like we were splitting heads. We didn't have much to go half in. Because then he got all upset about that, and reckoned he could claim another two thousand off me, or something like that. And anyway, the money, I ended up getting, I think, I totalled about five thousand dollars, I ended up getting in the hand. And that ended up basically going into getting blankets and things for us here... and more plates and cups and things like that. I then realised too, that I was going to go on a benefit and not well off to go out, so I went and got a video for us, and I bought games, board games, down there, for us, and things like that. And this sort of, you know, shuffling things around like that. And eventually the money, just over the years, got used up. I had it in reserve and it got used up, because being on the benefit, you know, affording clothes and stuff like that, it just got, food, stuff like that, it just went. And I thought, 'Hell,' really, not enough, not near enough was done to put the kids and I in a financial secure position. And [Pete] is so much better off than us now.. [He got] half the money, he doesn't have to pay for the kids. He doesn't have to worry about feeding them, or anything like that majorly, you know." (pp. 28-29)

54: {Rachael: "How do you think that could be improved? What

(except when they are staying with him), nor does he cover any other expenses. Indeed, he only pays \$10 per week child support (i.e., \$5 each child). Rebecca describes this as a “major hold back”⁵⁴.

Not surprisingly, Rebecca believes that far too little is legally done to ensure that women and children are left in a financially secure position. She believes that matrimonial property needs to be divided more fairly, with more consideration given to the parent who will be looking after the children and supporting them financially. She believes that more emphasis should have been placed on her being the main income earner prior to their separation⁵⁴.

Rebecca also believes that the government places too much emphasis on beneficiary crime, and not enough on ensuring that men pay adequate child support. If women received adequate child support, they would be much better placed. They could better cover expenses, afford babysitting, and pursue careers if they wished⁵⁴.

Whilst the focus of a recent

would you like to see happen there?”). “Well, for starters, I think recognising the fact that there's only one of them, and like the family, recognising that. Not allowing like what happened to me, where the communication stopped, so that it was costing me so much to get things under way. Not allowing that to happen. That things be done quickly as possible, you know. Like in that situation not occurring, it would have cost me a lot less in legal expenses, and I would have had a lot more cash. And I think too, looking more seriously at how I was earning and how I was paying in the first place. I think it really fell, everybody just thought naturally because [Pete] wasn't, because [Pete] was the husband, that he'd been the main income earner sort of thing. I never felt that was looked at, where he'd been actually dependent on me. And he is actually in another relationship where he is dependent on the lady he's with. You know, and also I think the system itself. Now, you know the [National] government, they're, it's going on about hiring investigators to check up on beneficiaries that are doing the system. Do you hear anything about that for fathers that are doing out child support? Have you heard anything like that, chasing those buggers up? There's plenty of them doing it. I've had one man here flatly saying, two actually I've spoken to, and they think nothing wrong with it, getting out of paying the ex-wife. Yeah, you know, and you hear nothing of that. I rung up Inland Revenue Department, and they just said to me, 'His paper work's all up to scratch. If you feel like that,' they said, 'you'll have to fill out all these forms and have it looked into.' Right, now that puts me in a position that I'm going to stir [Pete] up again too. Why should I be put in that position? They should be looking up and checking on these guys, look at these ten dollar ones. Ten dollars a week for two kids, you know, and he's got, he's got, he's just recently got another car, a landrover, a motorbike. His, him and his new partner have just bought one of those lifestyle farm blocks and built a new house on it. He's got himself a pedigree {inaudible} dog that was two hundred bucks worth, you know. And that's been a major hold back. Because I've spoken to other women whose husband's have

documentary was on a man who paid too much child support, Rebecca believes that this scenario is definitely in the minority. Instead, more emphasis should be placed on the predominant issue: men who under-pay child support. Whilst this issue for women is not getting adequate coverage, she is certain that men would make an uproar if they thought that they were being disadvantaged⁵⁴.

Rebecca believes that unprofessional behaviour by Pete's lawyer worsened her financial situation. If he had responded promptly, instead of consistently ignoring correspondence, matters would have been resolved much earlier. Rebecca finds it questionable that lawyers can make more money by dragging out proceedings as long as possible. She has talked with other women who agree that sometimes lawyers can make things worse⁵⁵.

Rebecca and her children are still in a very precarious situation financially. She no longer has a car because it broke down and she cannot afford to replace it. She lives from week to week,

paid the correct child support. Now that has enabled them to get out and get a job. It has helped with the expenses of babysitting, and it has also helped with other expenses. And they've been able to work. Because women earn less as it is, you know, and it's just not a fair go there. There was, you know, like a great big hoocha on TV one time, a documentary, whatever, on 20/20 or something, doing something about this poor father who was paying this really high child support. Here was his ex-wife who'd got married to a really wealthy man, and that he was really poor and hard done by because he was paying all his high child support, and yet she was well off anyway, why should he be paying so much when she's well off anyway. And I'm thinking, 'Hoh, but when it's the other way around and they're paying very little child support and the mother's got a case, I haven't heard that one yet,' you know... That is it, that is the accepted thing. It's the norm. It should be down there so you should be poor. Yeah. That is the accepted norm. And women, I bet if women were getting really good child support, really getting out there into careers, and working, and independent, and bringing up their families, and doing well, imagine what the men would be saying. Can you imagine? There'd be an uproar wouldn't there. 'All these women, ohoh, why should I be paying child support,' you know. There'd be a heck of an uproar. You know, it's just very interesting, our society." (pp. 29-31)

55: "Costs too, court costs. Always thrown at you, court costs, how much it's going to cost.. [It's] off-putting, yep, yep, very. And 'cause I kept thinking too, this is not my fault. I would have loved for it to have been sorted out very quickly. It's what I expected." {Rachael: "But with the other lawyer not responding?"}. "And the games, you know.. And I sort of I find that questionable too. I sort of do wonder too, you know, how you end up. Money, I think, and I wonder if it's a good way for them to make money too, is drag it out as long as possible. It's something too, I've talked to other women about, and they felt the same too, that sometimes it seemed to be making more

often having only \$30 to \$50 to buy all their groceries. Because she sometimes has insufficient food to eat, she is very slim and often hungry⁵⁵. She sometimes wakes up in the middle of the night, panicking and terrified, because she is so financially insecure, without a savings or retirement plan⁵⁶.

trouble than was worth for them, make things worse, and dragged it out even further. And then they sort of wonder, 'Oh god, the lawyers really made from it, haven't they'... There's little issues and that. I've just sort of wondered does it need to go to the big court where it costs so much, especially for, for people who can't afford that. You know, we've got a small claims court now, surely there could be something in the domestic area there, so it doesn't affect, especially the women, once you get down to the property selling up and things like that, that she is left financially stable, you know. Surely in the long run that must relieve the country of some social welfare money, you know.. They seem to prioritise that the man, you know, be the one that's well off and the women are dependent, dependent on something all the time. That costing I found very unfair. And I think, especially too, and the division, you know, women are going to nine times out of ten earn less than the man, so that should be considered, and she's got a family that she's supporting." {Rachael: "Financially, and in every, a lot of other ways"}. "Yeah, yeah, that's right. Gosh, I don't even have a car now. My car died, I've got nothing now, I haven't got the money, and people say, 'Go and get another one.' I have not got the money to get one. They cannot picture that I'm living week by week. But I, you know, I did everything I could to keep that car going for us, and that just ate away more savings, all, you know, put me in financial debt. And they don't understand that I just don't have the money to do that... It's been a hard year, this year. At times I've had thirty to fifty bucks for groceries, you know, and that's been numerous times. You know, it's just, I'm not slim because I, {laugh}, I work on my body or anything. It's because at times I'm bloody hungry, I go hungry, you know. That's just a fact of life for me too, and people just don't realise." (pp. 58-60)

56: "Every now and then I wake up in the middle of the night absolutely terrified. Because I've got nothing except for my furniture in this house, that is it. I've got no savings, no retirement plan, nothing. I live week by week. That is it. And that

is a real scary predicament to be in. And I wake up in the middle of the night and go, 'Oooohhhh,' like this, 'calm down, calm down,' {laugh}... It is very scary." (p. 4)

Pete and the children

Rebecca has experienced many difficulties with organising access, and she has been very troubled by Pete's parenting.

Before Pete and Rebecca separated, Pete told her that he would like to have the children every second weekend. However, out of sheer stubbornness he changed his mind and decided he wanted custody instead. Later he decided he wanted shared custody, where they had Nathaniel and Joel on alternate weeks. Rebecca felt this was ridiculous and refused. He then wanted them on every second weekend, and on Tuesday and Thursday nights. Rebecca thought this was too much, but because she realised that he was missing the children during the week, she agreed to the weekends plus Tuesday night⁵⁷. Later, however, she withdrew the midweek day/s. This is because one of her sons confided that Pete had been violent to him (she had been previously unaware of this)⁵⁹.

57: "Before he left, before he left, we often did, had what discussions we could, 'cause it was really hard to talk to him in the end. But he, he had always said to me that he'd have the kids every second weekend. So I actually took that as what he was wanting. But then he, see out of sheer stubbornness I feel he went, 'No, I'm going to have the kids for custody, the custody of the kids.' So he went for that. Then he wanted half and half which I said is ridiculous. You can't have them one week with him, another with me. And then he wanted that. So he had them Tuesday night as well as the weekend. He wanted Tuesday and Thursday nights which I said was too much. And I actually came back on Tuesday, because again even though I really didn't like it I could see how he was wanting that contact in the middle of the week to still be there. Even though he was so, yeah, how could I put it, yeah, never mind, not a good father {inaudible} books, but, you know, what's the word though, what's the saying, you know, how being apart makes the heart grow fonder. And that was something that I'd obviously picked up to, with, on the way he was with the kids, so... They felt they were more important to him you see. They weren't just little nuisances that he could kick around, so, yeah." (p. 19)

58: "[Pete] wasn't having, you know, well hadn't in the past, and still doesn't do, very much quality time with the boys. He doesn't involve himself with their schooling or their outings or anything like that.. And [the children's] lawyer wrote in the, in the letter for this, you know, for [Pete], that [Pete] should do this, and he should do that with the kids, he should do this with the kids, all the things that [Pete] should do with the children. This is saying, you know, and what I'd been saying is, 'For goodness sake,' 'cause this was in my custody battle where [Pete] get them or not, you know, that he doesn't do that thing. 'Get it in your head,

Rebecca noted that because Pete sees the children less, he appreciates them more⁵⁷. However, he has never spent much quality time the boys, and he does not involve himself with their schooling or outings. During the "custody battle", the children's lawyer recognised this and wrote about all the things that he should be doing. Rebecca found this very frustrating. The language used pointed out what Pete should be doing, not what he was not doing. It "put a little protective circle around this poor guy", made excuses for him, and promoted the idea that "he just needed to be helped along a bit and encouraged". Rebecca knows other women who faced this same problem: their ex-partners do not adequately care for their child/ren or ensure their safety, but excuses are made, and recommendations given⁵⁸.

One night, after Pete dropped the children home, Joel started crying and complained that he felt sick. He also complained that his head hurt. Rebecca found out that Joel and Pete had been playfighting. During the playfight, Pete had thrown him against a wall. Joel hit his head and was

he does not do those things.' And this woman is saying, 'Well, he should do this and do that, and do the other.' And it seemed to wipe out the fact that he just didn't, if you know what I mean. It was the language that was in there. Again it sort of put a little protective circle around this poor guy. He just needed to be helped along a bit and encouraged. And, you know, that's the impression I got, you know, that you just, you know, you need to that. And telling people that, 'Look, he just does not do those things.' In one ear out the other. It was just really difficult to get that, you just sort of felt like it was of no importance. And this was something I've heard through other women too, especially when the children are very young, is the father is not doing those important care to those kids, and it, the system just ignores that, and writes this little note, 'The father should do this and should do that with the child when he has the custody.' They're not looking at the fact that he doesn't do those things. And the woman is stuck with that. They, they, and they go back and back and back to their lawyer saying, 'He's not doing these things, you know, my kids got asthma attacks, he's not giving them the inhalers, he's not taking them to the doctors, he's not changing their nappies enough, or he's not doing anything with them, or feeding them properly.. And that's the way it stays. Yeah, and when you go back to your lawyer like that, they just ignore you. 'Go to your counsellor,' you know. And like a friend of mine... because she has one child that's very sick. And because the husband kept coming up with excuses, 'Oh I didn't realise, well I'll certainly do that next time.' And she actually had it in writing, and she actually had it in a lawyers letter that then came back to her lawyer, and so she took that in and she said, 'This is still happening and it was the only way that the lawyer actually took a wee bit of notice of her.' [Because it had] come through to them from a different channel, yeah. {Inaudible}. Excuses seem to be made for them. In that way I feel that they're making excuses for these guys, and they, for some reason I've got the impression that if these lawyers put it in writing what he should be doing, a bit of direction for the guy, everything would be, you know, honky dory. Forget about it. They weren't looking at the situation of him

knocked out. Joel could not understand why his Dad had done this to him, but Rebecca knew that Pete had a tendency to get angry and rough whilst playfighting. Pete did not take Joel to a doctor. When Rebecca took him, he was diagnosed as having concussion. Rebecca rang Pete to tell him about this. He told her that he had been all right when he returned him. When she reiterated that he was not well, he repeated that he had been fine at his house. He then went straight on to talk about picking up his bike. Exasperated, Rebecca told him to forget it and hung up. When she told Lawyer A about the concussion, little was done. It was not treated as a big deal: it was almost inconsequential. Lawyer X completely ignored the letter sent to him about this⁵⁸.

The mediation conference proved to be very strange. Initially, the date for it was repeatedly changed by Pete's lawyer. When the date was eventually finalised, they arrived to be told that the court was on strike. Consequently, they would only be given five minutes each to state their main point. This was very disappointing for

not doing these things... I had [Joel] come home concussed for the night. And what had happened was [Pete] had been play-fighting. And [Pete's] always a bit rough when he's play-fighting. And he threw [Joel] against a wall and [Joel] banged his head and knocked himself out. And 'cause he wasn't even taken to the doctor. And because [Joel] was, came home, he was crying, he walked in, he was crying and he was feeling sick. And he just said, 'My head, my head.' And then he was going, you know, 'Why did Dad do that?' sort of thing. Because I knew that [Pete] would have got angry with this, you know, too. He sort of would play-fight, but an anger would come out. So if I hadn't have picked that all up, you know. And I found out what had happened, talked to the doctor, and he was concussed. So I rung [Pete] up and I said '[Joel's] concussed, I've just been to the doctor.' And he said, 'He was alright when I returned him home.' And I said, 'He's not good,' you know. And he said, 'Oh, you know, he was okay here,' sort of thing, like it wasn't his problem. And then he went straight on to the fact that he wanted to come here and pick up his bicycle. And I said, 'Oh, just forget it,' and hung up. And I took the whole thing to my lawyer but it wasn't even an issue.. She wrote a letter that was, it wasn't even, I thought that would have been something, a real big issue really. But no... [And it] wasn't even acknowledged, you know, no letter back [from Lawyer X] even." (pp. 20-22)

59: "And then mediation court came up. And again that was a long time coming and dates kept getting changed too. And we finally got that, and that was really strange, we went in, 'cause I'd been talking to another lady who'd been separated and she said, 'That's really good [Rebecca], you can get in there, take a list of things of the things, you know, the access plan that you want to put forward, be prepared, blah blah,' you know. So I had this folder with the lists and everything, and I was really, 'Ah,' you know, 'communication is going to happen here.' Went in there, got told that the court was on strike. We went in and this lawyer, the lawyer came and sat with us, my husband." {Rachael: "Who told you that the court was on strike?"}. "The

Rebecca. She had been advised to prepare well, and had done so⁵⁹.

Lawyer X was not representing Pete on this occasion. He had organised Lawyer Z to do this. Lawyer A assured her that this would be all right: Lawyer Z was a Family Court lawyer, and progress should be made⁵⁹.

As it happened, the judge got Pete to state his main point first, followed by Rebecca. Whilst Pete was talking, the judge was very accommodating. He suggested days that might be suitable for midweek access, but completely ignored Rebecca's situation. In fact, when Rebecca spoke, he said nothing in reply. He then asked the lawyers to accompany him in another room. Rebecca had no idea why. Furthermore, safety precautions were completely lacking. She and Pete were left alone in the courtroom for what seemed like a very long time. This was despite Rebecca having an interim non-molestation order. As the judge and lawyers were leaving, Rebecca commented with dry humour, that they would not kill each other whilst they were gone. Lawyer Z told her that if she was

lawyers did, [Lawyer A] did. And she said, 'They're all on strike, so we've only got a certain amount of time in there.' And then she said that [Lawyer Z] was doing, was representing [Pete]. Yeah, [Lawyer X] had got [Lawyer Z] to do represent instead of him. And I thought, 'Oh god,' and 'cause [Lawyer A] said, 'Oh, it should go alright.' She said '[Lawyer Z's] pretty good to work with.' She said she was glad because [Lawyer Z] was actually a Family Court lawyer, and she said communication should start moving. And anyway, we went in there and the judge sort of said, it was really strange, he was a youngish guy, young, probably in his forties, and judge was a youngish guy. And he said, you know, 'You've each got five minutes, five minutes to state your main thing, problem,' yeah, 'main point, and that's it.' And then he started with [Pete], and then it was me. And because I was, 'Oh,' you know, and I was looking at my folder. And then he stopped us, and then he said to the lawyers, 'Well, come out with me now.' This was still actually, at this stage I still had the interim molestation thing, you know. And they left us alone. And I couldn't get over the lay out in court too, like when I arrived there, [Pete] and I were alone in that waiting room, and you had to wait some time.. Alone, no one was about. It was awful. And 'cause we just, sort of that way inclined, and I thought, 'God, if this was a guy that was going to attack me,' 'cause not long after that that woman [in Palmerston North] got killed. I couldn't believe it. And that's when I felt like nobody believes me, you know, nobody's taking [it seriously]. And then when I was in there, and 'cause they said they were going to leave us alone and go in the back room and talk, and I was thinking, 'Why?' And the lawyers left me and [Pete] alone. And they were away ages, it felt like ages. And I just sat and looked at my desk. But when they were leaving I sort of said as a dry humour, 'cause one of them said, 'Oh, you'll be alright here won't you?' I said, 'Oh,' I said 'we won't kill each other,' and because, you know, I was being dry humour. And [Lawyer Z] turned around and she said, 'Well, if you're that concerned about it, go out in the waiting room.' And I thought, 'Fine, that's even a better place to go, no one would know what the hell is

that concerned, she could go out into the waiting room. Rebecca thought this would jeopardise her safety even more: no one would have any idea what was going on out there. Also, she had felt very uncomfortable in there when she first arrived to court. She and Pete had been the only two in the room. She said that if he had been the type of person who was inclined to kill her, he would have had ample opportunity. It was not that much later that a woman was killed in the Palmerston North court⁵⁹.

Rebecca describes the period they were waiting alone in the courtroom as "horrible". She looked down at the desk throughout⁵⁹.

When they returned, the judge stated the obvious: that they could not communicate to each other⁵⁹. Rebecca did not need anyone telling her this. She already knew this: Pete's idea of communication was "a fist between the eyes"⁶⁰. He then told them that they needed to sort out their access agreement. Otherwise, he would make the decision for them. As he said this he looked directly at Rebecca and gave her the "evil eye" as if

going on, you know, out there'... But of course I didn't say anything. I was really, 'Oooohh,' you know, and just put my head down. And I just looked the whole time down on my desk, you know, where I was sitting. And that was horrible. It seemed ages. And then they came back, and then this lawyer, not lawyer, judge, said that it was obvious we could not communicate at all. And then he said that we had better get our access arrangements worked out. He said, 'Otherwise I will make the decision for you,' and he looked directly at me and gave me the evil eye, like I'd done something wrong. I couldn't believe it. I just went, 'Oh,' like this you know. And in between that too there'd been a recess, he'd told us to go away for a while. We went away for about an hour and then we went back again. Yeah, it was just remembering it. And we had to go back again. And I'd been speaking to [Lawyer A], and I said to her, 'You see, how,' I said '[Pete] needs, he just looks a nice guy, and people, you know, look at me as the bad one.' And she, 'Oh no,' she said, 'when I look at [Pete],' she said, 'I see a very hard man,' you know, and she said, 'and a very angry man.' And I thought, 'Oh, oh well, bit of a breakthrough there,' I thought. But just the way that mediation court went. And I just couldn't believe it, going back, and that's when they did that recess thing, yeah. But I thought, and just the way he looked at me, he just glared at me aye, as if I was the one doing all the problems. And also [Pete], as, his five minute point brought out that he wanted both, because he wanted Tuesday, you know, and, and second, every second weekend, or something. Oh, he wanted Tuesday and Thursday, and 'cause I'd gone back. I had said, 'No, I only wanted every second weekend,' you know, because one of my sons had just told me some violent things that his father had done to [him] that I wasn't aware of. And so I pulled back." {Rachael: "Your partner had done...?"}. "Yeah, to my, one of my sons, violent things that had just come out, you know, Dad being gone, and he suddenly felt safe to come and talk to me about it. Yeah, so it all sort of came out, you know, how sometimes kids come out when that abusive person's gone. Yeah, so I'd withdrawn the Tuesday and Thursday completely, you see, I just

she had done something wrong⁵⁹.

Rebecca felt that Pete was definitely being favoured. When she mentioned to Lawyer A that Pete seemed to come across as the nice guy, and she as the bad one, Lawyer A told her that she did not see this. She said that she saw Pete as a very hard and angry man. Rebecca was quite surprised at her comment. She considered it "a bit of a breakthrough"⁵⁹.

Rebecca felt the mediation court was "really strange" and "out of the ordinary"⁵⁹. She also described it as "totally unacceptable". She had hoped it would be a process of negotiation, which would result in a much needed "black and white" agreement they could follow to avoid clashes⁶⁰. Instead, she became worried that it was some sort of set-up; that Lawyer X could be influential in the decision. She knew he had the power to do this, and she knew they were all connected. It was as if there was "a lot of pat on the backs going on behind the scenes". She doubted justice would be done⁵⁹. Consequently, she became very cautious. She

wanted every second weekend then. And 'cause this judge, he just, he immediately was accommodating [Pete]. He said, 'Well, what day of the week would you like [Pete]?, what about Wednesday?'... And he was just totally ignoring my situation and looking at [Pete] and dealing with him. And when it came to my turn, he just took what I said and that was it. He said nothing. And I thought, 'Whoa.'. I felt really disappointed, really let down. And I realised then that I was in a situation out of the ordinary. I did not feel like any justice was happening there. I felt like there was a lot of pat on the backs strongly going on behind the scenes, [between] lawyers and friends. And I felt it wasn't, wasn't, ah, it was who you knew that was important in that situation. And something strongly told me to be even more careful here. Otherwise I would lose the children. I really felt that, I really felt it strongly. I felt [Lawyer X] had the power, he knew them all. I felt they were all connected and known. And I felt that I had to be very careful. Otherwise we were going to end up in a really bad situation, me and the boys." (Rachael: "So it sounds like, that it felt very much out of your control?"). "It was totally. And 'cause it was really hard going, I realised that. And I thought, 'Real strange, real strange.' And like we weren't even charged for that court, by the judge, real strange. Scary aye.. I believe.. I actually feel like there was some sort of a set up there, and it's got it's message through to me.. Well after that.. well, we left I was just really, and then [Lawyer A] said, 'You'll have to go to mediation counselling,' and she said about the children's lawyer too." (Rachael: "You hadn't, you hadn't yet decided on what the access arrangement was, had you?"). "No, so it was really, and it was basically the children's lawyer that, really it was really horrible because I felt like I'd been made to look bad and everyone was sort of running around [Pete]. And in the end I was in a situation with either make do, or possibly lose the children, you know. And also, it had been drawn out so much and I was just really hagged, I was run out, I was broken, and I thought, 'I'm mentally not going to be stable soon,' nervous breakdown or something, and I could lose the children like that too. Because my counsellor had warned me to, to be careful,

strongly felt there was the potential to lose her children altogether. Also, because it had been drawn out so long, she felt "hagged" and "broken". She knew she was on the verge of a nervous breakdown, and that she could lose the children like this too. Money was another deterrent to continuing her quest. Her lawyer was constantly reminding her of the cost. If she continued much further, she would have nothing left from the property settlement when legal aid costs were retrieved. The mortgage was high as it was, and Lawyer X's non-communication had unfairly extended her legal costs. Rebecca was angry with the latter and wanted Pete to contribute financially to this. Her lawyer was not so keen⁵⁹.

Rebecca is finding the situation between Pete and the children easier now that her boys are older. They are more capable of speaking up and looking after themselves now. Pete's behaviour is also better. He knows that if he does not treat them well, he could lose contact with them, as the boys are close to an age of deciding how much involvement they have with him. Pete has also lied himself into a

you know. And also my lawyer was at this stage reminding me constantly of the cost... and how because it had been drawn out so much. I had asked her, one, that I wanted [Pete] to be paying for half, you know, paying for the cost of the non-communication like that, that he should be {inaudible} to pay for all that. But she said, 'Oh, we'll look at that.' She threatened it if things didn't get worked out, that just didn't matter. I actually asked her, I wanted her, yeah, I had legal aid, but she said, you know, that only, you've got to look at, because when you get the settlement from the house, the legal aid takes it. And that's what she was saying, I was going to get to the stage that I was going to be left with nothing. Because there was very little to come out of the house because we had a big mortgage still. And then she was also telling me too, that, you know, yeah, it was the cost, I've lost it now sorry.. yeah, that was basically it, the cost." (pp. 23-26)

60: "Well I did not like how that went through. That was totally unacceptable with my mediation court. Crumbs. I was told that it could go on for over an hour or something and that both parties had quite a bit to say. And what you do is you sat there and you, you came up with, you know, you put forward, it was like negotiating, and you put forward what your idea of the part, you know, the access should be, and to want. Because I had even, the Christmas, Christmas, Easter, everything sorted out, to alternate or to go halves. And, you know, that I was wanting to work through and get worked out. Because to me it was very important. I recognised very much, I didn't need anyone to tell me we had no communication. I was totally aware of that. Cripes. And [Pete's] communication was a fist between the eyes, you know, and that was it. And I was thinking, 'God, this is not what I needed.' All I needed was to have some input in black and white between us in writing. And it, you know, agree, in agreement, as much as possible, as a guideline, as always the thing to go by. And that way it prevented us having to clash, if you know what I mean, together, because that was all that would happen was to clash. Yeah, it was clear cut, we knew exactly where we stood." (p. 39)

corner, and knows he would lose much support if he mistreats them (e.g., from Lawyer X). He also knows that the boys could charge him for assault if he harmed them. This would be one occasion that Rebecca would step in and make sure the legal system responded properly⁶¹.

Although Pete is "behaving a lot better than what he has done in the past, he is still not a very good father". He still does not provide for them, and he is often insensitive. When Pete behaves inappropriately towards them, Rebecca does not excuse or ignore his behaviour. She is honest with them, and affirms the boys' experiences. She makes it clear she does not approve of his behaviour, that it is wrong. They are also empowered by having their own lawyer to speak to about issues if they wish. She hopes that the skills her boys learn from dealing with their father assist them to deal with other hardships in the "big wide world out there"⁶¹.

Rebecca feels very sorry for women who have younger children, particularly when their ex-partner is claiming to be a good father when he is not

61: "And my boys are older. If they were still babies I'd be so stressed out every time they went out to be looked after by him. Where as they're not babies anymore, and they're quite capable of looking after themselves. And the way I think about it too, anything that goes wrong out there is his loss. He'll, you know, those boys, if he harms them too much or anything like that, it is his loss. He will lose contact with them because they won't want to see him. And they're coming close to that age of making choice. And, you know, I just sort of try and look at things like that. And also I look at the fact now he's lied himself into a corner, so he has to be very careful what he does or says because if he was actually proven by them for assault or anything he'd be down the drain in a big time with [Lawyer X] out there too, and all those people who have supported him. Because I would take him right up, that's where I would step in and make sure the law did do it's thing there. I would take him right through, you know, if he harmed those boys in any way. That would be his stuff up. But, so, I'm sure he knows that. So, in a sense he's like himself in a corner, and he's behaving a lot better than what he has done in the past. He's still not a very good father. He doesn't provide for them, and quite often is quite insensitive. But that's all the boys have to deal with quite frankly. And I look at it as this, that it's a big wide world out there, and them learning to deal with that, they'll learn to deal with other hardships out there too, you know. It's no fairyland. And I don't make excuses for him or anything like that. I just say, 'Well, look your Dad is not going to change, so don't, you know, go putting your hopes up too high. There's nothing I can do about that.' I've said, 'I can't go and tell [Pete] you've got to change.' You can't do that. I've said that's not possible. But I've said, you know, 'I'm really sorry you're going through this, but this is the way it is. 'So, yeah, so I don't, yeah, I don't go making excuses for him, or ignoring it either. You know, I must say, honestly, sometimes I've {inaudible} and said, 'Well, he's a right bastard to have done that.' Or said that, 'That is so wrong. He shouldn't have done that.' And I've, you know, supported them that way, where I've actually taken {inaudible}, where he says something very

capable of looking after them. She is also aware that the father's new partner is usually the one who looks after the children. The system has no idea how suitable this person is. Neither is it known whether she will hate the children or be abusive to them. She understands the stress that is placed on the real mother, who will be nurturing and protective over her children. These women have control "ripped away" from them "all of a sudden". They "do not count" anymore. They just have to "deal with it"⁶².

inappropriate to them, and I said, 'No. That's not on. You don't take that from anybody. That's very wrong,' you know. So that's made them sort of empowered that, 'I am right, he is wrong,' you know. Because it's pretty hard, confusing with the kids. Yeah, so, it is pretty hard go in that area, especially when they're young. But as they've grown older, like I say, I've felt better because they're more likely to speak up and look after themselves. Because they know, I've told them that they've got their lawyer. And the children's lawyer has said to them, any problems they can go to him. So they've got that empowerment that if Dad does anything to us now we can go where we have somebody to talk to about it, you know.. So I like that idea." (pp. 33-34)

62: "I don't, I wonder how I didn't go around the twist. And, you know, I hear of women still going through it. I just feel so bloody sorry for them, I do. Especially when they've got little toddlers going out to these so and so's that call themselves fathers, you know... When you've got a little kid that's, yeah, dependent on this man looking after them, and he's not capable of it. And another point too. These so called fantastic fathers, you know, they get the girlfriend, it's the girlfriend that ends up looking after the kids, not the father. And through the system now, the system has heard all about what the father is like. They don't know the new wife or girlfriend. So those kids quite often end up under some form of abuse by that new substitute mother, that their father has put in place of their own real mother to look after them. And nobody, the court system doesn't know her, you know. And the mother's got that to deal with too, on top of the, you know. I think that's dreadful. I've heard some horrific stories about these wonderful stepmothers. Because they hate the kids, a lot of them. I haven't heard yet, really, where that relationship's really gone down well either. Especially when the kids are very young. Because you've got another set of how a child should be reared coming into the picture. And if that person's abusive too, well, 'Hello,' what a problem... Quite horrific, I think, you can imagine. And I think nobody respects that, that as mothers,

there is that real strong nurturing, nurturing, protective, you know, quality there, aye, about, over your children. And all of a sudden that control is taken, it's like it's been ripped away from you, that you do not count anymore. And, you know, what that father is doing and what his new woman are doing with those children. (They go), 'So deal with it.'" (pp. 46-47)

The police

Rebecca did not believe the police were interested in domestic violence, particularly earlier on. Pete kept reminding her of this, telling her that they would not be interested in helping her. Other women were also mentioning that the police were not helpful, that it was a waste of time calling them out. Rebecca's experience of the police confirmed this. Sometimes the police did not respond to her calls⁶³.

Rebecca believes that the police attitude has changed towards domestic violence in recent years. However, she does not believe this change is entire. Some police have been willing to change their attitude and response, whilst others have not. This latter group still lack an understanding of domestic violence situations and blame the woman⁶³.

Rebecca hopes that the change

63: "You know how the police weren't interested in domestic disputes, and I remember having that said to me by my husband. 'Well, you know, no one's interested in you anyway,'... you know, and if you, other women are saying it's a waste of time calling the police, they're not interested in coming out. And they didn't. Sometimes they didn't show. And then the attitude, it did change over the years with the police, once it was brought more to their attention, and, 'Look these women do need your help.' Yeah, 'It is a crime.' And then getting police to change their attitude, because there were one's that were willing to and learn by it, but others that were, 'No,' you know, 'it's her fault, look at this,' and not understanding the situation. 'Oh, she keeps going back to it,' and all this sort of thing, you know. So hopefully that same thing is going to happen in the legal system too." (p. 4)

in police response to domestic violence will also occur in other parts of the legal system⁶³.

Counselling

Whilst Rebecca found her individual counselling very good⁶⁴, she did not find her marriage counselling or mediation counselling so good.

Because she felt "threatened in [Pete's] company", they had separate marriage guidance counselling. Pete initiated marriage counselling because he wanted to get back together with her. Rebecca was not so keen. She did not want to be in a relationship with Pete. Furthermore, she was afraid that she would be blamed for problems in the marriage during the counselling. This had occurred in previous marriage counselling⁶⁵.

On one occasion, Pete and Rebecca had a joint marriage counselling session. During the session, Pete told her he wanted full custody. He also told her she couldn't "throw a decent punch". Rebecca thought this was an inappropriate comment, but the counsellor was not supportive. In

64: "But I'd been to a counsellor too, that had worked for the system. She was a very good counsellor. She was actually very helpful." (p. 45)

65: "Once the non-molestation order went out, he got angry. And he said to me in the marriage guidance counselling that we were going to, because I refused to have it together, I thought it was a waste of time and I was too, what's the word, you know, when you feel too, threatened, in his company, so we were having it separately. But one day we did have it together and he, he said in front of the marriage guidance counsellor, you know, because of all that, he was going to go for full custody of the kids. He said in front of the marriage counsellor that I could not throw it, a decent punch, even if I tried, which I thought, 'Great, here's a witness' {inaudible}. So I thought the marriage counsellor would write that. She didn't. The only thing she wrote was that, 'Mr and Mrs [Pete and Rebecca] could not come to any agreement,' you know, 'they could not communicate.' And Mrs [Rebecca] does not feel comfortable of being in the same room as Mr [Pete], so this will be respected. That was it. Here was this witness, and I brought it up, and she said, 'No, I can't go into detail.' I thought, 'Far out.' This guy, and he, that's what really got me, because he must already know her, because he was very confident about saying it to me, you know, and I thought he already knew that I bet. You know, and that's another thing, I felt that he knew exactly the things to say, because he was getting that support from [Lawyer X and his wife] of what to say and what ways to go. And 'cause then my sister-in-law phoned up, and 'cause it had been [Pete] wanting marriage support and marriage counselling, and he was wanting to get back with me. And I was really against it and my biggest fear was, because we'd been to counselling before and it always ended up piled on to me, it

particular, she would not include the incident in any written report. She only wrote that she and Pete could not come to any agreement, and that Rebecca felt uncomfortable in the same room as Pete. Because Pete had made the comment about the punch so confidently in front of the counsellor, Rebecca then wondered if Pete knew the counsellor personally⁶⁵.

In counselling, Pete came across as "such a nice guy". He was also very good at putting his story across. Consequently, he "won" people over. They then believed him over Rebecca. She also feels that men have a better "public face"; "they know the right things to say". Juxtaposed to this, women who are emotional and panicking make less sense. Their voice goes high and everything comes out at once. A counsellor, hence, feels sorry for the man, and finds it difficult to cope with the woman. A similar response seemed to emerge with Lawyer A. As mentioned below, Rebecca believes women would benefit from training their voice⁶⁶.

Rebecca was also dissatisfied with the mediation counselling. The (male) counsellor kept giving

always ended up my fault. I was a failure. I was the problem in the marriage. Because [Pete] would come across as just such a nice guy. And I didn't realise at that stage what he was telling everybody, until I got it in black and white in the non-molestation thing that he was actually lying like that, so I didn't realise that, and it all fell into place." (pp. 14-15)

66: "But I'd sort of, with counselling, it can have a way of making you feel like if, if you are not good at getting out to people what's been happening. And you've got a person that is really good at, you know, putting their story. And because that can turn things against you. And it does, like he would regularly, because he was such a nice guy." {Rachael: "So do you think he kind of won people over, people believed him?"}. "He did, he won them over, and he, yeah, he got them believing him more than me. And also too, something I've learnt is that men have a better public face than women do. They're out there more, so they know the right things to say. They, they know how to act and respond. Then you've got this woman that's all emotional, full panic, {inaudible}, nothing's really making sense, because everything's just coming out full bore. So the communication is not going to happen. The counsellor is going to go, 'For god's sake, shut up,' deep down. You know, 'This poor man, look what he's been putting up with,' you know, basically, yeah. That's something I brought up with my counsellor, is women need to be trained to get their voice down here, because that's where it falls in place. The men have got the deeper voice and so it gets across more, you know, the communication. And when women are in a panic, emotionally hyped up, it goes really high, you know, and you're not coming out very clearly 'cause a hundred and one things are coming out at once. It's real full [on]." {Rachael: "Do you think [Lawyer A] handled you very well in that situation?"}. "Yeah, no. Yeah, I felt that that's what she was doing, 'I can't cope with this, oh, it's too much, calm down, (maybe we should put her on) tranquilisers, {inaudible}', you know." (pp. 15-16)

67: "And I ended up just stopping, where I ended up doing,

her unhelpful feedback about what Pete was telling him. In the end, she told him that she did not want to hear this information: it was just "lies" and "rubbish" that upset her and got her down. She told him she only wanted to hear information directly relevant to what they were negotiating.

Despite this, the last time the mediation counsellor phoned, he told her that Pete had told him certain things about her.

Rebecca told him that she was not interested in hearing it. She has decided that if people want to believe Pete, they can. She is sick of it though. She cannot stand to hear what he has been saying any more⁶⁷.

The mediation counsellor also attempted to appease Pete on occasions. For example, one time Rebecca needed her floors sanding. To get them done, she was required to leave the house for a night, and she planned to visit her parents who lived in another part of the North/South Island. Unfortunately for Pete, the sanding was occurring on Tuesday, the day he had access to the children. He packed a tantrum. The mediation counsellor responded by suggesting that Pete travel

because like the mediation lawyer, counsellor, he, I said to him in the end, 'I don't want to hear back, I do not want to get feedback of what [Pete] has said about me, because all I want to hear is what's directly to do with what we're negotiating with. But all the other rubbish,' I said, 'I don't want to hear about it, because as far as I'm concerned, it's just a pack of lies. It's rubbish. And it gets me down. There's nothing I can do about it. It gets me upset. So, I don't want to know about it.' I said, you know, 'That's the way.' And he thought, 'Good.' Yeah, and the last time I spoke to the mediation lawyer, counsellor, he actually phoned me, and said he'd spoken to [Pete]. And then he said, 'And [Pete] had all these things he said about you.' And he sort of sounded really in doubt and questioning sort of, you know, in that tone. And I, and I just immediately said, 'Look, I don't even want to go there. I'm not interested, you know.' .. 'I don't,' yeah. And I thought when I hung up, 'If that guy wants to believe him, go for it.' I was just so sick of it, eh." {Rachael: "Yeah, sounds like you've had that problem in several spheres, where everyone's believing [Pete].} "Right through, even with counsellors. And you know, where [Pete] and I would be going to the one counsellor, you know, and you know, I'm just so sick of it now. And I say, 'Oh stuff it. If you want to believe that, believe it.' You know, I cannot stand to hear what he's been saying any more." (p. 51)

68: "At times I've wanted to go away on holiday. There was a time where I had to be out of this house so they could do the floors. And he was very uncooperative. And in the end I just stood my ground. I even ignored the, the counsellor, the mediator counsellor, because he said to me {inaudible}, he said to me, I said, 'You know, [Pete's] in a big hoocha about not having his Tuesday with the boys.' I said, 'It's not something I can help because I've got to away while my floor's being done.' And he said, you know, he understood that, he, and he said, 'Well, why not suggest to [Pete] that he go to [Town A] so he can have the boys on his Tuesday night?' And I said, 'Because I don't want him following me all over this frigging country side.' I

several hundred kilometres to where Rebecca and the boys were going, so that he could still spend his night with the children. Rebecca stood firm, refusing to do this. She thought it ridiculous that this occur when it was only a once off, coincidental event⁶⁸.

People had told Rebecca that counselling sometimes made things worse. Her individual counsellor and mediation counsellor would sometimes have conflicting opinions. For example, one counsellor advised her to add extra sentences in a letter to Pete; the other advised her to remove these same sentences. She found this “unbelievable” and “ironic”⁶⁹.

said, ‘I should be able to go away and have a break from it, from him. The break,’ I said, ‘it’s only night, one night that he was talking about,’ you know. I said, ‘I should be able to just freely go away and have that break. It’s not as if I’m doing it on purpose or anything.’ And I said, that is something I wish that they would just turn around at [Pete] and say, ‘Look, grow up, you know, mate.’ But they always seem to come to me to bend over backwards to accommodate this guy who’s having a tantrum about something.” (p. 20)

69: “Yeah, and there was another incident too. I got told how I should, ‘cause I was actually going to two counsellors, one for, you know, domestic violence, and then this mediator counsellor at times. And, ‘cause it was really interesting, because I would discuss with the other counsellor how I should write a particular letter and different incident, and she said, ‘Oh,’ she said, ‘I think you should add this,’ so I did. And then this mediator counsellor said, ‘Well, you shouldn’t have added that.’ {Laugh}. And I didn’t say anything because I didn’t want to cause problems there, so I just thought, ‘This is bloody ironic.’ Everyone had said to me sometimes the counsellors make it worse too, you know. And I thought, ‘This is just so unbelievable.’” (p. 18)

Experience of legal system, generally

Rebecca strongly feels that Pete continued to abuse her through the legal system. Indeed, Pete grew bigger because he had the legal system behind him. He was “throwing blows at [her] mentally through the legal system, and it was filtering straight through, pow”. She would rather he had just hit her⁷⁰.

Rebecca feels that she has been seriously punished by the legal

70: “One night here, you know, I started really crying in the morning. I got up and I started really crying, you know, that real big sob cry. And my kids came home from school, I was still like that. I was a mess. I couldn’t stop. And ‘cause I said to the kids, ‘Don’t worry about it, it’s like being sick, it needs to come out.’ And I cried and cried and at about half past nine, because they were saying things like, can they try and massage me, ‘cause you know I just couldn’t stop. And I just said, ‘Don’t worry about me,’ you know, ‘just,’ and in the end I sent them to bed and I just said, ‘don’t worry.’ And I managed to in the end, crack out of it. And I just realised it was something that needed to happen, you know.” {Rachael: “What did you say the crying was partly to do with?”}. “Well everything, everything, everything, my ex and the

system, and by society, for trying to get out of a violent relationship^{70,71}. Her ex-partner was punishing her, as were his friends, and society. Indeed, his friends would treat her like "absolute shit" when she needed to ring Pete when he had the children at his house. Her lawyer's mannerism towards her was not nice. She also felt discriminated against for being on the benefit, and for being a single mother at home with her kids. It was "really mind blowing". Pete was well-supported and believed; she was not. Her self-esteem and confidence disappeared, and she was such a mess that people she knew no longer wanted to be around her: it was just "too heavy". Because very few people could cope with what she was going through, she found that she was "basically on [her] own"⁷⁰. It was like "people saw you were down so they all put the boot in"⁷². She felt like wearing a t-shirt that told people to kick her⁷⁰.

She can now understand why women stay in abusive relationships: comparatively, it can be easier to stay in the relationship than face pressure and fear associated with the legal

system. It seemed like my ex had grown bigger because he had the system behind him. You know, he had [Lawyer X] behind him, he had, and also he seemed to get more support, because he, sort of in the circle of people that like [Lawyer X] and [Lawyer X's wife's] friends too... Like the lady, another lady that he worked for actually gave him a place to stay out of her place because she felt sorry for him. And whenever he had the kids, I know there were a couple of occasions that I phoned up there and I got treated like absolute shit when I phoned. You know, just the way, the whole manner they spoke to me, very disrespectful, very. He had all these big guys supporting him." {Rachael: "And did you feel you had any support?}. "Nothing, like I said before, I was down and I had other people kicking me as well. My father got to the stage that he could not deal with what I was going through, so he sort of more or less dropped me. People I knew didn't want to be around, it, it was just too much, too heavy, and I was just too much of a mess. Very few people could cope with what I was going through, and so I found that I was basically on my own. And also, things I was trying to do, I was trying to retrain at that stage, I found that my confidence had badly gone, my self-esteem had gone. So once I finished my retraining, I was in a real dog of a situation, because [Pete] only pays ten dollars a week for the child support, and the earnings I would get through my retraining, because I did a [particular training] course, were not enough to pay for babysitting fees, as well as to survive here. And so I tried explaining that to the lady where I trained that was in charge of the school, and I said, 'I'm going to have to wait until my children are older before I can really go into full time work anyway.' And I said, 'I'm not finding the work,' and because I said to her, 'I'm frightened that the longer I'm out of work doing this sort of thing I'm going to lose it's touch,' and I asked if I could voluntarily just go in there occasionally to keep in touch. And she turned around and she said I was selling myself cheap, why didn't I go out there and earn cash under the table. And I said, 'Because if I got found out I'd lose my domestic purpose benefit, and it's not the way I want to work,' and that sort of thing, 'it's too big.' And then

system and wider society.

Women “get too frightened and slip right back in with him”.

(Ex-)partners will also get “around her with sweet words”; he will “confuse the hell out of you”⁷¹. With the system punishing her, she once said to a friend that she might as well still be with Pete; since leaving, her situation was no better⁷⁰.

Rebecca likened her experience of the legal system to being raped and beaten up. As a teenager, she was raped, and lost total confidence as a result. During her legal involvement, her confidence was also “knocked to hell”. She had no control; she felt totally powerless. Rebecca also likened her experience of the legal system to playing a game in which she didn't know the rules. Whilst you are desperately asking everyone what the rules are, they (the legal system) are running around you and scoring goals. They are calling you a hopeless player and taking advantage of this. You are wondering “what the hell's happened”⁷¹.

Her experience with the legal system had significant physiological effects on her. She

she said too, that I would be very difficult to employ. And that was the first time I'd ever heard anything like that said to me, because you know, I'd been working before then, and [it was] always said what a good worker I was, and this sort of thing, and to have someone, and that just flawed me. I went, I didn't know what to say. And I just left there, and that just flawed me. So quite honestly, I never had the confidence to apply for jobs as my kids got older because it was, you know...” {Rachael: “...still in the back of your mind?”}. “Yeah, so I thought like, ‘Whoa, gosh, this is a real blow away, a real blow away.’ And it just sort of felt like, you know, I should be wearing a t-shirt saying, ‘So, kick me,’ you know. {Laugh}. I felt like I was being punished for having gotten out of the situation, you know, that violent situation, and I was continuing to be punished, and, and hit at. My ex was punishing me, his friends were, and [Lawyer X's] mannerism towards me, and society was, with being on the benefit, for being a mother, you know, at home with the kids, single mother. It was just all, and then hearing on the radio too what they thought of beneficiaries and things like that that was all, you know, it was just like really mind blowing, yeah. I felt really like the whole system and the whole society was just punishing you in a sense and holding you down. And sometimes I didn't feel, like I once said to a friend, I said, ‘[Pete] might as well still be here, in the same situation, it's as good as.’ Even when I was going through the legal system, he was throwing blows at me mentally through the legal system. And it was filtering straight through, pow. And I said, ‘Quite frankly, I'd rather he just hit me,’ you know, because the mind, and how people really believed him.” (pp. 12-14)

71: “But I mean to say what a, what a way to get out of [the violent relationship]. I feel that I've been really seriously punished by the system, by society, for getting out, you know. People say, ‘Why does she stay, why doesn't she get out?’ Half the time it's the system keeping you in it too, the counsellors, the pressure, the pressure through courts, and everything. They get too frightened, and slip right back in with him, you know. Like I

felt physically sick when she had to go into Lawyer A's building because of how badly her lawyer treated her. She still cannot stand to hear the low ring tone that her lawyer's phone was set to. It brings her back to that awful experience, which she will do her utmost to avoid in the future⁷³.

One time, because of the angst associated with her ex and the legal system, Rebecca started crying in the morning, a "real big sob cry". She could not stop. When her children came back from school, she was still a "mess". She told them not to worry about her, that it was like being sick, it needed to come out. They offered to massage her, but she told them not to worry and later put them to bed. In the end, she managed to "crack out of it"⁷⁰. She referred to this incident as a breakdown⁷⁴.

Rebecca is aware that the legal system can easily label women as "mentally unstable". Her counsellor warned her that she had seen the legal system use women's attendance at counselling against them. She also agreed that the legal system was "most unfair". Consequently, Rebecca never told Lawyer A

say, if a guy's going to bother you, he'll bother you. He'll get around you with sweet words and things like that and confuse the hell out of you... And also your confidence is knocked to hell. It is sort of like a rape, being beaten up. I do liken it. As a teenager I was raped, and I never told, I never reported it, and I never told. It was a date rape. And I never reported it. I've gone to counselling about it. But I noticed I was right in the middle of my training [for a particular profession] and I lost total confidence. I could not work. I could not. And up 'til then I'd been really doing well. And I actually dropped out. And they, they were very concerned in [the city I was doing the training in]... They said it was a waste, a total waste. And they couldn't understand what had happened to me... But I lost total confidence, and for years I was affected by it. And I found the same thing with [Pete] and going through the system and everything. That was like, really, another rape. I think it's, you liken to, like you say, no control, and totally powerless perhaps, the same mental... It's like you're playing some game, and it's like, 'Somebody, tell me the rules, I don't know the rules,' you know, 'tell me the rules.'" {Rachael: "And they're all running around you."} "Yeah, kicking goals and things. And you're wondering what the hell's happened. And you're being called a hopeless player, you know. 'We'll run circles around this one.' But that, that's what I really felt like." (pp. 42-43)

72: "You know, it's like people saw you down so they all got the boot in. And, and it was important people, people you thought that were friends, people you know, family even, just all got you down." (p. 1) (from excerpt 80)

73: "And I used to feel physically sick when I had to go into that building, you know.. Just her way she was treating me too, the whole, you know, it was just so bad, the whole thing. And like I said earlier, it was like [Pete] was still abusing me but using the system to do it, you know. I felt it very strongly. I even couldn't stand, there was a tone they had their phone at to ring, the low tone, I cannot stand even now to hear that. If I hear it, it brings

that she was having any counselling other than the mediation counselling. Because of Pete's lies, and because they had seen this "panicked thing with the whites of her eyes showing", she guesses they were already thinking she was "crazy" and "off her tree" anyway⁷⁴.

Rebecca feels that lawyers differentiate between domestic violence and stranger violence. They unreasonably expected her to negotiate a solution with her violent ex-partner, when they would never have expected her to do this with a stranger who had regularly been violent to her. This same lack of understanding was shown by a mediation counsellor when he suggested she do an assertiveness course. Rebecca knew from a previous assertiveness course that "it is a waste of time" trying to be assertive with someone who is not willing to negotiate. Pete's unwillingness to negotiate was why she was involving lawyers in the first place⁷⁵.

Nor do lawyers understand the ongoing "spiral" or "cycle" of domestic violence. They assume that things will "settle down" once parties have settled into the

back that.. yes, and that whole, you know, experience. And I don't ever want to go there again. And I'll do my utmost not to." (pp. 39-40)

74: "But I'd been to a counsellor too, that had worked for the system. She was a very good counsellor. She was actually very helpful. And she actually did warn me, because I told her about my bit of a cry, that breakdown, and she also warned me not to make too much of a statement about me going to counselling. Because she said she has seen the legal system use that against women. Immediately, she's mentally unstable. Any hint of anything like that, you're immediately, and you've got that upon you as well. And she said, 'Words that you've said here, if they were asked for, could be turned around against you,' you know. And so she said, you know, 'Just try if you can, not to go there,' as a warning. Because she had seen other women. And she said, because she agreed the system was most unfair, and she said, you know, 'Just be very careful.' And so I never really, the only counselling my lawyer knew of was my mediation, that was it, yeah.. yeah, for that reason. I was very guarded there too, that, that could be, you know, because that's immediately, I thought that makes sense, 'Woman's crazy, she's off her tree,' you know. They're thinking that anyway because of [Pete], so, yeah. And then when they see this panicked thing with the whites of her eyes showing, you know, and just absolutely like this because she's really frightened, they think, 'Yes, mentally unstable,' {laugh}." {Rachael: "Rather than seeing the reality of the situation for you, and how frightening it is?"} "Yeah. This is a person that's come through a lot of trauma." (pp. 44-45)

75: "I didn't want anything to do with him because he was a liar, because he'd done me great harm, you know. This was a guy who'd been violent to me. This is something else I think the lawyers don't realise. It seems to be totally different with domestic violence that you are still expected negotiate and have a go, you know, of working things out with the guy. Now would they say the same thing if this had been a guy on the street that

custody arrangements. However, women are exposed to repeated flare-ups and settle-down periods. Rebecca is pleased that she eventually broke that cycle by "cutting the contact". She knows many women cannot do it. Pete's lies in his letter of response to her affidavit were a turning point for her. He knew how many times he had punched her, and he was so low to say she was the perpetrator⁷⁶.

Rebecca believes that domestic violence is treated as a lower status crime; that rape and domestic violence victims are "on the bottom of the scale of importance". They do not get the sympathy or understanding that is given to victims of other crimes, for example, burglaries or hit and run crime. She suspects that she would have been treated differently "as a person" if she had been a victim of these crimes, not domestic violence. As it was, she felt positioned as the "lowest"⁷⁷. Looking back, she doesn't know how she "didn't go around the twist". She feels sorry for women going through a similar scenario with toddlers⁶².

Rebecca believes that lawyers

would regularly beat me up every time I set foot out the house? I don't think so... They expect you to work with this guy. And like a real joke, the mediation counsellor, he said to me, 'You should go to an assertive course.' Well, I didn't tell him that previously in [a city] Refuge, I actually did attend an assertiveness course. And I thought, 'Right, keep this guy happy,' so I attended a women's assertive course there. Now, basically, that time they told me what I already knew. You can be assertive as you want, you can be incredibly good at being assertive, but if the other person is not willing to negotiate, not willing to" (Rachael: "Even be flexible?") "Yeah it's a waste of time, you know. Bottom line of it. And that's it, that's why I was at the lawyers in the first place, you know. That is why a non-molestation order's came out, you know." (pp. 38)

76: "Another thing too that I got said to me is that often things settle down once you've settled into the custody thing. And, and everything quietens down. I think they seem to think, 'Oh, you know, they're all heated up at the moment and all upset, but they'll quieten down and settle down, and it won't happen again.' They don't realise that this has been an ongoing, or they don't, [they] seem to ignore that this has been going like, you know, waves right through. That it flares up, settles down, flares up, you know. They don't recognise that. What is it called? That violence cycle.. And that, that is continuously going, that spiral between the couple. And you see, one way of stopping that spiral was cutting it, cutting the contact. And you see a lot of women can't do that. They can't. And it took me a lot to do it. But what took me was realisation, having a black and white, [Pete's] lies. He actually did me a big favour there, turning around and saying that [in his response to my affidavit]. Because he actually had written down the number of punches. And I thought, 'That bloke knew exactly how many times he'd even hit me.' (Laugh). And he was actually saying that I'd done that to him. And I thought, 'Now, how low can you get?' So that that was to me, that, that's it. No return." (p. 40)

live in “another world” from their women clients, and have a “different value set”. For example, they have a different perspective on what is suitable parenting. Professional people might find it acceptable to have their children in childcare and more independent. However, many women who do not find this suitable. They are “in there with their children a lot more”. They have a closer and more intimate parenting style. Furthermore, mothers who have been abused are often very protective of their children⁷⁸.

Rebecca also feels that lawyers make incorrect assumptions about the dynamics in abusive relationships. In this imagined “wonderful world”, lawyers envisage separating couples being able to negotiate in a friendly manner; that everything is “honky dory”. However, this is not what is happening. She also feels that lawyers expect women, not men, to be the ones to “bend over backwards”. Rebecca guesses that this is what is expected of women in this middle-class world. Such women do not “scream or argue” with their husband. They remain “calm” and they “shut up”. They

77: “Yeah, I think there is a status to what you are a victim of, if you can understand that what I’m saying is, is it status? I’m using the wrong word maybe. But I think rape victims and domestic violence victims are on the bottom of the scale of importance. Or is importance the right word? You know the status thing. Whereas, say if you’re burgled or a hit and run job, or. ‘Oh god, poor, poor bugger,’ you know. ‘Very poor thing. We’ll do everything to help you mate. You’ve been through a lot.’ But when it’s something like that it’s, ‘Mmmmm.’ .. You’re on that scale, you know, what I’m trying to say.. But I really felt that, that I felt like if it had been some crime against me like burglary, being burgled, or.. a stranger doing something to me, yes, of higher importance, higher category, or whatever. That, and treated differently, I would have been treated differently as a person. I feel, I don’t know, I haven’t been, that’s a generalisation because, then again too, I haven’t spoken to a person that’s been a victim of being burgled or anything. They might say, ‘Wrong,’ you know, ‘the system sucks even here,’ you know. So, I don’t know, but I just sort of felt like, where I was at was the lowest, I really did. I don’t, I wonder how I didn’t go around the twist.” (pp. 45-46)

78: “And another thing too. Different set of values. Now, lawyers, professional people, working fulltime, they might find it acceptable to throw their children into childcare, have someone else looking after their children, having their children less dependent upon them. That [the children would] learn things for themselves at early ages because their Mums and Dads out at work, you know. That might be an acceptable thing for them, their value set. But there are a lot of women that don’t find that a good way of mothering, and their values are different. And I think with the legal system, particularly, that comes as a great conflict... I felt like, that they were in another world. They are in their professional world, and perhaps they were happy with, you know, that’s the way they mothered and fathered their children. But that didn’t necessarily mean that that was.. And I think you’ll find, a lot of these mothers that have been abused are very, very

do what they're told and they "do not cause waves". Middle-class women probably think it is "quite below [them]" to get into a "hooaha argument" or to "yell at a person". The worlds of women and lawyers are quite different⁷⁸.

Rebecca believes that lawyers are extremely good at using language to justify theirs' and others' actions. They can even do this for the most unlikely situations. For example, lawyers could give a profound reason why a person should "crap" in the middle of the street if they have to. Rebecca likens the legal system to a game of chess: whatever lawyer uses the right words and has the strongest argument ends up in a better strategic position and wins the "game" for her/his client. Lawyers are skilled rhetoricians. "Talking to a lawyer... is like talking to a politician"⁷⁹.

protective of their children. And their children, yeah, the care is a lot different. A lot more closer I feel. They're not, a lot of them aren't working, or they're working part time, or something like that. But they're there, in there with their children a lot more, on a more intimate basis. And perhaps too not being so well off. Professionals, too, have a lot more demands on them, like out of time, they might be going to a lot more meetings and things like that in their spare time than what a person in a different social circle is going to." {Rachael: "And so it kind of feels like the worlds are?"} "Two worlds. That social society thing, yeah, they're very different. And they look at things a lot, you know, in a different perspective. And I think too, they're looking at that, at a, they keep looking at, you know, where the split up is going smoothly and like every normal couple, you should be able to negotiate quite friendly, and everything's honky dory in this wonderful world, you know. Where, you know, the fact is, it's not, yeah, not a normal world. And, you know, between these two people, that does not happen. That is why they're there. And I think" {Rachael: "So there's this gap between their understanding?"} "Yeah, understanding, yeah, they, if keep going back to that, and they keep expecting the female, I felt to be the one to bend over backwards. Because I actually feel in their world, up in that area, that's the way it goes {inaudible} between male and female. Well, that's what I strongly felt anyway. That, you know, it was not, well this is what I sort of had dealings with females in the upper wage bracket. That you did not yell and scream or argue with your husband, you know. You remained calm, and, and just shut up, and basically did what he said. Or you tried to manipulate a way out through a situation quietly, you know. You did not cause waves.. Yeah. And get into a hooaha argument with him, you know. 'Oh no, you never do that.. Quite below me,' you know, 'to yell, yell at a person,' you know. It was sort of like more conservative. I suppose that I sort of got that sort of feeling that there was this difference. Yeah." (pp. 47-48)

79: "They can justify what they're doing through use of

language. And lawyers are extremely good at that. You know, they can give a profound reason why a person should crap out in the middle of the street if they have to, you know, {laugh}. ‘Well, there was a perfectly good reason for that,’ if they have to. And I liken it to a game of chess, and who makes the right word, oh move, with the use of words, will put them in the better position. I actually wonder about our so called justice being {laugh} justice at all, really. It’s who can come up with the best argument and have the law behind them. That’s it, the strongest argument is what’s the game there, and it is, it’s a game... Talking to a lawyer, I feel, is like talking to a politician.” (p. 5)

Rebecca’s thoughts on domestic violence

Rebecca learnt that it was best to accept that domestic violence had happened in her life, that “it’s crap”, and to “accept the pain”. This was much better than “denying it” and “pretending that it’s okay”. She also realised that “flashbacks”, “bad depressions”, and feelings were “the scars and the healing”. When she was down, she realised that it was because of what had happened to her, that it was grief, and it was best “to go with this”. Over time, it got “less and less” and “wasn’t such a big issue”. She was able to recover quicker and deal with it better⁸⁰.

Originally, Rebecca had the impression that when you left a violent relationship, “everything was happily ever after”. She thought everything would be

80: “You know, it’s like people saw you down so they all got the boot in. And, and it was important people, people you thought that were friends, people you know, family even, just all got you down. And ‘cause this book said, you know, instead of pretending that it’s okay, is accept, accept that this [i.e., domestic violence] happened, it’s crap, and accept the pain. You know, rather than denying it, yeah, accept it. And so, I sort of realised then too, that those flash backs and the bad depressions and feelings that were coming were the scars and the healing. And so, once I put that into focus, you know, in line with that. So every time I was feeling that down I recognised that right, this is because what has happened to me. I can’t do anything about this, this memory is coming back because of what happened to me and this feeling is here. Then it just sort of got less and less, and it wasn’t such a big issue. Like I might be down, and I’d think, ‘Right, I feel down for a while, I’ll go with this, this is all the grieving, everything.’ And I found that I was coming out of it better and dealing with it better and not feeling so yuck about it coming to that. Because I was of the impression that you left a violent relationship and everything was happily ever after, after that. Everything would be easy and, and get better, but it’s not like that at all. And what your brain has stored up in there, it comes back, and there’s horrible dreams, and just feelings. Or a scent of a flower, or something someone says, will

easier and get better. However, "it's not like that at all". Rebecca equates her experience of domestic violence with a "horrible accident". It is something that happened in her life whether she likes it or not, and she will have scars from it. Because her brain has stored it, it sometimes comes back in the form of horrible dreams, feelings, and flashbacks. A memory can be set off by the scent of a flower or something someone says⁸⁰.

Rebecca once heard an Indian fable about twists in life that was relevant to her experience. It was about a man who dreamt of having a white stallion. One day, he ended up getting one, which was good. However, he fell off it and injured his leg, which was bad. He was sick for many months and was left too disabled to work on the farm. However, his injury ended up beneficial, because he was not able to go to a war from which few people survived⁸¹.

This fable made Rebecca realise that there are twists in life: "what can be good can actually turn out to be bad, and what can be bad can actually turn out to be good". She has also learnt that when

set off a memory, you know, and pow, it just comes back. And just dealing with it. And then just realising, right, you know, I'm going to have scars too, and I'm going to have to live with it and deal with that, you know. And just knowing that now, it's just sort of made it easier to just get on with life now, and just think, 'Right, that was a part of my life whether I like it or not.' Like a horrible accident, and I've come through it, and I've got the scars from it, and that's the way, you know. And every now and then I'll relive that accident, you know, the flashback. That's the way I sort of accepted it, yeah." (p. 1)

81: "There was something, and it was actually, I'm trying to think, I think it was on a children's program one day, I was watching. And it was an Indian fable, and, you know, Pakistan, Indian, India. And it was a story. And it's just a twist in life. This is how I've come to look at it now, it's a twist in life. And it was a story about this man and he always wanted a white stallion, he always wanted to own one, his dream. And one day, he, he actually ended up owning one, somehow, I can't remember how it went, but he ended up with this fine white stallion. That was good, it was good, and he felt good. He hopped on that stallion and he rode around, and it tossed him. And he badly injured his leg. That was bad. And he was sick, you know, many months healing. And after that, he was left with a permanent limp and he could not go out and help on the farm. And so that was bad. And then one day, all of these warriors came into town, an army, and they were actually saying that there was a war, and all the strong healthy young men had to go off to war. And he could not go because of his limp. That was good. He was lucky because they went off to that war and very few came back. So he was lucky. That was good. So then after that, you know, it just sort of showed for me, how there's twists in life. What can be good can actually turn out to be bad, and what can be bad can actually turn out to be good. And, you know, and not directly just to you either. It might be to other people. You know, a bad thing might happen to you but it might turn out to be good for [others]... So, you know, it's just twists in life... It's just like a rope, you know.

something bad happens to someone, it sometimes has positive consequences for others. "It's just twists in life"⁸¹.

She also explains her experience using the analogy of a rope. "Your life is going to have all of these different twines of happenings going on". For Rebecca, one of those twines was going through all that "crud" and "crap". She feels sorry for people who get "stuck down and can't get out"; people who get so depressed they commit suicide⁸¹.

Rebecca resists the idea that only poorer people end up in violent relationships. She thinks the rich are more able to hide it and keep it quiet⁸².

Rebecca believes that women from different socioeconomic levels separate from violent relationships in different ways. Poorer women use Women's Refuge. Wealthier women who have careers have more options available to them. They can afford a motel or to "disappear somewhere". Because both the woman and her violent partner have reputations at stake, they make less "hooah" and keep everything quiet⁸².

To make up that rope your life is going to have all of these different twines, yeah, of happenings going on. Because that's what I think now too. Like with mine I went through all that crud and, you know, all that crap. But it worked for a reason too, you know. So it's just the way life is. And I think it's just trying to, so I feel really sorry for people that get really stuck down and can't get out of it, and they end up getting so depressed that they commit suicide and, and things like that, you know." (pp. 2-3)

82: "I think there is this belief that it's more poor people that are going to end up domestic violence than rich. Whereas it's {inaudible}, but the rich just keep it quiet more. And also a rich woman, if she's quite often got a career of her own, if she's experiencing violence, she's not going to go to a Refuge for her safety. She's going to go to a motel because she can afford it. She'll just disappear somewhere because she can afford to do that. And she will just leave because she can afford to do that.. She's got options available.. And also, probably her husband knows, too, for his sake to also keep it quiet because their reputation is very important. And she would realise that too. And both of them would probably keep very quiet about it. Not want a hooah about it because of their reputations, you know. So, that's more likely where they end up, and why you don't see. So, I don't know, I might be wrong here. But I didn't feel there were so many rich women at the Refuge as was.. But then, 'cause I was wondering why one night, and I sort of put myself in that position, and that's what I came up with. {Inaudible}, {laugh}, motel, you know, yeah. You wouldn't go to a Refuge, would you? .. That's it. You just, just set up and separate, you know. 'We aren't working out any more,' yeah. And probably quietly too, if you knew that reputation was at stake there, you know. Just, 'Yes,' you know, 'just watch the old reputation there mate,' you know." (pp. 48-49)

83: "Because I know that hit my pride. Just once I started talking about it and everything, I felt like, I don't know, it's hard to describe. I felt like a complete failure, you know, once everyone

Rebecca felt a “complete” and “total failure” for having been in a violent relationship. It “hit [her] pride”. Although she was encouraged to “talk about it” and be “open”, a negative consequence is “everyone looks at you differently”. People assume you provoke it. On one occasion, a woman told her that she and her husband “never [got] into arguments like that”.

Rebecca says that people have the notion that “violent outbursts” occur when “you’re yelling and screaming at each other”. They don’t understand that “you can suddenly have a punch thrown at you for no reason at all”; that he can “fly at you all of a sudden” with no provocation. In her own situation, most of the abuse occurred in the bedroom, “very quietly behind the scenes”.

Contrary to the image conveyed by the aforementioned woman’s comment, her and Pete rarely yelled and screamed at each other. Her children witnessed very little; only two incidents. However, they would have seen her crying and felt the “tension” in the house⁸³.

Rebecca also felt a failure because people generally have a picture of domestic violence

knew, you know. I was told, ‘Talk about it, bring it out in the open.’ Okay, now there is good in that, but the bad side of it is everyone looks at you differently.” {Rachael: “Because other people don’t have such a good understanding of it?”} “A total failure. A total failure. ‘Well, you must have provoked him,’ you know. Or, I once had this said to me a lot. This woman is, ‘Oh, my husband and I never get into arguments like that. We don’t.’ Because they seem to have this picture too, that domestic violence results from violent outbursts when you’re yelling and screaming at each other. They don’t realise that you can actually suddenly have a punch thrown at you for no reason at all. And they don’t realise that you’ve done ‘absolutely nothing and this guy will fly at you all of sudden. They don’t see. And that it is. Because, you know, in my case a lot of it was done in the bedroom. The kids didn’t witness very, the only thing {inaudible} always, ever witnessed was two incidences. That was it out of the whole lot. It was done very quietly and behind the scenes, you know. The tension was there in the house, you know. And they’d probably see me crying, you know. But that was it. They weren’t aware otherwise on what was going on. But these women, they seem to have this picture of these violent outbursts, you know. And they, ‘I never got,’ the way I got it said to me, ‘I never got into an argument like that with my husband.’ We never really yelled and screamed at each other like that, you know. And they had this picture, you know.” (pp. 49-50)

84: “I think too, the general picture, you know, *Once Were Warriors*. Okay, now, that put across the violence very well, but it also put across something else didn’t it? Again that, ‘Well, look, what, how they’re living, look at that will you. Oh, no wonder. They’re living like animals. They’re acting like animals.’ And that’s basically what I felt. And that was my sense of failure. Whereas, no way was I doing that. I was trying to maintain a home environment, and have my kids, you know, well looked after, and things like that, as best as I could in a bad situation, you know. It was no way that it’s like that. And it just, like neither of us drunk, drunk booze, or were on any form of drugs. By the

consistent with that presented in the movie, *Once Were Warriors*. In this movie, people in violent relationships were presented as living and acting “like animals”. It showed excessive drinking, “beer bottles lying around”, “car wrecks”, and “long grass”. Rebecca felt judged according to this standard, despite her experience being completely different. She was trying to “maintain a home environment” and to have her “kids well looked after”. She was doing the “best [she] could in a bad situation”. Furthermore, neither she nor Pete drank. Pete occasionally smoked marijuana in the carshed, but he stopped this (or so she thought) once the children were born⁸⁴.

time, by that stage I'd told [Pete] by the time [Nathaniel] was a baby, I said to [Pete], ‘No drugs. No drugs around the place whatsoever because of the baby. And he actually stuck to that. Never inside. He went occasionally out in his carshed, and I actually kept at him in saying, you know, ‘They're no good, no good.’ And so in the end he was just, as far as I knew, not taking them. But I later learnt that he was, but not around me or kids. So, you know, whereas I'm sure people get the picture that, ‘Oh,’ you know, just beer bottles lying everywhere, and car wrecks, long grass, you know, the whole picture, aye. But it's not.” (p. 50)

More recently

In more recent times, Rebecca has learnt to “grin and bear” things. She has found it important not to get upset by Pete or to make an issue of things. This is the “bite” that Pete is seeking. For example, when he has been unreasonable with access requests, she has simply responded with a more suitable arrangement. When he comes to pick up the kids earlier than he should, she does not bite. This seems to be working⁸⁵.

85: “Sometimes you've just got to grin and bear it so to speak. Like this, you know, coming to pick the kids up earlier. Don't bite. And I remember, I remember [[Pete]'s] family, that was a big joke in their family, ‘Oh you got a bite out of them, you really upset them.’ That was it, and it clicked. And I thought, ‘Right, so the minute I make an issue out of it that's what he wants.’ And I've had a few little diggy things. He tried again this year to ask for them over the seven days, saying exactly the same what he did last year. It might have been the same letter, you know. Yeah, and it's, all I did was I said, ‘Sorry,’ you know, ‘those two days, da da, that you requested are not suitable, but how about this, and I'm quite happy with the seven days from da da da da.’ And I respond that way. [Rebecca] that was it. And he wrote back happy with that, and he was, it was a very hurried write

Rebecca has realised that Pete will never change. She knows she is "far better off having absolutely nothing to do with him". She only contacts him by telephone if it is an absolute emergency, and she only writes letters when an upcoming event makes it necessary. When he contacted her recently because Joel was very ill, she kept their conversation strictly to this topic. At the end of the conversation, she was relieved to get off the telephone. She cannot understand what she ever saw in Pete. She has had enough of him and finds him and his games absolutely intolerable⁸⁶.

As mentioned above, Rebecca is in a financially precarious situation: she feels "in a rut". This worries her a lot and she sometimes has anxiety attacks in the middle of the night as a consequence. She feels disappointed that she has not been able to get herself "financially back on [her] feet" by the year 2000 as she had planned. Although she has been retraining in a specialist area, she is aware that her "lack of self-esteem and confidence" could affect her ability to get a job. She had not expected the

back, 'Happy with that.' And I thought, 'Yeah, he didn't get his bite,' you know.. It's worked for me, yeah. And just sort of trying not to panic, getting out of that now. But I think time gives you that." (pp. 32-33)

86: "And I've realised he will never change and I'm far better off having absolutely nothing to do with him now. I do not make any phonecalls. I hardly write letters or anything like that. I only sort of wait until {inaudible}, or if something comes up then I write to him. But that's it. And only in absolute emergencies will I ever talk to him. One night recently he phoned me because [Joel] was being really sick, my youngest, and we had to have a conversation. I just kept it straight to the illness, and that was it, and then hung up. And I just couldn't get off that phone, 'cause I said to a friend of mine, I said, 'I don't even understand now what I ever saw in that guy,' 'cause I said, 'I can't even stand to talk to him for too long. I just have got no time for him and his games.' I just find it absolutely" {Rachael: "Intolerable?"} "Yeah. Intolerable, that's it. I just can't, yeah, I've got no time for it. Yeah, I've just had enough aye, and, yeah." (p. 36)

87: "I do financially feel in a rut. Though, and like I say, I get anxiety attacks in the middle of the night over it. And you know, that worries me a lot. I've got to do three years training and it's not because I want to. It's because I have to, you know, there's a difference there... And I sort of, I'm a bit disappointed. Because I always sort of thought to myself, by the year 2000 I'd be financially back on my feet, and, and work. And I could see myself as a [particular service provider]. And that hasn't worked out. And I was not, I had not picked up on the lack of self-esteem and confidence that would affect me getting a job. And now I recognise it, and now what I really recognise is that it is going to be of the utmost importance, that once I finish my training is to get a job immediately, as soon as possible, to maintain my confidence and keep up... I know that my confidence is limited, you know, and that big step, that's been interfered with so." (pp. 51-52)

extent that domestic violence would “interfere” with her self-confidence⁸⁷.

Rebecca has been trying not to panic so much lately. She says that time has assisted in feeling less panicky too⁸⁵.

Rebecca has not been in another relationship since Pete, and she thinks it will be “a bloody miracle” if she does have another relationship. Her experience of domestic violence and rape have left her feeling “very frightened of men” and “easily intimidated”⁸⁸.

Rebecca looks forward to burning all the letters associated with her legal proceedings after this research interview⁸⁹.

88: “I haven’t had, been in another relationship since [Pete]. Mainly too, I’ve been very frightened of men. I always sort of say to people, ‘I’ve got bad taste in men,’ you know, ‘I want to stay clear of them for a while,’ you know. I’m just very frightened of them. And even the little bit I’ve had to do with them, I’ve found them, they easily, they easily intimidate me. I’ve got the leftovers of [Pete] through that too. And other males, you know, like the rape and stuff. So, that’s left me quite intimidated by them. And so, yeah, if I did meet another man he’d have to be pretty understanding, I think, of what’s, you know. And then do I really want to tell a man about that because that might set them running a mile anyway, you know. ‘Oh god, look at the problems this woman’s had. Well, I’m off,’ you know, sort of thing. So, it’s sort of, I don’t sort of count myself really as, you know. That’s, that’s a relationship in fairyland as far as I’m concerned. If it does happen it’ll be a bloody miracle. So, I look at myself as being on my own and having to set myself up with some form of retirement plan and what not.” (p. 52)

89: “I actually was tempted to go through the letters again but I couldn’t bear to pick them up... In actual fact I want to burn them. So, I thought after this I’ll be burning them {laugh}. Because I’ve always kept them. I’ve always had, you know, a thing to keep them. But I think really this time I want to burn them.” (p. 39)

Improvements

Based on her experience, Rebecca made several suggestions about how the lawyers could improve. First, she believes that they should behave professionally^{21,90,91}. They should not make unprofessional remarks like those Lawyer A made while Rebecca shared her experiences for her affidavit²².

90: {Rachael: “How, what improvements would you like with lawyers? ..What would you like to see in a lawyer? How, what improvements would you like?”} “Well they say they’re professionals, so act like it and stick to it. Private jobs for friends should not be allowed at all. Freebies, you know, free, not allowed. Also, this time thing with communicating. I was told that a week should be the acceptable time between letters. [Lawyer X] went months. We would be letter, letter, letter, no reply. That should be looked at seriously, especially in a separation where custody of children and non-molestation, that should be taken

They should not be able to do private jobs for friends. Nor should they be able to ignore another lawyer's communication for months, as Lawyer X did. Instead, lawyers should have to respond promptly to letters received (i.e., within one week), particularly for matters like custody of children and protection-type orders⁹⁰.

Lawyers should also be more understanding. They need to realise that women victims of domestic violence are very frightened, and have "gone through hell". What they see is only the "tip of the iceberg"; "one percent of what has actually gone on in that woman's life with that man". They need to understand that a woman's life may have been endangered for years. Lawyers need to feel what it would be like for a woman to sleep with her enemy; "to lie beside a creature that is capable of really hurting [her]" anytime. He has the power to "slag her" verbally, and to hit her anytime he likes; she has been in a situation where she is "totally out of control". Lawyers need to understand women's fear. They need to understand that women panic because they are

very seriously. It shouldn't be as [Lawyer X] describes a mere smack on the hand. If the Law Society looks at things in that way then I'm afraid I look at them as professionals as very questionable, you know. Where are they at, quite honestly? That is really dangerous play. Very dangerous. That is a board game I do not like, you know, not on, I'm sorry. Yeah, that. Also, what if, for the woman, I actually would like to see, I don't know, the legal system bit, so much to understand this is a very, very frightened person. This is a person who has gone through hell, and what the lawyers are seeing are only what's, you know, what's described as the tip of the iceberg. They are only hearing probably one percent of what has actually gone on in that woman's life with that man. That she's probably been through a number of years of ongoing life in danger. That story, *Sleeping with the Enemy*, that, that enemy, that is it. That is what it becomes like. And to really fully feel what it would be like lying beside a creature that is capable of really hurting you at any time they wish. And that, you know, you're never going to know when that time is going to be.. Understand that fear that that this woman is in there. She's in panic, yes, because she is very frightened. And it's not because she's imagined something. It's not because she's trying to stir up trouble. It's not because she's being vindictive or seeking revenge. It's because she is very frightened. And to get that through to them that this guy, even though in public appearance he is coming across as this cool collected guy, that at home, not in the public eye, he's a totally different person. And he says, does, what he wants when he wants, you know. That this woman has been in a situation where she has been totally out of control, that if he wants to slag her down in any way verbally, he will. He's got that power. If he wants to hit her, he will, because he's got that power, you know. And quite possibly too, that she's received it not just from him but from her own family, from his family. It just isn't something even that's come through him, it's something, she's poss, you know, been caught up in her life too. And so, she is frightened of everything. And even of the lawyers that she is seeing, she is frightened. And she is going to go back into that survival role

frightened, not because they have imagined something, are stirring up trouble, or are vindictive. They also need to understand that his family and her own family may have treated her badly. She is frightened of everyone, even lawyers. Because of this, she will easily comply with what a lawyer wants to keep the peace, even if she does not agree with it. Lawyers also need to be careful with their mannerism and their body language, as women are easily threatened by it. Indeed, they are used to attending to their partner's body language to survive⁹⁰.

Rebecca also says that lawyers need to treat women with the dignity that is usually afforded to a person. They also need to give more explanation to clients.

Rebecca believes it would also be useful if lawyers, or another source, could teach women to overcome panic, speak calmly, and convey their point in such a stressful situation. She believes that women are disadvantaged by such communication. She also understands that it can be difficult to be on the receiving end and understand someone who is panicking⁹⁰.

play, and she will go along with them at times just to keep them happy if she feels threatened in any way. And she, and also, you are easily threatened, so the lawyer's got to be very careful of how they come across their mannerism, body language. That speaks volumes too. Because she has been on survival mode for so long that she's watched her partner. Any body language or anything like that or any thing he says that might lead to her getting a hiding, she's on that watch. She's been like that for years. So that'll be the same with everyone including the lawyers. You know, she'll hit into that very quickly. Many women I've spoken to they've walked out of that lawyer's office and felt totally out of control, and just have gone along with them to keep the peace, you know. They've been so frightened, yeah. More explanation.. I would like to have been treated like a person. Just more explanation... I think advise the woman how to publicly speak, quite honestly. I don't know if that should come from a lawyers, or there should be something else in place. But to somehow train her to get the deep voice and come across calmly and get the point across, to overcome that panic somehow. Because I think that's a real big throwback on the woman, and a disability, quite honestly, to communicate. Because, I, myself, have had a woman here in that kind of panic situation, 'Rarararara.' And it was like, you know, it is very hard, I know, being on the other side of trying to hear what they're saying. But, yeah." (pp. 37-38)

91: "I do feel, that's, yeah, {inaudible}, that want to be simple professionals, then be professional." (p. 42)

Summary of problems

Rebecca's problems with the legal system can be summarised as follows.

The legal system treats domestic violence as a lower status crime; victims of domestic violence are treated with less empathy and understanding than other crimes⁷⁷. Rebecca felt punished by the legal system^{70,71}. Pete also used it to further his abuse of her⁷⁰. Instead of the legal system adhering to principles of justice, the lawyer who rhetorically makes the best argument wins⁷⁹. Rebecca also sensed the presence of an old boys network within the legal system^{23,46}.

Rebecca's lawyer treated her very badly^{17,37}. She had poor communication skills, was moody and unpredictable, was disinterested in the case, and lacked understanding and empathy^{17,22,26,28,29}. She did not acknowledge the seriousness of Rebecca's situation, or the reasonableness of Rebecca's panic and stress¹⁷. Lawyer A disapproved of Rebecca being emotional; she was dismissed and directed to counselling^{29,34}. During the preparation of her affidavit, her lawyer's inappropriate remarks left Rebecca feeling worthless and unimportant²². The relationship between Rebecca and her lawyer mirrored that of an abuser and victim: her lawyer was in a position of power whilst Rebecca felt "a little wimp"^{22,32,33}. Her lawyer treated her with suspicion, and she did not always seem to be working for Rebecca's benefit^{28,30,31}. Indeed, Rebecca was always expected to bend over backwards to accommodate Pete^{34,52,78}. She was made to feel the bad guy³¹. Rebecca also felt pressured for time during appointments²⁶.

Rebecca's ex-partner's lawyer (Lawyer X) obstructed legal processes: he repeatedly stalled the hearing for the non-molestation order²³, and would not respond to written communication from Rebecca's lawyer⁴¹. Lawyer X's very adversarial approach left Rebecca feeling so intimidated that she decided not to follow through with finalising her non-molestation order^{23,24}. Rebecca felt uncomfortable that getting a non-molestation order seemed so tentative and could be dependent on the judge of the day²⁵. She also found it unprofessional that another of her ex-partner's lawyers (Lawyer Z) rang her at home instead of communicating through Lawyer A⁴⁹. Rebecca did not direct her concerns at the Law Society, as she would have liked, because Lawyer A discouraged her from doing this. She did not believe the Law Society would treat her complaints seriously anyway⁴².

Rebecca did not find it ethical practice for Lawyer X to be personally involved in a friend's case (i.e., her ex-husband's case)³⁸. She also found the relationship between her lawyer and Lawyer X unprofessional^{44,45}. Her lawyer passed confidential information on to Lawyer X on more than one occasion^{42,43}. Rebecca also felt powerless in the decision making process. Indeed, Lawyer A and Lawyer X would sometimes make decisions together for her. Consequently, Rebecca would often

end up complying with decisions with which she felt unhappy⁴⁵.

Rebecca believes lawyers live in completely different social worlds to their clients, and they have different values⁷⁸.

Legal division of matrimonial property unfairly leaves women and children in a financially precarious position; more consideration needs to be given to the parent who has custody of the children and supports them financially^{53,54}. Furthermore, inadequate attention is directed at non-custodial parents who pay insufficient child support⁵⁴.

The legal system does not adequately respond to men who do not provide adequate parenting for their children. Instead, they are protected through excuses and recommendations of what should be done⁵⁸. Rebecca was very unsatisfied with the mediation conference. There was insufficient time to outline her concerns, and she was treated as if she was the guilty party⁵⁹. The mediation counsellor behaved inappropriately by ringing her and sharing negative feedback about her from Pete⁶⁷.

Summary of commendations

Rebecca's lawyer was good legally and could write good letters^{28,29}. She also stood up for Rebecca when she helped organise Pete's access on Christmas day³⁶.

Update: Rebecca feels that she has moved on in her life. She has healed, and so have her children. The emotional pain is over; she has left it behind. She has forgiven but not forgotten.

Pete has stopped his violence towards Nathaniel and Joel, and the children now have a healthy relationship with their father. She respects that Pete is the children's father, and encourages the relationship between them. It seems that he has realised the importance of his sons, partly because the children are not with him all the time, and partly because the situation has improved now that he is not having to deal with relationship issues.

Rebecca now has an amicable relationship with Pete. He is no longer violent towards her; there is no opportunity for him to be. She maintains clear boundaries and does not get personal with him. She will never restore their relationship.

Rebecca believes that the legal system often makes things worse, when it is most important to keep things calm. Women feel powerless to protect their children through the custody and access process. It is difficult for the legal system to determine the truth.

Rebecca also mentioned that her perspective has changed since our interview. She has spoken to men who have used the legal system, and has found that the legal system does not work for them either. She consequently believes that research on women needs to benefit all.

Rebecca is currently training in an area that she enjoys. She has a personal coach, who assists to make her more marketable for work, and who is helping her in the area of forming new relationships. Rebecca is very interested in self-growth. She does not want to stagnate; life is about learning. She has made it her life's quest to work through problems. She takes responsibility for herself and uses professional help when required.

Latest update: Rebecca is now working in the area in which she trained. She enjoys her job and the variation it offers.

KATHERINE'S STORY

Katherine, a Pakeha woman, is a university graduate with three daughters. Her youngest daughter, Zoe, was fathered by Paul, her abusive husband. The other two were born from a previous relationship. During and after her marriage to Paul, Katherine experienced much violence and abuse. She involved the police once when he severely assaulted her, and as a consequence, he was arrested and went to the District Court.

Katherine has used three lawyers over the years: two were female, and the third was male. Whilst she only had one appointment with her first lawyer, the other two assisted her with matrimonial property, custody, and access issues. The expense of non-molestation, non-violence, and property orders meant that she never applied for any of these.

Paul has also been violent to Zoe on a couple of occasions. His application for custody of Zoe was unsuccessful and Katherine was granted custody of her. Though he has gone to great lengths to organise access, he rarely contacts or visits her.

Please note that Katherine's involvement with the legal system occurred before the introduction of the Domestic Violence Act 1995.

Katherine's experience of domestic violence, and the legal system

Katherine was at university finishing her degree when she met Paul. She had two children, a nice house, a nice car, nice clothes, and a very good lifestyle. She was happy, successful, and very independent. Within a short time of them being together, she lost all of this, including her independence^{1,2}. By the end of her marriage, she was almost financially ruined³.

Katherine suffered abuse and

1: "You know, I lost all my independence. And, you know, I had two young children, a really nice house, nice car, nice clothes, really good lifestyle, you know, reasonably happy, successful, doing really well, and, you know, finishing my degree, and extremely independent. But then being with him just took, completely, within a short while, just took it all away. Especially with his violence. I reverted to being a child again. Because my father had been so violent, it was just like him again." (p. 2)

2: "Here I was, educated and what have you, had a degree and everything. It doesn't matter what you were before you've been with an abusive man. It doesn't matter how intelligent you are. God, you know, you just lose it all." (p. 3) (from excerpt 12)

violence from Paul on numerous occasions^{4,5}, but it was not until one of the last times that he physically attacked her that she contacted the police⁵. She attributes her delay in involving outside help to her acceptance that violence was just a part of life: in addition to being abused by Paul, she had been abused by her father during her childhood. She said Paul's violence reverted her back to a child-like state⁴.

On the occasion that she involved the police, his violence was particularly bad. She remembers lying where she was for some time. When she got up, on the pretense of going to the toilet, she rang her friend who lived nearby, and went to her house. They rang Women's Refuge, who was unhelpful. They advised her that there was probably no point ringing the police. Katherine was terrified: she was afraid of what Paul would do next time, and was not sure whether she would live through another assault of this magnitude. So, she ignored their advice and rang the police. They promptly arrived at Katherine's house and arrested Paul. They then called by her friend's house to tell her that she could return

3: "Really, as I say, I lost thousands and thousands and thousands of dollars being married, thousands." (p. 6) (from excerpt 42)

4: {Rachael: "Was that the first time he'd gone to court for being violent to you?"} "Regarding me, yes. All those other times, numerous, numerous other times, I never did anything. I didn't really know, I didn't know. My father had been really violent, and funnily enough he was a lawyer, and so when he, this man was violent as well, I just sort of thought that was life, I guess." (pp. 1-2)

5: "I was, you know, abused for you know a reasonable amount of time. And then the last time, well one of the last times, was really, really bad, so I lay there for quite a while, you know. Then I got up and pretended I was going toilet, and I went just to a, a friend luckily lived over the road. And she just met me. It was about three or four in the morning. I just rang her and, and she, I just went to her house. And we rung Women's Refuge, and god, and they just said, 'Oh well, unless you've got marks it's no point in ringing the police because they're not going to come and do anything.' So we sort of sat, you know, well, I was sort of hysterical, sort of. As you know, it was a really, really bad hiding. So bad that next time I didn't know if I'd live, you know, if I had to go through that, you know, again, or what he would do the next time.. And so they, then we did ring and the police. God, they were there within about ten minutes. And they went in and arrested him. And then came back and told me so I could go back home with the children. And he had to appear in court the next day. Not sure what happened but I think what happened was that he was told he wasn't allowed to come to the family home, and he wasn't allowed home, and what have you. And then I ran in to him, unfortunately, a week or so. First of all I get bad advice from Women's Refuge like don't bother ringing the police. And then, unfortunately, I ran in to him about a week or so after it happened, oh even less than a week. And he'd been to court and everything like that. And him and his lawyer made

home with the children⁵. Paul went to court the next day. He also went back to court a second time regarding this charge⁶.

Unfortunately, less than a week later (between Paul's first and second court appearance), Katherine and Paul coincidentally saw each other. Paul and his lawyer got her to write a letter to the judge saying that she was a very difficult person to live with, and that the violence was her fault. She said that her conformity to this demand just shows how "low down" she was at the time⁵.

Because Katherine was uninvolved in the court hearing, she does not know what actually happened. She believes that the judge must have taken the letter in to consideration because Paul was not sentenced with imprisonment. Neither does she believe his history of past violence was brought up (his previous convictions for violence did not involve her). Katherine and friends of hers who have since trained as lawyers, find this surprising⁵.

Katherine does not think highly of the judge that was influenced by

me write a letter saying it was my fault and I deserved it. And I sent it to the judge. That's how, that's how low down I was, that I did it. And the thing was the judge, he, [Paul] had a history of violence and for some reason, god knows how, but it never, it never came up. Because other friends of ours who are lawyers, you know, that just went through varsity, later on just said, you know, said, 'Frig, don't know how that,' you know, how that didn't come up. Because he should have gone to prison, you know, with his history and with doing that, he should have gone to prison. But he didn't... And the judge obviously must have taken in to account what I said, because I'm not sure what [Paul] got, whether he got a diversion or, don't know. But I know people didn't understand why he didn't go to prison. But, you know, as I say, I wrote that letter saying it was my fault, because I was told to. And then, then I actually wonder if he was told he wasn't allowed to come home for a reasonable amount of, oh that's right, I did say that, you know, he needed to go to anger management, and that he needed to understand what it was like, you know, and a couple of other things.. in the letter. You know, I just said it was my fault, I was a difficult person to live with, and all this shit {laugh}. It was absolute rubbish, which I actually rescinded a year later. I wrote a letter, and I just said, 'It's absolute,' you know, it was the words of a battered wife, 'they are the words of a battered wife, and there's no way in the world that I condone what he's done, and I did not believe for an instant that any of it was my fault.' Because they don't, you don't sit there and say, 'Smash me,' or 'bash me,' or anything.. Yeah, just to attach it to his file for next time." (pp. 1-2)

6: "As I say, I wasn't there for when, when he was arrested. And he had to go to court the next morning. And then a wee while later on he had to court as well." (p. 6)

7: "The first judge who listened to an abused woman's letter, probably don't really think that much of that person, not at all." (p. 6)

her letter⁷. In fact, one year later, she rescinded it, believing it to be the "words of a battered wife". She does not condone Paul's use of violence, nor consider herself responsible for it⁵.

After the court hearing, Paul and Katherine did not see each other for three months/and she assumes that the court directed him not to make contact with her during this time⁸. In this time she applied for and was granted the Domestic Purposes Benefit (DPB)⁹.

After three months, Paul made contact and started applying pressure on Katherine. He told her that if she did not have him back in the home that their marriage would be over for good. Katherine became fearful of their relationship ending. She associates this fear with the state she was in at the time, and her low self-confidence. She believes her low self-confidence stemmed from her childhood experiences of abuse⁸.

So, Paul moved back into her house⁸. One of his conditions was that she stayed on the DPB and gave him pocket money. She did this and paid all the bills too⁹.

8: "And so he didn't come home for three months. And I actually wonder if that was, you know, that he wasn't allowed to come home for that time. Because then he started putting the pressure on me saying, you know, if I, if you didn't come back it was all over, and if I didn't let him come back it was all over. So I got scared, just because of my own, where I was at at that time, and from my own experiences in the past to do with the violence of my father and not being good enough, and all that sort of shit. And he came home. And within a week, oh, I don't even know if it was that long, I just thought, 'What have I done?' It was just awful, it was so horrible. He wasn't, he didn't become physical again for a few months because he knew he would go to prison, but living in that, in the terror and the, and the verbal and the silent abuse is just awful, was just horrible. So I went to, went to a lawyer in [one of New Zealand's largest cities], a woman lawyer.. This would have been in about August, September, of... a while ago... it must have been about '94." (pp. 2-3)

9: "When he left and after he was arrested, you know, I went on that DPB. And then as a condition of him coming back, 'cause by this time, you know, after he gave me his ultimatums after three months and I, you know, became a scared child again and didn't feel good enough and didn't want to be rejected, a condition of his was that I stay on the DPB. And I had to give him pocket money, I had to pay for everything and, and give him pocket money. And that, it's crazy isn't it? Which I did." (p. 7) (from excerpt 41)

10: "The very first [lawyer] I went to was to get him out of the house." (p. 4)

11: "So, yeah, went to see [this lawyer], and she wasn't available to see me. So, she put this other fat mole, who when I walked in just, you know, I was just normal, I just had jeans and a shirt on... And [she] just looked me up and down, obviously made some assumption in her mind about myself. And then just basically said she wouldn't help me unless I put money in the

After less than a week of him being back in the home, Katherine regretted her decision. Though he was not being physically abusive to her at this time (presumably because he was concerned he would go to prison), she found his verbal and silent abuse absolutely awful. Again, she was living in terror⁸.

It was during this time (August/September 1994) that Katherine decided she needed a lawyer to help her get Paul out of her house^{8,10,11}. Because the woman lawyer she wanted was not available, she was referred on to another woman lawyer (Lawyer 1)¹¹.

Katherine describes this lawyer in very negative terms. When she arrived for her appointment, Lawyer 1 looked her up and down, and it was obvious to Katherine that she was making assumptions about her^{11,12}. Her foremost concern was money^{11,14}. It seemed less important that Katherine needed assistance to get an abusive man out of her house¹¹.

Furthermore, there seemed few options available to assist her. Lawyer 1 had advised her not to

bank account. Here I was living with this abusive man. I wanted him out of my house and what have you. And here she was, all she was worried about was this bloody money. And, you know, and she knew that I came from a good family, you know, that, that everyone in my family are professionals and all that as well, and there'd be no problem. She didn't even offer me legal aid... And then she, she was such a cow. And then she, all she did say was, she didn't give me any help or anything, and all she did say was that possession's nine tenths of the law and if I moved out then I'd probably lose the house. And that's all she said. So then I wasn't even free then to leave, because, you know, that house had been mine. I'd brought that house with my money. He didn't, he hadn't contributed a cent.. Well, for one she wouldn't do anything for me. She just said, 'Nuh, you put money in my bank account, and then I'll, and then, then we can arrange, arrange some stuff.'" (p. 3)

12: "I couldn't believe that first woman. I just couldn't believe it, how blasé she was, how she just looked me up and down and just created an opinion in her mind, and just thought, 'I'm not helping this woman,' for whatever reason." (p. 10) (from excerpt 20)

13: "[Protection orders and occupation orders] were both about out of my league. About twelve hundred dollars each, or was it six hundred? No, it wasn't six hundred. It was out, it was totally out of my league. And once again, I was not offered even legal aid, and I didn't even know about it. Because being where I was at that time, probably not, you know, really Jo Rational, and not ever having to have had that sort of thing before, I didn't have, I didn't have a clue about that sort of thing... Here I was, educated and what have you, had a degree and everything. It doesn't matter what you were before you've been with an abusive man. It doesn't matter how intelligent you are. God, you know, you just lose it all... And so, and so, I never went for either of those because I couldn't afford them. Yeah, I just, god, it was just so, it was bad luck after bad luck after bad luck." (p.

move out of her house. If she did, she was told she would probably lose it, because "possession's nine-tenths of the law"¹¹. However, it seemed she could not get him out either. A non-molestation order and an occupation order were going to cost her \$1200 each^{13,17}. She could not afford either, and was not aware of, or informed about, legal aid^{11,13}.

When she left an hour later, she felt very disillusioned and shocked. She was dismayed that nothing could be done, and was disgusted at being treated so badly, particularly from a woman. Katherine never went back to this lawyer¹⁴.

At home, Katherine was still trying to get Paul out of her house. However, there seemed to be barriers in every direction. When she approached the Social Welfare system for help there was nothing they could do either¹⁵. With "brick walls" in every direction, Katherine can understand why some people choose to stay in bad situations¹⁶.

In November 1994, Paul left. This was because he was becoming

3)

14: "That one day, that one hour was just shocking... All she was really interested in was having the money in her pocket and, and sort of trying to make me feel a bit intimidated, I think. She wasn't, you know, I walked out of there really disillusioned. And really I, I was shocked that, how that there was no sort of help out there. And I was disgusted in being treated like that, god, from a woman, yeah." (pp. 3-4)

15: "I even had worked, you know, tried to go through Social Welfare, DPB, that sort of thing to get him out of my house, and what have you. But, you know, they couldn't help either. It was just, just everywhere I looked there were barriers, no [support], none at all. It was amazing. And then, and then, finally he did go. He started being physical again, he knew that that he would go to prison. But even when, after that, he'd come around and smash things and what have you. And I didn't know that I could actually, you know, none of the lawyers, another thing they omitted to tell me, they didn't tell me there are actually charges you can press against people for willful destruction, and I had no idea either. So old muggins me would just have to go and, you know, get the window replaced, the door replaced, and what have you." (p. 4)

16: "As I say I just had no help from the from the lawyers, so I sort of had to do what I could... But every, everything I went to there was a brick wall there, everything.. Well, you could understand sort of why people decide to stay really, because it's so hard not to with everything against you like that.. Well, I realised, because I just couldn't live like that. I knew it was a very, very, very wrong choice to let him come back in, but I didn't have any idea it was going to be like that." (p. 7)

17: {Rachael: "I don't suppose you've had, actually much protection by the law, because you didn't end up getting the protection order?"} "No, no. And so he was coming around to my

physically violent again and was concerned about going to prison as a consequence. However, his abuse and violence did not stop. He would come around to her house and smash windows and doors. Because she did not know that he could be charged with willful damage, and her lawyers never informed her of this, she did not ring the police to press charges. Rather, she kept replacing the property that he destroyed¹⁵. He spat at her, turned up at her house drunk at nine in the morning, and stared in the windows late at night. One of her daughters got so frightened to see him staring through a window late one night when she got up, that she wouldn't get up to go to the toilet anymore. One of the strangest things he did was empty dust from a dust-buster over her front door step. Katherine believes a non-molestation order would have been useful if she had been able to afford one¹⁷.

By this time, Katherine was using another woman lawyer (Lawyer 2). She had involved her to assist with custody, access, and matrimonial property issues¹⁸.

Unfortunately, her experience

house. Like one of the children one time, went to the toilet at midnight, and he was there staring through a window, and she was frightened, and then she was too frightened to ever get up and toilet in the night, to go to the toilet. And then he'd do things like come around and he'd just, one time he did this really bizarre thing, bizarre thing. He had a dust buster and poured dust and that over the front door step. Just queer things. Or spit at me. Or arrive at nine o'clock in the morning, on a Monday morning, drunk. You know, I'd been told that they cost twelve hundred dollars each, and you know, how the hell, yeah I couldn't. We were really, really poor too, because he used to booze it off and, and hardly make, even though he had two degrees he hardly made any money. God, we were poor." (p. 7)

18: "And then I had, it might have been after we, after we separated, I had another woman lawyer who was hopeless as well, really, yeah, really hopeless. That was all to do with, with sort of custody and access and, yeah, and for the matrimonials, and that sort of stuff. But she was dreadful as well, so I left her and went to a man actually, in the end. She was, yeah, she was useless as well. Well, I walked in to the room, I walked in, and she never even had the courtesy to introduce herself... She was awful as well. She made me feel like I was a piece of shit. I wasn't even worth her introducing herself to me. You know, that's, that's how low down I obviously was. And, you know, she basically just sort of said, 'Oh,' you know, 'give up,' yeah, 'give up.' It was just awful. Nobody wanted to fight, not fight, but nobody wanted to do what I felt was sort of rightly justified for myself and the children. Mainly, they just didn't give, really give a toss really. I mean that's probably one reason too I've never gone back to law, because I just realised woman can't stand up in a man's world, they can't stand up to male lawyers. And, and that, you know, I'm not Ghandi, I wish I was, you know, to try and change the legal system, but it's so, it's been so entrenched for so many decades, for hundreds of centuries. Yeah, she was, oh yeah, she was, god, she was awful, just awful." (p. 4)

with this second lawyer mirrored her experience with the first lawyer in many ways. She found both to be “dreadful” and “hopeless”¹⁸. Both made her feel worthless¹⁹. Neither were sympathetic or encouraging²⁰. She was particularly upset that when this second lawyer met her, she never had the courtesy to introduce herself^{18,20}.

A few months after Katherine and Paul's marriage ended, Katherine went overseas for a month. Whilst she was gone, her two oldest children were looked after by their father and his wife. A very good Christian family that she knew looked after her youngest daughter, Zoe. Though she had originally considered Paul to look after her, he had told her that he did not really want to. She also thought that Zoe would be in a much more stable environment with the family than with Paul. Because she was worried that Paul would cause difficulties for the family she was staying with, she decided not to tell him where Zoe was going to be staying²¹.

When Katherine got back, she was afraid to go and see her lawyer. This was because

19: “They made me feel like shit. Both of those women [lawyers] made me feel like shit. At least the guy [lawyer] was okay.” (p. 8)

20: {Rachael: “Did you feel that lawyers, any, all of them, had much of an understanding of domestic violence, and your experiences?”} “No, especially not those first two women, god no. God, I couldn't believe that first woman. I just couldn't believe it, how blasé she was, how she just looked me up and down and just created an opinion in her mind, and just thought, ‘I'm not helping this woman,’ for whatever reason. And the next woman just didn't even have the courtesy, the courtesy, nah. Nah, they, she didn't have a clue, nah, didn't have a clue.. Certainly not understanding, certainly not, not sympathetic, neither of them. And, you know, that second one, I had a lot more dealings with her. That first one was only that hour meeting, which was enough. But the second one was over, you know, a reasonable period time.. And she was just, yeah, like, ‘Just because you think it's fair, don't think it is,’ sort of thing.” {Rachael: “Not very encouraging?”} “No, not at all, not at all.” (p. 10)

21: “I went away on holiday overseas for a month. The marriage broke up in November, and I went over in March, April. And I had originally asked [Paul] to have, you know, if he wanted, if he wanted to have [Zoe]. But no, it was too much bother for him, which I guess I can understand. And then I said, ‘What about weekends?’ He said, ‘Oh, I don't know,’ blah blah. And so I organised for her to go on, a friend of mine who is a really, really nice family, who, you know, would look after children. I'd met them, you know, a few times, and they were bloody nice. [Zoe and I] still talk about them. Even though she was only two when she went there she can still remember. We were talking about them yesterday or the day before. And so she went there. But there was this big pullava about him. Oh, even the lawyers rung me [overseas]. They got my letter, and they said, ‘What's all this about?’ Just a load of nonsense. But I, he was a drunkie. He turned up my, turned up at my house at nine o'clock in the

Lawyer 2 was angry that she had gone overseas, that she had not let Paul look after Zoe, and that she had not told her or Paul where Zoe was staying. Not only did Katherine feel it ridiculous that she was a grown woman, afraid of her own lawyer and feeling like a “really naughty little kid,” she also felt her lawyer lacked understanding of her situation. Paul was a “drunkie” and a “lunatic”, whose violent history made him completely inappropriate to look after Zoe, or to know of her whereabouts whilst she was overseas. If he had been a “reasonable, sane person”, Zoe would have been able to stay with him²¹.

Katherine saw Lawyer 2 on several occasions over a reasonable period of time²⁰. In the end, she advised Katherine to give up. Katherine felt that no one had much interest in, or commitment to, her case¹⁸. Hence, she stopped using Lawyer 2, and started using a male lawyer (Lawyer 3) for custody, access, and matrimonial property issues^{18,22,23}.

Katherine found this third lawyer to be quite a bit better^{19,22}. He had the reputation for being one

morning pissed. You know, I'm not going to let my child go and stay with somebody like that. No way. And he just lived a really, his life revolved around booze and what have you. And, I mean, no one, you know, for me she was in way, way, way better hands being looked after [by this family], way better hands. They were nice and they were, they were Christians as well I think, and she was just in a really nice stable house... When I got home, like the lawyer, the woman lawyer just wasn't understanding at all. She didn't, even though he'd been really violent, had been arrested and everything, 'Oh,' you know, 'that was really bad of you not to have let your child go to his house,' sort of thing.. She was my lawyer, yeah, that middle one. Yeah, and I felt like a really naughty little kid. I was scared, I was frightened to come home and to go and see my lawyer, because she had made me feel so scared [on the phone]... She thought it was, yeah, really wrong of me to have done that, and to have, yeah, left the country. And that's right, I hadn't told her where [Zoe] was, I hadn't told [Paul] where, where [Zoe] was. And [I'd] given the option, he'd known about this for a while, and he'd said no, he'd said no. And then just before, obviously decided, he might have thought about things, I don't know what, or whether he was just still angry, really, really angry at me. And, and I wasn't going to have [Zoe] and this family in this nice stable family, and then him come around and stuff it up, which he would. No way, I wasn't going to jeopardise that, because he's a lunatic, and I certainly wasn't going to jeopardise her, not when I was on the other side of the world... And I'd said that to lawyers, that if he'd been a reasonable sane person, of course she would have gone there, the other children went and stayed at their Dad's for the whole month, you know, with him and his wife.. [I felt] awful. I was, I was scared, a grown woman, and I was scared about having to go in and having to get a big telling off from her... When she didn't have a clue what my life was like or what he was like.” (pp. 11-12)

22: “And then as I say, then I had a male lawyer. Yeah, he wasn't too bad.” (p. 4)

of the best matrimonial lawyers in City A (the large New Zealand city that she lived in)²⁴. She described him as "grunty"²⁵.

Lawyer 3 assisted her when Paul applied for custody of Zoe. Both Katherine and her lawyer doubted he had any chance of being successful^{26,28}. This was presumably because of his past violence towards her and their daughter, Zoe. One time, he had kicked Zoe, age two, repeatedly between her legs. Another time, he had thrown her against a wall, and then dragged her to her room with a tennis racquet. Katherine cites this violence against her children as being the main deciding factor in her finally ending her marriage with Paul²⁷.

When his custody application went to the Family Court, Paul attended in person, but because Katherine was not in City A at that time, she was connected to the proceedings via telephone. She found this setup very good. As it happened, Paul got angry and made a fool of himself in front of the judge, and Katherine was made the custodial parent of Zoe²⁸. Katherine found the judge to be very good, with him accurately determining Paul as "a

23: {Rachael: "Had you gone to, that last lawyer you went to, had you gone to him to sort out the matrimonial stuff?"} "Yep, and we, I had to do one thing with custody." (p. 5)

24: "Because I ended up getting who I had heard was the best matrimonial lawyer in [City A]." (p. 5) (from excerpt 30)

25: "At least in the end I got, you know, a grunty [lawyer]." (p. 14)

26: {Rachael: "You said he applied to have custody?"} "Yeah, that was a joke, yeah. But that was, the lawyer just, just said, just laughed. I just felt totally relieved as well, because there was no way in the world that this man would get access with his record." (p. 11)

27: "Assumedly there are, and I do know women who just think, 'Oh, my ex-husband's a wanker. I don't want the kids to see him because I want to hurt him,' because she's hurting. And I certainly don't agree with that. But when there has, is violence, because he would be, you know, he would, one of the last times I was with him, he was repeatedly kicking this child, who was only two years old, up the bum... When the marriage was totally over, he was, you know, he had this, his leg between the little girl, she wasn't even two yet, between her legs and just kicking, kicking, kicking, kicking. And that, you know, that was.. his daughter, yep, yep. And, you know, another time, I was in the kitchen, I heard this thud. And I knew from my own childhood that it was the sound of a child been thrown across the room and when you hit the wall you make a thud before you fall down. And I knew, and I knew, I ran straight in there and knew that's what he'd done. And he had, he was trying to drag her in to the room with a tennis racquet. But I stood up to him. It was when he really started in on the children that, that was the totally, the deciding factor.. Yeah, and that, that I couldn't change him, and that sort of stuff as well, and that I just couldn't put up with it any more. No way, I mean, no way." (pp. 10-11)

lunatic"²⁹. The only thing that Katherine was a little resentful about was that she had to pay her lawyer to attend when it seemed unnecessary for him to be there²⁸.

Access was another issue with which Katherine was having difficulties. This was not because she objected to Paul seeing his daughter: she was quite agreeable to this. The problem was that Paul was continually disappointing Zoe by not coming to pick her up. Katherine found his behaviour difficult to understand. To her, it seemed odd that he was not adhering to arrangements that he had been responsible for organising through his lawyer³⁰.

Though Katherine handled most of the access issues (in part to avoid lawyer's cost), she did appreciate Lawyer 3's assistance with this at times. She particularly enjoyed the comments he made in his letters to Paul's lawyer³⁰.

Again, little progress was made with matrimonial property. Katherine was determined to keep her house, because she had owned that before she met Paul³⁰. She was also entitled to

28: "When I had the custody papers I just laughed. So did he, the lawyer. As if [Paul] would have had any chance in the world. And then I just waited 'til we went to the Family Court, just, which I just did over the phone up here, and he was down there. And he made such a fool of himself in front of the judge, getting really angry and that. It was just perfect. And, you know, and the judge just said, 'Oh well, while we're here, we'll give custody to Miss [Katherine's surname]. And [Paul] goes, 'Oohooohoooh.' [The judge] said, 'Oh calm down Mr [Paul's surname], it's only for the interim,' just trying to placate him. Yeah, he made such a dick of himself.. I did it all by phone, but you could hear everything.. It was fine, because all it was, was for custody. Except once again you had to pay for lawyers. They just try and take whatever they can, you know. It wasn't good enough for me to just to, do on the phone. They had to see a lawyer and I had to pay, you know, however much, I had to pay for that as well. Yeah, no, over the phone was as good as gold. Yep, it was good because I suppose it would have looked all calm and rational than what he is, and so it was easy for me." (pp. 5-6)

29: {Rachael: "What was your experience of the judge like in that?"} "Oh, in the in the Family Court. He was, he was great, because he could see [Paul] was a lunatic, and that was really good." (p. 6)

30: "The male [lawyer], well yeah, I sort of did, I did sort of enjoy him, because he did write some quite good things in letters a lot of the time to do with, anything to do with custody and access I just did myself because I had no problem with [Paul] having access. But he just wouldn't turn up. He'd, he'd go the lawyers and get them to write out these lists and then send it to me saying when he's coming to pick her up. She'd have her, little two year old, I'd have her bag all packed, and the other girls had, I've got two other children, they'd be off to their Dad's, and she'd be sitting there with her little bag packed, and he wouldn't turn up. God, he was such a dickhead, he would, yeah, he was just awful." {Rachael: "So, you were trying to get him to be a bit

about twenty thousand dollars from him³¹. This debt included \$5000 he had taken from their joint bank account after they had separated^{30,31}.

From bank accounts, Katherine was able to determine that Paul spent copious amounts of money on alcohol³¹. Not only did he cause much financial pressure by causing her all these debts and then refusing to pay the money he owed her, but also he was inconsistent with paying child support for Zoe. At one time, he did not pay any for nine months. This exacerbated the financial pressure she was under because of him. It also caused her much distress. Every month she did not receive money, she would collapse on the floor in tears. At the time of the interview, Paul had reduced his child support payments to only \$10 per week³².

In the end, Lawyer 3 advised her not to pursue the money any further^{30,31}. He told her that she would not be successful in getting it because Paul would be unable to pay it back³¹. One of her only consolations was that her lawyer thought that Paul was one of the most despicable people that he had ever met^{30,31}.

more involved than?") "No, he was the one going, going to court, paying lawyers, and all that sort of stuff to get formalised access drawn up. And then we'd be sitting there waiting, and he wouldn't turn up. He's, he's quite a bizarre person really, bizarre man. God, that happened so often. And this other lawyer, the male one, as I say, I do enjoy some of the things, I found humour out of some of the very blunt things he wrote. But really, in the end he told me, he said, 'Give up,' he said, 'this guy's a complete wanker,' he said... Because I ended up getting who I had heard was the best matrimonial lawyer in [City A], and he said, you know, he said, 'He's an absolute wanker. He's one of the biggest wankers I've ever come across.' And he said, he said, 'You're not going to get anything more,' he said, 'we can go to court if you want to try and get,' you know, because all I wanted was my house. I'd paid for that house, he hadn't. And, and I ended up owing more, thousands and thousands more, you know after being separated. Because I hadn't done things like, another thing too, I suppose, they omitted to tell me was to close down any bank accounts, which I didn't do. And he had the cheque book, and then five grand, and I had to pay that, because they were going to take my house away, because unfortunately the name was in both of, our account was in both of our names. You see nobody told me. Oh man, {laugh}, it was bad luck after bad luck." (p. 5)

31: "We'd just had, things like bank statements that I would receive, that I shouldn't have, but I did, because, you know, he wouldn't sign anything matrimonial. And I'd show them to my lawyer and he'd go, 'What a wanker.' Because bar after bar after bar after bar after bar after bar, just all this money just spent on piss, so amazing, just spent on booze... He just said, 'You know, he's one of the biggest tossers that I've ever come across.' And that was pretty much saying something... But even him in the end he just said, 'Listen, you can keep on fighting,' he said, 'you're not going to go, you're not going to get anything,' he said. And then charged me six grand for it {laugh}. So I did, I lost out on, on an enormous amount... Not so much about the

Katherine has found lawyers very costly. Lawyer 3 charged her approximately \$6000 for his services, and Lawyer 2 charged her about \$1200^{31,33,34}. Neither had offered her legal aid^{34,35}. Though Lawyer 3 did bring it up after some time, he then told her it involved too much paper work³⁴. Katherine feels that she has had to pay a lot of money when very little was able to be achieved^{33,38}.

Lawyer 2's bill ended up being rather problematic. Originally, Katherine received no bill. She thought this was because the lawyer realised that she had provided very poor service. However, approximately 1½ years later, she was summonsed to court because of this debt. Katherine could not understand why she never received the bill. Although she had changed her address between seeing Lawyer 2 and being summonsed to court, her mail had been redirected. On her mother's suggestion, she got Lawyer 3 to look into the matter, but to no avail. She ended up having to pay Lawyer 2 the full amount, and another \$700 to Lawyer 3 for his service. Not only did she feel annoyed that she had to pay

house, but it was, there was a lot, there was a reasonable amount of money, I don't know, maybe to the tune of about twenty thousand that I was actually entitled to aside from that house. Which as I say, I ended up having a seven thousand dollar more mortgage than it was when I first bought it because of the stuff he'd stuck on it, as well as the five grand bank account that I had to pay off, as well as all this other money that we owed that I had to pay. And then, and with this, with other money that, that had been there, that had come in at that time, I was entitled to about, like, he'd bought a new car just before we separated, and that was, and he put what about eleven grand on [it], and half of that had been mine. But all that stuff I just lost. And it was to the tune of around twenty grand. That's a lot of money. And yeah, the lawyer just said, 'Listen,' he said, 'you can try,' he said, you know, 'you're not going to get it. Where the hell's he going to get that money from?'" (pp. 8-9)

32: "And even with, with child support, one time he was nine months in arrears. Every month I just fell on the floor crying, because I was a student and, you know, that money like went towards her childcare and just all that sort of stuff. And [Zoe's] never done the same amount as the other two children have, because her father just doesn't pay, or if he does he just pays ten dollars, ten dollars a week, got it right down." {Rachael: "So did you end up getting the nine months worth?"} "After a long while, but that's nine months of not knowing if you're ever going to get it, nine months of, of being, you know, without the money. That's when he was, was actually paying us, might have about, might have been about, I don't know, it might have been about two twenty a month. Which is, which is, when you're budgeting, when you add it up, you know, it was a lot, god, yeah. Because, yeah, I mean, I was only a student, with three children, so it wasn't in fact really financial, yeah, especially with all those other debts to pay off. Yeah, so yeah, so that was awful as well." (p. 9)

33: "As I say, my [third] lawyer charged me that six, the last lawyer charged me six grand, and then the other lawyer was

Lawyer 2 for bad service, but she was upset that she had to pay the full hourly rate when she had not been informed about legal aid. Also, she felt resentful that Lawyer 3 capitalised financially on the situation, instead of advising her to pay the money she owed to Lawyer 2³⁵. Indeed, Katherine's experiences with the legal system have convinced her that lawyers are strongly motivated by money^{11,35,36}. She feels that lawyers unnecessarily do work that women can manage on their own (e.g., some of the custody and access work) for this reason³⁶.

Overall, Katherine has felt quite disillusioned with the legal system and with lawyers³⁷. She described it as "a load of bullocks", "pathetic", and "ridiculous"³⁸. In attempting to be free of Paul's violence, she encountered one obstacle after the other, and because lawyers made little difference in her life, she would be hesitant to use them again³⁸. She also felt very uninformed throughout³⁹. Her experiences with her two female lawyers have particularly deterred her from ever using a woman lawyer again⁴⁰. In relation to this, she believes that women lawyers

may be about twelve hundred, something like that. It was a shit load of money. And basically, that, my lawyer I paid all that money for just to say, 'Well, you're not going to get anything, so don't worry about it.' Why bother? Yeah." (p. 13)

34: "The last lawyer I got to, he didn't offer me legal aid either, and neither did that middle lady. Unbelievable. The guy did end up bringing up legal aid after quite some time, and then he just said, 'Oh, let's not worry about it. It's too many forms and that to fill out.' And so then I got this huge bill, like huge, about six grand for absolutely for nothing. And, which he expected me to pay there on the spot {laugh}. But, you know, I wrote a letter, and I just pay a hundred dollars a month, and I have been for the last however many years. Trying to pay it off, so yeah, it's getting down." (pp. 4-5)

35: "I didn't get a bill from her for, oh, I didn't get one full stop. And I thought, 'Oh, at least one good thing, she knows her service was so shocking that she hasn't, she didn't bill me,' yep. And she didn't charge. And then a year, over a year later, a year, oh, about a year and a half later, just before Christmas, I got this man on my door giving me this affidavit saying they were taking me to court for an unpaid bill. And I, in all honesty I had never received one bill. And they had that, they had, where I had moved to, they had my address in [City A] and I'd had mail redirection orders, I had tenants in there. I knew there was no way that I ever got a bill ever. And then, and then they made me, then they basically said I was lying and I had got bills. It was just awful. Just one thing after another. And then I said, and then my Mum said, 'Oh, you talk to your own lawyer about it.' So I did. My own lawyer charged me seven hundred bucks for it, and I still had to pay all that money anyway because I could have gone to the ethics committee... And you see she'd never offered me legal aid either, and so I got charged at full rates, and all that sort of stuff. It was just a mess. It was just awful that I still had to pay all that money, and I had no chance to go and just say, 'You're charging at rates that that are too high anyway, and that

have difficulty standing up to male lawyers in a male-entrenched legal system. This realisation has deterred her from pursuing a career in law herself¹⁸.

During the ensuing legal fiasco, another dilemma presented itself. Paul followed through with a threat he had made in May 1995 and informed Social Welfare that Katherine had been receiving the DPB whilst living with him. The matter was investigated and caused her much stress. Though it was not resolved for a long period of time, the outcome was favourable. Instead of having to pay back all the money as feared, they recognised that she had been in an abusive relationship where Paul had coerced her to staying on the DPB, and decided to let her off under the rationale that she could have been eligible for the emergency unemployment benefit. Katherine describes this as a very validating experience. It felt amazing to be believed, and for others to recognise how bad her situation had been and how hard she had tried to get out of the situation. She contrasted this validating experience to her negative experiences of the legal

your service is not worth it.' And then I had to pay my lawyer seven hundred bucks as well. You see, he really should have said to me, 'Listen, pay the money,' and that, instead of just pissing me around like that to make another seven hundred bucks himself. God yeah, my lawyers bill are just big for nothing, you know. I just lost, just lost so much, you know. I had got my life which is the most important thing. But money wise, you know, I could probably well have shot myself, but I never would. And to me it doesn't really mean that much 'cause I'd rather be alive, and you've got the rest of your life to make money anyway." (p. 13)

36: "Because there's just nobody really out there that, well I haven't really come across them, they don't give a shit. All they care about is their stupid big cheques in their pocket... Well sure enough they want to line their own pockets, but doing work which a woman is perfectly capable of doing herself, you know. Like how I chose to do a lot of my custody and access stuff myself. You know, they were, quite often say, and another friend of mine was saying too that the lawyer would always, the lawyer would always be saying, be wanting to do her access and custody work, and she'd just go, 'No.' Because it's just money that they, they just want money for doing what, what we can do ourselves. And nobody knows what our children are like, nobody knows what that partner was like, you know." (p. 10)

37: {Rachael: "Is there anything else you'd like to talk about? It looks like you're getting tired?"} "It's quite tiring thinking about that sort of thing. No, that's probably it really with the legal process. Pretty disillusioned." (p. 15)

38: "Because, yeah, it was just a, it's all a load of bullocks. Well, 'Your client,' 'my client,' 'your client said this,' 'my client says that.' It's all pathetic. It's so ridiculous. God, yeah, I'd be very hesitant to use the legal system again actually when I think about it, very hesitant, because they made no difference in, in my life. Perhaps, you know, obviously I know that they're not

system⁴¹.

Katherine very rarely sees Paul anymore. The last time she did was quite coincidental. At the time, she was sitting in a city café the morning after a rugby game, and she saw him walk past amongst a group of people. Her response was strong: she felt the blood drain out of her face, and she thought she was going to be sick⁴².

Though Paul continued to be very abusive for some time, he has not been so recently. He pays the minimum amount of child support, and has virtually nothing to do with Zoe. He does not ring her, and he does not write to her. Katherine believes that it is almost as if he has forgotten all about her⁴².

counsellors but they could at least have a little bit of, for some reason in our society lawyers have this reputation of being stone hearted and everything like that, and I don't know why... You're not necessarily expecting a counsellor but like you said you'd expect a bit of empathy." (pp. 14-15)

39: {Rachael: "So you didn't feel very informed throughout the whole?"} "No. No. Not at all. Unbelievable. Shit no." (p. 5)

40: "I hope I would never get treated like any of them have treated me again. Especially those first two women. I wouldn't use a woman lawyer again.. I found both of them unsympathetic, and I at least thought there might have been some sort of empathy because I was a woman, but no. And they all just, yeah, I don't think women can stand up to men." {Rachael: "You initially thought you'd have a woman?"} "Yeah, yeah, yeah. That's why I went to a woman first. But no, I wouldn't again, no. I'd just chose the, the grunniest, stroppiest man there was.. who gets things done, who doesn't care, who's not going to get upset. Because I still believe from what I sort of saw of women, that they do still take things to heart. They're not hard enough, Maybe we haven't got it in us. And they can't, men are intimidating, especially male stroppy lawyers are, and woman can't stand, don't seem to be able to stand up to them." (p. 14)

41: "When he left and after he was arrested, you know, I went on that DPB. And then as a condition of him coming back, 'cause by this time, you know, after he gave me his ultimatums after three months and I, you know, became a scared child again and didn't feel good enough and didn't want to be rejected, a condition of his was that I stay on the DPB. And I had to give him pocket money, I had to pay for everything and, and give him pocket money. And that, it's crazy isn't it? Which I did. And then, and that's why {pause}, can't actually remember what happened with, because I remember going to income, to DPB, and you know, asking for their help to get him out and what have you. And I was on it. It's a bit weird really, 'cause I've got in my

letters. Anyhow, so you know, so I stayed on it during those, that he was only back that week, and I knew less than a week, and I knew it was not going to last. And then within a short while of that, that's when I started trying to, you know, trying to get advice to get him out, and then came up after brick wall after brick wall after brick wall. And then finally he, he had to leave in the November because he started like trying to punch me, like in public, and, and getting really, really bad. And then a few, a few months later, quite a few months later, actually in the May, he just said, 'I'd watch it if I were you.' He said, 'You were on DPB that while,' he said, 'you better watch out you don't get caught.' And then a few months later these people turn up on my door from Social Welfare. And I said, 'Yeah, I was on it.' And then I just said, was it in May, and I said, 'I know who it was,' I said, 'the only person who knew.' And it was him. And then they were just horrified that somebody, you know, would, would do that, especially when I filled them in a bit. But anyhow, they were going to take me to court and everything to get all their money back and.. they were. And then I had to go to a review, and they flew me down to [City A] actually for that. And they said, 'Listen, we will do everything.' Because funnily enough, the woman who was handling my case, her mother was my counsellor, completely separate, but yeah. And just said that they would do, you know, whatever they could to, yeah, that they would be, they were definitely on my side, and they would do whatever they could. But then when it came down to it, the law didn't provide for that sort of thing, even though in all that time I'd been trying to get him out of the house and nobody would help me, nobody. And so that's what came up. But then I went to the next right of appeal. And then just before that, just before it went through, because it was wasn't long before that, that other woman, that other case in New Zealand, you know, the woman who was receiving Domestic Purposes and living with an abusive husband, and had to pay all that money back, and that was the first landmark for New Zealand law to do with that. And then just before I was supposed to go to the one in [another large New Zealand city], I received a letter or a phone call, actually I rang

about something and this woman just said, 'Oh, do you want me to tell you what it says?' 'Yeah.' And they, and they, but, you know, let me off. They just said, 'We'll regard it as an emergency unemployment benefit for during that time.' And, but for me it wasn't so much, you know, the four grand. It was the, the feeling that they believed in me, and that they felt that what I lived through was that, so bad, and that I had done everything I could, that they sort of not vindicated me, that's not the right word, they, they validated me. You know, that was just the best feeling knowing that, that I was worth it. Yeah, just amazing. Especially after all that other shoddy treatment I had from everybody." {Rachael: "So that was your, one of your first experiences of validation?"} "Yeah, yeah, it was. And that was a long time after. We're talking about, I don't know if it was a year after, it might have been two years after. It was a long time after, you know, for everything to go through, so yeah. Probably was a reasonable amount of stress, I suppose." (pp. 7-8)

42: "Even now after, you know, sometimes when I see him which isn't very often, you know, I feel all. I was in [a city] last year for a rugby match and we were just sitting in a café the next morning having breakfast, and I saw these people walk past, and I just felt all the blood drain out of my face. I thought I was going to throw up. And it was him. I couldn't believe it. I just felt sick, yeah, just sick... I've, I've really hardly had anything to do with him, hardly. Well, he still gets abusive. Oh, he mightn't have been abusive in the last few months. We hardly ever hear from him, once in a while. But he, it's, until very recently he was always still being really abusive and horrible... He pays a ten, the ten dollars a week, month, week, maintenance. And he doesn't ring and he doesn't write. And he's just hopeless. He forgets that there's a little, you know, child there that he wanted. Yeah, he's just awful. Really, as I say, I lost thousands and thousands and thousands of dollars being married, thousands. But... I'm still alive." (pp. 6)

Suggested improvements

Katherine believes women need to be better informed of the options that are available to assist them to live free of violence. Based on her experiences of misinformation, she thinks that women need to have correct information about the cost of protection orders and occupation orders. They also need to know that the police are available to assist them, and the types of charges that can be pressed in relation to domestic violence (e.g., willful damage)⁴³.

43: {Rachael: “So, what would you like to, what improvements would you like to see, or do you think are important?”} “So people know, women know what options are out there, that obviously a protection order doesn’t cost twelve hundred dollars cash up front, that obviously an occupation order doesn’t cost twelve hundred dollars up front, that, that, sort of, that the police are there to help and that as well, and that if somebody comes around and smashes your stuff, just basic informed things that, yeah. Obviously these people have no idea because they’re, you know, obviously have never experienced anything like that or what have you, because they didn’t even tell me basics like that.” (p. 10)

Summary of problems with the legal system

Katherine’s problems with the legal system can be summarised as follows. First, she had very negative experiences with her first and second lawyers^{11,12,18,20}: they were “dreadful”, “hopeless”¹⁸, discouraging, and unsympathetic²⁰. She also found the legal system did very little to help her^{11,15,16,33,38}: indeed it was “pathetic” and “ridiculous”³⁸. She felt completely uninformed throughout³⁹. She was not offered legal aid^{11,13,34,35}. Not having legal aid made domestic violence orders unaffordable^{13,17}. She found lawyers expensive^{31,33,34} and strongly motivated by money^{11,35,36}. After not receiving a bill from her second lawyer, she was summonsed to court 1½ years later for not having paid it³⁵. Furthermore, she assumes that a judge was influenced by a letter she wrote that blamed herself for Paul’s violence⁷. Finally, she does not believe that Paul’s history of violence was raised when he was charged with assault⁵.

Summary of commendations

Katherine made four positive comments about the legal system. First, the police responded promptly when she contacted them because Paul had assaulted her. Second, her third lawyer was better and more grunty than her first and second lawyers^{19,22}. Third, this lawyer recognised that Paul was a despicable character^{30,31}. Finally, the judge at the Family Court hearing was good because he

recognised that Paul was a “lunatic”²⁹.

Update: When I last contacted Katherine, she was “doing fine”. She was considering doing further education in the coming year.

JENNY'S STORY

Jenny is a Pakeha woman in her thirties. She has one young son, Isaac, to her former husband, Scott. Scott has been to court regarding three of four violent incidents in which the police have been involved (Jenny withdrew the second assault charge before it went to court). The first violent incident involved a loaded shotgun and the armed defended squad was called in. Jenny found the court hearing for the last assault charge a particularly harrowing experience. She has used three lawyers: the first for advice regarding the second assault charge; the second for non-violence orders and custody and access issues; and the third for custody and access. Her experience of these lawyers has been variable. Organising access was very drawn out and expensive because Scott refused to have supervised access.

Jenny used the legal system prior to the Domestic Violence Act 1995.

Scott's violent behaviour and associated legal action	
Scott has been charged four times for violence towards Jenny. However, his violence was not limited to these four times; he has been violent to her on numerous occasions ¹ .	1: "There were lots of episodes of domestic violence in between, but those were the [four] incidents that were actually, that went outside the house to the, that the authorities got involved in." (p. 18)
The first charge related to an incident in 1991. On this occasion, Scott "took to" Jenny with a loaded shotgun. Consequently, the armed defended squad became involved. They took Scott away with the shotgun ² .	2: "[The] previous charge, he went to court. I had no say in that one. He took to us with a loaded shotgun. We had the armed defenders out come out to us, so, and he was taken away with the shotgun. And, but what year was that? That was about 1991. We were a small community. It was very much, you know, I mean he drank with, [Scott] was a [profession given]. Quite well respected. Drank with the local cop, you know, rubbed shoulders with, you know, down at the, yeah, it was the old boys network, you know. So even though he was taken away his business of employment stepped in, they got him a lawyer, yeah." (pp. 2-3)
The police handled the prosecution against Scott, and Jenny was not called as a witness ³ . Scott's place of	3: "I had nothing to do with the, when he was charged with assault with a weapon, deadly weapon. I had, I didn't even go anywhere near the court because the police had stepped in,

employment organised a lawyer for him. Jenny feels that the old boys network was in operation: they were from a small New Zealand town (Town A) and Scott drank with the local policeman². Jenny did not mention what the outcome of this charge was.

The second charge related to him beating her up. He "lost it and bet the crap out of [her]"⁴. He inflicted injuries to her face, gave her a black eye, and broke a couple of her ribs. She was hospitalised as a result of the attack⁵.

Upon her father's recommendation, Jenny involved his lawyer (Lawyer A) from a nearby city (City A). He was male and in his mid-fifties. She went to him once for information about the consequences of withdrawing, or not withdrawing, the charge against Scott. She was undecided what to do because she realised that he would probably go to prison if she did not withdraw the charge. She hoped the information given by this lawyer would assist her with her decision. Whilst she found him to be kind, gentle, and softly spoken, she feels he was

and that was a police thing, and that was nothing to do with me. I wasn't called as a witness or anything. It was just, that was it." (p. 16)

4: "The second one was the one I withdrew, that was the one I went to the lawyer about. He was going to prison, he would have got a prison term. I mean, they, the police took photos. I mean, I was, I had to go to hospital. I was a mess. I spent a night in hospital. He lost it. He just lost it and bet the crap out of me." (p. 18)

5: "The first lawyer I saw was through my father. My partner had, my husband at that time, ex-husband now, had beaten me quite severely, and my father came over and picked me up and encouraged me to go to his lawyer. It was a male. He'd be in his fifties. He was very kind very gentle. Made we wait twenty minutes though, charged me for it as well. [We] had quite a dispute over that, which I didn't need at that particular time... Even though he was very, you know, gentle and quite softly spoken, he, in hindsight now, was quite, was pushing me into doing something about the situation... At the time I felt that I was being pushed into something that I maybe, that maybe I wasn't ready for... I don't recall being given a lot of information from him. It was almost like he decided what was in my best interest, which I suppose is what lawyers seem to do, isn't it? But, [he] ploughed on and tried to get me to do what he thought was in my best interest. Okay, in hindsight he was very correct and very right, but at the time it was, I didn't like the feeling that I was being guided, not really pushed, but being guided into something. He wasn't giving me information. I only went the once, and it cost me quite a bit of money too. Money that I didn't have mind you. And I ended up going back to my husband. Didn't do anything about it... I think what I'd gone for was more information rather than to be, I mean, but here I am sitting in his office with this great big black eye, and my face is a mess, and I'm having difficulty breathing because I've got a couple of broken ribs, so you know... what he was seeing wasn't pretty

pushing her in a direction that she was not quite ready for. However, she realises that he probably had her safety in mind. Although Jenny talks about it during the interview, it is not clear whether he advised her to withdraw or not withdraw the charge. Regardless of what he suggested, she withdrew the charge and reconciled with her husband. The police were not very happy with her decision⁵.

She does not remember receiving much information from Lawyer 1, although this was what she was seeking. She is surprised he never told her about non-molestation and non-violence orders (protection orders were not available as this was before the Domestic Violence Act 1995)⁵.

Jenny found her sole appointment with Lawyer 1 very costly. She was annoyed that he charged her for the whole appointment when he was twenty minutes late. The dispute over this caused additional stress that she did not need⁵.

With Jenny having reconciled with Scott, it was not long before he assaulted her again⁶. It was a

either. I mean he probably, you know, I mean they see it, they might see it often, I don't know, but I mean, yeah, probably in hindsight his focus would have been on my safety, and that was certainly where he was pushing me to... I went to see him because Scott had been charged, and I didn't know whether... I mean, so this was the second time he was up, so this time he was, he was looking at, I would have said, at that stage, he would probably be looking at, he would have been looking at prison. So, it was a big thing to me to decide whether to, and that was before the Act, so the police could, had to have me charge him. So that's what I went to the lawyer about, because I couldn't decide whether I wanted them to drop the charges. [I went to him for] information, to see about, how I could go about, what would happen if I dropped charges... At that stage there was no orders, there was no protection orders.. Yeah, there was the old non-violence, non-molestation. And I didn't have any orders at that time. Now he never explained anything about any of those orders at that time either... He was guiding me into not, not take, withdrawing the charges... I left and I withdrew the charges. The police were not happy with me, not happy at all, which I can understand now. At the time I didn't, you know, understand that it was almost like, you know, they withdrew, you know, yeah." (pp. 1-3)

6: "And I went back to my husband, and consequently there was another violent episode. And this time he was arrested. So he was just taken away anyway. I had, I had no choice about that." (p. 2)

7: "I mean, I got duped well and truly by him. I believe his lawyer told him, 'Keep her sweet, because if you don't you're going to jail'... They cooked up something there because what happened was he gave me this horrendous hiding, I went home, I went home to [City A], spent a few weeks at home, and then he turned up at [City A]. Basically was, you know, the big, you know, the big sob story, you know. 'Well I'm a mess, and I really love you, and I do want you back,' and ra ra ra ra. And so,

"horrendous hiding"⁷. By this time, she had a non-violence order (discussed shortly). He was arrested and a charge was laid⁶.

Jenny retreated to City A after the assault. A few weeks later, Scott travelled over to see her. He gave her "the big sob story", declared his love for her, and told her he wanted to be back with her. They reconciled, went away on holiday, and returned. Everything seemed pleasant⁷.

Scott's case then went to court. She went with him and sat next to him. He whispered for her to give him a hug and a kiss when he was called to the stand. It was then that she realised that something was amiss. She did not do as he asked. Although the judge "poured him over the coals" during the hearing, he was let off very lightly. This was presumably because they had reconciled and she had requested to the court that the charge to be withdrawn⁷.

The sequence of events that followed took Jenny by complete surprise. They walked out of the court together, had lunch, and when they returned home, Scott

yeah, we, I took him back, we went away on holiday, came back, and everything was, I thought everything was okay. We went to court, and the first inkling I had that it, that maybe, the first inkling I had that something, something's not quite right here was, we got to court and I was sitting next to him and he said to me, 'When I have to stand up,' and he whispered to me, whispered to me just before the judge called his name, 'when I stand up to go up to the box, can you give me a hug and a kiss?' And I thought, 'What? Excuse me.' I didn't. He got, the charges were withdrawn, the charges were, or whatever they were doing, not withdrawn, or whatever, they were stashed, whatever. He was let go, he got, a judge poured him over the coals, I might have you, and he was let go... He was let go, we walked out of the court together, we went and had lunch together, we got home, and he packed his stuff and left.. I believe it was all set up because he was looking at a prison term. So, at the end, at the end of all that he left me, I didn't leave him. On the same day, packed his stuff and left. I believe it was a big set up." (pp. 18-19)

8: "Then I had, was assaulted again. We were, we were living apart, we got back together, we weren't back together long and I was assaulted again. And, yeah, this time I had had enough and charges were laid. And, yeah, yeah, he went to court this time... I dropped the charges again. We got right up to, right up to court, right into court this time, the District Court, and I was there with him, yeah.. I got duped mate, I got duped badly {laugh}. He had a lawyer, he was, excuse my language, but he was a bastard.. His lawyer was a bastard. He was a guy from [City B], and he was a, he was, yeah, yeah, I can't remember what his name was. Just doing his job I suppose, but wow man." (p. 4)

9: "The last assault that went through court, Scott hadn't been living at home, and he, we made arrangements for him to come around and pick up property. And he had arrived late. And 'cause I'd made arrangements not to be there when he arrived,

packed up his belongings and left her for good. She could not believe it: she had been set up and “duped”. She is certain that it was a conspiracy between Scott and his lawyer to avert the anticipated sentence of imprisonment^{7,8}.

The fourth assault of which he was charged occurred after he left her. When he came to pick up his belongings, she had arranged to be out. However, because he was late, she was home when he arrived. He assaulted her in front of one of her friends and one of his friends. She made a complaint to the police and he was arrested⁹.

Jenny described the court hearing for this fourth assault charge as “absolutely shocking”. It felt like she was in “battle”. She would not wish to repeat the experience. His lawyer was absolutely dreadful. He went “straight for the jugular”. He was difficult when he questioned her. He goaded and baited her, and forced her to reply with yes or no answers when neither answer was appropriate. When she expanded her answers, he got annoyed. If she had not been a considerable way down her

when he came to pick it up. But then because he was late, I was back home. I'd had a friend there. And he came around with a friend, and it just turned into, where he actually assaulted me in front of these two people.. his friend and my friend, yeah... And that went to court.” (p. 7)

10: “[The court experience] was shocking, absolutely shocking... His lawyer got up and he went straight for the jugular... he went straight for the jugular. And by that time it was quite, I was quite well down my road of recovery and I was feeling quite strong. But I was a mess afterwards, an absolute mess afterwards. And I think that if I hadn't have been that far down the track then I would have gone to pieces on the stand.. [His lawyer was doing] the goading, the baiting, the answers to questions with the, you know, yes no questions when they weren't necessarily, you know, necessarily yes no answers. He got pissed off with me, he got really pissed off, you know, because he'd asked me yes no answers and I would expand. I wouldn't actually answer with a yes or no, I would answer with something else, and yeah, ‘Just answer the question. Yes or no?’ And he'd, you know, it was, it was, yeah, no, that that was, yeah, really hard, really really hard. But I don't know if women have to do that now... A woman needs a lot, a lot of support to be able to get up there and do that.. I was very very lucky, I was in a really good church, and I think half the church turned out down to the court room. It was really good, you know. I was very well supported, yeah. Still, it was a, it was not an experience I would wish to repeat... It was just the whole set up, you know, the whole, I mean, you know, the whole set up, you know. It must be, it must be horrendous for rape victims and, you know, people with child abuse. And it's the same sort of stuff, you know. There you are, the abuser's sitting right in front of you, you know, and the person, the perpetrator's sitting right there, you know, and you're sitting not twenty yards from them. It's, they're looking at you, you know. It's like you have to find a spot somewhere and concentrate on somebody else. At the same time be on your toes enough to be answering these questions

journey of recovery, she would have gone to pieces on the stand. As it was, she felt an "absolute mess"¹⁰.

Scott pleaded not guilty, but was convicted, and sentenced with a \$500 fine. She thought the hearing was a waste of time and taxpayers money. Although she was not "out for blood", she equated his sentence to a "slap on the hand". Again, she felt "duped". She also thought it wrong that this assault was considered in isolation; that his long history of violence towards her could not be raised. Although she no longer felt too intimidated by Scott, she found it very uncomfortable having her abuser in such close range. It was hard to find somewhere to gaze, and to be "on your toes enough to be answering these questions". She believes it must be "horrendous" for rape and child abuse victims¹¹.

Jenny felt lucky to have a large number of support people from her church in the public gallery¹⁰. She also found the police very supportive. They kept her informed of the process throughout. She believes that by this stage, they were getting fed

and not, it almost becomes a battle, you're in a battle. I don't know how you can change that.. But, I mean, I was okay, I was okay with him being in there because he no longer, he no longer, you know, intimidated me to that degree. But the lawyer honestly, he was an asshole. [Lawyer's name] was his name." (pp. 16-17)

11: "So, we had a whole day in court, we had a whole day in court.. it was a whole day in court. I had to sit there all day and, you know, the whole hearing took, 'cause he, you know, it was, he defended it, and said, you know, 'Not guilty.' And yeah, to me it was a waste of time, a waste of money, a waste of taxpayers money. It was a waste of time to be found guilty at the end of the day, and it was like, 'Yes, you're guilty, a smack on the hand, see you later, five hundred dollar fine.' Well, what got me was that none of the, that none of the history, none of our history could be introduced to that particular assault. So, it was the third assault [that went to court] but he, the judge, had to be, you know, even though the judge, oh I'm damn sure he knew, he knew that it was a third assault, could only, he could only be judged for that particular assault on that particular day.. in isolation, regardless of what the history was. And I think that's wrong.. especially when there's domestic violence and there's a history.. And there was clearly a very violent history. Yes, so, I felt it was a total, I actually felt really duped again. Not that I was out for blood, but I mean, yeah, I just felt it was a total waste of time. All that, all that, I mean the only thing, the only thing that I felt anything about was that yes, he had another charge, another guilty charge on his record." (pp. 17-18)

12: "I felt the police were very much, you know, very supportive, and kept me informed, and kept me informed of the process right through. I think they'd had a gutsful too basically. By that stage, I mean, you know. What started out as the old boys network, by the time we got to the end was like they'd had enough of him too really, yeah." (p. 17)

up with him; Scott’s old boys network was wearing thin¹².

Jenny’s experience of Lawyer 2 and of getting a non-violence order

Jenny involved a second lawyer, Lawyer 2, with the intention of applying for a non-violence order. This young female lawyer worked in another nearby city, City B¹⁷. However, because of the cost of using a lawyer, and the requirement to pay legal aid grants back when you sell your house, Jenny got a Women’s Refuge advocate to assist her with the application instead^{13,14}. She found the woman at the counter of the courthouse to be very helpful and informative. Her application was put before the judge that day, and was granted. One copy was served on Scott; another went to the police station in the small town that they lived¹⁵.

Jenny also used Lawyer 2 because she was concerned about Isaac’s safety. She hoped she would assist with custody and access issues, matrimonial property, and to provide information regarding the non-violence order when required¹⁶.

Overall, she was not very

13: “And how, and how I got my protection orders too was, in those days you had to pay for it, you had to pay for your protection orders. I didn’t have any money, yeah, you know. My husband had gone and I’m on DPB and they wanted, I think it, I think even back then it was three to five hundred dollars, so that was nine years ago, that was a lot of money. And at that time the Women’s Refuge in [City B] had an arrangement with the court so that you could fill in the papers. They would meet you and they would help you fill out all the papers. And then you just went down to court and you lodged it yourself.. So, you never went through the lawyer. And I, yeah, so, I was very lucky with the Refuge doing that.” (p. 5)

14: “They had the legal aid system then too... I qualified for legal aid but you still had to pay it back when you sold your house.” (p. 5)

15: “Oh, the [City B] Court was really good. When I turned up with my application, the woman at the counter I remember was just so nice and she was so helpful. She explained what was going to happen, and, yeah, she was very good... She was responsible for putting my application before the judge that day, you know. So, she made that happen and that, that was, that was a very good experience... That was very good. And that was just done just like that... It was served to him and there was one copy that went to the police station, [Town A] police station. That was, that was quite good.” (p. 9)

16: “After I had the protection orders, I went, was seeing [Lawyer 2] around my concerns for, because Scott and I had a son at that time, and Isaac, we had a son to the marriage, Isaac was two, no, he was about one at that stage, about eighteen

impressed with Lawyer 2. She did not provide Jenny with the information she required to make informed decisions, and instead of doing what Jenny instructed her to do, she would do what she thought was in Jenny's best interests^{17,18}. Indeed, this has typically been her experience with lawyers: "they don't lay out the options... they don't give you the relevant information"¹⁷. Instead of feeling listened to, she felt like a nuisance^{19,20}.

The last time she was assaulted by Scott, she rang Lawyer 2, urgently requiring some information that related to the assault and breach of her non-violence order. Lawyer 2 did not even bother to ring back¹⁹.

Jenny often mentioned that she felt ignorant about the non-violence order she had^{21,22}. She believes that Lawyer 2 lacked life experience because of her age. Because of this, she was less able to relate to Jenny²³. Furthermore, Lawyer 2 did not sufficiently consider her child's interest. Indeed, it was not until her counsellor questioned Isaac's safety with Scott that Jenny reconsidered their informal access arrangement. Jenny

months old. I was concerned about his safety. There was access and custody issues, matrimonial property, and I got the orders, there was stuff around the orders that hadn't been explained to me." (pp. 5-6)

17: "I had gone to a lawyer in [City B]. And this time it was a young woman and again, I ended up leaving her, leaving her, because I felt that she wasn't doing what I instructed her to do. Again, she was just going off and doing what she felt was in my best interest, okay, and didn't, never gave, never gave me the information, and never gave me clear information to make my choices, to make choices. That's been my whole experience with lawyers.. they don't lay out the options, no, no, no, and they don't give you the relevant information, and so you can't make, you can't make an informed choice... It's been my experience, and it's, certainly with speaking with other women too, and it's certainly my experience." (p. 4)

18: "She never gave me any information from what I recall." (p. 5)

19: "I hadn't felt listened to at all. Yeah, in fact, I felt like I was a damn nuisance. Especially with the lawyer in [City B]. Now I phoned her, I tried to get hold of her because Scott came down to get, the last assault that went through court... I remember phoning the lawyer that afternoon to let her know, you know, to get, to find out, you know, what was going to happen. Because he'd been, I went down and made a complaint and he was arrested. But he was let go, even though, even though there was a non-violence order out and he had just clearly assaulted me. He was arrested and he wasn't kept overnight or anything. They just told him that, you know, 'Come on mate'... In actual fact, he had breached the, he had breached the order. And I tried to get hold of her. She never, she wouldn't return my calls, you know. Ringing her, 'Look, he's breached, he's clearly breached the order, I've charged him, I want to go through with this,' you know, 'but he's been let go,' you know, 'what happens

believes Lawyer 2 should have raised this issue²⁴. In the end, Jenny got "brassed off" with Lawyer 2 and discontinued using her^{25,26}. She was also finding her expensive²⁶.

now?' Never even returned any of my calls." (pp. 6-7)

20: "I always felt that I was, just like I said, a damn nuisance." (p. 8)

21: "And I got the orders. There was stuff around the orders that hadn't been explained to me. Really, totally in the dark around how that actually worked.. I didn't really, I didn't, I actually never found out how it all worked until I started, until I decided to do a voluntary course, did the training for the Women's Refuge. That's how much farther down the track was that. Well, well down the track." (p. 6)

22: "At that particular time I didn't know that it was actually a breach of the order. I didn't even know that him being let go, that they had, you know, they should have charged him with breach of the order. I didn't even know that. That's how totally uninformed I was." (p. 7)

23: "I felt the first [woman] lawyer was very young, very inexperienced. And I don't think she had the life experience to be able to relate, yeah. And I suppose that that's a hard one because I don't know how you get that, you know." (pp. 8-9)

24: "She never even said to me, you know, 'Hey listen,' you know, 'this man has done this, this, and this to you. Do you not think that you maybe need to be thinking about the safety of your child?' Because at that point I was letting my son go off to him every second weekend, thinking that that was the thing that you had to do, not realising that... And then he got into a relationship with someone else, you know, and she had a child, and I was still letting him go. And it wasn't until I was, my counsellor said to me, 'I actually need to say to you, have you thought about the safety of this child?' Not my lawyer, my damn counsellor. So, yeah.. big gaps." (p. 8)

25: "I got brassed off with her in the end." (p. 5)

26: "I had numerous appointments with her. And basically I got fed up with her in the end and decided to flag it, because it was costing like over, costing like, I had legal aid but it was costing some money, you know. I don't think I did have legal aid, I think I was paying it, I was trying to pay it, fifty bucks here and there and everywhere, yeah." (p. 6)

Organising access arrangements for Isaac with Lawyer 3

When Jenny returned to live in City A, she found a new lawyer, Lawyer 3, to assist with access issues. He was male, and much older than Lawyer 2 was. She found him "just wonderful". He was gentle, a good listener, and not pushy. However, again, she found that the available options were not presented to her²⁷.

Lawyer 3 clearly had her son's interests at heart. She appreciated this, and trusted him because of it^{28,29}. She also found he had a better understanding of domestic violence than her other lawyers³⁰.

Because Jenny now had concerns about Isaac's safety when he was with his father, she decided to stop all access. Consequently, the matter went to counselling, to a mediation conference, and later to a defended hearing³¹.

27: "I went home, I went home to [City A] and then I got a lawyer over there who was just wonderful. So, I went from one extreme to the next. But I had shopped around and I had asked around.. He was a lot older. Again, quite, quite gentle, not pushy. Would listen to you, would listen to me, and then he would tell me what he thought. Again though, never really went through the options, yeah, that hasn't been my experience with the legal fraternity. Yeah, yeah. But he was a lot was a lot different." (p. 6)

28: "[He] had, clearly had my son's interests at heart. In fact, I think he, you know, he really came from that perspective of that, what was in the best interest of my child, yeah.. Clearly worked from that mandate. Even though I was his client he was clearly working from that, what was in the best interest of my child, yeah." (p. 7)

29: {Rachael: "Did you feel you could trust any of those lawyers?"} "Only the last one [Lawyer 3], the last one, because he knew exactly, I felt he knew exactly where I was coming from, in that he was, he gave me the distinct impression that his, his concerns were the safety of my son." (p. 8)

30: {Rachael: "What did you feel their understanding of domestic violence was?"} "I didn't have a real really good understanding of it myself. It certainly wasn't explained, any of that, by lawyers.. I wonder whether they actually have an understanding of domestic violence and all it's implications

In counselling, she was insistent that she did not want Scott to have unsupervised access to Isaac. Instead, she wanted him to have supervised access because of safety concerns. Because no agreement could be reached, the matter was referred on to a mediation conference³¹.

The mediation conference was held in City B. Because Lawyer 3 could not come over from City A on that day, he arranged for another lawyer to be with her (Lawyer 4). Jenny thought this young female lawyer was "absolutely brilliant"³².

At the mediation conference, Jenny refused to budge: she did not want Scott to have unsupervised access to Isaac. The judge was very good. He was not pushy with Jenny, and tried opening up discussion about different possibilities. Later on, Scott "lost it" in front of him and had to be escorted out of the room by his lawyer. She believes Scott's outburst did not impress the judge. In her words, "he dug his own grave"³¹. Despite the supposed informality of mediation conferences, Jenny found it a very formal process³³.

themselves." {Rachael: "Was that true of your last lawyer?"} "No, I think he was far more astute, seemed to have quite a grasp of, of that, yeah, streets and streets ahead, yeah, quite a different experience." (p. 9)

31: "After going to see the counsellor I had stopped all access basically... I was saying to him, he was in another relationship, I had no way of knowing whether he was, what my child was basically going to. Even though my husband had never touched my child, I didn't know whether that would happen. And he was in another relationship so I didn't want my son to be seeing anything that he'd been already seeing. That was enough, enough. So, yeah, there were definitely issues of safety. So you go for counselling... This time I was [City A], I went along to a counsellor, I said to the counsellor, very clearly, we only had two sessions, I said to the counsellor, 'I'm not going to go there with you. There's safety issues with my child. I'm not going to bend,' you know. 'This is, this is, where it's going to be at. I'm not going to waste your time. And you can send it back and do what you like with it.' And then it went on to a mediation, what I thought was a mediation conference, turned up there, and his lawyer, yeah, and the judge very graciously said there'd obviously been some misunderstanding, so we had it turned into a mediation conference, but it was actually set down for a defended hearing. So, we had this mediation conference which went nowhere of course because I wasn't going to be pushed into anything. At that point, yeah, the judge was very good. In no way would I ever feel that he was trying to push me into anything that I didn't want to go into. He tried to get some discussion going, he tried to go through, 'Well, what if this happens, or what about this, or what about that?' My husband lost it in front of him, it was like, my husband lost it in front of him. His lawyer, his lawyer had to shunt him out into a room. And I just, the judge just, you know, we just had to sit there and wait. And talk about dig your own grave, he dug his own. I didn't have to say a word. He basically did it for himself really. Yeah, so, the mediation conference was kind of called to a halt while

The defended hearing was even more formal³³, and like the rest of her experiences with lawyers and the legal system, she felt unheard and without a voice³⁴.

However, Jenny was pleased that the judge allowed her to have a support woman with her. Her lawyer had requested it because the people in the room were predominantly male. She was also pleased that they had the same judge they had had for the mediation conference. She felt this provided some continuity³⁵.

Because the defended hearing was in City A, not City B, Scott had a different lawyer than usual. This lawyer was much less aggressive than the last one. Although he attempted to pick holes in her story and make her look less credible, she believes he was just doing what was required of him. Indeed, Jenny got the distinct feeling that Scott's lawyer did not believe it was suitable for Scott to have unsupervised access either³⁵.

Jenny's lawyer asked Scott for his opinions about parenting, and the appropriateness of domestic violence. Again, he "dug his own

he came back in. And it went to a defended hearing [back in City A]." (pp. 10-11)

32: "And [Lawyer 3] had put me on to another lawyer, you know, because he couldn't come through for the mediation conference, so he had given me another lawyer. And she was brilliant, absolutely brilliant. She ended up in [City A], she ended up coming from [City B] to [City A], and ended up being involved at Refuge. And she was just great, really great. And a young woman, so there, actually there, there's a parallel. This woman was in her late twenties but really, yeah, really really good. So she went with me to the mediation conference." (p. 10)

33: "At mediation conference I felt, even though they tried to make it informal, it's still a very formal process. The judge sitting up there, you know. The defended hearing was even more formal." (p. 14)

34: "[The defended hearing] was very formal... I never really got the feeling that I had, I felt again we were going through a process and again the whole way through all of this I never felt heard. I could say that about my experience about lawyers and the court system and everything like that, I would say that I never felt heard.. It was a set format, you know, yeah. The only time, well even the victim impact statements when there's assaults taken, you know that that's going to go to the judge, but you never, you never feel, really feel like you've got a voice when you get entangled in the legal system. That's been my whole experience and that's interesting because I've talked to a lot of women who have had similar, like who have felt similar." (pp. 11-14)

35: "So it went into a defended hearing... I had taken a support person from the Women's Refuge along with me, and, who was also a woman. And because everybody in the court was male, my lawyer asked if the, if this person could support me through the hearing. And [the judge] said, 'Well, usually no,' but he

grave"³⁵.

The decision of the court was in Jenny's favour. Scott was only able to have supervised access to Isaac, which meant that Isaac's safety would be increased. She did mention, however, that she felt unhappy that it took so long (approximately six weeks) to find out the court's decision. She feels this needs to be "tightened up"³⁶. Generally though, she has found Family Court judges to be good. They are primarily concerned with children's best interests. District Court Judges were quite different: the District Court is a "whole different ball game"³⁷.

Overall, Jenny found the defended hearing a "very harrowing experience"³⁵. This was mainly because Scott got a "bee in his bonnet" and was doing "power and control stuff". He was persistent about having unsupervised access when this compromised Isaac's safety. Jenny felt she had to keep Isaac safe. She did not want to stop supervised access, and she did not do this at any stage. She just wanted to know that her son would be safe whilst Scott was

looked around, you know, and said, 'as I look around, there is only males here and I feel that it would be.' He asked my husband, my ex-husband, and he said, 'Nuh,' he didn't want her there. And then she basically, because he over-ruled it, and he said that there's only males there and he allowed her to stay as support person.. That was a good experience. That was a really good experience. Same judge, same judge as [City B] so there was some continuity. That was really good, that was good too. So I didn't feel that, the same judge had seen him lose it, you know, in the mediation conference, so he was, you know, for me there was some continuity of the stuff, even though it was, he had to put that aside and we were in a whole new ball game. Very harrowing experience. Not something I would like anybody to go through.. I didn't feel I had much choice, you know. I had to keep my son safe, because all I was asking for, I wasn't stopping access, at no stage did I stop access. What I was saying very clearly was I wanted this child to have supervised access, and it didn't have to be by somebody that we, you know, it could be by somebody that we, that he knew, that I, that I thought was okay too. But basically all I wanted to know was that when my son was with him that he was safe. So all the way along I had always said 'it's to be supervised access until such time that this kid is old enough to know,' you know. I mean he was only little. He was only three or four at that stage, so there was no way I was putting him into that. So I didn't have a choice, you know. He, because he pursued it basically. He wouldn't back off. He wouldn't agree to supervised access. He was going to have his day in court so you had to, I had to go to court to keep him safe. It was a defended hearing. Yeah, it was a harrowing experience because he had to get up there, your lawyer went through it with him and then... his lawyer got up and basically tried to pick you to bits, you know, tried to pull holes in your story or whatever, tried to make you not look credible, basically, yeah. His lawyer was a different lawyer because, he of course, it had been moved from [City B] to [City A], so he had a different lawyer. His lawyer, I thought I got the feeling, I got the distinct feeling his lawyer was going through

looking after him, particularly seeing he was only three years old. Because of Scott's obstructiveness, it cost Jenny \$9000 to protect Isaac. Jenny feels "that is where the system sucks incredibly"³⁶.

the motions but in actual fact was just doing that, going through the motions for his client. [That his lawyer] didn't actually want this man to have unsupervised access either. That was the feeling that I got from him, I don't know, I felt that, like he didn't really, he was just going through the motions." {Rachael: "What sorts of things was he, you said he was trying to make you less credible, picking holes in your story."} "That was, that was on the stand. Again, in saying that, he didn't go for the jugular or anything like that. He was, he was, it looked like to me he was doing a job.. [There were] certain things he was going to ask me but at the same time I had that feeling that that was just, was exactly what he was doing. If you, if I, I felt that if I was to get this man on a personal level away from that, that he would probably be quite in agreeance to this child having supervised access, yeah.." {Rachael: "What was it like when your lawyer was examining Scott?"} "He was not like that sort of lawyer. Basically all he was trying to do was get Scott to answer questions around, around what he, you know, around domestic violence. You know, what was his thoughts, you know. Did he think that women, you know, if she was mouthing off, did he think that she deserved to be hit, and those sorts of questions. What did he think around child, disciplining the child, and did he think it was okay to smack Isaac... Basically [Scott] dug his own grave again, He didn't, I didn't have to say anything. I just had to basically sit back. He did it all himself. Yeah, yeah. I was very lucky there. Yeah, he just dug a hole deeper for himself." (pp. 11-13)

36: "I mean I had to pay for it. It cost me nine thousand dollars to keep my child safe at the end of the day. Nine thousand dollars to keep my baby safe. So, to me that's where the system sucks incredibly. Because he got a bee in his bonnet. He was doing his power and control stuff, and he was going to, he was, you know, he felt right up to, he felt right up to the last minute, even right up to the judge went back with the decision... he was going to get unsupervised access. So he wanted his day in court. And it cost me nine grand.. I don't think that that was ever

in dispute [that I'd get my supervised access], but we had to go through the motions, yeah. And at no point was Scott willing to go to, go to men against violence courses, or he wasn't willing, as far as he was concerned he still didn't have a problem, the problem was mine, and he was unwilling to go to do anything about it.. I mean he was, at no stage did he demonstrate to me that he had made any changes or was willing to make any changes or do anything about it. So in actual fact it was left, had no choice but the defended hearing. We weren't given a decision at the time either. Felt, found that really hard.. really hard. It was a whole day, the hearing was a whole day, and then you just have to leave.. [It's] unresolved until we get the decision, yeah. And I think it took about six weeks to get a decision, so for six weeks you're left, yeah.. I think that, I think that, you know, that that certainly can be tightened up a bit." (p. 15)

37: "I found the experience with judges okay, the family court, yeah, I did.. I found him to be quite fair. But, I mean, now, you know, now I realise that they come from what's in the best interest, you know, totally for what's in the best interest of the child, that's what they're there for in custody and access disputes. Not so in the district court. That was, that was a whole, that's a whole different ball game." (pp. 21-22)

Jenny’s opinions about other legal matters

Although she did not use it herself, Jenny believes that the Domestic Violence Act 1995 is a good piece of legislation. She thinks it better protects children, particularly through the provision of supervised access where domestic violence is present. However, she still believes that children are insufficiently

38: "I'm well versed, I'm well versed with it, the new Domestic Violence Act. I think it's gone a long way to protecting women and children." {Rachael: "Perhaps anything related to the custody?"} "I think that needs an overhaul, badly needs an overhaul. That Act, the access, the custody, that whole thing was set up with the best, with what was in the best, what's in the best interest of the child. And do you know what gets missed out of that process. The child. I mean, I believe that they try and do what's in the best interest of the child, but the child is the bit that gets missed out. That's certainly, I think the intention

involved in the process. They have little input into decisions about what is happening to them, and they have no family therapy available³⁸. Whilst she recognises that some men might experience difficulties because of the legislation, specifically if false allegations of domestic violence are made, she thinks that it is important that women and children are safe³⁹.

Jenny believes that court foyers lack safety for women. Both she and her partner had no option but to sit in the same waiting room until their lawyers arrived and whisked them off to separate side rooms. She also cited the case where a man stabbed a woman to death in the Palmerston North court foyer. Although Jenny's ex-partner was not trying to intimidate her, it was still unpleasant to be sitting opposite him. She imagines some men would give "intimidating looks" and "puff themselves up". Improvements certainly need to be made. Jenny suggested having separate entrances and waiting rooms for women and men, so that women don't have to face their (ex)partners until they get into the courtroom⁴⁰.

is great, you know, the intention is still there for that. The child is missed out of the whole process. Like you know, Mum or Dad go along to counselling or to mediation to decide what happens around their children and the adults make these decisions for the children until the child gets to such age. But in no stage is the child brought in. No stage is there any family therapy. No stage is there anything, anywhere that child can have any input to what's to happening to them." (Rachael: "Do you feel a bit assured in that children can be represented by a lawyer?") "Yes, when it comes to domestic violence, yes, because I mean the new Act says that, you know, if there is violence, domestic violence, and there's order's out, the man doesn't get, you know, unsupervised access any more. So, yes, the children are protected, I believe, are really well protected, but that's, that's the end, I mean, there is, at no stage is the child, you know, is the child part of that, yeah." (pp. 20-21)

39: "I'm also very aware now of how difficult it is for men... I've seen the other. At the time, you know, I felt that women weren't heard. Now I kind of feel that it may have been, I don't know what am I trying to say. I understand just how difficult it is for men too. Because you only now have to, a woman only now has to go to court and make allegations of domestic violence and there is an order taken out. And the guy doesn't get, instantly there's supervised access until he can get to court to prove, and the onus is on him to prove that he's not violent... I mean, I understand too, it's to keep children safe and women safe too, but I kind of wonder whether the pendulum has swung too much the other way now, you know, and where that may settle, you know. But I think that's a dilemma... I think it makes, yes, it makes it more difficult for men. And in some ways it needs to be because, you know, in genuine cases it really does need to be made difficult for men. But there are men who are genuinely repentant about what they've done. They go off, they do the course, and then it's such a process for them to go back to court to, you know, how do you, how do you prove after you've been through all that... It has it's gaps, but in saying that,

Jenny also believes it is important that protected persons' contact details are kept confidential. She felt that attention to this factor was "very sloppy". Respondents' lawyers, and the court, have access to women's contact details and leave them lying around where men can see such information: "it was a real safety issue"⁴¹.

it's, on the other hand, that's made it more safe for women and children." (Rachael: "So, you think the new Act has been an improvement in terms of the safety for women and children?") "Most definitely, most definitely. It needed to be done but then on the other hand it's made the process around men proving that they are okay fathers, I think needs some work done around it." (pp. 14-15)

40: "I don't feel that court is, foyers of court rooms are safe places for women... I mean, that woman being, who was stabbed to death in Palmerston North court. But there should be some sort of process where there is, you know, where there is an entrance for women and there's an entrance for men, and that she doesn't have to face him until she gets into the courtroom. Because my, you know, my experience was that we arrived and he arrived and we were sitting in the same, you know, we were sitting in the same foyer waiting until his lawyer came and whizzed him off to one of, this little room, and then my lawyer arrived and whisked me off to a room. You know that was really, and that happened on, that happened at the [City B] Court and the [City A] Court... There's certainly room for improvement around that process.. It's just, I mean, he wasn't being intimidating, but it was just, you know... to be sitting opposite this person. It wasn't, you know, they don't even know. And especially if he starts doing this, I could see that men could start doing their intimidating looks, and their puffing themselves up, and all that sort of stuff." (pp. 15-16)

41: "Actually, that's one thing I felt was very sloppy too, was that they needed to tighten up the addresses and phone numbers and things... the man's lawyer having access to any of that and leaving it anywhere, you know, yeah, that sort of stuff too, and as far as the court goes as well, yeah.. It was a real safety issue." (p. 22)

Summary of problems

Jenny raised several problems that she encountered when using the legal system. These can be summarised as follows. At least originally, the police treated Scott very leniently because of the old boys' network that was present in the small town in which they lived^{2,12}. Lawyers, generally, do not provide the options and information required for women to make informed decisions. Instead, they do what they think is in your best interest^{5,17,18,27}. Lawyer 1 charged her for a full appointment when he was twenty minutes late to the appointment⁵. He failed to inform her about non-molestation and non-violence orders⁵. Lawyer 2 did not listen to her, did not consider her son's interests, and did not return her calls, even when the situation was urgent^{19,24}. Jenny believes this lawyer perceived her as a nuisance^{19,20}. It seems that Scott and his lawyer developed a plan, where Scott acted as if he was still in a relationship with Jenny, so that he would receive a more lenient sentence for a serious assault against her^{7,8}. This lawyer was absolutely horrid to her in court regarding another assault charge¹⁰. The sentences given to Scott for serious assaults against her were equivalent to a "slap on the hand"¹¹. Scott's history of violence could not be introduced in relation to subsequent assault charges: each was viewed in isolation¹¹. It was awful being so close to her abuser in court¹¹. The court waiting room area is particularly unsafe⁴⁰. There was also insufficient attention given to keeping women's contact details confidential⁴¹.

Jenny did not feel heard by her lawyers, or in court; she did not have a voice³⁴. Lawyers were expensive^{5,13,26}. It was particularly expensive to protect her son from Scott through supervised access. This was exacerbated by Scott's persistence in seeking unsupervised access³⁶. The defended hearing was very harrowing³⁵. Children are not sufficiently involved in the decision-making process regarding custody and access arrangements³⁸. The decision of the court regarding access was not made known to her for six weeks³⁶.

Summary of commendations

Her third lawyer was very good: he was gentle, listened to her, had her son's interests at heart, and had a better understanding of domestic violence^{27,28,29,30}. The Family Court Judge was very good at the mediation conference. He opened up discussion about different possibilities³¹. He also seemed to have children's interests at heart³⁷. Lawyer 4, who assisted at the mediation conference, was brilliant³². At the defended hearing over access, the judge allowed her to have a support woman from Women's Refuge present³⁵. Also, because there was the same judge at both the mediation conference and at the defended hearing, there was some continuity³⁵. Jenny also found the court staff at the counter helpful and informative when she applied for a non-violence order with the assistance of a Women's Refuge advocate¹⁵. Jenny believes the Domestic Violence Act 1995 is a good piece of legislation³⁸.

Update: Jenny's experiences of partner violence and the legal system occurred some time ago now (approximately ten years ago). Since then, her life has changed drastically. She has obtained a university education and is now a trained counsellor. Her journey through partner violence and the legal system is what motivated her choice of career.

ROSE'S STORY

Rose was married to Cameron for approximately 19 years. During this time, they had one daughter and two sons: Alice, Michael, and Sandy. At the time of the interview, Alice, Michael and Sandy were in their late teens to early twenties. Cameron was violent and abusive on numerous occasions throughout the marriage. The police were only involved twice. On one of these occasions, Cameron was charged with assault and went before the District Court. When their marriage ended, Cameron was persistently difficult with the separation of matrimonial property, even when the Family Court was involved. Rose used one, very good, female lawyer in this process. At the time of the interview, Rose had been separated from Cameron for 7 years. She had divorced him and remarried. She and her new husband, Roger, are very happy together. She is concerned, however, on the effects that her ex-husband's violence has had on her children, particularly her middle child, Michael. Rose's involvement with the legal system occurred before the Domestic Violence Act 1995.

Cameron's violence and abuse

Rose was abused numerous times whilst she was married to Cameron. His violence caused significant bruising to her body^{1,2}. Quite often, his violence resulted in bruises around her eyes and over her head. When people started querying Cameron about her bruises, he started punching her in less conspicuous places, for example, on her back and upper arms. He also inflicted pain by twisting her leg. This twisting was so extreme that it caused permanent damage to her hip¹. On one occasion, Cameron smacked Rose's head repeatedly against a door³.

When Cameron was hitting

1: "Well you don't actually want to admit that the abuse is going on, and you hide so much, ever so much, and then." {Rachael: "To yourself as well, or to people around you?"}. "Probably to yourself, because you don't want to admit that what you've got is not right. But also to everybody around you. And it's once you actually separate and you sort of say to people what was going on. And they say, 'Well, I never knew that was happening.' And you always think that people don't believe what's going on. You always have that impression that they didn't see it so they don't believe it... I suppose a classic case would be my Mum. She, she saw the bruises and she saw what went on, and she queried the bruises, and for a while she used to query the bruises. But for some reason I always ended up bruised on around my eyes and top of my head. And he was, and he was starting to be questioned about the bruises. So that that stopped. The hit, the punching stopped. But he'd get hold of my leg and he'd twist so that, he, he used to twist it so much. And I ended up having physio on one, one leg quite a while. And I still have consequences from that. I've just been to the specialist not long ago for my hip, because of damage it's done to my hip,

Rose, she would close her eyes, and she would not make a sound. She knew if she opened her eyes, she would get so angry, she would “probably lose it [herself]”. Cameron once told the police that he thought she was asleep, that she had “knocked herself out with drink and drugs”. However, he knew she “wasn't out cold”. He “just kept on going”⁷.

When Rose's father was dying, Cameron would not let her go and visit him. Rose was very angry, so he tried placating her by taking her out to dinner. Her mother rang whilst they were getting ready to tell her that her father had died. Rose has “never forgiven him for that”¹.

Rose found the mental abuse and “dirty tricks” far worse than the physical abuse⁴.

Rose did not want to admit to herself that something was not right. She also did her best to hide it from other people: “[she] never wanted to tell anybody”¹.

It was only once Rose separated from Cameron that she sat back and realised how much Cameron abused her⁷. She became more

that I'll probably end up with an operation, through my hip with the damage that he did. And it was, he started hiding the abuse, like doing other ways and he would punch you in your back so that, you know, they didn't show, the bruised didn't show.” {Rachael: “So, people couldn't notice them?”} “Yeah, they didn't know, so you never want to tell anybody, you never wanted to tell anybody. I used to wear long sleeve shirts and things like that because he'd hit me on the top of my arms. And because you didn't tell anybody what was going on they didn't believe you. And my Mum was, a couple of years ago she said to me that my ex had rung up and said he wanted to visit. And I felt quite betrayed about that, because she didn't believe my side of, she didn't want to be loyal to me. I was her daughter but she wasn't loyal to me.” {Rachael: “And by then she knew what had happened?”} “Oh yeah, yeah. And I was also, Roger and I were getting, it was about three years ago, Roger and I were engaged to get married and everything. And when she said that he'd rung up and said he wanted to visit, and he'd been around and visited, basically I said to her, ‘Well, he visits, I don't, you have that choice.’ And I had to give her that choice. If he visits I won't be around. And Roger also has said, ‘If that's the case of what she wants, she either has one son-in-law, the ex-son-in-law, or the present son-in-law, which ever one she chooses.’ And when I tackled her about it and said, ‘How can you have him visit after what he did?’ her first thought was said, saying, was, ‘I didn't see it happen, he didn't do anything to me.’ So she said, you know, ‘He did nothing to me, and it's, so it didn't happen.’ And as I said to her, ‘I hid so much of what he did and used to say about you and Dad.’ Like my Dad had died and she didn't believe it, you know, even, even the day my Dad died, I wanted to go and visit my Dad, and the ex wouldn't let me do so. He, it was his birthday the day before, it was on the Friday, and then on Saturday I says, ‘Oh, I want to,’ we lived in [a large New Zealand city] at this stage, and I wanted to go up {inaudible} and up the coast. I wanted to go up and visit Dad and he wouldn't let me. And then, he knew I was really angry about it, so he offered to take us out for a meal, you know, like,

honest to people about what had been occurring in her marriage. However, because she had made such an effort to hide the abuse at the time, she worried that others would not believe it had happened¹.

Unfortunately, Rose's own mother has minimised Cameron's violence. Rose felt betrayed that her Mum had seen the bruises caused by Cameron but that she still let him visit her house a couple of years ago. When Rose confronted her mother about how this made her feel, she justified her actions by saying she hadn't actually seen Cameron be violent to her. She also said that he had not done anything to her personally¹.

Rose also felt upset that her mother would not believe that Cameron had prevented her from seeing her Dad before he died. She told Rose that "things like that don't happen"¹.

Based on her experience of partner violence, and others' experiences, Rose believes smaller men are more likely to be abusers of women. She thinks this is because their smaller physiques deter them from

'I'll be nice to you, I'll take you out for a meal.' And then, while we were getting ready to go for a meal, Mum rang up and said Dad had died. And I've never forgiven him for that, that I never got the chance to see Dad. And she just didn't believe it. She said, 'Oh, no,' you know, 'things like that don't happen.' So even, even there. It is when you know that your own family doesn't believe." (pp. 24-25)

2: "The neighbours had seen him beating me up, and the police came around and arrested him, and, well they called the police. And when they came in they saw all the bruises all over me. I was a mass of bruises." (p. 5) (from excerpt 9)

3: "He had been beating me up, and he'd grabbed hold of my head and he was smacking it against the door, and he wouldn't let me go, he just about basically knocked me out." (p. 8) (from excerpt 8)

4: "It's not just the physical abuse, I think the mental abuse is by far the worse." (p. 3) (from excerpt 20)

5: "I know the woman always thinks it's her fault, and try and improve things. I even did a counselling course trying to work things through, you know at [an institute of education]. I took their counselling course. You try every avenue you can to try and sort it out. But you always believe that you're the one in the wrong or you're the one that can fix things.. because that's how they make you feel, that it's all your fault, and they are the way they are because of you. So you go along, like I went to the counselling thinking that I might be able to learn how to communicate, how to work things through. It doesn't work.. Yeah, you try every avenue that you can think of to improve things. You write these letters to them to think well maybe they'll listen to the written word or read the written word, and that doesn't work. I think if it's going to happen, it's going to happen. I think sometimes the abuser is a certain sort of a person. I know in my instance, the one's that I know that have abused,

picking on bigger guys. Hence, picking on women allows them to assert their dominance⁵.

Rose's decision to leave the marriage was hampered by Cameron blaming her for his violence. She was told she was insane, that the violence had not happened, that it was all in her mind. This confused her and sometimes caused her to doubt herself: she thought that perhaps she was to blame⁶. For some time, she stayed in the relationship believing that she could improve things, that Cameron would get better. She even did a counselling course in an attempt to fix their relationship and improve her communication. However, Cameron's behaviour did not change. There was nothing she could do. Indeed, she realises now that there is little that can be done to prevent violent behaviour: "if it's going to happen, it's going to happen"⁵.

The self-doubt about whom was responsible for the violence also stopped Rose from calling the police or involving the legal system. She did not think that she would be listened to, believed, or helped. Instead, she was worried they would just label

they seem to be little people, not, they're not big physical men, they are quite small. I often wonder if, that they've got to show their dominance against someone smaller than them. I don't know.. Well they, they, because I suppose because they, the ones that I know, I don't know any big physical guys that abuse their wives or abuse their partners. Yeah sure, there probably is some out there, but the ones that I know that have abused are usually on the smaller side of the scale of men. They're not big six feet something or other men, they're quite often little five eight five nine men, small physique and everything. And they pick on women that are smaller than them. And I think it's just this dominance thing, because they know they're not very big and they can't pick on these big guys. They pick on the women that are smaller than them. I don't know. It just seems to be the what I've noticed with people I know that are abusers.. And it seems to be, that's the way, because they're little people, not little people, but smaller size men. Yeah, that would be an interesting study to find out, to see what the average height and physique of the person is, the abuser... It's just that most of the ones I know, yeah, they are small. When you talk to different women that have been in the same situation you realise that their partners, ex-partners, whatever, are small people.. They don't like, they don't like people that are bigger than them. They're all smart-arses and things like that. And they don't like people that are more intelligent than them as well, that is one thing I've found." (pp. 28-29)

6: "You're always a bit loathe to involve the lawyers and the court and the police and everything because, I don't know, you always think someone's going to blame you and it's your fault, and, 'cause that's how [abusive partners] make you feel. They make you feel that you're the insane one, it's all in your mind... Yeah they make you feel like you're absolutely insane. I mean he told me many a time I was insane, and things that happened didn't happen, and you quite often think, well, you know, like something will happen and you say to them afterwards, 'This is how it was.' And they'd say, 'No, it didn't happen that way.

her "a neurotic, whinging woman". Now, she is certain that no one should have to put up with abuse and violence⁶. She would also do things differently. She would not stay in a relationship with someone who is abusive. Instead, she would involve the police, and she would testify in court against the abusive partner⁷. She also knows that when someone has an argument with their partner and is in the wrong, "you don't deserve that sort of abuse, and you shouldn't put up with it"⁶.

You're insane.' And you think well, if you go to the police or you go to the courts or the lawyers, are they going to believe you? Will they really actually listen to what you have to say? Or [will they] just think you're a neurotic, whinging, bloody woman? Like, that's what your ex is calling you, a neurotic, whinging woman. And you really doubt whether they're going to help you and really believe you... Even the, even when he did get arrested for assault in the last instance, I wouldn't have called the police. It was only the fact the neighbours saw him doing it that he called the police. It was out of my hands, I wouldn't have done it. I wouldn't have got that far at all, no." {Rachael: "So, it sounds like there were occasions where you could have involved them and you didn't?"} "There were easily heaps of times but you don't. Because it's just like, you know, are they going to really listen to you. He says you caused it. Did you really cause it? You always have that doubt. Did you actually cause it? It's only now that I can sit back and say, nothing, no matter what happens you don't put up with that sort of abuse. Even if you do you do have an argument and you might be in the wrong you don't deserve that sort of abuse, and you shouldn't put up with it. Yeah." (pp. 23-24)

7: "In hindsight we can do a lot of things, and a lot of things would be different. But at the time you don't think like that. It's just afterwards when you do the thinking. And if it happened again it wouldn't be the same, it wouldn't be the same sort of thing. It would be entirely different.. I would testify, and I would, actually one sign of abuse and that would be it. The police would be involved and I would testify and make sure something was done. Where at the time you just don't want that to happen. It's only later when you sit back and think, 'Shit, that was so much abuse, and so much to put up with.' Because you always make, they always make you feel guilty that it's your fault. As far as he's concerned it was my fault. Because when he was hitting me I wouldn't make a sound, I wouldn't do anything. That's why, that he said to the police, 'I thought she was asleep, I thought she'd knocked herself out with drink and drugs.' And it was

because I knew if I opened my eyes, he, I would just get so angry and I would probably lose it myself. And he knew that there was, you know, I wasn’t out cold and I wasn’t anything, he knew that, and he just kept going. But he said to the police that I was just like a {inaudible}.” (pp. 7-8)

Police involvement and the legal response to Cameron’s assault charges

The police were involved twice because of Cameron’s violence. Rose did not initiate police involvement either time⁶.

The first time that the police were involved, Cameron had beaten Rose up. During the attack, he grabbed her head and repeatedly hit it against a door until she almost lost consciousness. When she picked herself off the ground, she went into the kitchen to get a knife. Whilst she was pulling it out of the drawer, he grabbed it by the blade and badly cut his finger. Consequently, he rang his lawyer to have her charged. His lawyer rang the police, who turned up at their home shortly afterwards⁸.

Contrary to her expectation, Rose found the police very supportive. They informed Cameron that if he wanted to press charges against Rose, they would also arrest him for his violence. The police were also

8: “Even when the police got involved once before. He had been beating me up, and he’d grabbed hold of my head and he was smacking it against the door, and he wouldn’t let me go, he just about basically knocked me out. And I remember picking myself up off of the floor, and I went to the knife drawer and pulled a knife. And he grabbed that knife and he cut his finger. He just about cut his finger off.. He grabbed the blade as I pulled it out, because he knew I was so, I probably would have used it. Well, he rung his lawyer and wanted to lay charges on me because I’d cut him. So the police came around, the police rung, the lawyer rung the police, and sent the police around. And I was actually in the bedroom at the stage when the police arrived and I was packing up my things. And [the police officer] came in and spoke to him. And then he came into the room and he says, ‘What’s going on?’ And I said, ‘As far as I’m concerned, you’ve heard his side and that’s all you’re going to hear,’ you know, like {inaudible}. And he took one look at all the bruises on me, and he says, ‘No.’ And he went out to him and said, ‘If I’m going to arrest her,’ because [Cameron] wanted me arrested.. yeah, he wanted me arrested. Then, and he said, ‘If I’m going to arrest her, I’m arresting you too for abuse.’ So, [the police officer] said to me, ‘I’m not leaving this place until I escort you off the property,’ he said, ‘you’re going off this property.’ Yeah, he didn’t want to leave me there. He said, ‘I can’t leave you here.’ And he said, and he hung around for about an hour until I was ready to leave the property, and he escorted me off the property.” {Rachael: “Sounds like you’ve, the police have been very supportive.”} “Well, I have no problem with the police. I did find them very supportive. [The police officer] did advise

very concerned about Rose's safety. They waited an hour for Rose to finish packing her belongings, and then escorted her off the property. They advised her to contact a lawyer and never go back. Although she regrets it now, and believes she was foolish, she returned to him a couple of months later⁸.

Another time (in 1992), the neighbours called the police because they saw Cameron beating her up². Rose was covered in bruises, and Cameron was arrested. Because it was the weekend, Cameron was kept in a nearby city's (City A) police cells over the weekend. He appeared before the City A District Court on Monday morning. He was put on remand for a week because the police wanted Cameron to undertake a psychiatric report. The case was also transferred over to the large town in which Cameron and Rose lived (Town A). He was instructed not to make any contact with Rose⁹.

During the week, Cameron ignored court instructions and contacted Rose twice by telephone: once immediately after going to court, and once later in the week. During the

me then to get a lawyer involved, and to not ever go back. And stupid me, you know, a couple of months later I went back." (pp. 8-9)

9: "When they, the police, came around and arrested him one day, the neighbours had seen him beating me up, and the police came around and arrested him, and, well they called the police. And when they came in they saw all the bruises all over me. I was a mass of bruises. And he was inside and they arrested him came out and said, 'We've arrested him.' ... They took [Cameron] over to [the nearby city, City A], it was on the weekend, it was a Saturday, and they took him over to [City A] and kept him in the cells over there. He went to court on the Monday and he got remanded for a week. And, I think the police asked for a report, a psychiatric report I think it was, when they remanded him and they remanded him to the court [in the town we lived, Town A]. So, the next week he went to the, it was with, the thing that he was not to have any contact with me at all. He left the courtroom on the Monday and rung me up straight away. And then he rung me later in the week and said, 'I have to meet you, something to do with one of the kids.' And he wouldn't tell me over the phone what it was. So, like a fool, I actually met him, and things sort of happened there that I was not happy with. And then the next Monday he appeared in court in [Town A], and he went in, in the morning. The police wanted me to testify but I was, I suppose scared of the consequences, I wouldn't do so." {Rachael: "What consequences were you scared of in particular?"} "His behaviour I think, his, I don't know, maybe in some ways like I thought maybe if, I don't know, if we, if, I thought we'd get back together, but I think more his behaviour of what he would do.. He'd be angry, he'd be rovable, yeah. He'd already made threats and that so. When he tried to commit suicide he went to a doctor, he actually went to my doctor, and my doctor wanted to put him into, up to Auckland, section, I think they call it section {inaudible}, in which, like they need to put him somewhere where he'd be safe and I wouldn't agree to that either. And then on the Monday when we went to

second phone call, he told her he had to meet her to discuss something about one of their children. Because he would not tell her what the issue was, she met him. She now believes she was foolish for being deceived by him. Rose did not disclose what occurred during this meeting, but she said she was not happy with what happened there⁹.

Although the police encouraged her to testify when Cameron's case came before the court the following week, Rose chose not to. Her decision was mainly based on her fear of the consequences. She knew Cameron would be very angry and she was afraid of what he might do. Her decision was also influenced by the possibility of them getting back together⁹.

Whilst waiting for Cameron's case to be called, Rose sat in the court waiting room area with her support person. She found this very small room very unsatisfactory. Cameron sat down in the same room, and stared at her. When she and her support person went outside, he followed her and continued to stare at her. She felt very intimidated. Consequently, she

court, the police said that they wanted to recommend a, some sort of course for him to do, some sort of psychological course for him to do, and, you know, and anger management and things like that. And the judge asked for a Victim Impact Report, which the police hadn't done, so he remanded him 'til that afternoon, asked for the police to do it. And the police, they said, 'Our recommendation is for a, Anger Management courses and psychological testing,' or whatever they call it, just to test what he's like. And when they went back in the afternoon, the police, his lawyer said, 'Well, he'd spent two nights in jail, and he was very sorry, and everything like that.' And the judge just did not take the police's consideration into it at all. And [the judge] says, 'Oh well, I feel sorry for him for spending two nights in jail, and he looks quite sorry about it.' yeah, and he just remanded him for six months on good behaviour, what do they call it, a good behaviour remand, yeah.. [Cameron] was fine. He walked out of that courtroom and laughed." {Rachael: "Were you in the courtroom at the time?"} "Yeah, yeah. And the police were so angry, they really, I actually went to the police afterwards, they left the courtroom, and then I went over to the police station, because there was one, one policeman there that had been dealing with it and he'd been coming out and talking to me and everything. He was just so angry that, that he didn't take it into account, of what they'd suggested, that he be done at all.. [The judge really just listened to] the lawyer, and says, 'Oh, poor boy,' and that was it. There was no, no, no consequences for his actions at all.. I agreed with the police when they suggested that, that's what the, because they'd told me before the court case, they said, 'This is what we are going to recommend,' and they asked did I think it was, was okay for them to recommend, and I said, 'Yeah, go for it.' Because he obviously does need something, and I agreed with what they recommended. And it just wasn't done. There was nothing done about it." (pp. 5-7)

10: "When you're in court waiting to go in, I can't think who I had with me, I had someone with me, but then he came and sat in

believes that there needs to be two separate waiting rooms¹⁰.

Rose found her courtroom experience to be quite nerve-racking, although she feels this cannot be avoided. It was very quick: "there was really nothing to it"¹¹.

The judge ignored the police's recommendation for Cameron to go to Anger Management and have some psychological testing. Instead, he took heed of the comments made by Cameron's lawyer: Cameron had already spent two nights in the cells, and he was sorry for what he had done⁹. Instead of facing any consequences for his violent behaviour, he was let off on a good behaviour remand^{9,11}. Rose said that once Cameron got out of the courtroom, he laughed⁹. Rose left feeling as if she was the guilty party. It was as if the judge felt sorry for her partner and thought that she had been responsible for pushing him that far¹¹.

Rose believes that although she refused to testify, input from the woman victim needs to be taken into account by the judge. She said the court is a very

the same room, in the waiting room in the [Town A] Court. There's only one tiny little waiting room, and he came and sat in the same room. And he'd just sit there and stare at you. And it was quite intimidating. And the court thing was quite a while, so we went outside. And he would just follow, he came out and followed and just, just this stare at you. And he got quite uptight and spooked about it anyway. And so, I think in those sort of cases, maybe they need to keep that person, and keep, you know, have two separate rooms or something. Because it is quite intimidating to have someone sitting there like that, yeah, yeah." (p. 10)

11: "I found it alright [in the courtroom].. Well, it was nerve-racking. It's probably as comfortable as you could ever be. Quite nerve-racking, but yeah, no, I didn't find it too bad. Yeah, I wasn't frightened or anything. It's just quite nervy I suppose.." {Rachael: "Was it, you said it was, it was frustrating that the judge listened to his lawyer and not to the police. Any, any other things that were quite frustrating or problematic?"} "No, 'cause it was just so quick. It was just like, 'Well, this is what I say, remand him for six months,' slap, 'out you go.' It was just, yeah, there was really nothing to it. It was just so quick. And there was no, nothing taken into account at all.. Even though I refused to testify, I think more, lots more support, because we did get, I did get a lot of support, but maybe more of, statements that are said, I don't know if they can do it, statements out of court, you know. When they come and talk to you maybe things like that, 'cause court, the court area is quite intimidating. And maybe if the police can sort of put some, I suppose it's where the Victim Impact Report comes into it, some sort of, the judge should listen to the females as well and not just the males, even though as I say I didn't want to testify, I think we should have some sort of input into it." {Rachael: "Sure. So, did you feel the judge was certainly more sided?"} "Oh, I felt the guilty party. Yeah, I did feel the guilty one there. And it was like, 'She pushed him to it,' and, 'poor boy,' you know, 'putting up with someone that pushed him to it.' That's how I felt, yeah..."

intimidating environment, and so being able to give police the relevant information outside of court would be a more suitable process^{11,12}. She supposes that this is the purpose of the Victim Impact Statement¹², which police failed to do in Rose's case¹³. Rose also recognises that it is difficult for women to put something in writing. They do not want to "rock the boat". Women are also "liable to suffer more consequences" if their (ex)partner is given a serious punishment, like jail, as a result¹².

After the court case, Rose went with the police back to the Police Station. She said that they were very angry that their recommendations had been completely ignored⁹. The police also warned her that unless she took some steps in a violence-free direction, they were afraid that Cameron would kill her. These words frightened her, and made her realise that she could not go back to him; she had to move on¹⁴.

It needed to be taken seriously. It had gone too far." (pp. 10-11)

12: {Rachael: "Would you like to see the legal system being a bit firmer?"} "Oh yeah, yeah. I would like to see a firm, definitely listen more to the victim's side of it and, even if they've got to realise that the victim will not testify straight away. They're still in that situation where they're, they're not quite ready to testify, not ready to go against the one that's, that's done it.. maybe more, to, for the police to have more input in that... 'cause in the court situation the, the victim's quite intimidated. It's a, it's a scary thing going to court. And to be able to put some sort of thing, but the victim probably will not sit down and say, at that stage they probably won't say that they want, what they want or anything. It's, it's still, still quite new... You don't want to push the boat, or sort of rock the boat. If you rock it too far, well, you, you're scared of the consequences. You know if you push for them to go to jail, what happens when they get out. You've still got to put up with what happens when they get out. And you're liable to suffer more consequences when they get out. I, I really don't know how the legal system can get around it." (p. 21)

13: {Rachael: "And did they, but you did do a Victim Impact Statement?"} "No they didn't... No, it was, they just never asked for one. And in the end they never really did a report at all." (p. 7)

14: "At the time it was probably like, 'Oh no, he's sorry, and it won't happen again. We'll work it out type of thing.' But you don't work it out. Further down the track, you know, I could see how later on when one of them ends up dead, it's so easy. Yeah, the police did say to me one day, that, you know, if I keep on going like that I'll be dead, I'd probably end up dead. And I sort of had that hanging over, that scared me too.. That was after the court case, that was after the court case when I was talking to the police. And he said to me, 'Look, you know, you've got to do something,' he said 'you'll, you will end up, if you keep going like this you'll end up dead.' And I think him saying that

sort of made me sit back and think, ‘He’s right.’ And I think that’s when it sort of {inaudible}, ‘Well, I’m not going back, and it’s got to move on.’” (p. 9)

Protection and safety

In an attempt to offer Rose protection, the police, and later her lawyer, informed her about non-molestation and non-violence orders. However, Rose decided not to apply for these orders for two reasons. First, the cost deterred her. Whilst she was covered by legal aid, she knew that she would have to pay it back when the house sold. Rose believes it is unfair that the victim should have to pay for a protection order when the perpetrator who is responsible for the violence¹⁵.

The other reason that Rose did not apply for the equivalent of a protection order was because both her and the police questioned the utility of orders for her situation. This was because of Cameron’s past and current behaviour. Cameron stalked Rose, came on to her property, peered in her windows at night, and threatened to burn the house down if he ever saw a man there. The police also had labelled him as psychologically unstable

15: “And [my lawyer] did offer a protection order, oh, it was probably later on that she offered a protection order. But it was the cost of everything. I was on legal aid but because we had a house, of course it goes against the house. So, the cost of it put me off. And that, that’s one part I think they really need to look at is the cost. And maybe, why should the victim basically pay the cost, not the one that does it? Yeah.” {Rachael: “So, when she told you about the protection order it could have seemed a viable option if it had not cost”} “The police had already told me about the protection order, and they did advise me to get one. But they also said that even if he had a protection order, it wouldn’t make any difference. Which is true in this case. He would still, he stalked us, he did all sorts of things afterwards, and yeah, I don’t believe it would have made any difference whatsoever.” {Rachael: “So you don’t think it would have been helpful?”} “No. Yeah, I never caught him on the property but I know he was there. The neighbours had seen him. And he used to come around at night and peer through the windows and threaten to burn the place down and everything if I ever had a man in the place. He was going to burn it down. He used to come and peer through the windows or he’d sit outside and further down the road, and basically knew what I was doing all the time, yeah.. The police said that, but, because they, they had him listed as a little bit unstable because a few months before he had tried to commit suicide, and he had involved lawyers and police and everything and that. And they actually had him listed as unstable. And they didn’t believe it would work if he had a protection order. [The police officer] didn’t believe it would make any difference to what would happen.. [My lawyer] did, probably her, her advise was to basically get out of town. And that was probably the police’s advice as well, was to get

because of an earlier suicide attempt¹⁵. Reflecting on it now, Rose still believes that orders would have been ineffective: Cameron was too controlling and far too jealous¹⁶.

The police also suggested safehouse accommodation to protect Rose and her children. However, at the time they suggested this, she was not ready to make such a move: "you still believe it's your fault", "you still believe that things aren't quite as bad", and you still believe "he will change". Her belief that he would change was "the biggest thing"¹⁵.

The police and her lawyer also advised Rose to leave town. However, this was not possible. Cameron used his guardianship rights to obstruct her moving with the children. This was despite him never showing interest in the children before this¹⁵.

In relation to moving, Rose thinks it unfair that victims of abuse end up being the ones that leave town. She believes it would be far better if the abuser had to leave town, so that the women and her children can stay safe and secure in their own

out of town, try and move. But when that was sort of voiced, that maybe I would move out of town, the ex used the guardianship rights, because I had a child still at school. So he, we had a letter from his lawyer to say as far as he's concerned, you know, that he's got a right to say where his child goes, and he used the guardianship rights, whereas he never had any interest in the child before." (Rachael: "So he was using it as a tactical move?"...) "Yeah, oh yeah." (Rachael: "Did you, do you think that's a problem?"...) "In abusive situations, yeah, there should be some sort of, I mean the police did say they would help and everything. I've got no, no problem with the police whatsoever. I found them excellent. They really were quite supportive, but I think something needs to be, if there is an abusive situation like that and the police are concerned they need to, to maybe look at that. They did say they could move me to, to what they call a safehouse or something like that. But at that stage I don't think you're really ready to do anything. You still believe it's your fault. And you still, yeah and you still believe that things aren't quite as bad as, and he will change. That's the biggest thing, he will change. No." (pp. 1-3)

16: (Rachael: "In hindsight, do you think a protection order could have helped at all?") "No, I don't think so. No, he was very controlling, very, very, very jealous. No, I don't think it would have worked at all. He still would have, in some way he would have done it." (p. 9)

17: "Oh, there are probably gaps. That the person that's done the abuse can basically stay. I mean, why is it that? Quite often, if it's the woman, why does she have to move town to stay safe? Why can't they move, the, the one that does it, out of town to stay, so that the woman can stay safe in her own environment? I know that's a hard thing to get around, but that's, that's one thing I used to say, 'Why do I have to move?' Usually, the women end up with the kids, so it means uprooting the kids as well, and they need to feel secure and safe in their own environment, in what is something similar to them.. Yeah,

environment. She realises that whilst this is a good idea, it would be difficult to achieve in a practical sense¹⁷.

Rose believes that she would have been better protected if Cameron had faced consequences for his actions through the courts, for example, if he had been fined or imprisoned. She believes it is ineffective to "just slap their hand" and tell them not to do it again¹⁸. At the same time, she realises that women may face retaliation from their (ex)partners when men receive serious consequences for their violence. She is not sure how the legal system can get around this¹².

Rose believes Anger Management programs are only effective if abusers take responsibility for their violence and want to improve. She is certain that Cameron would not have benefited personally, because he does not believe he has a problem. Instead, he thinks it is Rose's fault. For the same reason, she is not sure how useful psychological testing would have been¹⁹.

It is only since Cameron moved

why do they need to? I mean it's a big enough thing that, quite often they, the two people separate in abuse and that, so why, so that's a big enough thing for kids to put up with anyway, so why do they have to put up with having to move school, move town, make new friends, and everything? That would be the only thing that I can sort of think, if they can try and work that out somehow. I know it would be a real undertaking. You probably couldn't do it, work that out." (p. 20)

18: {Rachael: "Can you see anything that could have protected you legally, or any changes that could be made so that you could have been protected, or your safety could have been a bit better?"} "I think in the court situation, maybe, you know, like if he got fined or he got put in jail even for a few days. I mean the two days he spent in jail, that scared the hell out of him. And maybe if he had have done, say, six months in jail, yeah, he would have got scared then.. I think they need to have some sort of consequences for what happens. It's no good just slapping their hand and saying don't do it again." (pp. 9-10)

19: "Anger Management, I think, only works if they want it to work." {Rachael: "Do you think he would have wanted it to work?"} "No, no. He didn't believe he had a problem. He didn't believe he was, it was, it was all my fault, I pushed him to the anger, he, he never believed he had a problem at all. No... The testing psychologically, maybe, maybe that would have, 'cause it, maybe it would have made him sort of sit back and think about, but then he would still blame it on to me. He would still say I pushed him to it and it's all my fault. No matter what happened it was always my fault." (pp. 9-10)

20: "[Cameron] is over in Australia now, moved over in, last year, yep. Yeah, it's, it was quite a relief when he moved because the effect the abuse, it's not just the physical abuse, I think the mental abuse is by far the worse. And just the mental abuse of knowing they're there and, and what some of their dirty tricks that they pull." (p. 3)

to Australia that Rose has felt safer. She feels freer from both the physical abuse and the mental abuse and tricks that he would play. Rose now feels comfortable walking down her street. This is because Cameron and his partner lived down the road from where she lived. Despite her new husband’s ability to protect her from him, she knew that just seeing Cameron would ignite the fear and emotions associated with him and his violence²¹.

21: “I think it’s easier now that he’s in Australia.” {Rachael: “So you feel it’s getting easier all the time, to some extent?”} “To some extent. Like unfortunately he lived down the road, he only lived about six doors down from where my [new husband, Roger] and I now live. [Roger] had a house, and then when we got together, I wouldn’t even go down that street, because I knew the ex was down there. And [Roger] would always say, ‘Look, you know I will protect you.’ And he didn’t know how he worked. Like my husband now is six feet one, he’s a tall, he’s a big guy. My ex is a little guy, you know, he’s quite little. And Roger would say, ‘But you know you’ve got me to protect you.’ And he couldn’t understand how, I said, ‘But you know you are protecting me and you are there, but the control is still, in some ways the fear is still there.’ When you see him, it sparks the fear and everything. And I wouldn’t even walk down the street past [Cameron and his new partner’s] house. I wouldn’t walk down the street at all. It’s only since he moved to Australia that we go for walks down the street, when we have time. I have no problem with that.. You heal.” (pp. 19-20)

The settlement of matrimonial property

Rose involved a woman lawyer to assist her with separation issues. Rose found that she was very good: she was “on the ball”²². Rose could relate to her quite comfortably, and the lawyer had empathy for her situation, perhaps because she was female. She listened to her, was interested in helping her, and was ready to give advice when Rose needed it. She also kept her well informed about what was going on. She told her about any telephone calls between her

22: “I actually found [my lawyer] very good. I did find her good. I didn’t have any problems with her. Yeah, no, she was fine.. When I first went to see her, by that stage we had separated, and it was just stuff sorting out separation and things like that. And, yeah, the court situation was afterward.. Yeah, to see the lawyer the first time was for separation, yeah... I found her very good. She sort of, was on the ball, and quite good about it. And his lawyer was on the ball, I suppose as much as she could do. But it was the ex holding things up. And yeah, his lawyer was, I found his lawyer quite good too, and everyone else.” (p. 1)

23: {Rachael: “So did you feel that [your lawyer] listened to you and understood what was going on for you?”} “Yeah, yeah. I actually found her quite good. She’s still my lawyer now and I have no problems with her. Yeah.” {Rachael: “What did you find

and Cameron's lawyer, and she sent her copies of all correspondence received from his lawyer. Rose also found that her lawyer incorporated her into the decision making process. They usually agreed on what course of action to take. Her lawyer's qualities made her feel assured in what the lawyer was doing and with her own direction in life. Rose is not sure that her lawyer would have been so agreeable and supportive if she had resumed her relationship with Cameron²³.

Despite the support she had from her lawyer, Rose faced considerable stress about matrimonial property issues. This was because Cameron drew out the process by not agreeing to anything^{24,25}. Even when it went to court, Cameron continued to object to everything that was suggested by either lawyer. It was impossible to reason with him. Although she felt the lawyers and the judge were reasonable and fair, Cameron was not, and Rose felt very angry with him^{24,25}.

When she walked out of the courtroom she decided upon a final offer and informed her

positive about her? What sorts of qualities did she have that you seemed to find quite good and useful, that you think are important?" "Well, I don't know whether it was the fact that she was a female. She could sort of relate, even though she probably hasn't been through those experiences she could relate to them. And maybe being a female you could talk better to her than a male, thinking, 'Oh he's only on the male side.' Yeah.. Well, I chose her, yeah. No one appointed her. I just chose her out of the phone book yeah... And she was always willing to sort things out and to advise me in anything sort of to do in that, yeah.. She always kept me informed of anything that was going on, always sent out letters. And I've got a file thick as. She always sent out letters of what was going on... Because obviously with lawyers and that, there's a lot that goes on that you don't actually are involved with, you know, like correspondence between the two lawyers and everything. And she always kept me informed of correspondence that came from his lawyer, anything like that, phone calls, all correspondence, she kept me informed of it. So I had no problems with that at all." {Rachael: "And you always felt she was acting in your best interest? She was doing what you wanted her to do?"} "Yeah, yeah, yeah. She always agreed, mostly. Like we'd sit down and talk things through and she'd always agree. The only time she didn't agree was how much I wanted to pay out. She thought that I was paying too much, but I suppose when you look at it that's in my favour actually, that she thought I was paying too much... Yeah, no, I don't regret anything that she's done. She's, I actually find her to be a quite good lawyer.. Well, it makes you feel more easy about what they're doing and where you're going and what you're, you know, where you're heading in life I suppose. It sort of helps you [inaudible]. Yeah, I don't know if she would have been quite as agreeable if I went back, I said that things were sorted out but we got back together, I don't, I got the impression she wouldn't be quite as agreeable to that... I think she would have been, she wouldn't have been so sort of, she, I found her quite supportive in, when I'd talk with her and that I found her quite

lawyer. Her lawyer thought she was being much too generous. Rose let her know that she did not care anymore: she was absolutely fed up and just wanted him out of her life. Rose's lawyer called over Cameron's lawyer to discuss the settlement. Cameron's lawyer first escorted Cameron out of the court and came back to discuss the matter without him. He told Rose that it was best that Cameron not be there because of how angry he gets. Cameron's lawyer thought Rose's offer was reasonable, if not too generous on her part. Papers were drawn up later and signed. Even then, Cameron left it up to the last hour to sign the agreement²⁴.

Not long after this, Rose divorced Cameron. She chose not to use a lawyer in this process. Though Cameron had earlier agreed to pay for half the divorce, he refused at the time. As it happened, Rose was able to retrieve the money for the divorce by deducting this amount out of some money that she owed him. She said that she was not popular for doing this²⁸.

Believing that settlement issues were well and truly over, Rose

supportive, and I don't think, I got the impression she wouldn't have been supportive if I'd decided to give it another chance." (pp. 12-13)

24: "We went to the court for the settlement. But he objected to everything that was put forward by both lawyers, were just, objected to everything that was put forward... And the two lawyers would say, 'Yes, we agree to that,' but it would be, 'no, I don't' from him all the time, 'no, I don't.' So in the end the judge just said, 'Go away and sort it out and come back another time. Just go away and sort it out,' to the lawyers, to everybody. Just saying, you know, 'It's a no win situation here, he just keeps on objecting to everything'... He suggested to the lawyers that it was taken away and sorted out 'cause he just kept on objecting to everything that was put forward.. I was angry, I was angry with the whole court thing, I mean I was angry at him. It wasn't the lawyers. The lawyers were trying their best and you could see that they were trying their best, both lawyers. And I was really angry at him. And when we walked out of the court I said to my lawyer, 'This is the final settlement, you know, offer him six thousand dollars now and five thousand in five years time, just to get him out of my life.' And my lawyer said, 'It's too much, you know, it's just too much.' And I said, 'I just want him out of my life, I am sick of it.' And then she said, 'Oh well, I'll put it to his lawyer,' and called his lawyer and said to him, 'we've got a settlement.' He says, 'Look, I've just got to go and get rid of him, send him on his way.' And he turned to me and said, 'You know how angry he gets, he's, he's got to go.' And then he came back and talked to us after he sent him on his way because he's just not, you couldn't reason with him, there was no reasoning with him.. His lawyer found him quite hard work, yep. And then when we came to the agreement, he did finally agree to that, 'cause I said to his lawyer, 'That's the only thing I can offer.' And he did agree to it. His lawyer said, 'Well, that sounds pretty fair,' he said 'if anything it's too much.' Even his own lawyer said that... And then he said, 'You know, talk to my lawyer and we'll draw the papers up to do it.' And I had to refinance and he was

was surprised to hear from her lawyer a year after the divorce: Cameron was demanding items from the house. However, this did not end up being problematic for Rose because Cameron was not legally entitled to anything²⁸.

Settlement matters are not quite over yet though. The settlement included a sum of money (\$5000) that Rose would pay five years after they signed the agreement. At the time of the interview, this money was almost due. In some ways, Rose feels resentful that she has to pay it to him²⁴. At the same time, she realises it gave her and the children "a roof over [their] head" at that stage. She was also getting "sick of the whole thing" and "needed to move on with life"²⁷. She would feel much more comfortable paying the money to their children to ensure they have a good start. Cameron will not agree to this though²⁴.

given the day by when the refinancing and everything had to go through. Well he held it up right until the last hour. In the end my lawyer, what we were giving, I think it was a Wednesday morning, and we had to have it in by that day to do it, otherwise it was, 'cause the interest rates were going up, otherwise it will cancel, and [my lawyer] had to pull his lawyer out of court and say, 'This has got to be done today.' So finally it was just basically the last hour, and just done that day.. It did end up being done, yeah. Yeah, at the time I felt sort of like it's done, but now the more I think about it, like the five years is nearly up, I resent having to pay that money now. I've offered it to the kids. His son, [Michael], came to us and had said he was desperate for money, it's the only time I see my son's when he wants money, and he's desperate for money. And so I said to him, 'Go to your father, and that money I owe him, I'll give to you kids and share it between you kids'... I would quite willingly give it to the kids, but not to him, and at least I know they get something, it's a start for them. And then my son did so, but his comments were, 'Oh, if she can pay you kids, she can pay me now,' and he said, 'no.' And then my other son, he just told us last week his girlfriend's pregnant. So he went and rung his father on the weekend and said, well you know 'cause I said the youngest son, his father is trying to impress him quite big, and he said, 'Oh well, I'll give it a go.' And he asked for the money and his father said, 'No, because I won't have anything left.' And he won't give it to them either. So I've still got to pay him next year." (pp. 4-5)

25: {Rachael: "Is there anything else you wanted to say about that experience in court?"} "Well, that was like a Family Court. There was only the two lawyers and us present, and the judge. No, because that was basically, that was, I found that quite fair. But it was just like, it was taken out of everybody's control by [Cameron], and he was the one controlling it by objecting to everything. Just couldn't get anywhere. Everybody was getting frustrated in that court that day." {Rachael: "So, did, did you feel the judge was less sided with him on that occasion?"} "Yeah,

yeah, it was a different judge. And yes, I did find it, I thought he was fairly neutral. I actually thought he was quite good, and he was, he didn't, to me he didn't go either side." (pp. 11-12)

26: "Yeah, I just had got so sick of the fight that I just wanted it over and done with, and that's why I agreed to do what I did." {Rachael: "And you don't regret it? You were saying you do feel"} "Mainly not, no. No, because at least [it] gave us a roof over our head, and yeah, at that stage." (p. 13)

27: "That was not really the lawyers fault because it was my decision on what to pay out in the end. That's only because I just wanted it over and done with. It could have dragged out longer but I was just getting sick of the whole thing. I needed to move on with life... You just want to move on, you need to move on. Because the courts can drag it out, the lawyers and that they can drag it out, and you need to come to a point where you need to have it over and done with and move on. Yeah." (pp. 22-23)

28: "And it even dragged on after the divorce. We'd been divorced for over a year and then [a lawyer] sent me a letter right out of the blue. It just came up out of the blue, this letter. My ex was demanding stuff from the house, our former house, that we had, that I now own, and he wanted stuff out of it and I rung [my lawyer] up and says, 'Well, what's the carry on?' And she had received a letter from his lawyer demanding these products, these goods. And I said to her, 'But you know, like it's been settled and signed and everything.' And she said, 'Well, it's been done quite a while now.' And I said, 'Well, we've been divorced nearly a year.' And she didn't know we'd been divorced because I'd divorce myself, I didn't have the lawyer involved. And she said, 'Well, once you're divorced that's it, you can't go back for more,' she said, 'even signing the papers that everything was settled.' So, you know, that all sort of got wiped and everything. And he wasn't quite agreeable to that. Yeah, no, I had no problem with that . And then afterwards, he was

paying the mortgage for a while as child support, when we first separated he was paying the mortgage as child support. And then when, he always used to say, ‘Yes, when we get divorced,’ he will pay half the divorce, but then when the time came he wouldn’t actually pay. So in the settlement, the settlement came up, and then all of a sudden the lawyer came forward, his lawyer came forward that he had paid some mortgage repayments after settlement, that I had to repay. So my lawyer says, ‘Well, you know, you do have to repay them.’ So I just took out half of the divorce fees and sent the rest off. So he actually paid half the divorce after all. It was handy. But I wasn’t very popular about it, but, yeah.” (pp. 13-14)

The effects of domestic violence on Rose’s children

Rose believes that children suffer the most from domestic violence³¹. For one, they suffer because the system leaves the women and children financially disadvantaged after a marital separation. Legal costs are high, and even with legal aid, this money needs to be paid back when the house sells (if there is one). Rose only worked part-time, and so she and the children lived on only \$220 per week. In contrast, her ex-husband received a working income on top of his ACC payments, and his new partner received the DPB. The injustice of the different living standards angered her son Sandy. Rose sometimes struggled to feed them^{29,30}. Rose believes that “it seems to work

29: {Rachael: “And so you think that the children are the people that suffer most?”} “Overall they do, they really do.” {Rachael: “Is that in terms of both the abuse and in terms of the legal system? Or?”} “Well, the legal system, I don’t know whether they have. Yeah, I suppose they do, because basically when I started, when we separated we lived on such a minimum amount of money. I was only working short hours and that’s basically what we lived on, was the two hundred, that two hundred and twenty dollars a week. He was on ACC, he had been on ACC for about eight years, and he was also working as well. And he moved out of our house into a house with a solo Mum who was on the DPB, so there was a fair amount of money going into that house. And my son saw that and he was just, he was just so angry about it when we were really, I was struggling even to feed them at times. Really, really struggling. And my daughter was working, and it was basically her that put a lot of the, well, she bought a lot of the luxuries that we never had, you know, like chocolate biscuits and things like that. No, [Sandy] certainly did suffer, and the other one, [Michael], yeah he did too. And [Michael’s] still suffering. Unfortunately he just won’t face reality. Even to this day he still tries and gets us back together, even though I’ve remarried he still tries to get us back

out better in [men's] favour". Because women bring up the children, they "always seems to be on the losing end of the stick"³⁰.

Two of her children, Alice and Sandy, have been opposed to their father's violence, and have been very supportive of her leaving him for this reason^{29,31}. Sandy accompanied her to the court case where Cameron was charged with assaulting her, and was unhappy with the outcome. Alice wanted to serve the divorce papers on him³¹. Neither Alice nor Sandy have much to do with their father. Alice had virtually no contact with him until after he went to Australia. Sandy did not see him for three years and still has little to do with him^{31,32}.

Her middle child, Michael, has been manipulated by his father a lot, and hence, believes that she is the "biggest bitch out". He blames Rose for everything, and denies the violence was his father's fault³⁴. In fact, because he never saw his father be violent to his mother, he often denies it occurred at all²⁹. For example, one time, Michael, strongly objected to his father being arrested, and threatened to

together in different ways.. Because he didn't see it. And that's his father's attitude as well. Because you don't see, things don't happen. And yeah, and it's never their fault, it's always someone else's fault. And unfortunately, I can see the same cycle going through again with my son, there'll be the same cycle.. Yep, he, he was living with a girl for awhile. And she had a little baby. He was about eight months, a year old, when they first started living together. And my son started abusing her, and he just, he didn't actually hit her, but he hit the wall. Like, I've got holes in the wall, they were living in my house at the time, I was renting my house out to them, and I've got holes in the wall where he hit at with his anger. The same behaviour. And it's like reliving the whole thing over again. I would just, you know, I'd say to him, 'This is the same behaviour, you've got to break that pattern.' And he didn't see it was his problem. 'It's her problem, she's the one that causes it.'" {Rachael: "It must have been hard for you"...}. "It was, because I didn't feel I was very supportive to him. I wanted to help them both through, but it was, because he wouldn't face up to it and say, 'Yes, I've got a problem,' I could actually understand her side of it.. I felt more supportive towards her.. I don't think they lasted much longer after that. She, she left. But I could see it happening if he ever gets settled in with a partner, if anyone takes him on, it will happen... I sometimes think it's in the genes. Because, you know, there's three kids, they were all brought up the same but this one child is just like a reincarnation of his father, the same behaviour, the same mannerism, you know. He thinks that females are there to be controlled and he's not a very compassionate person. He's quite a control freak, and, 'You do as I say. You don't speak to anyone else,' and yeah. And I believe that it's something that's bred into them." {Rachael: "Would he have been exposed to no more than any, the other, your other two children?"} "Less actually. His father never once hit me in front of him, but he hit me in front of the other two, but not him. Whether that made a difference, I don't know. Because the other two sort of said, 'You don't treat our Mum like that.' When I left and got a flat, my daughter and I got a flat and, a flat over in [a large New Zealand

wreck the house if police did this. The police tried reasoning with him, pointing out the injuries he had inflicted to his mother. However, Michael denied this somewhat by saying that he had not seen it happen³³. In contrast to this, Alice and Sandy witnessed their father's violence²⁹. Alice also suffered direct abuse from her father³¹.

Michael will not face the reality of the situation, and Rose finds this a shame^{29,34,35}. He thinks very highly of his father, equating him to "God"^{34,35}. He will not acknowledge that his Dad is not a very nice person³⁵. Even to this day, he still attempts to get his mother and father back together. This is even though Rose is remarried²⁹.

Michael is almost a "reincarnation of his father". He behaves very similarly and has the same mannerisms. Like his father, he is a "control freak". He believes females are meant to be controlled, and that his girlfriends should do as he says and should not speak to anyone else. He is not a very compassionate person. He has adopted his father's attitude that if you do not see things, they have not

city], and he came around one night and she threw him out. In the end he was, he was (hitting) into me, and she took to him with something and threw him out of the flat, that he, you know, never come back. But he never did it in front of the son that thinks he's God. Never once. There was always a difference between the kids. He always made a, more thing of this, this boy than the other two. The other two have my nature, and more understanding, and they don't tolerate that sort of thing. Whereas the middle one, [Michael], he doesn't {inaudible}. So, I don't know how you can stop that. I don't know how you stop the abuse happening when you know it's going to happen." (pp. 15-17)

30: "That's all I had was legal aid. There was no way I could afford to pay any legal costs at all, just didn't have the money. We struggled to live week to week, let alone to have any money for legal fees as well." {Rachael: "So you were quite pleased there was the legal aid system?"} "Yeah, yeah. But then it turns out like if you've got a house they put a thing on your house so you eventually have to pay it back... Because they put a cap on, you know, the lawyer said that they put, like if you have separation, they put about two and half thousand I think for your legal aid. And ours was done within that amount as far as I know, because I have none more extra to pay. I really haven't checked it out. But I think if they're going to pay legal aid, maybe the first three thousand should be basically wiped, and then after that, especially if you do come out with a house, you come out with some financial return, maybe look at it then... Quite often the, the man, he's got a good job and everything, so he doesn't get legal aid. And it's, I don't know, it seems to work out better in their favour anyway. So, if they have the sale of the house they end up with this money, whereas the wife has to, basically she's got the kids as well, and she has to bring those kids up. She always seems to be on the losing end of the stick." (p. 22)

31: "I think the ones that suffer the most are the kids. They

happened. He also avoids responsibility for his behaviour and blames other people. The similarities have led Rose to think that violence is "in the genes". This is particularly so, because her other children have been brought up the same and have not turned out like this²⁹.

Rose has seen the cycle of abuse repeat itself in one of Michael's relationships with a young woman he lived with. Although she does not know if he hit this woman, he smashed holes in the wall in anger. Michael did not think that he had a problem; instead, he blamed his girlfriend. Rose found this a very difficult situation. She was unable to be very supportive to Michael when he would not admit he had a problem. Instead, she felt more supportive of his girlfriend, who left Michael shortly afterwards. Unfortunately, Rose predicts violence recurring in his future relationships²⁹.

Michael has very little to do with Rose and Roger now. For a while, the only time they ever saw him was when he needed money. They would lend it to him but Michael would never repay it. After not seeing him for three-

seem to suffer the most. Well my son, one of my sons, was in the court with me." {Rachael: "Was that related to the assault?"} "Yeah, yeah, and he wasn't very happy with the end result either.. He's always supported me through the process, yeah. My daughter's always supported me. She has not spoken to her father until he went to Australia, and he's rung her since, she hadn't spoken to him before. She, she wanted to serve the divorce papers on him. In a way it was her who sort of [said], 'Get out of my life as well,' because he was quite abusive to her as well." {Rachael: "And so you think that the children are the people that suffer most?"} "Overall they do, they really do." (pp. 14-15)

32: "The youngest had, he didn't have much to do with his father. He didn't see his father for three years. And he still, he's twenty one now, and he still doesn't have much to do with his father." (p. 3)

33: "I was a mass of bruises. And he was inside and they arrested him came out and said, 'We've arrested him.' In the mean time, the two boys came home. I think they were about, one was fifteen, and one was about fourteen or thirteen at that stage. And they, the oldest son, [Michael], the fifteen year old said that, 'If they arrest him, I'm going in, and I'm going to wreck that house,' he's going inside to wreck the house. And even the police said, 'You know, look what he's done to your mother.' And he says, 'Well, I didn't see it happen.' Yeah, it was our oldest son." (p. 5)

34: "Even now, what, it's seven years since we separated, we're divorced and I'm remarried, [Cameron] still tries to get at the three kids. And the kids, well, the youngest as I said is twenty one, and there's one in the middle who's twenty three, and he's the one that's manipulated the most [by his father]. As far as I'm concerned, where he's concerned, I'm the biggest bitch out. It's all my fault, Dad was right, and it's all my fault, yeah. He can't see that there's any abuse. His father never did it in front of him.

quarters of a year, Michael visited Rose and Roger again. Again, he wanted money. By this time Rose and Roger were getting fed up, so they told him that whilst he could still visit them, he was not to ask for money any more. Michael reacted: they would not see him any more. Roger agreed that if money was his only motive, it was probably best he did not. Michael rang his father and told him they had banned him from visiting. Rose feels it is his choice to interpret their remark and react like this. In some ways she thinks it is better she does not see him. At least then, he does not manipulate her. She finds his manipulation reverts her back to the manipulation she experienced from her ex-husband³⁶.

Her other children have been much more accommodating. Her youngest son, Sandy, accepts Roger as part of the family. He intends him to be the grandfather of a baby that he and his girlfriend are expecting³⁷.

He did it in front of the other two but not in front of him. Because that son thinks Dad's God. And never he never faces up to reality, which is a shame." (pp. 3-4)

35: "My middle son [Michael], basically, his father keeps on, we call it his, we say his father keeps on shitting him because he keeps on knocking him back all the time. And my son can't see it, and we can see it. Because this son thinks Dad's God. Nothing changes. He believes that Dad's God. And he just won't wake up that Dad's not God, Dad's not a very nice person." (p. 19)

36: "[Michael] doesn't have anything to do with us any more. He's, yeah, no, he just, we haven't seen him from March, my brother died in March, and my husband paid my son money. Because the only time we ever saw him was for money. He's very heavily involved in drugs and the criminal scene. And he'd always come for us for money. So my husband, [Roger], paid it and says, well, you know, like my son said, 'I'll pay it back, it back on Thursday.' The problem is he never says what Thursday. So we're still waiting for the money. And we never saw him from March right through 'til after Christmas, New Year. And then he started coming back around for money again. And we, just me and my husband, the other day said, 'You're banned from coming around asking for money.' So my son just says, 'Oh well, you won't see me any more.' And my husband said, 'If that's the case, it's better you don't come around then, if you're only come around for money, we don't want to see you'... He's still got the option of coming around, he has. But he can't see that, he just thinks, he went and told his father, he rung his father in Australia and told his father that we have banned him from coming around. So, that's his choice. And he, he comes around and he manipulates the same as his father did, and I have problems with that, so it's better off we don't see him. Once you've been manipulated it's very, very hard, even though you sort of, like I've grown away from it and I'm a stronger person and I won't let any one else manipulate and

control me. I still find my son can do it because he’s done, I’ve, I think it sort of throws you back to what you’ve put up with. And you just can’t get past that, that one, that someone, like I had nineteen years of it, and it’s very hard to break that one. And yet I wouldn’t put up with it with anyone else, but, and I don’t like how [Michael] makes me feel. Yeah, I don’t think you ever get over it.” (p. 17)

37: “The other two have, I mean, my son [Sandy] gave us the biggest compliment the other day when he came and told us that his girlfriend’s pregnant, and he said to Roger, ‘Well, you and Mum are the grandparents.’ He said, ‘My father’s never been there for me, you have been.’ And Roger was so wrapped and that, to think that, you know. He says, ‘I don’t want my father to even know.’ He says, ‘He’s not a father.’ Yeah, he’s, he’s, [Sandy] was quite hurt about what went on [with his father].” (p. 19)

The effects of past violence on Rose’s new relationship

Rose describes her new husband, Roger, as a very gentle, easy-going, and lovely person. Whilst she is very happy with their marriage, she has had instances when Cameron’s past violence has triggered her to emotionally respond to things that Roger has inadvertently done. For example, one morning she woke up to the smell of raw onions on Roger’s breath. For Rose, this had terrible associations with Cameron. She “lost it” and “completely went to pieces”. Roger learnt never to eat raw onions³⁸.

38: “There’s things like, my husband now, he’s the most gentle easygoing person. He really is a lovely person. And he, one day he ate raw onions. Now it sounds comical, raw onions. And, you know, raw onions smells when people eat them. The next morning, I woke up and all I could smell was this raw onions. And I just, I just lost it, I just completely went to pieces. Because that’s how, the ex always was, he ate raw onions, and it’s just, it just threw me right back. And to trigger something, to trigger like that, I find quite amazing. And now my husband knows not to eat raw onions.. yeah, he knows it triggers things, yeah. And there’s other things that he’s sort of learnt not to do. Like, he can’t throw, the first time he threw a tantrum at me, he doesn’t throw tantrums as such when he does something. He lost the key to the car, and he got angry one day, he got angry at himself for losing the key to the car, and he was just sort of ranting and raving at himself. And he knew I’d disappeared. And I went out and I was sitting on the deck outside and the tears

Another time, Roger became angry with himself because he had lost the key to the car.

Rose did not respond well to his ranting and raving. He found her out on the deck crying. He now understands that he cannot get angry in front of her because it frightens her³⁸.

Rose is amazed at how events can trigger such strong reactions in her. She is very appreciative of Roger's level of understanding. He has shown great endurance in these times. She believes he is unique in that he recognises when something has upset her and encourages her to talk about it³⁸.

She also feels assured that Roger believes what happened to her during her marriage with Cameron. Her confidence in this increased when her daughter shared some of her own childhood experiences with him. Alice's stories reconfirmed what Rose had told him herself³⁸.

Rose describes her life as entirely different now. She knows that Cameron can no longer be violent to her. However, at the same time, she realises that it could take a lifetime to get over.

were just streaming out. And he couldn't understand it, and I sat down and I says, 'Well, I'm waiting for you to take it out on me.' And he's realised now that he can't get angry in front of me like that, because I just wait for the abuse to come on me. So, it's been a learning curve for him too, so he's sort of, yeah.. Yeah, he knows, and if anything sort of upsets me I go quiet, and he would just sit me down and say, 'Well, you've got to talk about it.' I think for a male I've got a unique one, that he wants to talk about things and I really appreciate that. But he's been through a lot, you know, with this relationship and our marriage and that. He's actually put up with one hell of a thing with, with the past coming through a lot, and different things that the past comes through. And sometimes I used to say things, that it's like, you know, you say things but do people actually believe you. And then one day my daughter sat down and she was just saying about what her childhood was like. And he just sat there with an open mouth because he knew I'd said these things. But it was just like, it was her reconfirming about any, you know. Like we weren't even talking about it. She was talking to [Roger] one day and she just sat down and said, 'This is what happened in our childhood, in my childhood.' He, he was just blown away with what actually had been going on... It did have an impact, it had a terrific impact." (pp. 18-19)

39: "You can sort of, you know, it's not, it's, you're away from [the violence]. It's not going to happen any more. But things do trigger it and throw you back to how you, I think it's to how you feel at the time. And the manipulation and the anger and that, that, you know it's sort of, yeah. And, but I know that's not my life now, it's entirely different. But it's still, I think it just takes you basically a life time to get over. I think those trigger points will always be there. You'll always have some sort of trigger point. And you'll never really get over it... I think you can avoid some [triggers], but then you always get {inaudible}. It's like sometimes when you think, when you're going through life you think, 'Oh wow,' you know, something reminds you of something else. It's the same sort of thing. We've learnt to cope with them

She thinks the triggers points will probably always be there, serving as a reminder of what she went through because of Cameron’s abusive behaviour. She is only pleased that she and Roger have learnt to cope with them: things are getting easier³⁹.

now. It’s not so, it’s not so bad any more.” (p. 19)

Problems with Cameron since the divorce

In spite of the fact that Cameron has had little to do with two of his children, he has attempted to remain somewhat linked to Rose’s family since the divorce. This has upset Rose considerably.

As mentioned above, he rings and visits Rose’s mother. This makes her Rose feel betrayed by her mother¹.

He also sent a wreath to the funeral of one of Rose’s close relatives. Rose found this very inappropriate because the relative had absolutely despised Cameron. Rose’s children were also very upset by their father’s actions. They were annoyed that their father sent this wreath to their uncle’s funeral but that he had not even bothered to see them for three to four years. Rose was frustrated that her

40: “And in the last couple, three years, I’ve lost two [close relatives]. When the first one died, he died, both of them died suddenly, and when the first one died, they, the ex, he sent a wreath to [this relative]. Now [this relative] hated him. They did not get on. He absolutely hated him, the one that died, he hated him, and they didn’t get on. And the ex hadn’t had anything to do with the kids, he never brought them Christmas presents, birthday presents, whatever, he never bought anything. And yet he sent this wreath to [this relative] for his funeral. And Mum said to me, I had actually found out because I went and ordered flowers from the same florist and she mistakenly told me that another a wreath had already gone to that funeral by him. She shouldn’t have told me that. But Mum told me, you know, ‘He sent a wreath.’ And the kids, she said to the kids, ‘Don’t be upset that he sent a wreath.’ And she couldn’t understand why they were so upset, and why, and I said to her, ‘You’ve got to understand, they haven’t heard or seen him for about three, four years, and now he’s playing this big man of sending a wreath to, to one of our family.’ And it’s basically like he still wanted to be in that family. And she just, sort of, she couldn’t understand it. She said, ‘But he was part of the family for a long time, and he’s still sort of part of the family, he’s the kid’s father.’ And the kids are saying, ‘But, you know, understand it from our point of view.’ But she didn’t.” (pp. 25-26)

41: “So when the second [relative] died, we, we wanted, oh, in

mother could not understand why her children were upset. Instead, she justified his behaviour by saying that he had been part of the family for a long time, and that because he was the children's father, he was still part of the family⁴⁰.

When another close relative died shortly afterwards, Cameron wanted to demonstrate, again, the ties he had to her family. He rang his son Sandy to organise a wreath from him. Sandy pretended to his father that he would do this, but he did not. Instead, he and Alice worked out how much the wreath had cost and what it looked like. When her son, Michael, rang a couple of days later to abuse Rose about the difficulties he had had getting to the funeral, he asked her if his father's wreath had been delivered to the funeral. Rose automatically told him the truth without thinking of the consequences for Alice and Sandy. To repair the situation, she got Sandy and Alice to say that they had secretly delivered the wreath without her knowing about it⁴¹.

Not long afterwards, a third relative died. Rose's new

between time, before my second [relative] died, my [other relative] died, and I was really close to [this relative]. And my son [Sandy], the twenty one year old, had started having contact with his father then. So his father rung up and said, 'Get a wreath to take to the funeral.' And so my son had said to me, 'I'm not going to take a wreath,' he said, 'I'll tell him I took a wreath and then just say I want the money off him.' So him and his sister had worked out how much they spent on the wreath, what colour the flowers were, you know, everything, they worked it all out. And then my other son, [Michael], he'd been told [this relative] died, and he didn't come to the funeral, and so a couple of days later he'd rung me up and he abused me, because he had gone to the funeral earlier, he had tried ringing us. And I got so angry with him. And then he said, 'Oh, did, did Dad's flowers arrive, Dad's wreath?' And I said, 'No,' without even thinking of the consequence of these other two. So I went to my son [Sandy], and says, 'We'll just tell him that he kept it in the boot of the car until after I had left the cemetery and then he put it on.' Then, so my son did that, and ended up getting some money off his father. He said, 'He's never paid me any money so why shouldn't I do him out of money?'" (p. 26)

42: "Then when [the third close relative] died, we thought we'd have the same sort of behaviour. My husband was asked to be pallbearer and my youngest son, [Sandy], was asked to be pallbearer. My middle son, [Michael], we had no contact with him, he wasn't asked, he wasn't Mum's favourite, and he wasn't asked to be pallbearer. But he turned up at the funeral and he got quite snaky about not being pallbearer. And it come about that it was his father going on at him, 'Who the hell's this bloody family? Why aren't you pallbearer? And who the hell's this family think you are? Why is Roger pallbearer?' and everything like that. So that sort of, well he's not a kid anymore, he's twenty three, he's torn. And he really, he doesn't know, yeah, he's got his father going on, 'What a horrible family, and a bitch and everything I am.' And it's quite hard for him there.. He keeps on saying to me that Roger, my husband, is not his father. 'You're

husband, Roger, was asked to be a pallbearer, as was her son Sandy. Michael was not asked. Provoked by things his father told him, Michael was very angry at the funeral and after it. He threw several tantrums. He became abusive, swore, and deliberately antagonised people. This infuriated other family members and Roger, who at different times came close to hitting him. Michael realised that he had "gone too far" and left⁴².

Rose blames Michael's behaviour at the funeral on his father. She is sure that Cameron would have told him that he should have been a pallbearer, not Roger. He would have also poisoned Michael's mind with nasty criticisms about the family and Rose. She realises that it must be very difficult for Michael; that he must feel "torn". She is sad that he is emotionally immature, and may never grow up. She wishes that he would be receptive to having counselling. Unfortunately, he does not believe that he has a problem⁴².

never going to be his father, and he's not going to act as my father.' And I keep on saying to him, 'Well, [Roger] frankly does not want to be your father.' And he just, he keeps on having, I think he has the pressure from his father that, 'I'm your Dad, and don't listen to them'... Well, you could tell straight away with the pallbearer bit. He threw a little tantrum at the funeral, at the thing afterwards he threw a tantrum there, and came just short of being beaten up by two [other relatives] from Australia. And then he went to Mum's, and he threw a tantrum there. And, 'cause he, when you have [relatives] who are dropping dead on you quite suddenly [and they are dying at young ages]... And the tension, it was really, they're not good funerals, and you can understand when they're older, but when they're young like that they're not good funerals to go to. And this son just stirred and stirred. In the end my, my stepfather, we all went back to Mum's and my stepfather threw him out across the property, told him to get off the property.. He didn't need the hassle. This, this son deliberately antagonised everybody, and he was abusive, and he kept on. He was warned, 'Don't swear, don't be abusive.' He was warned first. And he just kept on and says, 'Well, I'll abuse anybody I want to,' you know, and quite nasty language. And in the end he sort of {inaudible}, and because they upset Mum, they'd upset me. We're all sitting, and then [Roger] came out, and he, my other son, [Sandy], he walked in and the daughter walked in and said to [Roger], 'You'd better get out, [Michael] is stirring again.' So they, he went out there and he was going to hit him. He, he, he'd had enough. He's never ever taken to my son at all, but he said that time he was just so sick of his behaviour he would, he would have hit him. But he'd already gone, he knew he'd pushed things too far, and he'd gone... It's quite a, it's quite a horrific time. And, but my son just couldn't understand it. And to have, you could see where it was coming from, you could see it was coming from his father's input. And that's the unfortunate thing, because one kid is pulled so far. {Inaudible}. He's in his early twenties but emotionally he is very immature. He will never grow up emotionally. And that to me is quite sad. He needs counselling, but he won't have it. He

doesn't believe he's got a problem. I've suggested counselling to try and help him sort things through but he won't have it, just there's no problem.. The other two had counselling and they've learnt to adjust. And, and they wanted that counselling, both of them wanted to, yeah, they learnt to adjust to it." {Rachael: "So it was helpful for them?"} "Yeah, and I think that's one option they need to look at, is more counselling so it doesn't cost as much.. Counselling for the children is easier to get because there are options for the kids. But the victims, there's not much available. Even through ACC, the only way you can get counselling through ACC is actually sexual abuse, and that's, it shouldn't be just that way. Because if you want to pay for counselling, you're looking at about seventy five dollars an hour or something. And even the counselling I had, I still had to pay a subsidy of eleven dollars something every time I, I went to counselling.. It always comes down to money.. And the one's that, if they can, you know, like it's not so expensive or it's free, you have such a waiting list it's impossible. You need the counselling straight away. You don't need it, 'Oh yes, we can put you off for about three months.' You don't need it then... You need it basically straight away." (pp. 26-28)

Suggested improvements

Rose believes that the court needs to provide separate waiting areas for women and men who come to court in relation to partner violence, so that women are not intimidated by their partners¹⁰.

Rose also believes it would be useful if subsidised counselling was available for victims of domestic violence. She thinks this would help women

43: "Then you have the ones that keep on going back time and time again. I'm, yeah, well I'm one of them who went back. And yeah, I really don't know, maybe offer counselling to the victim. Maybe that's one option to look at. Because I know from counselling, I did get it eventually through ACC, but it was a hard thing to get. Counselling is not cheap and it's not easy to get. So maybe more counselling for the victim, to let them see where they're heading and what's happening, might help, might help sort people out a lot easier. Instead of having, getting so far that one ends up dead. I don't know." (pp. 21-22)

understand what is happening and what to do. It would also reduce the possibility of women dying because of their partner's violence⁴³. Rose believes that counselling is not accessible enough, and that it is too expensive. Counselling needs to be available straight away, when women require it. It needs to be available during the abusive relationship and afterwards⁴².

As mentioned above, Rose does not understand why women should have to pay for protection orders when men are responsible for the violence¹⁵. Furthermore, instead of women moving town to keep safe, she thinks that women should be able to stay in own environment. If necessary, men should have to move away¹⁷.

Rose also believes that men need to have substantial consequences for their violence, for example, fines or imprisonment¹⁸.

Summary of problems

Rose's dissatisfaction with the legal system can be summarised as follows. First, she was hesitant to involve the legal system because she was worried she would be labelled a "neurotic, whinging woman"⁶. She is unhappy that the judge gave Cameron no consequences for assaulting her^{9,11}. Rose was also dissatisfied with the waiting area in the court¹⁰. Guardianship rights can be used to

control women partners and force them to stay where they are, when it might be safer for them to move somewhere else¹⁵. Rose was deterred from applying for non-molestation and non-violence orders because they were costly¹⁵. It also seemed unfair to be paying for them when Cameron was responsible for the violence¹⁵. These orders would not have stopped Cameron's abusive behaviour¹⁵. Furthermore, women and children are left financially disadvantaged after the settlement of matrimonial property³⁰.

Summary of commendations

Rose made several commendations about the legal system response. Police were excellent¹⁵. They were supportive and concerned for her safety⁸. They also supported her during the assault court case¹⁵. Her lawyer was also very good²². She listened to her, was interested in helping her, kept her well informed, and incorporated her into the decision making process²³. His lawyer was also good²². Rose also found the judge at the Family Court hearing over matrimonial property quite good and fair²⁵.

HAYLEY'S STORY

Hayley is a Pakeha woman in her thirties. She has a young son, Sam, who was born near the end of her ten-year marriage to Allistair. When increasing violence led Hayley to leave the relationship, she dealt with custody, access, and matrimonial property promptly. Because of Allistair's consistent non-adherence to access arrangements, his irresponsible parenting, and his continued violence, she has used the Family Court a total of three times over access. In addition to this, the court granted an interim non-molestation order against Allistair before the Domestic Violence Act 1995.

Background to, and outline of, Hayley's legal system involvement

Hayley and her husband, Allistair, were married for approximately ten years when Allistair's behaviour suddenly changed. The pivotal event was Allistair having a heart attack, with which he coped very poorly. He became depressed, obsessive, and abused alcohol. Ignoring advice to live life in moderation, he continued to overdo everything, working and drinking almost incessantly. The more he drank, the more violent and depressed he became. He could not sleep. He was "completely out of control"¹. Hayley describes him as changing from a really "nice kiwi guy" to an "absolute animal"².

At the time of the heart attack, Hayley was eight-month's pregnant. In the ensuing

1: {Rachael: "Did you want to talk about what led up to you deciding, or needing a lawyer?"} "Yeah, well, originally, as my husband had a heart attack when I was eight months pregnant, and didn't cope with it, and got really depressed, and basically became an alcoholic overnight, and was obsessed about all sorts of things, so he was told he had to live life in moderation. So he became obsessed with overdoing everything, like he'd work all day all night, drink in between. He couldn't sleep... So he was completely out of control really. I had [Sam] in amongst all that. But things were just on a down hill run, and he was becoming progressively more violent the more he drank, and more and more depressed. There was just nothing anybody could do because he just refused to accept help. So in the end we split up, and I wanted things finalised straight away, because the way he was heading he could have, we had our own business, he could have bankrupted the business, and I would have ended up with nothing. So, I first involved my lawyer through that. And because I was really worried about his state of mind, I wanted to pursue channels of protection. Because recently in Wanganui, there'd been the Bristol case where a father had killed his children the night before he was to go to court for, I think it was, it was abuse of some sort anyway... My lawyer... could see the same pattern... and we were really concerned for my safety and for [Sam's] safety. And to top it all off, [Allistair] had rifles that weren't registered. He didn't have a

months, when things were on a "down hill run", their son Sam was born¹.

Hayley "prolonged the agony" by staying in the relationship for a while. At the time, she believed that children deserved both a mother and a father. In addition to this, she had invested several years in to their marriage, and a significant amount of time in fertility treatment. In the end, these factors were not enough; she left. She was not prepared to live with "somebody like that"¹.

Once the relationship was over, Hayley involved a female lawyer to settle their financial affairs. This was particularly pressing because she was concerned that Allistair was going to bankrupt their business¹. She also dealt with custody and access straight away. There was little conflict over this: Allistair did not want custody, and they pre-agreed to everything before it went to the Family Court. The judge made Hayley the custodial parent. The access plan stated that Sam would see his father twice a week³.

Because Allistair's state of mind worried her, she also ended up

licence for them or anything else, and he had all the ammunition and everything. He had shotguns and semi-automatic 22's, and all sorts of things, and he had them illegally. So we were worried about that. And also because he, the violence he'd already displayed as we split up... [It had] just got progressively worse. He was doing things like picking me up and throwing me. And he never actually punched me, he punched holes in the wall around my head. That sort of thing. But everything was over by then, because there was no way I was going to live with somebody like that." {Rachael: "Sounds like you were quite clear in your decision."} "I tried really hard though. I prolonged the agony. I really tried to stay, because I had a huge belief that a child should have a mother and a father. And I'd been on fertility for five years to get pregnant, and we'd been married for ten years. You just don't fire it in because you suddenly produce this child. But it had nothing to do with the fact that he had produced a child. It was just that he couldn't cope with his heart attack, that was all. And he was just depressed and needed help." (pp. 1-2)

2: "I mean he went from this really nice kiwi guy to an absolute animal really. Although some animals are nice." (p. 15)

3: "The violence escalated along with his drinking, and it all happened over access. We went to the Family Court straight away to sort out access, which he never ever adhered to through the, well, he never has yet. So he'd just turn up when he felt like it and want [Sam], and god help me if I wasn't there waiting for him, and that sort of thing. And most often when he did turn up he was drunk, and so I wouldn't let [Sam] go. And then he'd do things like try to kick doors in, smash windows, anything to get me. So eventually I did get a non-molestation order." {Rachael: "Oh okay, but you did the custody stuff?..."} "I had custody, I did that straight away." {Rachael: "'What was that experience like? Did it go through to the court?'} "It went to court, just the Family Court. [Allistair] and I tried to pre-agree to everything before we actually went, so we had it sorted out. He didn't want custody of [Sam], so there wasn't a, so there wasn't any conflict over it. And

pursuing avenues of protection (i.e., a non-molestation order)^{1,3}. This seemed particularly imminent because her lawyer identified similarities between her case and the Bristol case, where a father in Wanganui had killed his children. Allistair also had several unregistered firearms with ammunition, and since their separation, he had become progressively more violent towards her. He had picked her up and thrown her, and he had punched holes in the wall around her head^{1,19}. Fuelled by access problems, he had also tried to kick doors in and smash windows³.

I wanted him to see [Sam] twice a week, which he never did anyway, but that was his access.” (p. 3)

Custody and guardianship problems

Though the court gave Hayley custody of Sam, she and Allistair shared guardianship (50% each). This meant that whilst she could decide everyday things (e.g., what food Sam ate, what clothes he wore), both had an equal contribution to bigger decisions. Amongst other things, the judge explained that she had to let Allistair know when Sam went to the doctor. Furthermore, Allistair had some input into Sam’s living arrangement if she started living with somebody

4: “The only problem I had with [custody] was that even though I had custody of [Sam], it was stated really clearly by the judge that I had fifty percent guardianship and [Allistair] has fifty percent guardianship. And that has caused huge problems ever since. Because the judge explained to me that that meant that I had just as much right to the say so of what happened to my son as what [Allistair] did, which doesn’t work if you’re the custodial parent. Because I had sorted out what school he was to go to, and [Allistair] would argue with it just for the sake of argument. And the judge said that the day to day things, like what he wore, the food he ate, that sort of thing, was, that was fine, but if I took him to the doctor I was to notify the other parent, everything, and then he went right through the list of things. And it’s caused really big problems because it’s been, it’s almost been used as a loophole for argument. And the only person that ever suffers in

else (but it was not relevant if Allistair got a new partner).

Whilst Hayley recognises that 50% guardianship would be very good in a normal situation where both parents love the child, it has proved very problematic in their situation, where Allistair does not "care less" about his son.

Consequently, she does not believe that Allistair deserves the rights associated with guardianship⁴.

Mainly, Allistair has used 50% guardianship to be difficult and to intentionally create conflict. For example, he objected to the school that Hayley intended to send Sam to just for the sake of an argument. She had wanted him to go to a country school on the outskirts of the city they lived in (City A); he wanted him to go to a private school. Allistair objected despite her expertise in this area, and despite her having thoroughly researched the schooling options in the area. Hayley suspects he knew that sending Sam to a private school would financially cripple her. At the time, she was on an ACC-type benefit, with no child support assistance^{4,42}.

Fifty- percent guardianship also

that, in the end, is the child. And it's meant things like me shifting from [City A] to [City B], it's caused huge problems, because it was almost like I didn't have the right to do that, or I could come by myself but I couldn't bring my son. And because it's my fault I've shifted, then all travel and things like that for access is my problem... It's caused a lot of friction... It's just been an excuse for him to have another go. And in times that he, in times that it could have been a positive experience, [Sam] had to be taken to hospital when he was two because he had an abnormal [internal body part] and they thought he might have [a serious disease], so that, that was a time when I tried to involve [Allistair] as much as I could. But he didn't really want to be the supportive father. And then later when [Sam] was four he got his tonsils out and I mean [Allistair] didn't even turn up after surgery, never rang to see if he was alright or anything else. So he's only using his guardianship for a point of conflict, and, because he has as much right as I do even though I am the custodial parent. It's just a ridiculous scenario. It's like, 'Well, yes, you have the right but you don't have any at all'. You know, it just doesn't work. You can't have, one parent can't have custody of a child and the other parent have fifty percent rights to every decision that's made. And the judge even said right down to things like if I started to live with somebody else, [Allistair] has to almost approve that [Sam] can be living in that situation. And yet when he started living with a girlfriend, that's like, 'Oh well, just tough luck.' And I wouldn't argue that anyway because it's not really my business.. What was difficult was the way that [Allistair] interpreted what [the judge] said, and the way he's actually abused that guardianship. In a normal situation where you've got two parents that love the child, I can see that the guardianship thing would be really good, because it does give you legal right over your children, and that's fair enough. But in my situation, where he's done nothing fatherly for his son, basically couldn't care less, he only has them as a point of conflict, then I don't think he has right to that guardianship. Because it meant things like, when [Sam] turned five I enrolled him at a little country school just out of [City A]. I know, I'm a [profession given], and

proved problematic when Hayley wanted to move with Sam to another nearby city (City B). He almost prevented her doing this. Because she has moved, she has to pay for travel expenses and other access costs⁴.

Whilst Allistair has used his guardianship rights for conflict, he has not used them positively when they could benefit Sam. For example, when Sam was in hospital regarding a very serious health scare, Hayley informed Allistair, but he remained uninvolved with him. Similarly, when Sam had his tonsils removed, Allistair did not visit him, nor ring to check he was okay⁴.

Hayley believes that Sam is the main person who suffers as a consequence of the custody/guardianship issue⁴.

that was the best school for him to go to. And I’d done heaps of research on it, and, you know, the things that you do. And then [Allistair] decided, ‘Oh well, he’s going to go to a private school.’ And so there was, you know, six months of huge rows, letters from lawyers, cost, all sort of things, because [Allistair] disagreed with the school that I was sending [Sam] to. And we’d never ever agree. And not only that too, but, I mean, [Allistair] doesn’t pay maintenance or child support... It would have meant that he, he actually went ahead and tried to book him in. But what would have happened in reality was that I would have ended up with the bill. He knew that it was one more way to get me in trouble, if you know what I mean, because he could have really financially crippled me. I couldn’t afford to send him to a private school. By then I was sick and can’t work and so I’m only on sort of like an ACC benefit. [He’s] manipulated everything, but to a negative degree. And... as far as I know, he’s within the law doing what he’s doing because he does have fifty percent guardianship.. And you know, it’s just a point of conflict. If the parents are in perpetual conflict there’s no way the child’s ever going to have a healthy environment in which to grow up.” (pp. 3-6)

Access problems

Hayley has had numerous problems with Allistair’s access to Sam. He rarely adheres to the set guidelines^{3,5}. He does not turn up when he should. He turns up when he should not. When he takes Sam, he often returns him very late at night,

5: “He never adhered to access anyway. So it might be on Thursday night he was supposed to have [Sam] for two hours. Well, he’d never turn up, you know. Sunday morning he was supposed to pick him up at 9 o’clock. Well, he’d be hung over somewhere, you know. But [at other times] he’d turn up and just expect to take him. And if he couldn’t get him he’d just kick the door in or whatever. And all this has been witnessed by [Sam]. So I went back to court to try and get that access, to get access

long after the time limit. Sometimes Sam is returned inadequately dressed for the time of year⁵. If Allistair cannot have access to Sam when he demands it, he responds violently, by attempting to kick in the door, or by smashing windows^{3,5}. It concerns Hayley that Sam has witnessed violent behaviour like this⁵.

Allistair also turns up drunk to pick up Sam, and/or in an unregistered, unwarranted vehicle. He does not care whether Sam is strapped in to his carseat and belted in. She feels frightened that she has no idea of Sam's whereabouts. This fear is exacerbated by Allistair's involvement in the drug scene⁵. Sam's behaviour was so badly affected by Allistair's access that the crèche became concerned and wrote a letter to her. It had gotten to the stage that they had to separate him from the other children after visits with his father⁶.

Because of the frequent problems with access, Hayley went to court to get access redefined. However, the judge's clarification had no effect on Allistair. With no policing of his

redefined was what they called it. So access was redefined and the judge was pretty clear about, we agreed to the same access, and the judge was pretty clear that there had to be time limits. So if [Allistair] was fifteen minutes late, after fifteen minutes late access didn't happen any more, that sort of thing. So it was really redefined. But of course, there is no policing of it, you know. You can't call the cops and say, 'Well look,' you know, 'he's an hour and a half late and he's just turned up, and he's going to take him whether I say yea or nay'. And I had enough trouble with them taking him when he was drunk. He was turning up in an unregistered, unwarranted vehicles, no seatbelts. He didn't care less whether he had [Sam's] carseat. He'd just take him." {Rachael: Did you, did this end up within the law at any stage? Did you alert anybody to this?} "Yeah, I did. I alerted the lawyer, and that was to get access redefined. And a lot of those things came up. The judge said, 'You can't [take Sam in an unregistered vehicle],' but he continued to do it, because.. what can you do, you know.. He threatened to kill the family dog, which really upset [Sam], and he'd smash a door in to get in, and that sort of thing, to get [Sam]. And he'd just take him, and that was sad. And I'd never get, I never had any idea where he was with [Sam]. And that was really scary. I didn't know whether he was in town, out of town, who's place he was with. And [Allistair's] involved in the drug scene and all the rest of it, so there was no, it was really scary. And I, yeah, I just never knew. And he was never returned on time either. So, you know, if you've got a two year old and it's winter time and he's returned in a like a little tee-shirt or a singlet at nine o'clock, ten o'clock at night, instead of six or five, it's really bad. But there was no policing. There was just nothing I could do. And I had a friend that was a policeman, and he said, 'Well,' you know, 'the police just aren't really going to be interested because it's domestic'... He said, 'You can field a call but nobody's going to come, so you're wasting your time.'" (p. 8)

6: "I'm not going back [to court] because I might lose custody. Because as far as I'm concerned the last two times that we've

uncooperative behaviour, the situation seemed futile⁵.

Hayley pursued Allistair's non-adherence to access twice more in the Family Court. The third court hearing was particularly unpleasant. The judge described them as "naughty people", and told them that the court would make the decisions if they continued to be conflictual⁷.

Hayley is now too afraid to go back to the court. She is particularly afraid that she will lose more ground over access, or that she might lose custody of Sam altogether. This is because in the past Allistair has received more access to Sam in court hearings when she had intended to restrict his access to supervised access^{6,8,9}. The judge has claimed in these hearings that Sam needs to spend more time with his father⁶.

In the Family Court hearings, Hayley was not listened to, even though she was the responsible parent⁸. Neither was she allowed to submit evidence that supported her concerns about Sam's safety (e.g., letters from the crèche, school, and counsellor, and her diary)^{8,9}.

been to court, and especially the last time, the most ridiculous things, [Allistair] got, I mean the last time I went to court was, because number one, he'd never adhered to any form of the access rules anyway, again. And he was still picking up [Sam] in an unregistered unwarranted vehicle. He was still not worrying about his car seat... I had a letter from crèche about [Sam's] behaviour after he'd been with his father and how really concerned they were. I mean, basically they had, they were getting to the stage of withdrawing him from the other children in the crèche after he had time with his father. And the fears that I had of [Sam's] safety because of, his father was still drinking. I never mentioned drugs because I was too scared to. And also that I never knew where he was, you know, which was part of the access thing that [Allistair] could have him if I knew exactly where he was and what they were doing. And when I came out of that court hearing, 'cause I went in wanting supervised access, and also, because the conflict between him and I had continued and had snowballed again to the point that I really needed another protection order, because again he was abusing me, threatening me, he'd killed the dog, all those sorts of things... And we came out of there after being told that we were naughty sort of people, and he was then entitled to overnight access. So I didn't get supervised access. I got nothing that I asked for. He, [Allistair], got told that if he didn't adhere to access rules he wouldn't, there would be no access for him but again who polices it. And he's never, he's never adhered to it once. And then he got overnight access as well. The judge said, 'Well, [Sam] should be spending more time with his father.' Because [Allistair] had never been allowed him overnight because of the drinking... You know, I've just lost so much ground and every time I go I lose so much ground." (pp. 19-20)

7: "And then the third time I went back to court was again because access had never been adhered to... And we were told on no uncertain terms that we were naughty people, and that if we wanted to continue the conflict the next time it went back to court, the court would decide everything from custody right

Instead the judge sided with Allistair, who swore repeatedly, and had turned up unwashed, unshaven, and in his smelly, beer-stained, pub clothes¹⁰. He treated Allistair as if he was the victim in the proceedings because he was the man. She strongly believes that some judges have preconceived ideas about women that affect the process followed, and the decisions made. One of these notions is that women are nasty, vindictive, whingers. Another is that they have more rights than men^{8,10}.

Considering her own experience in the Family Court, Hayley believes that the legal system insufficiently incorporates children in to the decision-making process^{8,9,11}. Sam has never been asked to speak to the judge about how he feels^{8,9}. Nor was his counsellor consulted.

The Family Court counselling process, which did aim to include Sam somewhat, was very frustrating. She felt that the counsellor was too poorly skilled^{12,25} to adequately assess Sam²⁵. Also, she completely disregarded Allistair's non-

through to everything else. That's what we were told on no uncertain terms [by] the judge." (p. 17)

8: "I will never go back to court if I can help it, you know. I'm not going to initiate going back to court to try and get a more civilised sort of agreement between [Allistair] and I, because I, every time I've been I've lost more than what I had before I started. And as far as I'm concerned I'm the only responsible parent. I'm the one that has, you know, has custody. And it's like nobody ever listens to what, anything I say. And the letters that the crèche have written to the courts, I've had the crèche write letters, school, and I've kept a diary of the violence that, and things that have occurred in the access that's never happened that should have happened, got to have it in writing. I have never ever been allowed to submit any of those because none of the judges have allowed me to." {Rachael: "What do you think is going on with that? Why do you think these things are happening, that the judge ended up giving [Allistair] even more when you were actually there to try and get it restricted for [Sam's] safety? Did you, have you got any thoughts of why it's ended up so disastrous for you and [Sam]."} "I think there's a real problem with like you're innocent until you're proven guilty. I think there's a real preconceived notion some judges have that, that maybe women have a lot more rights than the men anyway, and therefore she's just a whinging woman wanting a bit more or wanting to get at the ex-husband, and she's just being nasty and vindictive. I honestly think that's really all it is. And not one of them actually cares about the kid. [Sam] has never been asked to go and talk to the judge about [how] he feels about anything." (p. 21)

9: "But, you know, I finally thought, 'We're going to get somewhere because we're really going to be able to basically spew our guts and get this sorted out once and for all.' But, I mean, it just didn't happen. And, you know, it was a joke. [Allistair] swore all the way through and he had to be reminded to, 'You don't swear in front of the judge,' you know. And I

attendance in the counselling process, until he received notice of the court hearing and realised it would be detrimental for him not to attend counselling. The counsellor told her that she thought Allistair was a lovely man, and that her poor health was possibly causing her to perceive the situation incorrectly, and to overreact¹².

Problems with access continued right up to the time of the interview. A couple of weekends prior, Allistair had rung because he and his new partner were too intoxicated to drive Sam home from City A. She found out that Sam had not been in their care at all; he had been “dumped” elsewhere. This incident distressed Sam so much that he cried all the way home to City B. He has also had recurrent nightmares since¹³, and from other ‘visits’ to his father.

Unfortunately, Allistair’s “latest thing” is that he wants custody of Sam. He believes that Hayley’s health makes her an unfit parent¹⁴.

thought well what’s that saying. And then I end up not only not getting supervised access you know, I not only didn’t get that, I didn’t, he ended up doubling his amount of access you know. It didn’t even go back to the status quo, you know”... {Rachael: “What did you think [the judge] thought about [Allistair]?”} “I think [the judge] thought [Allistair] was a victim. I really think that he thought that maybe he had this ex-wife who was feminist and knew her own mind and was more intelligent and educated than what he was, and I was just manipulating the situation to my benefit to get to [Allistair]. And he missed the point completely because [Sam] was never even considered. [Sam] didn’t end up going to that judge as well, and the court counsellor. I wasn’t allowed to submit the letter from crèche. I mean, fair enough if I wasn’t allowed to submit my own diary of the records that I’d kept on [Allistair] because it’s my word... But surely if a crèche is that concerned that they’re actually going to write a letter and express their concern, well, and that can’t be submitted, well, what’s the point. The whole thing is a farce. And then I get a bill at the end of it, you know, for another couple of grand you know.” (pp. 22-23)

10: “Even when, the last time we went to the, to court, we sat around a table with that stupid judge who we got told was the best judge that they’d ever had, and was so good in Family Court. He, you know, every time I said something [Allistair] would contradict it. So if I said, ‘Well, I’m really concerned because I never know where [Sam] is,’ [Allistair] would then say something like, ‘Oh well, you know, she’s out with all these men all the time, and she’s doing this, and she’s doing that.’ And, you know, it’s all rubbish, you know. Oh look at all the men around, you know. They really want to have something to do with somebody like me, you know.” {Rachael: “And how was the judge?...”}. “Well [the judge] sided with [Allistair]. He just, I think he honestly thought, you know. And [Allistair] turned up in the pub clothes that he’d worn a couple of last nights at the pub, and he smelt, and he had beer stains all up the sleeves, and he hadn’t shaved, he hadn’t washed, you know. And I just thought, ‘Well, it just says it all.’

But, you know, it was like, 'Oh, poor [Allistair's] the victim because he's the man.' And I really think that you know." (p. 22)

11: "I don't think [the judge] thought about [Sam] even. I don't even think he considered him. He said to me that if I kept stopping [Sam] seeing his father for what his father really was, when he became a teenager he'd throw it back at me and I'd have more problems than what I've got now. Which I don't think, I thought it was a valid point, but he'd missed the point completely. He had missed the whole point which was [Sam's] safety when he was with his father. And of course it was the same thing, 'Well you're not allowed to pick him up unless you have got a registered warranted vehicle.' And, you know, 'You're not allowed to pick him up unless he does have his car seat, and you're not allowed to pick him up unless you're sober,' and you know.. Most fathers would own their own carseat. I have to supply the car seat for him and for me. You know, most Dads would actually have a carseat and they couldn't wait to get their little children's bottoms in there, and actually have them and spoil them rotten for the weekend, or the night, or whatever it is, you know." (p. 23)

12: "After the second court thing, I think it was, we had to go and see the Family Court counsellor. So I trotted along.. I had to go and then [Allistair] had to go. I think we had to go two times each and then I think they wanted, she wanted to see [Sam] by himself. But that didn't happen. I went twice, [Allistair] refused to go. And then when he actually got the notice of the hearing of the court he decided he'd better go. And [he] told this stupid woman, who I doubt had any qualifications to be a counsellor whatsoever, unless she did one of those little ten week blocks at Polytech... And she said, 'Oh, you know, what a lovely man,' you know, to me about him, and how maybe I was, I was overacting because of my illness and things weren't quite as bad as what they were... The courts made these appointments and he just didn't even bother to go. He didn't cancel them, he just didn't go. And to me that spoke volumes, you know. And then at the end of it,

‘Oh, what a nice man,’ you know.” (pp. 21-22)

13: “A couple of weekends ago I got a call to go and get him because they’d been drinking and they couldn’t bring him back to, back to [City B]. And I found out that he hadn’t actually even been with his father or his father’s girlfriend. He’d been dumped the minute he got to [City A], and I have no idea where he was dumped because that’s all the information I got. And he cried from [City A] back to here and he still is having nightmares every night.” (p. 18)

14: “Now, [Allistair’s] latest thing now is he wants to go for custody because I’m an unfit parent.” {Rachael: “Oh, he’s saying you health is making you an unfit parent?”} “Yes.. So, I’ve all got that...” {Rachael: “...To worry about.”} “Yeah. And, not only because of all of that. And it was medical misadventure what happened to me.” (p. 20)

Child support

Allistair does not pay any money to assist with Sam’s living costs, even though he earns approximately \$1000 cash per week through his business. His accountant manipulated Allistair’s books, so that it looked like he earned the same as a beneficiary. This meant he was only required to pay \$7.35 per week to the Inland Revenue Department (IRD). Because Hayley interprets this negligible amount of money to be representative of Allistair’s lack of interest in Sam, she wrote to the IRD and told them she did not want this money¹⁵. Hayley

15: “I mean, [Allistair] doesn’t pay maintenance or child support. Because even though he’s self-employed and he draws a thousand dollars a week cash from the business, and he does do that because his girlfriend’s told me, he doesn’t pay, he has got an accountant that’s said his drawings are actually the same as a man who’s on the dole. So, he only has to pay \$7.35 a week. So, I actually wrote to Inland Revenue and said, ‘You can stick your \$7.35. I don’t want it.’ If that’s all he’s prepared to pay when he’s actually drawing all this cash, and has a very nice lifestyle thank you very much, if that’s all he really cares about his child that he doesn’t want to financially support him, then he can go take a running jump.” (pp. 5-6)

believes that because Allistair is not financially supportive of Sam when he has the money, he should not be able to have access to him⁴², or 50% guardianship.

Non-molestation orders

Because of Allistair's violence, and the dangerousness of the situation, Hayley applied for a non-molestation order¹³. She did this when he was in another part of the country, (Region A), as she was too afraid to whilst Allistair lived in City A¹⁶.

Because Hayley's lawyer was away on Christmas holiday, another (female) lawyer within the firm processed the non-molestation order application. Her unfamiliarity with her case made the process a little difficult¹⁷. Nevertheless, with the police backing her up, the court processed her application very quickly and granted her an interim non-molestation order¹⁸.

Unexpectedly, his family, who had been very supportive to her in the past, reacted very badly. She became "dirt" in their eyes. She guesses they thought she was a "stupid half-wit woman"

16: "[Allistair] had actually left [City A] by then. In a way I was a bit too scared to take [the non-molestation order] out while he was still there. So he'd actually gone up to [another part of the country]. [Someone he knew] was a policeman [in this place] so I thought that that was fortuitous because it, then he'd get served with it [in this place] by [this person] and hopefully he'd get a real earbashing on behaving himself and pull his head in. That didn't happen though. So anyway, so the judge granted it." (p. 10)

17: "It was at Christmas time, and my lawyer was actually on holiday. So first of all I went to the police station and made a complaint, and then I went to the lawyer that she left in charge of my affairs while she was on holiday. And it was a little bit difficult because she really didn't know the case background. And she didn't know why... With this new lawyer that all had to happen again." (p. 9)

18: "The police were really good about it, and they really pushed for, because apparently you have to wait for a judge to hear it, and the police pushed so that it was done in urgency. And so a judge in [a large New Zealand city] ended up hearing it." (p. 10)

19: "When [Allistair] was served with it his family went crazy. They had been actually quite supportive of me and felt sorry for me and the things that had been happening until I did that, and then they hated my guts. They turned right around. 'How dare I publicly say what had been going on in the marriage and the, and since the separation.' They were really, they're still angry. They don't talk to me. They have nothing to do with me whatsoever.

who was over-reacting. They also resented the violence in the marriage being made public, should their name be “tarnished”. They now have nothing to do with her, and little to do with Sam. Even when Sam went to hospital with a supposed life threatening illness, they did not attempt to find out if he was all right. There is now mutual hatred between Hayley and Allistair's family¹⁹.

After being served with the order, Allistair reacted in a very frightening way. He rang her often, threatening to shoot her dead when he returned to City A. This terrified her. She was also very frightened that he would shoot Sam, or not return him after a pending access visit. Worse still, she had nowhere to turn: she could not ring the police for help; she could not ring his family; and she could not get assistance from his best friend²⁰. Her lack of legal protection is discussed shortly.

Hayley never finalised her non-molestation order. This was because Allistair was diagnosed with a terminal illness not long before the non-molestation order defended hearing.

And basically they only have something to do with [Sam] if he's with [Allistair]. Other than that he's completely ignored. Even when he went to hospital and they thought he might have, because [Allistair's] brother died of [a life threatening illness], then [Allistair] got it, and then they thought that [Sam] had it, so it was a really stressful time. And his family didn't even ring to see whether [Sam] did have it or not. That's how much they hate me... So he got served the papers [in Region A] and I don't know what happened up there. I think they just decided I was some stupid half-wit woman who'd, you know, was over-reacting. That's what the family thought. They didn't think that, they knew that [Allistair] was threatening me. They knew that he was actually, he had picked me up and thrown me a few times, that he'd tried to smash doors in. They knew he had this huge drinking problem. They knew everything because I had been pretty honest about what had been going on. But they, and they've tried to talk to him about behaving himself and growing up and all the other things, and nothing really, 'cause [Allistair] just didn't want to listen to anybody. But when I did that, and it was sort of like I actually did something about it legally, then I was just dirt, I was just nothing... It had to go to court. You know people might find out and they didn't want their name tarnished you see. So we just all hate each other a lot. And you know they can get stuffed as far as I'm concerned. I'm quite happy to hate them all if that's the way, you know, the way they want to react.” (pp. 10-11)

20: “Anyway, [Allistair] rang me often after he'd got served with the papers and told me that he was going to kill me when he got back to [City A] and how he was going to do it... And he told me what he was going to do when he got back, and he rang me and threatened me and abused me basically, the whole time he was [Region A]. And then I went away from [City A] because I was too scared to actually be there. And then of course he came back and eventually I had to go back to [City A], and I was terrified. I tried to jack up that his best friend, who'd tried to mediate between us before, would actually be at the house when

Extraordinarily, at the time of the interview, Allistair was still alive^{21,22}.

Now expired, Hayley's interim non-molestation order cost her over one thousand dollars because her income was not below the required threshold for legal aid²³. She would never pursue one again because of the cost, and she believes it is unfair that any at risk person should have to pay for them²⁴. Hayley also complained at the general cost of involving the legal system. She believes that the legal aid threshold is too low²⁵.

She also found that the legal system ignored psychological abuse. She believes this is because it cannot be seen, and it is difficult to measure. Despite this, she believes that psychological abuse is a huge problem. It is just as important, if not more so, than physical abuse, because of the long-term damage that it causes²⁶.

[Allistair] came to see [Sam], but he couldn't. [Allistair] was really really angry and he wouldn't look at me or, but he didn't, he didn't actually do anything. But I was, he told me he was going to come and shoot me.. I was terribly frightened. And I was really scared he'd shoot [Sam] as well. And of course, he had access when I came back, and I thought, 'Well, I'll never see [Sam] again.' So I had all those huge fears. And then there was just nowhere to go. I couldn't ring anybody. I couldn't ring the police. I couldn't, I'd rung his family who just wouldn't, didn't want to talk to me. I'd rung his best friend and he'd said, well, he'd have, he'd do what he could do, but he was [at work]. And that was that." (pp. 11-12)

21: "Shortly after I took out that non-molestation order and the trespass orders and that sort of thing, he got diagnosed with [an] advanced [terminal illness] and he wasn't expected to live. So I withdrew it, and he.. because I thought, 'Well, he's going to die anyway,' yeah. Well, there's no point of rubbing salt in to the wound... He is still alive and nobody can understand why... So we had that for a little while." (p. 9)

22: "We had to wait for the normal hearing time, and it was between that time that [Allistair] got diagnosed with [a terminal illness] and I withdrew it... I think we had to wait a month or so before it actually went to court... and then he got ill.. so I withdrew it." (p. 10)

23: "And then of course there was the expense. Cost me over a thousand dollars.. At that time you had to gross thirteen thousand to get legal aid. I didn't know anybody in New Zealand did that, but that was the cut off." (p. 9)

24: "And I don't think you should even have to pay for a protection order. You know, I will never go and get another one because I can't afford it." (pp. 20-21)

25: "And still amongst that all, it's cost me a fortune to go to these bloody judges in Family Court, which are, it's just a joke...

Now last time I asked [legal aid] was, I had to gross fifteen thousand. Well I'd gross more than fifteen thousand so I wasn't entitled to it. But that's ridiculous, you know." (p. 20)

26: "Well, they just didn't even look at [psychological abuse]." {Rachael: "So, they were only interested in the physical things?"} "Yeah, they want something that can be seen, that can be measured by {inaudible}. You know, [Sam] should have been, you know, even if they didn't want to take my word for it, they should have had him psycho-analysed somewhere with somebody that's decent and actually qualified, and it would have all come out in that... I mean if they'd really done it properly they would have never needed to ask me a question or [Allistair] a question. Because [psychological abuse] can't be seen, can't be measured, it's not addressed. It's a huge problem. It's just as important as if you beat somebody up. Well in fact, in some ways it's maybe even more scarring because it's more long term." (pp. 26-27)

Trespass orders

In addition to a non-molestation order, Hayley also got a trespass order to prohibit Allistair entering the property. This proved ineffective. Allistair thought it was "a hell of a joke". She was also told that the police would not enforce it unless Allistair had badly injured her or Sam first. She did not feel strong enough to enforce it on her own²⁷.

27: "And then I got a non-trespass order out on him as well.. He wasn't allowed to enter the property sort of thing, but that didn't work because again you know you can't police it. I can't get out there and strong arm a great big guy and tell them to go away you know. And he just laughed at it all. He just thought it was a hell of a joke." [Rachael: "Did you contact the police regarding the trespass [order]?"] "Yes, I talked to this policeman again. And he said, 'You've just', you know, basically until he really did something bad like really injured [Sam] or really injured me, there was nothing anybody was going to do." (p. 8)

Protection from the police and the legal system

Hayley felt there was no legal protection for her or her son^{27,28,29,30,34,36,42}. If he had

28: "There was there was no protection for me or for my child at all. If he had really wanted to come in and blown us away he would have, and he would easily have been able to do it. And

really wanted to kill or harm them, he could have easily done this^{28,32}. The police were reluctant to get involved until he was seriously violent to her first^{28,29}. Although she had been told that they could seize his rifles and charge him, his potential revenge only increased her fear further³¹. Also, she was too afraid to put it in writing that he had unregistered guns²⁹. She had a similar fear of providing a written record of Allistair's drug abuse history to the court⁶ and to Sam's counselling agency²⁹.

Hayley put some practical things in place to increase her and Sam's safety. She informed her neighbours of the situation; she had a room in her house where she could lock her and Sam in and push a panic button; and she provided the crèche and school with a photo of Allistair and instructions of what to do if he came on the property^{32,34}.

Hayley believes that Allistair is still a dangerous person: "he's a time bomb just waiting to go off" and "he will take others when he does it". He now beats his current girlfriend³³.

that's what really pisses me off about the law, because you, there is no protection until after the event. And then they're all saying, 'Oh well, you know, we did know about this, but.' And that's not good enough." (p. 12)

29: "There is no protection. There is no port of call. There's no policing of it. The police aren't interested unless something's happened, you know... They'd actually picked him up DIC one night, and he smashed up a police cell and attacked a few cops so they knew what he was like. Also, the [police] friend that I had, he was quite high up... in the hierarchy, so he sort of spread the word as well. But again he said, 'They won't act unless you've really got something of substance.' And I said, 'Well, I'm not, I'm not going to be in any position to ring you and ask for help if something does happen anyway, because like, I'll be mortally wounded anyway.' And I would not, I told them that he had the firearms, but because I wouldn't put it in writing, because he could actually see, he could, he could be given the name of the person who had put in the complaint against the firearms, so he had legal right to know that it was me that dobbed him in. Well, who the hell is going to do that? You know, it's the same thing with [Sam's counselling agency], with all the things that are going on now with [Sam's] counselling, and that sort of thing. Because he has fifty percent guardianship, he is entitled to see [Sam's] file at [Sam's counselling agency], and what's being discussed, not so much between [Sam] and the counsellor, but he is entitled to see what I have said about him. Because they go through the whole rigmarole of family history and background and all the rest of it, and, you see, I, so when it got to the drug abuse thing I said, 'Well, I'll tell you that, but you're not allowed to write it down.' And because again he can see that it's there and knows that I said it." {Rachael: "Which would put you in more danger?"} "Yes. Yeah, and there was no protection for me." (pp. 13-14)

30: "There just hasn't been, there's, there's no protection. There's nothing there." (p. 15)

31: “The policeman friend told me that that they could have actually gone in to the house and taken the rifles then, and he could have faced a maximum prison sentence up to five years, which only scared me even more, because I thought, ‘Well then, I’m going to have to wait five years before he comes out and blows me away for doing such a thing to him,’ you know. It still didn’t, nothing solves the problem.” (p. 12)

32: “And it, it was really, really hard, because [Allistair’s] really well known. He was [in a position that makes him] really well known in [City A]. And it was really hard going to the neighbours and saying, ‘Well, look, I’ve got this non-molestation order out. If you see him coming I might need some help,’ you know. And I did. I went door knocking.. I got a really good response from one neighbour, but the other neighbour, they all play golf together you see so, you know. And yeah, I just didn’t know what to do. I’d worked out, in the house I had an office that was sort of in the middle of the house that I could actually barricade myself and [Sam] in there, and the alarm was in there so I could press the panic button. But I mean, other than that, if he really wanted to get us he was going to get us. And it was just a terrible, terrible time... If he really wanted us he would have, he could have got us.” (p. 13)

33: “I mean he was, and he still is, he’s a time bomb just waiting to go off, and one day he’ll just go off, and, you know, he will take others when he does it. And he’s just not safe... He even, he beats his girlfriend, and she said he just loses it. He’s completely insane and he just loses it. And that’s... because he still hasn’t had help.” (pp. 8-9)

Hayley’s experience of her lawyer

Hayley had used her lawyer from 1993 up until six months before the interview, when her lawyer moved to a large New Zealand city. Hayley did not have a

34: “The lawyer was very sympathetic, but there was actually nothing she could do, she said, until he actually really did something quite violent. So there was nothing, even though she could see the potential of what could happen. And we did things. We set up little bits and pieces later on, like when [Sam] went to

lawyer at the time of the interview.

During this time, Hayley found her lawyer to be very sympathetic³⁴. She realised the potential danger of Hayley and Sam's situation³⁴, and equated it somewhat to the Bristol case¹. This lawyer, and the one that filled in for her during the non-molestation order application, seemed to take what she said seriously. They believed her and listened to her. She thought they were both "really good", and she trusted them. She felt that her main lawyer had done the groundwork required when she got the other lawyer to fill in over Christmas³⁵.

Although there were limits to what her main lawyer could do, she did assist Hayley with some safety measures³⁴. Eventually, she gave Hayley a 24 hour contact telephone number. Nevertheless, she still felt that the legal system was not protecting her and her son from Allistair³⁶.

Hayley feels that the gender of a lawyer is an important consideration. She would never have chosen a male lawyer to

crèche and to school, because I was working full time, the crèche had a photo of his father, and then later the school. And if he ever entered the property they were to ring 111 straight away." (pp. 2-3)

35: {Rachael: "Did you feel that when you, both the lawyer that you normally had and the one that filled in that day, did they seem to take what you were saying seriously?"} "Yeah, they were really good." {Rachael: "So they really believed you?"} "Yeah." {Rachael: "And listened to you?"} "Yeah." {Rachael: "And you trusted them?"} "Yeah. And my lawyer had actually, had set up that this could possibly happen anyway with the other lawyer [that is, that Hayley might need assistance while she was on holiday leave]. So she'd done the ground work. She was really, really good." (p. 14)

36: "In the end she did actually give me a 24 hour phone number. But once again I had support from her, but I didn't. There was there was no protection for me or for my child at all." (p. 12)

37: "I wondered if it was a disadvantage [having a female lawyer]. Because I think it helps support the judge's idea that I was just some feminist woman trying to attack a man, you know." {Rachael: "Oh okay, that you chose a female lawyer, so obviously you're trying to get someone on your side, is that the sort of thing you're meaning?"} "Yeah, yeah, yeah. And we were like two women, so we needed to know our place." {Rachael: "Do you think that a female lawyer would have any better or worse understanding of your experiences?"} "Only a female lawyer, I mean I wouldn't go to a male lawyer..." {Rachael: "What do you think a male's understanding is? If you had chosen a male lawyer, how do you think it might have impacted?"} "I don't think the male does really understand. I think there's very few truly understanding, understanding men in the world, well in our society anyway. I think they're really few and far between. And if they are that sort of way inclined, they're not going to be lawyers,

represent her. This is mainly because she believes there are very few understanding males in our society, and those who are would not likely choose to be in the legal profession. However, she does wonder whether having a female lawyer might be a disadvantage in a male-dominated judicial system³⁷.

you know. You’ll find them in the medical profession, or in a more caring profession.” (p. 25)

Hayley’s experience of Allistair’s lawyer

Allistair’s (male) lawyer was very intimidating. He had a lot of experience defending people charged with serious crimes, and she believes that he is very similar to his clients; that is, he is a criminal himself. She has also heard this from other people³⁸.

Hayley found that Allistair’s lawyer behaved unprofessionally at times. For example, he yelled out to her lawyer before they went in to court, asking if she had been sober lately. He also told Allistair that her lawyer was useless, and an alcoholic. She believes he behaved in these ways to intimidate her. To some degree it worked; she wanted to “turn around and run” at the court hearing³⁸.

38: “His lawyer is really intimidating... He does all the really bad crims. In fact, I think he is one himself. Yeah, that’s why [Allistair’s] got him because he’s sort of like the head of the Mafia of [City A], you know. And he is corrupt in my opinion. I have no proof but I do know what he gets up to, and I have heard a lot of really bad things about him. And a few really bad, [if you] have done some really bad things he always manages to get you off, but you pay along the way. He wasn’t our lawyer when we were married, so [Allistair] went, actually [Allistair] had another male lawyer, so he, since [Allistair] has become quite criminal himself, he’s got in to this lawyer. And there were things like, before we actually went in to the court room he yelled out, and he said, ‘Oh, here comes that [lawyer’s surname] woman,’ who was my lawyer. You know, sort of yelled it down the stairs... I think he was trying to intimidate me, because he knew I wouldn’t like that. And she could, she could cope because there was no doubt she was used to him. But, you know, if you’re, if you’re about to enter a court room and you’ve got someone’s lawyer, you know, larking off another lawyer in front of the clients, I think it’s really bad. And it was only the Family Court we were going to, they’re not sort of fighting a murder case or anything. Really unprofessional. And then [he] made some comment about had she been sober later... It wasn’t smart, it was just, I don’t know, I’ve never seen anything like it. Just bad. And he’d told [Allistair] that my lawyer was an alcoholic and useless, and I should

change my lawyer. So I presume that's why that comment came. But, all, in the end it just affected me. So it puts you on a back foot before you even start.. You just want to turn around and run." (pp. 24-25)

The effects of Allistair's behaviour on Sam

As mentioned above, Allistair has behaved very irresponsibly when Sam has been in his care^{3,5,6,13}, and he has demonstrated a range of violent and abusive behaviour to Hayley (for example, he has threatened to kill her²⁰, he has picked her up and thrown her around^{1,19}, he has punched holes in the wall around her head¹, he has attempted to kick down her door, and he has smashed windows^{3,5,19}).

He has made derogatory remarks about Hayley to Sam, calling her, for example, an "evil, nasty, bitch"³⁹.

Possibly, the worst thing he did to Sam is threaten to kill the family dog^{5,40}. Between the second and third court hearing for access, Allistair carried out this threat^{6,41}.

Hayley is troubled that her efforts could not keep the abuse hidden from Sam³⁹. She

39: "And the problem is these guys are violent, or I suppose there are some women that are like it too, and there is no protection. And in the mean time [Sam] witnessed all this and it didn't matter how much I tried to protect him from it. It just didn't happen, and because [Allistair] would tell him what an evil nasty bitch I was, and would tell him everything. And if [Allistair] was there abusing me [Sam] could hear it. I mean it was, it's pretty hard to hide it from children even if you really try. You can't sort of rush them off ten streets down the road and rush back and then say, 'Oh, can we continue this now?' you know, that sort of thing." (p. 13)

40: "When I took out the non-molestation order, he threatened to kill the family dog which really upset [Sam]." (p. 8)

41: "Between the last court hearing and this court hearing, [Allistair] had killed the dog, which had, [Sam] was just a mess. I mean he still is, which is one of the reasons he goes to counselling. Because he's got all these dreadful things to cope with, and that's one of them, because he loved the dog. And I mean we'd had her for ten years." (p. 17)

42: "I really wonder if [Sam] would have been a lot better off if I'd just flown to Australia or America the minute the marriage fell apart and he never had any contact with his father ever in his whole life. I think it's men in particular are not responsible for the children. And, you know, like [Allistair] is not financially responsible for him and he's set it up so he doesn't have to be. Well there is no way that should be allowed to happen. If he's not willing to be financially supportive of his child then he should have no access, you know, or there should be some

wonders if her son would have been better off if they had left New Zealand when the marriage deteriorated, and he had not had any contact with his father⁴².

She believes that Allistair's abusive behaviour has detrimentally affected Sam's life^{43,44}. He has had nightmares for years^{13,44}, and he feels very insecure in the world⁴⁴. She worries that he will not grow up to be a balanced, well-rounded individual^{44,45}. She blames the courts for this too, because they have consistently failed to provide consequences for Allistair's actions, and hence, he considers everything "a joke"⁴⁵. The dog's murder has had particularly long-term emotional effects on Sam's life⁴¹. Sam goes to counselling to deal with this and the general effects of violence on his life^{41,44,46}. The school initiated counselling when they became concerned about him⁴⁶.

The legal system's lack of emphasis on children's safety concerns Hayley. She advocates that their safety needs to be a paramount concern of all involved. Children need to be "totally safe": "physically,

consequences. There's no consequences for actions in the Family Court in New Zealand, until the actions are that bad that you can't have consequences because the parties are dead, you know. But the mental anguish that [Sam], and the permanent scarring, psychologically, and maybe physically, I don't know, because I have no idea of really goes on in that family, in that house." (p. 18)

43: "It's stuffing up his life completely.. It's been it's been awful [for me] but, I mean I wouldn't wish it on my worst enemy. But I'm an adult, and so therefore I have coping mechanisms, but he is a child and he should not ever be exposed to anything like that. Neither should any child." (p. 17)

44: "[It's been] an absolute nightmare. It's [Sam] that's paid for it. I can I can still move on. How does he move on, you know? And now he's in counselling. And he has, he's had nightmares for years.. And yeah, I can't see how he's going to actually grow up to be a well-balanced person because he's had such a dreadful childhood and he's really insecure about the whole world, and what's safe and what's not. And he just doesn't, you know, kids should be allowed to play and be happy because that's what kids do. But he he's just burdened down." (p. 26)

45: "Well there's no way he's going to grow up to be a new age, sensitive, well-balanced, rounded adult. There's no way in a million years. And I think the courts are to blame for that, because there is, if [Allistair] was made to adhere to access on the very first time we went to court, and there was a consequence for his actions, if he didn't well, then none of all this other rubbish would have happened, because it would have been cleared out right from the word go. But he thinks it's a joke now. You see it's like when he got picked up for DIC. He got off on a technicality even though he'd smashed up all those cops and smashed a up a police cell and all the rest of it. And, you know, and he thinks it's a joke now so he drinks and drives all the time. He thinks it's hilarious you know. And it's the same thing, the way

emotionally, mentally, spiritually, everything ⁴⁷ .	he treats the whole access thing, because he never had to be responsible in the very first place. And he’s basically not being responsible on any level for his child. Well then he just does what he likes and he just thinks it’s a joke.” (pp. 18-19) 46: “[Sam] goes to counselling now through [a children’s agency]. And he started, they were really concerned for him just after he started school with the types of things he was saying at school. He never tells me what happens at [Allistair’s] place, but he was starting to tell people at school. And then he started writing stories about it and the school was really concerned so they contacted [the agency for children] and it’s just snowballed from there.” (pp. 6-7) 47: “I mean the most important thing is that children are safe, and I mean physically, emotionally, mentally, spiritually, everything, that they are totally safe. And that must be the objective of everybody that has something to do with children. And that is something that I just don’t think exists. I don’t think, I think that [unless] it’s proven absolutely that it’s unsafe, they do nothing, you know. And we see it every day in the paper, when some other poor little child has had his head smashed in, you know, and is dead. And it’s just not good enough. I think, you know, I think in a child scenario, I think it’s actually important that we actually almost turn the tables around and like you’re guilty until you’re proven innocent.” (pp. 25-26)

Suggested improvements	
Hayley suggested several improvements relating to the legal system response to domestic violence. First, she believes that there needs to be a greater emphasis on child safety ⁴⁷ . Also, non-custodial parents who show little interest in their children, or who use	48: “I want to see something happened about fifty percent guardianship. Maybe you can be granted fifty percent until one of you doesn’t deserve to have fifty percent and then you lose it and you maybe get forty-five, you know, but you don’t have that, because fifty just is not going to work. If you’ve got custody of your child, you know, you can’t have true custody if you have no more rights than the person that doesn’t have custody. And that’s what this damn fifty percent guardianship does in effect, you don’t really have any more rights than anyone else, and I think

guardianship rights solely as a source of conflict, should not have equal guardianship rights⁴⁸. Furthermore, the court needs to outline the responsibilities of the custodial and non-custodial parent in a written form, and enforce non-adherence^{49,50}. Additionally, the legal system should monitor and enforce non-custodial parents' adherence to access arrangements. Finally, consequences should be provided for non-adherence⁵¹.

that's fair enough if you both have the best interest of your child at heart, but if all the other partner's got is the idea of stuffing things up as much as they can, well then I don't think they have that right." (p. 15)

49: "I think that the way, you know, they stipulate all the things about access, and I think they should stipulate all the things about what your responsibilities are as a custodial parent to the other parent, you know. And I think that should be in writing, and I think that should be policed and enforced just the same as what the access arrangements are." (p. 16)

50: "I think that if it's all, you know, you get pages of documents when you come after those Family Court hearings. And, you know, you agreed to this, and here they are, and they're listed in clause whatsit, and all the rest of it. I don't see why they can't have that, that if you're the custodial parent you are responsible for these things and just do the same sort of thing." (p. 16)

51: "I want to see that that actually does, whatever a judge says, you know, like if you're organising access times and days and things like that, that they are actually, they have to happen, you know what I mean. That there's a consequence." (p. 15)

Summary of problems with the legal system

Hayley's main problems with the legal system can be summarised as follows. First and foremost, there was a lack of emphasis on children's safety⁴⁷. There was no policing of, or consequences for, Allistair's non-compliance to access agreements⁵. The court hearings meant to address Sam's ongoing risk when with his father benefited Allistair, not Sam or Hayley. That is, instead of Sam being protected by supervised access provisions, Allistair was treated as the victim and given even more access than he had originally. This was presumably because the judges involved had preconceived ideas about women's "excessive rights", and their "vindictive" natures^{6,7,8,9,10}. There is insufficient legal protection available for women and children, until after the abuser has done something very violent^{27,28,29,30,34,36,42}. The legal system insufficiently incorporates children into the decision-making process^{8,9,11}. The court counsellor appointed to assist with the access decision did not seem skilled, and she lacked sound judgement about Allistair and the situation^{12,15}. Fifty-percent

guardianship causes difficulties when one of the parties is irresponsible, abusive, and/or violent⁴. Allistair gets away with not financially supporting Sam, although he earns a reasonable amount of money¹⁵. The financial cost of getting legal assistance, including protection-type orders, is too high^{23,24,25}. Finally, the legal system ignores psychological abuse²⁶.

Summary of commendations about the legal system

Hayley found both of her lawyers to be very good^{34,35}.

Update (written by Hayley): "Finally, I gave up my struggle with the legal system, and just battled on as best as I could by myself. After moving cities, life became a little easier as Allistair's interest in Sam's life lessened. When access did occur, so did the same issues but there was nothing I could do about it except pray for Sam's safety.

In 2001 Allistair died.

Unfortunately, this didn't mean the end of the problems I have experienced with the legal system. After a short relationship with a man some time ago, I discovered him to be mentally unstable (I read a psychiatrist's report on him). I have now needed to re-pursue a protection order. If I thought this would be a better experience, I was much mistaken. I first applied for this order 7 weeks ago and I am still waiting for a hearing date. This included a trespass order. At present, I barricade myself in my home and refuse to answer the phone or door unless I know exactly who it is. Even though both the Police and I requested this order be done with urgency, because of his violence, I am still waiting.

So far, I have refused to pay for anything, i.e., use a lawyer, and hope I may be able to do this until the conclusion. If I wanted to pay for my own protection, I could hire a bodyguard! I don't see, in this situation, that it's my responsibility to pay for a very necessary judge's ruling for basic protection. No society should have to personally pay for criminal protection.

Sam has recently stopped his counselling at his own request. We, together with a lovely new husband and father, are sharing a lovely family life for the first time. Every so often, I have to pinch myself to remind me that, yes, this is real, and we are very happy."

SALLY'S STORY

Sally and Matt's relationship began approximately five years before the interview, and lasted for about three years. Sally is of European descent, in her forties, and has two teenage daughters. Matt is Maori. Sally obtained a non-molestation and non-violence order against Matt one year into their relationship. After the introduction of the Domestic Violence Act 1995, Sally applied for and obtained a protection order, which also covered her daughters. Sally has required police assistance on numerous occasions, and has been to court once as a witness when Matt was charged with assaulting her.

Matt, and his abuse and violence towards Sally

Sally described the abuse she experienced from Matt as mainly emotional¹, though he had been physically violent to her also^{1,2}. Once he slapped her so hard that the force of it pushed her into a wall². His greater physical strength impeded her attempts to live free from his abuse and violence. She could not defend herself against him, nor pick him up and throw him out^{3,4,5}.

Despite her having non-molestation and non-violence orders, and later a protection order, Matt ignored these, and did what he wanted anyway⁶. He continued to harass and follow her, and turned up to her house, sometimes drunk, sometimes damaging property (e.g., smashing windows)^{1,7,8}. He has been charged with assault, and

1: "[The abuse] was more emotional. The only time, you know, that he ever hit me was that time when he slapped me. It was more, it was emotional. And, you know, coming around drunk in the middle of the night, and those kind of things, yip." (p. 17)

2: "And then he started getting really aggressive, and so I thought, 'Well, I'm gonna go home and get away from this.' And then, we were walking up the street when it happened... He'd slapped me, and, you know, the force of it had pushed me in to a wall... And I, you know, I was like on the ground just trying to deal with getting up, and thinking, you know, like do you like stay here, and what's going to come next, you know." (p. 8) (from excerpt 31)

3: "You're not physically able to pick them up and throw them out. You're not strong enough to do that." (p. 12) (from excerpt 44)

4: "It's different for a man because, you know, men can generally stick up for themselves against each other. But with a woman, I mean, there's just no way I could ever probably pick my ex up and throw him out the door, even try and pull him out the door, you know." (p. 14) (from excerpt 40)

possibly with a breach of the protection order. The former is discussed later; the latter is not, because Sally could not remember what happened⁹. Matt has also been charged and convicted for drink driving¹⁰.

Sally describes Matt as having an anti-authority attitude, where he does not believe anyone should tell him how to behave. For example, he does not believe he should be prohibited from drink driving or from coming on to someone else's property¹¹.

Matt has never been violent to the children¹².

5: "Because I think only a, a female can know what it feels like to know that you can't defend yourself against an aggressive male who's coming at me, you know. I, we just don't have the strength physically and that kind of thing." (p. 15) (from excerpt 37)

6: "I, I got this order, and I went through all this. It's really not helping me. It's not got him off my back. It, you know, he's still doing what he wants to do." (p. 7) (from excerpt 23)

7: "And then he was driving around without a licence, you know, following me." (p. 7) (from excerpt 23)

8: "He's broken windows and got in before." (p. 3) (from excerpt 22)

9: "And I actually was walking up the street to try and get away from [Matt], in the middle of one night in my dressing gown. And [this policeman] stopped. And I thought, 'Oh, it's no bother telling him what's going on,' because, you know, they don't help much anyway. He, he said, 'What's happening? Do you need some help?' And then he arrested him, and he took it to court. Did it go to court? .. I can't remember the outcome, what happened there." (p. 3) (from excerpt 29)

10: "They arrested for drunk driving even though they didn't find him in the car. Because the engine was hot in the car, so they arrested him. And he ended up going to jail for that." (p. 6) (from excerpt 23)

11: "He's got the attitude where he doesn't think that he should be told what he can and can't do. Like, when he was drinking and driving, well why shouldn't he, you know, that's his car. And, and, you know, why, his attitude is, how dare someone tell him that he can't come on someone's property, you know. If he wants to come around to someone's place, why shouldn't he, you know. 'You get arrested for that? What a joke,' you know,

‘oh, let them.’ That’s the kind of, he’s got one set of rules for him that he thinks is okay, but, but doesn’t like being told what to do, or anything like that.” (p. 9) (from excerpt 38)

12: “I mean, he wasn’t violent to the kids, or doing anything in that respect.” (p. 1) (from excerpt 36)

Sally’s experience of domestic violence orders

Sally experienced difficulties getting her existing orders recognised when the Domestic Violence Act, 1995, and it’s associated protection order came into effect^{13,15}. This was mainly because there was confusion about the validity of her non-violence order after the introduction of the new legislation. This was further complicated because her non-molestation order had lapsed due to Sally and Matt having contact. Police called to her house would not recognise her orders, and suggested she apply for a protection order. Additionally, an assault charge against Matt was ineffectively dealt with in court because of a judge’s confusion over the same matter. Whilst the judge acknowledged that Matt had assaulted her, he sentenced him more leniently because he considered her orders invalid¹³. Police involved with the prosecution informed her that the judge was wrong, and hence they

13: “Okay, well, I had a protection order with the old order, before this recent one came in, where it was a non-violence and a non-molestation order. And then when the new one came in I was told that the I’d broken the non-molestation by, you know, letting him come into the property. But the non-violence carried on, so that you automatically had a new order. And then when I was having problems with my ex, I rang the police and they came down, and wouldn’t recognise it. They said, ‘No,’ that, you know, I had to go the court house. And I was trying to explain that I don’t have transport and everything, you know. I had to go to the courthouse and, you know, get a new order. And when I got there, they said, ‘What are they talking about? That’s not right.’ And they rang the police, and I spoke to someone higher up there, who was really.. he was abusive actually, and told me that he’d had enough of women like me, you know, hanging around with men like this, and that kind of carry on.. And they, the courthouse was there, and she could hear what was going on, and like, she was amazed. And so after I’d had the police called out to an incident, they said to me, ‘Go and get another order, and then it’s black and white.’ So I went, found another lawyer, and went through the process of that again... I got the order. And then on the old order there was an assault charge, and I went to the police, ah, I went to court with that. And then the judge said that he believed that he had assaulted me, but he wouldn’t charge him with it, because he said the order wasn’t valid. But the police said to me that he’s wrong, but you can’t tell the judge he’s wrong, so they were going to send it to the higher court in Wellington. This was about two or three years ago. So I never heard anything since. But he, but they said that because

intended to challenge this in the Wellington High Court^{13,14}.

Unfortunately, in three years nothing has ever happened¹³.

Because of continuing difficulties with her non-molestation and non-violence order, and upon the recommendation of police, Sally reluctantly applied for a protection order^{13,15}. This was granted.

Sally feels that the orders have been ineffective; "a waste of time"^{17,18}. Because Matt has consistently gotten away with abusive behaviour¹⁷, she has now given up and just puts up with it¹⁸. She does not envisage Matt changing unless the legal system gives him consequences¹⁸. One of the main problems has been the police's attitude¹⁹.

the non-violence carried on that it was still legal, so he, he got off that." {Rachael: "Was the judge trying to imply that because he was back, or had had contact with you, that meant the non-violence part didn't count?"} "Yeah. I'd broken the non-molestation, but my understanding was the non-violence carried through, so you had, automatically had the order when the new, when the new rules came out. But he says, 'No.' So, and I mean, that was really hard because it's so embarrassing. You've got to go into the court house, and he's there, and the police are there. And I always found the police, you know, not kind of, I've never found them really helpful, and it feels like you're just being a bother." (pp. 1-2)

14: "Because the policemen who, 'cause, I mean, even the police were like really, couldn't believe it either, and said, you know, that they were going to carry it through to the high judge, because you can't, the high court in Wellington, because you can't say to the judge, 'Na, sorry, you're wrong.' So, they couldn't believe it either. And then they said to me, 'Well look,' you know, 'we suggest you go and get a new order, and then you've got it in black and white, and it can't be thrown out like this, it can't be disputed,' you know, 'no matter if you got married, whatever,' you know, 'you've got the full protection and this can't happen again.'" (p. 10) (from excerpt 42)

15: "I had to go back and do [my orders] all over again which was really daunting. And I felt, you know, annoyed in a way that I had to do that as well." {Rachael: "Because the other one wasn't being recognised?"} "Yeah, yeah. So, you know, that was going on with me as well, you know, having to go, and go through it again, and that kind of thing. So that wasn't a helpful situation either, {laugh}, which, you know, made it really unpleasant. It was just the feeling I have about the whole thing." {Rachael: "Would you, would you recommend to other women to use lawyers or the, the legal system?"} "I would, and, I would. But for me personally I think it was a waste of time even getting the order. And I wish I hadn't have bothered. If I had known the way,

the outcome of it, I would never have put myself in that embarrassing humiliation of going and doing that. Because, you know, I just haven’t had much luck with it getting recognised through the police or the judges and that.” (p. 5)

16: {Rachael: “So, what had led up to you deciding that you were going to get a non-molestation, a non-violence order?”} “The police. Because when I was having trouble with my ex, you know, they were saying if I got a order it’s a lot better, I’ll have a lot more protection, and that they have more power, you know, to handle a situation.” {Rachael: “Oh okay, so you went on their advice?”} “Mmm.” (pp. 3-4)

17: “And I think that time with that judge, you know, that kind of made me think, well, it really was a waste of time, ‘cause he’s gotten away with it, and he knows he can get away with it.” (p. 2) (from excerpt 25)

18: “And so, you know, you end up, you end up putting up and taking it now, because you think, ‘Well, what’s the point?’ I, I got this order, and I went through all this. It’s really not helping me. It’s not got him off my back. It, you know, he’s still doing what he wants to do. And, and he’ll keep on being like that until, you know, a few times he comes up against it and has to stop, you know.” (p. 7) (from excerpt 23)

19: {Rachael: “So, what sorts of problems have you found with the protection order that you think could be improved?”} “The police’s attitude.” (p. 5) (from excerpt 20)

Sally’s experience of the police

Over the years, Sally has experienced numerous problems with the police. She feels they have a poor attitude towards domestic violence, and have not

20: {Rachael: “So, what sorts of problems have you found with the protection order, that you think could be improved?”} “The police’s attitude. Like when they come to you they’re always quick to get there, always really quick to get there, and that kind of thing. I’ve never had to wait or keep ringing or anything like

treated her seriously^{20,21,23,25,26,27,28}. However, she feels that their poor attitude has been imparted from higher up in the legal system²¹.

On several occasions, she has found police comments to be inappropriate. For example, instead of asking Matt why he comes around to her house, they blame her for letting him in^{20,21,22}. They do not seem to understand that it is not always possible to keep him out. On some occasions, he has smashed windows to get in, and so sometimes, it is better to let him in than create a scene in front of the children and the children's friends. Questions asked by police have also caused her embarrassment and humiliation. For example, one police officer wanted to know whether they had had sex²².

Sally has experienced reluctance by police to arrest Matt despite there being adequate reason.

One time, when Matt turned up at her house drunk, and was being nasty and violent to her, they would not charge him with a breach of the order. Instead, they arrested him for drink driving (for which he was subsequently

that. It's just, the attitude is all, 'Why have you let him in here?'" (p. 5)

21: "I'd, just the only thing I would like to say is that I know they probably do a lot of these cases, and to, you know, I don't know, perhaps it's just a case number or whatever. But, you know, you are dealing with human beings who are going through an emotional time. And I think if people can just kind, kind of take two minutes out, and just have a little bit of understanding, and perhaps even think before the questions that they ask. Because, you know, sometimes you get asked personal, or kind of silly questions. Or, you know, just, just perhaps a bit more understanding and a little bit of tolerance for the, the woman. Because there is quite an attitude of, 'Well, what are you doing with him?' Or, 'Why do you let him in?' kind of." (Rachael: Is that in all sorts of contexts, or just with the police maybe?) "Mainly with the police I think, but I can't help but have the attitude that it trickles down. I don't know if that's right, but that's just my personal opinion." (Rachael: "Like we were saying before, the police don't take it seriously because they know if they take it to court that the court won't take it seriously?") "Yeah that's right, you know. You've got the lawyers and the judges, and it just feels that, yeah, I feel like the attitude with the police, which I feel is really bad, has come from higher up." (pp. 13-14)

22: "The police just (inaudible), a slap on the hand, you know. They're coming at you saying, 'Well, why did you let him in for?' you know. I don't hear them saying to him, 'Why did you come around here?' you know... It's like, 'What did you let him in for?' Well, you know, he's broken windows and got in before, yeah, you've got kids in the house, and they've got friends there that night, or something. And he knows that. And you don't cause a scene in front of these children, and so you let him in. And it's just, yeah, it's just, you feel, like it's really embarrassing, because then they go, 'What have you been doing that whole day?' and, you know, 'How often has he been here?' One policeman wanted to know if we'd had sex, and things like that.

jailed). Another time, when Matt broke a window and got in, the police told him that if he did not repair the window within a week they would arrest him.

Unfortunately, the police never followed through with this: Matt never paid for the window, and the police never arrested him. In this way, the police have given Matt the message that he can avoid consequences for his actions²³.

The police have also used her daughter's testimony against her. That is, when her daughter who gets on very well with Matt, tells the police something to avoid him getting into trouble, they have believed this and accused Sally of lying. Consequently, Sally has sometimes felt that everyone is against her²³.

The police have also excused themselves from doing anything by saying that the court would only give him a "slap on the hand". They told her this one time when Matt was driving his car without a license so that he could follow her around²³.

The police were also uninterested in enforcing the part of the protection order that

And it's just, I found the whole thing like humiliating. And I thought, 'All I'm wanting is this man removed from my property,' and you've got to go through all this great big rigmarole." (p. 3)

23: {Rachael: "So he was only ever arrested that once under the new protection order?"} "Yeah, in that whole time." {Rachael: "So you've called the police on more than one occasion?"} "I can't remember the occasions that I rang. One time, you know, he'd, he'd broken the order, and he came back and he was really nasty and violent, you know, drinking and that. And I rung the police but they wouldn't arrest him for breaking the order, but they arrested for drunk driving even though they didn't find him in the car. Because the engine was hot in the car, so they arrested him. And he ended up going to jail for that, but they wouldn't charge him with the domestic order which was what I'd rung them to remove him." {Rachael: "So, how do you think the police were viewing domestic violence in general and, and your experiences?"} "The impression I get and is that, you know, 'You just keep going back to him, so, you know, really, we're really just wasting your time, because you're just going to keep taking him back and the same thing is going to happen.' But, you know, what I found was that when you're not listened to and it's not recognised to start with, you do take him back for the peace, or you let him in. Like the first time he ever did that, when he broke the window and got in.. before I got the protection order, and he broke the window, and they all, all they, they wouldn't charge him. He had to pay for the window within a, like a week, and if they didn't, if he didn't, they were going to arrest him. And he didn't pay it in that time, and they didn't arrest him. So that message to him was, 'It's okay, I'm not going to get in any trouble.' And so from then on it, it was just really hopeless... And he plays, he plays it. And also, he's, I mean, he even said to the judge in court that day about that, you know, the times I'd rung the police and that they don't do anything. And so he knows that he can play the system and it's not going, and because, you know, now, if say I, it's not likely I would, but if say I did, I would really enforce that I want something done about this order. 'I've

related to her daughter. At the time she was thirteen or fourteen, and she and Matt would “go off together”, breaching the conditions of the order. The police advised her to remove her from the order so that it would be easier for them, and so that they would be saved from doing extra paperwork²⁴.

Sally believes that police officers have an aversion to attending domestic disputes and violence. Indeed, a police officer once told her this in front of one of her friends²³.

Sally also had a very unpleasant encounter with a high rank policeman when a court officer was assisting her find out more about the status of her non-molestation and non-violence orders. He verbally abused her and told her that he had had enough of “women like her” hanging around with “men like that”. When Sally told him that she intended to complain about the way he had spoken to her, he told her “to go ahead lady, because guess who investigates it”. The woman at the court who arranged the telephone call was “amazed” by this policeman's response²⁵.

got this order and I'm, you know, I want something done. I want it recognised.' Where, because I'm a lot stronger now. But before, you know, you listen to the police and you believe the police, because that's the way I was brought up, you know, the police are good, they're there to protect you, they're telling you the truth, and you listen to them, and do what you're told. And, you know, so when they'd say, 'Oh no,' they can't arrest him, or they won't arrest him or whatever, I, I, you know, went along with that. And then, you know, and then you look back and you think, 'Well, I wish I'd been more forceful.' Although you shouldn't have to be.. It's just embarrassing the comments that we get from them, that kind of thing. And my daughter and my ex, you know, they get on really well. And of course when the police come, she's not going to tell on him and get him in trouble. So, the police are talking to me, they're talking to him, they talk to my daughter. And then they can't, this policeman came back to me and said, 'I think you've been lying the whole time I've been here. You're lying to me. Your daughter's got a different story,' you know. And I kind of thought, 'Wow.' It's like everyone's against you, you know.” {Rachael: “It seems like your main problem of having protection by the law has in fact been the police side of it?”}... “Yeah and enforcing it, you know. Just, just, yeah, the manner and the attitude is. And then of course, you know, you go higher up and try to get something, get it recognised, and then you get people who are high up not listening to you either... And then they did an investigation in to one incident when I called the police, which I found out later that the police had the information on the computer, all they have to do is ring up and ask for it but they told me I had to bike in to town and go the courthouse and get it all sorted out, which in the end I didn't have to do that. And then he was driving around without a licence, you know, following me. And they said to me, 'Well, what's the point in arresting him for that, he'll only get a slap on the hand.' He'll go back to doing it... And also, they said to me, what was the other comment they made? Oh that when domestic calls come in to the office, in to what, the police station or wherever, they go, that, that everyone looks at each other and

Because of the problems Sally has experienced with the police, she has, on a couple of occasions, made formal complaints to the Police Department. Unfortunately, those involved with handling the complaints have not treated her complaints seriously, have been dismissive, have been rude, and/or have not listened to her. Response letters typically explain that she was so upset that she misperceived the situation, and that the police have acted in the correct way. One time, when she rang a complaints' officer because he "had it all wrong", including the address where the incident had happened, he got angry and told her that he could understand why the police officer had spoken to her as he did. Despite his response, Sally wrote and told him that if he came to the city she lives in and spoke to women's groups, he would find a lot of women are not being treated seriously. Indeed, her own involvement with domestic violence education groups has helped her realise that the legal system's treatment of her is not personal; she is not to blame. Instead "it's the system"; other people are "suffering" too²⁶.

thinks, 'Oh no, I hope that we don't get called to that.'" {Rachael: "And the police told you that?"} "Yeah, yeah.. I had a girlfriend with me at the time, you know. Yeah, they said, you know, when they get these domestic calls it's, 'Oh no, don't send me,' you know.. I just got the impression that they just couldn't, they didn't want to know about it really. It was, 'Oh no,' you know, 'not a domestic,' you know, 'have to go through this one again, and this is boring.' .. That's the impression I got. Because, you know, you don't ring them 'til you, 'til you really need to, 'til, you know, you think this is getting out of hand, or it's getting unsafe or something. And so, you know, you end up, you end up putting up and taking it now, because you think, 'Well, what's the point?' I, I got this order, and I went through all this. It's really not helping me. It's not got him off my back. It, you know, he's still doing what he wants to do. And, and he'll keep on being like that until, you know, a few times he comes up against it and has to stop, you know." (pp. 6-8)

24: "And like one, one time my daughter kept, you know, going off with him all the time, and I was trying to, you know, make a stand that he, because he's gotten away with it all the time, he thinks he can do what he likes. And so I was trying to show her and him that you can't. And, you know, one policeman just said to me, 'Well get her taken off the order,' because she was about 13, 14, at the time. 'Get her taken off the order because it's a lot less paperwork for us,' you know. As if to say, 'Well, she can go with him but it's a hassle if she's on the order,' you know. 'She's grown up now. Get her taken off. It's easier for us.' .. Well, it made me think, 'What's the point in having something to try and protect her.' And, you know, because she was playing us off against each other. And he was using that as well. And he, I mean, he knows that the times he's come around, and I've rung the police, and he's gotten off with it, so to him it's all, it's all, you know, 'Well, big deal. What are they going do about it, tell me off, tell me to go home and not to come back?' That's what happens." (pp. 5-6)

After a while Sally became concerned that police would label her a "troublemaker" who makes complaints about "these top men", and avoid helping her at all. This, along with the general police response, and lack of consequences for Matt, has deterred her from ringing them for help when she needs it. The emotional investment and strength she would need are not worth the effort. Instead it is better to "hold on to that"²⁷.

Sally agreed that there have been two battles: one with her ex-partner, and one with the police. In many respects, the battle with the police has been worse than that with her partner. Whilst her ex-partner's behaviour was no surprise, she was shocked by the police response, which seemed completely contrary to what they are meant to represent (i.e., honesty, truth, support)²⁷. Whilst she had been brought up to believe that the police were there to protect people and serve the public, she found that they were perpetuating the message that Matt's unlawful behaviour was acceptable²⁸.

Sally did mention that there had been an isolated, positive

25: "And because there's been a couple of incidences with higher up police. And, I mean once, they did an investigation, you know, when I was having trouble with [Matt]. And they wrote me back a letter saying.. This is more recently. And I've made a few complaints about it. And the first time that I had trouble in the court house with that high up one, I said I was going to make a complaint about the way he spoke to me. And he said, 'Well go ahead lady, because guess who investigates it?' meaning, well, you know. And it was true. It was investigated by here, and they white-washed the whole thing. And so, I mean, I've written quite a few times to the Complaints Department but.. the letter you get back is more or less, you know, like, 'You're, you're just, you were upset at the time, you know. You didn't have the full understanding of the picture.. That the police acted in the right way,' and, and that kind of thing. And it felt really white-washed. And, you know, it's got to the stage where now I wouldn't ring for help, because their attitude, and the way it's, it's, I don't feel that you're taken seriously. And I think that time with that judge, you know, that kind of made me think, well, it really was a waste of time 'cause he's gotten away with it, and he knows he can get away with it." (pp. 2-3)

26: "And then, I mean, I've written quite a few complaints about this to the police. And it's really, it's hard emotionally and physically 'cause you think, you know, 'This is not right, and I just want this to go on a record.' I mean one time a really high man investigated a complaint I'd made, and when he sent back the letter he had it all wrong. He had the address where it happened, he had, and I rung him up to say, 'Look, excuse me,' you know, 'this is not, not right.' And he got really angry, and he said to me, no wonder that this other policeman spoke to me the way he did. And I thought, well, you know. That's the attitude.. and this is from high up. And you think, 'Well,' you know, 'kind of what hope have I got?' But I still wrote back and said that, you know, if, if they came to [the city I live in] and looked in to this situation with women's groups and things, that they would find there is a lot of unease here, and now, that a lot of people aren't

experience with one police officer. He had seen her walking up the street in the middle of the night in her dressing gown, whilst she was trying to get away from Matt. Contrary to her expectations, he asked her whether she needed some help, and subsequently arrested Matt. He listened to her and treated her like a “human being with feelings”, not just a “silly old emotional woman”. The experience with this police officer had a very positive impact on her. Because he had treated her seriously, she started taking her situation seriously. It made her realise that he should not keep “carrying on like that and getting away with it”. It gave her strength, and the confidence to get out and stay out of the relationship. It also “really shocked” Matt²⁹. The experience has also made her realise that the police response is dependent on what police officer comes to your aid when you are having trouble³⁰.

There was another occasion when the police seemed to take the situation seriously, and they arrested Matt. Sally and Matt had been out one evening, and whilst they were walking along the

being taken seriously. I said, ‘It’s not just my word. I’m not just being an emotional woman here.’ But no one ever took me up on the offer. But I just felt that I had to keep going, and, and like clearing my name and proving a point, and going down on record that the way that it had been twisted around was not how it happened. And then I got another letter back at the end saying that they weren’t saying that what the police had said was right, but this is their response and they were investigated, this is what had happened, you know, this is what they got back, and this is what my word was. And I just said that I wanted it to go down on file that what had been said was not right. And, and then I left it at that, ‘cause I thought you can’t do much more {laugh}. But I thought, ‘I can’t just let it go. It’s not just me. It’s other women out there.’ {Rachael: “Has it been helpful having other women validate what’s been going on for you?”} Yeah, it has. Because you get, well, I find there’s a lot of, you know, the attitude that you brought it on yourself, kind of thing. And then when you hear. Or you think, ‘Oh well, perhaps it was wrong. Perhaps it was me.’ And then you hear other people saying that their experiences of what happened, and then you realise, ‘Hey that wasn’t personal. It wasn’t just me. This is happening in other areas, and to other people.’ So, it’s the system. It’s not just any one person out here is suffering from this.” (pp. 16-17)

27: {Rachael: “From what you said, it’s almost like there’s two battles. There’s the battle with your ex-partner and then there’s the battle with”} “The police. The battle, the police is worse, because at least, like your ex is not trying to really make out that he’s something he’s not, you know, I mean, and then, you know, you’d expect that from him once they’ve start acting like that, you know. ‘Oh well,’ you know, that this is what they’re going to be like more or less. But with the police, you don’t, you don’t expect that attitude from them. You expect honesty and truth, and you expect some support and that kind of thing. So it’s, it’s worse because you think, when the chips are down, there were times when I want to ring but I won’t, because I think they’re not going to believe me, or they’re going to think, ‘Oh, she’s a

street, Matt “started getting really aggressive” and slapped her. The force of it pushed her into a wall and she fell to the ground. Not long afterwards the police arrived, lights flashing. However, she is confident that the only reason they turned up and believed her was that a group of people in a passing car witnessed Matt's violence and contacted them. These people were also willing to be witnesses in court³¹. She is very thankful for their willingness to assist her and stay at the scene until the police arrived. She knows that many people would not have wanted to get involved³².

Sally also mentioned that the police are very quick to arrive at the scene. She has never had to wait long²⁰.

troublemaker. She writes complaints about us, you know. She's complained about these top men, so we'll leave her for an hour,' you know, {laugh}. 'We won't rush round there to save her from being belted up.' This is what goes on in your mind.” {Rachael: “So you said there's times, so you said there's times that you've felt like ringing the police?”} “Many, many times.” {Rachael: “Oh okay. Have there been times when you would have liked things to have been pursued, for example, another assault pursued, or, or thing anything like that?”} “A lot of times, but it's such, it seemed like such a hassle to get anything recognised that I would give up and think, ‘What's the point, because he's probably going to be away laughing again.’ You know, he's behind the policeman's back laughing away, you know, thinking, ‘You can't touch me,’ you know, kind of thing. And just like, you know, I weighed up all the emotion, and the strength I would need, and just thought, ‘I'll just hold on to that,’ because, you know, it seemed pointless trying to go any further with it.” (p. 17)

28: “And then of course, you know, you kind of feel relieved that you've rung the police, and, ‘Oh, help's on its way,’ and, you know, ‘they're going to protect me and serve the public,’ and, like you're brought up when you're a little girl. And, and then when that happened, it was like, just like really {inaudible} took a while to sink in.. Just the way, the, the way, the police attitude and that. And thinking I just couldn't believe it. I mean here someone is, is, you know, doing something wrong and acting up and that, and they, they, it's okay. And, you know, I'm getting this message it's okay. And, you know, kind of coming down on you. And it was just like, so they, and each time you go for the help, well, it's harder 'cause you think this is going to be a bit of a battle.” (p. 15)

29: “You know, like, there was only, there was one policeman who listened, and he was really good. And I actually was walking up the street to try and get away from [Matt] in the middle of one night in my dressing gown. And [this policeman] stopped. And I thought, ‘Oh, it's no bother telling him what's going on,’ because,

you know, they don't help much anyway. He, he said, 'What's happening? Do you need some help?' And then he arrested him, and he took it to court. Did it go to court? .. I can't remember the outcome, what happened there." {Rachael: "And you didn't need to go to court for it?"} "No, I didn't that time. Something, I mean, I wrote a letter anyway, and said, you know, to whoever was the boss, that thanks to him, that, that I took, started taking it seriously then, and started getting the confidence to get away out of that relationship, and stay out of it, because he actually listened and treated me like a human and took me seriously. And he dealt with the situation right then and there, which really shocked, shocked my ex, because he's always gotten away with it. And so, I mean, he was really surprised. And I think it gave me a shock too. And so, when, you know, when this policeman dealt with me like a human with feelings, and not just a silly old emotional woman, that made me have a bit of strength, you know, and think, 'Well, wow,' you know, 'that's right, he shouldn't keep carrying on like that and getting away with it.' So, that was, you know, that was only time that I really felt taken seriously with the police." (p. 3)

30: "I think it depends on who, you know, like who actually comes when you've having trouble." (p. 10)

31: "We were out in public when it happened, and I was just trying to walk away to get away from him.. We had been out that evening. And then he started getting really aggressive, and so I thought, 'Well, I'm gonna go home and get away from this. And then, we were walking up the street when it happened, and it was someone, a car passing along that saw it happen. This is what helped it to be believed as well, because it wasn't me ringing, me saying it happened. It was actually a car load of people passing who saw it, who rung the police. I wasn't even aware that they were there at the time. So the next minute the police arrived." {Rachael: "What had your partner done that they'd seen?"} "He'd slapped me, and, you know, the force of it had pushed me in to a wall. And they had seen that. And I, you

know, I was like on the ground just trying to deal with getting up, and thinking, you know, like do you like stay here, and what's going to come next, you know. I was trying to think of safety, like what do I now kind of thing. And then the next minute, you know, there was just lights flashing and the police were there. And then, it was the police who told me that these people, and they were waiting to see if anything more happened, or, you know, until the police arrived. So, it was really because of them that the police arrived. And then they were going to be witnesses too, which backed my word up... It was probably about two and a half [years ago], because that new, new order, I think, was, was in it's new stages, and there was lots of confusion about it at the time, which was, you know, having a bit of trouble with the police as well, because they weren't really up on.. on the new system." (pp. 7-8)

32: "I would have liked to have said thank you [to the eye-witnesses], 'cause I thought that a lot of people don't like to get involved. For them to actually get help and then hang around 'til they got there and that, well. And then to like give their name and say, 'Yes, they would,' 'cause a lot of people would back off... So, I mean, I would, I would have liked to have said, you know, thank you to them." (p. 11)

Sally's experience of her lawyers

Generally, Sally found her lawyers to be quite good. However, she experienced the process as embarrassing and humiliating. She also said that it is hard to go and tell a lawyer about your private life, have it on record, and know that it is going to be seen by a judge in court³⁵. Because she had not used a lawyer before, it was a "new experience" for her, and she had

33: {Rachael: "What was the, what was your experience like with that [first] lawyer?"} "That wasn't so bad. It was another woman, and, you know, perhaps a middle-aged lady.. she was an older lady. So she was more, more on the ball, if, you know what I mean. Like she kind of knew exactly what to do, and just kind, really got on with it, got the information, got it together, got it served. But when I went back the second time, [with the other lawyer], when I had to go back in, you know, like, so that we definitely had this new one in black and white, so it was recognised, it was, it was the same firm but a different person. And it was just a totally different experience." (p. 3)

no idea what to expect³⁴.

She described her first lawyer, a middle-aged woman who assisted her in getting a non-molestation and non-violence order, as confident, experienced, and "on the ball"^{33,34}. She trusted this lawyer and felt the lawyer listened to her, believed her, and kept her well informed³⁴.

She found her second lawyer, a younger woman who assisted her with her protection order application, much different from her first lawyer³³. Sally was very pleased that she made such an effort to get her protection order application processed before the weekend so that she would be better protected. However, because she was young and lacked life experience, this lawyer could not relate to her as much³⁵. Additionally, she felt uncomfortable and anxious with a couple of the comments that she made. One time, without any explanation, she mentioned that Sally could end up losing her children. Another time, she said that one of her daughters was being "naughty and needed a good smack" for wanting to see Sally's ex-partner. Feeling annoyed and wanting to improve

34: {Rachael: "What did you expect that the lawyer would do?"} "Well, I didn't know, because I'd never had any kind of dealings with that before, so it was a new experience." {Rachael: "Did you feel that the lawyer had listened, listened to you, that first lawyer?"} "Yes, yeah." {Rachael: "And so you trusted her?"} "Mmm." {Rachael: "And did you feel that she believed what was going on for you?"} "Yes, yeah, I did." {Rachael: "Did she keep you informed about, did she kind of inform you heaps about what a non-molestation order and non-violence order was?"} "Yeah, she did. And then she kept in contact with me after, you know, if I needed to ring and ask anything about it. And she kept, because, I had to apply for legal aid, and she kept me informed with letters, you know, that it had been, the order had been served, and then when the legal aid came through, and, you know, and sending little notes for your information." {Rachael: "And so that was really helpful?"} "Yeah, you knew exactly what was going on, and when." {Rachael: "Did she seem to have a good understanding of what domestic violence was?"} "Yeah, she did." {Rachael: "What's, what did you think her understanding was?"} "Well, that if you're having any, you know, trouble at all, that you have this order to protect you, and to ring, ring it, ring up and use it." {Rachael: "And did she seem to understand your experiences, what was happening for you with your ex-partner, or your ex-husband?"} {Pause} "Yes." {Rachael: "Well that's good. And so what sorts of things did you find most useful and positive about that first lawyer?"} "She seemed very confident and knew what she was doing." (p. 4)

35: {Rachael: "Now, your second lawyer, because you said that was quite different. Did, what, what was your experience like with her, in terms of, did she seem to listen to you?"} "No. Oh, well, she did, but I think a part of her she was young, and she was, you know, new. And I don't know that she would have had any children herself because she was so young and that. And I think, well I doubt whether she had teenagers. But I think she was, it was kind of, she hadn't been through, or been through, or seen much of those experiences herself. And I think her opinion

the lawyer's service for future clients, Sally wrote a letter explaining the effects that these remarks had had on her. Her lawyer responded positively to the feedback, saying that she had not realised this at the time³⁶.

Sally thought her first lawyer had a good understanding of domestic violence³⁴, at least in part because she had come so familiar with it through her work³⁵. Though her second lawyer had a good *legal* understanding of domestic violence, Sally doubts that she had yet developed a good practical understanding of it through her work³⁵. Neither lawyer was condoning of Matt's violence, and both lawyers treated her and her situation seriously^{36,37}. They made her feel that she was justified for being there; that she was not "wasting everyone's time" and being "silly and emotional"³⁷.

Sally intentionally chose female lawyers. She thought that a woman would be more understanding of the situation, and know what it feels like to be unable to defend yourself against an aggressive male. She also thought it would be easier to

was more, you know, like my daughter was being naughty and playing up kind of thing, and then, yep, perhaps not. She couldn't really relate so much personally. And whereas this other lawyer, if she hadn't had it in her own life, she would of seen a lot of it, you know, with doing a lot of the orders and things. So I think perhaps with this other woman, it was just that she was younger and hadn't experienced it so much, that kind of thing." {Rachael: "Did you feel that she believed what you were saying when you were telling it?"} "Yes." {Rachael: "For example, the second one, did she ever seem to side with your ex-partner, or say things that you thought were?"} "No, no.. She never gave the impression that she didn't believe me, or that she thought what he was doing was okay, or I was, you know, kind of thing, or anything like that." {Rachael: "So, did you think that she had a very good understanding of domestic violence, with being like you said, younger, or did you think that she had?"} "Legally, you know, she, she did, but like on the practical side of seeing a lot of it, I'm not, I'm not so sure, you know. She was definitely doing her job in that way. But just, as in like the understanding side or experiencing side, you know, was a bit different." {Rachael: "So, you don't think that she understood your experiences of abuse so much, perhaps?"} "No, maybe not, yeah." {Rachael: "Oh okay, so what do you think were the more positive aspects about her as a lawyer? Were there, was there things that you did find useful, that you thought that other woman would also find useful?"} "She was, you know, it was like a Friday afternoon, but she wanted to get the order cleared, or get it confirmed, then and there, so that if anything happened say over the weekend I wouldn't have to wait. So she was on to it like that, getting the judge that afternoon to look at it, and then getting back to me with, with that, you know, that had been done, and that kind of thing. So, she was, she was on the ball that way too, I think." (pp. 4-5)

36: "So, I went, found another lawyer, and went through the process of that again, which is, you know, I found embarrassing and quite humiliating in a way, because, you know, you have to

relate to a woman. Having said this, if she had personally known a male lawyer who was easy to talk to and approachable, "that would have been okay"³⁷.

go through why you want the order, and what's happening, and what he's been doing, and that kind of thing." {Rachael: "Did your lawyer make it comfortable for you to be able to talk about those sorts of things?"} "No. Yes and no. It was a, a young woman, and some of the, you know, I was saying these things that were happening and she made a comment to the effect of, you know, like, 'You could lose your children for that.' And she made me think, 'Oh, oh well, I wish I hadn't bothered now,' you know. It was like, 'You're going to get in trouble.'" {Rachael: "Why had she thought you might lose your children?"} "I don't know, because, I mean, he wasn't violent to the kids, or doing anything in that respect. But I just felt, oh. And then, you know, she made a comment, because my daughter was wanting to see my ex, she made a comment about, you know, that it sounded like she needed a good smack, you know, she was naughty and needed a good smack. And I just I felt uncomfortable about the whole experience. Anyway I wrote a letter and I explained to her how I felt. And I said, it's really hard to come and tell people your private life and have it on record, you know, and it's got to go to the judge, and it's in the court, and all that kind of thing. And how, you know, those comments made me feel more anxious, and, you know, didn't help the situation. And she wrote back and explained that she didn't realise that at the time, you know. So that was good.. Well, I felt a bit annoyed about it, so I thought it's best to, you know, let it, let her know, because, you know, for the next time someone goes in, you know." (pp. 1-2)

37: {Rachael: "You brought up an interesting point with the male-dominated area and that. Do you think it would have been any different having a male lawyer? You said you've had two female lawyers. Do you think it would have been any different having a male lawyer? Or do you think having a female lawyer makes it any different?"} "I think it would depend on the male. But that's why I went for a women, because I thought that they would, they'd be a bit more understanding of the situation. And yeah, I think it's just easier relating it to a women, or going

through those things with another female. Because I think only a, a female can know what it feels like to know that you can't defend yourself against an aggressive male who's coming at me, you know. I, we just don't have the strength physically and that kind of thing... Like, if I'd known a man who was a lawyer and I knew that he was approachable and easy to talk to, I personally known him, you know, I would have, that would have been okay. But because I didn't know any lawyers or anything, I, I chose a woman, I chose a woman." {Rachael: "Did those women lawyers, what sorts of things did they do to make you feel more comfortable sharing your story?"} "I think, well, the first lawyer, she just seemed really on to it, and, you know, the attitude was, 'No, no, that, that's not acceptable. Get, get yourself some help. Get some back up, and we'll try and stop this.' And then with this, with the second lawyer who was younger, she had that same attitude too, like, you know, 'Look, this is a load of crap, and you don't have to deal with it, so, you know, we're going to get on to it.' Yeah. Yeah, they just, yeah they treated me seriously in a way of that I was there for a good reason, that I wasn't just kind of wasting everyone's time and being, you know, silly and emotional, like what I was there for was valid." (pp. 14-15)

Sally’s experience at court	
Sally went to court once because of Matt assaulting her in public. As mentioned above, she thinks the only reason that the police took this assault seriously (and hence the assault made it to court) was because there were witnesses present when Matt assaulted her³¹. She says that the police officer who charged Matt was quite informative and helpful to her	38: "I think it was frightening. But I can't remember who the policeman was, but the one who charged him, I met him at the police station earlier and he told me the procedure, and he'd also rung me a few times before to, you know, remind me of the date and everything. And so he was good, you know, trying to talk me through and tell me what to expect, so that you don't just get thrown in at the deep end. And he also told me, you know, that my ex would be there and watching, and probably, you know, I would feel a bit intimidated by him, but, you know, try not to and that kind of thing. And I felt it was embarrassing, because it was open too. Anyone could come in. It wasn't private, and when you're saying what's happening, you've got him there, and whoever he may want to bring with him, it just felt like there was

before her appearance in court. He rang her more than once to remind her of the hearing date, and told her what to expect^{38,41}. He also walked with her over to the court house⁴¹.

However, Sally found her experience in the District Court daunting, embarrassing, and frightening^{38,39,40,41}. She disliked the lack of privacy, that "everything was on show"^{38,39,41}. She did not like that Matt's supporters could be there, people off the street might attend and recognise her, and that a court reporter might publicise details of the case, including Matt's name, in the newspaper^{38,41}. Also, whilst Sally wanted to "make a stand on this", she felt very concerned about the implications from Matt of her taking the stand and being honest. In response to these problems, Sally agreed upon two improvements that she would like made: increased privacy, through closing the court room, or having a private room for the hearing; and the provision of a screen so that the victim does not have to see or walk past the offender⁴¹.

Sally's heart was pounding and she felt panicky whilst being

kind of no privacy, and it was all, and everything was on show, that's how I felt. And because, you know, you're not used to the court, or I'm not used to the court system, so that was a bit daunting knowing. Then having the judge and standing and, you know. And the police, or him, his lawyer, defending him, that kind of thing." {Rachael: "What was your experience of his lawyer? Was it only in court that you had experience of that lawyer, that day?"} "Yes, yes. His attitude was, you know, like he's got to make out that his client is innocent and that. It's that, you know, that, 'You wind him up,' you know, 'that you're making it out worse than what it is to be,' you know. And then he'll, he'll bring up times that you've let him in the house, you know, like the year or two before, all this kind of thing. And, and, 'You've seen him again since that.' And to try and say, 'Well look, yeah, this happened, but, you know, she's still seeing him, or he stayed there last Wednesday or whatever,' you know. Yeah, he tries to kind of try and take it away from the incident I felt. And so, 'Look, all this is happening, so it's not really that bad,' you know. 'He's not, he's a really good guy,' you know, 'let him off,' you know. 'This women takes him back. She must want that kind of life. She must be happy like that, you know,' {laugh}." {Rachael: "How did you feel at the time, when he was making those sorts of comments?"} "I felt really, really angry, really annoyed. Oh, and he also made a comment that my client will say that, you know, what you're saying is not true, and that kind of thing." {Rachael: "That he hadn't assaulted you that day?"} "Yes, and different things to do with, like there were times that I'd seen him, or when he'd been at my place, and that kind of thing." {Rachael: "So you felt angry?"} "Yeah, I felt like, I felt like you're kind of taking on everyone, and you're, there's just little old you, and you're up against a system that you don't know how it works, and you're up against these lawyers who are, and your ex, who will twist anything and lie to, to make it look like it's not, not really wrong what he's done, that it's more you. And, you know, you've got the police in uniforms, and the judge. And it's all quite a sober experience, yeah. And then him there as well {inaudible} everything you said, and, and that." {Rachael: "Do

cross-examined by Matt's (male) lawyer. He asked her "private and personal questions"³⁹. She felt angered and annoyed that he detracted attention away from the actual assault, and that he removed responsibility for the assault from Matt, blaming her instead. He said that she wound Matt up, that she exaggerated the seriousness of events, that his client would say she was lying. He also repeated that she had been seeing Matt; that he had been around at her place. Hence, things could not be "that bad", and she must "want that kind of life". She felt that it was "just little old you" up against a system she didn't understand, and against a lawyer who would "twist anything and lie"³⁸.

It was also "quite a sober experience" to have a judge and police in uniforms present, and for there to be formalities to adhere to (e.g., standing for the judge at certain times)³⁸. Indeed, she described the judge to be an "unapproachable" and "untouchable" "older male", "up on top on his high chair, in his court room"⁴⁰.

Believing that men are much more able to defend themselves

you think he found it a sobering experience, in terms of there being police there in uniforms, he was in the court with the judge there?"} ... "No, because he's got the attitude where he doesn't think that he should be told what he can and can't do. Like, when he was drinking and driving, well why shouldn't he, you know, that's his car. And, and, you know, why, his attitude is, how dare someone tell him that he can't come on someone's property, you know. If he wants to come around to someone's place, why shouldn't he, you know. 'You get arrested for that? What a joke,' you know, 'oh, let them.' That's the kind of, he's got one set of rules for him that he thinks is okay, but, but doesn't like being told what to do, or anything like that." {Rachael: "So he didn't seem to take the whole thing too seriously in the court?"} "No. And then, of course, he thought it was really great when the judge said, 'Oh,' you know, the order wasn't valid. Like to him, 'Well, well,' you know, 'hey, I can do anything now,' you know." (pp. 8-9)

39: {Rachael: "So, your experience on the stand, getting back to that, wasn't very nice with his lawyer twisting things, and?"} "No, because you're, you're standing there, and, you know, my heart was pounding, and yeah, I'm panicking. And I'm, you know, you're getting asked, you know, like private and personal questions, and it's kind of like you feel you're on show. And especially when you've got someone, you know, like, who's defending him, who's arguing that, you know, like, you asked for it, or it's your fault it happened kind of thing... It was more of, you know, as far as my ex was concerned, he, because I was leaving and he thought I was going to ring the police and he would be in trouble, you see, so he was trying, I don't really, he was trying to stop me and probably try to talk to me. But because he was, he'd been drinking and was aggressive, and, you know, his attitude was he would just, just trying to stop me from going, because he knew all this trouble would happen, and I'd ring the police, whatever. And, you know, like to me, all I could see was I wanted to get away from him and get safe. So to him it's, well, I mean, I only pushed you, or, you know, I didn't

than women, Sally had serious doubts about whether men in the male-dominated courtroom would adequately understand her experience as a female. It rather felt as if the system was "stacked" against her⁴⁰.

Sally left once she had finished being questioned, because she did not want to hear the "bullshit" that would come out of Matt's mouth. Later that day the police prosecutor made the special effort of coming around to her house to tell her the outcome³⁹. Though the presiding District Court Judge admitted that Matt had assaulted her, he incorrectly considered her orders invalid. This meant that he sentenced Matt more leniently, probably only a fine⁴². Again, Sally felt disappointed by the legal system. She felt particularly upset that on the occasion when the police had finally taken her situation seriously the judge had let her down instead. Matt was free of consequences for his actions one more time. He thought this was great, and reasoned he could do anything now. This judge's response put Sally "off the whole system of law". She describes it as a "waste of time"³⁹.

mean to do that, and if you hadn't been taking off in such an angry way and going, just, cause a whole lot of trouble, it wouldn't have happened.. I can't remember exactly what he said in court, because I was, when he got up to speak I left. His lawyer questioned me, and my, the lawyer for the police, and then I left. Because I didn't want to hear, I knew what would come out of his mouth would be bullshit. And I didn't want to stand there and listen to that. So I just thought, you know, I wanted to get out of there as quick as I could {laugh}. And he said to me, once I say my part, you know, I'm free to leave. So I did. And, actually, I went home. And the police actually come to the house, the one who'd prosecuted him came to the house and told me. He didn't just ring me either. He actually came to the house and said to me, 'Well look, this is what happened. And, you know, we can't believe it either,' and that kind of thing..." {Rachael: "With the judge getting that wrong, how has that affected your trust of the judges and their knowledge? Has it affected it at all?"} "Yeah, it has, because, I mean, I try to think, 'Well, it was just one judge,' but it has, it's put me off the whole system of law. Especially, you know, like, from, the police are out now in the front lines kind of thing, it's put me off ever going for help or wanting, you know. Like if I, if I made a charge, laid a charge, you know, and gotta go through that again and go to court, it has put me off again. Unless it was something like really serious, I kind of would try and avoid it.. I think, because, you know, it went that far, and, and then it, and I finally felt like, you know, there was, the police were backing me up this time. And then actually going to, to court and going through that. And then it still wasn't recognised, at the end of the day it wasn't recognised again, you know. And it was, I finally got past the police this time, and then higher up, and then it wasn't recognised again. And so that just really put me off and made me think that, you know, that the system's just not working, and that it really was a waste of time." (pp. 10-11)

40: {Rachael: "When you were in court that day, what was your experience of the judge there, other than where, where he got

Sally also felt disappointed that because there were no Maori providers of stopping violence/anger management programs the judge excused her partner from doing one. Again, Matt thought this was a "really good joke"⁴³.

the law wrong and found out that later? What was your actual experience with the judge? Did he make say much?"} "No, but it's just like he's this untouchable person, you know, up on top on his high chair, you know, in his court room, and, you know, a male too, older male. And you kind of feel, not that the system is stacked against you, but, you know, you look around, it's just kind of all, it's mainly males, which unless they were battered, you know, you kind of think, well, it's a bit hard to put your case across, because there's not a lot of understanding. It's different for a man because, you know, men can generally stick up for themselves against each other. But with a woman, I mean, there's just no way I could ever probably pick my ex up and throw him out the door, even try and pull him out the door, you know. So, I think that's a bit daunting too, that he kind of seems unapproachable too, you know, the judge. 'Cause you can't talk directly or anything. And, you know, one of the police that wanted, you know, talk to me, sometimes they'd hand a note to, they speak when the times right too, and that kind of thing, so. And like you say, you can't say to the judge, 'Well look, I'm sorry, but, you know, you're actually wrong on this point,' you know. Yeah, it's like he's got the say, and what he says goes, whether that's right or not, you know. It's just kind of tough. You can't really do anything about it." (p. 14)

41: {Rachael: "How do you think that your court experience could have been improved?"} "There's probably no way around it really, because the police, you know, spoke to me up to the time. They took me over there so that I didn't have to walk in alone and look where I had to go and look out for him as well. And they stayed with me and prepared me. And they, you know, said, 'His, his lawyer will make it sound like it's you.' And they had prepared me for all that. So, apart from the judge being wrong on the, that issue, I don't think there is really much." {Rachael: "Would you have felt more comfortable if it wasn't a public gallery?"} "Oh definitely... I was probably only in there for like, ah, 10 or 15 minutes or something, yeah. Well, if, if you could have had just a small private room where he didn't have,

whoever the charge was against didn't have to be in there, or if perhaps you had a screen or something. Because that's really daunting, 'cause you're worried about, if I'm honest here and say everything is he gonna come back and get me later, you know, {inaudible} drinking, you know. You've got all this on your mind, thinking, 'I want to make a stand on this but he's hearing this.' And, but, you know, like he has to, you know... to defend himself and all this kind of thing." {Rachael: "So a screen would have helped?"} "Yeah, a screen. If he had to be in there, a screen, so that you didn't actually have to see each other and walk past each other. Like I had to pass him for him to go in to the box, and, you know, you're kind of {laugh} leaning over thinking, 'Well,' you know, 'how angry is he?' you know, kind of thing. And a smaller, a smaller area would have been more comfortable too. Because you're always worried someone's gonna come in, like, either his supporters, or just people off the street who may know you, or you might recognise or something." {Rachael: "It would have been okay if the judge had said, 'Okay, the court room's closed, can everybody leave'?"} "Yeah, that would have been. And the court reporter is sometimes in there, you know. You know, you're embarrassed that although your name won't be in, his will, and that people would know. So that's another thing you're thinking, 'Oh, I hope there's no reporter in here either,' you know. Whereas if it's just really private, there's only the one's that are doing the case in there, that would, that would... because that, that would just make it a bit more comfortable, and it wouldn't be so daunting." (pp. 12-13)

42: "I think that he was charged with the assault, because I know once he brought it up, that he had assault on his record. So, I think that he must have got a fine or something for that, but nothing was serious. Like that protection order probably would have been more stronger because of the assault. It wasn't just like a, being removed from the house, you know what I mean. So, but because that fell down it kind of wasn't as serious, if, you know what I mean... And there was no non-violence protection

in order either, as far as the judge was concerned, so it was probably just like a common assault instead, that male [assaults] female... Because the policemen who, 'cause, I mean, even the police were like really, couldn't believe it either, and said, you know, that they were going to carry it through to the high judge, because you can't, the high court in Wellington, because you can't say to the judge, 'Na, sorry, you're wrong.' So, they couldn't believe it either. And then they said to me, 'Well look,' you know, 'we suggest you go and get a new order, and then you've got it in black and white, and it can't be thrown out like this, it can't be disputed,' you know, 'no matter if you got married, whatever,' you know, 'you've got the full protection and this can't happen again.'" (pp. 9-10)

43: "Another point that I wanted to make was, a lot of men from my understanding, when they, when a protection order is being placed on them, that they have to go to like some anger management. And my ex-partner is Maori, and I was told that because at the time there was no Maori to take it he didn't have to go. Because if it was sort of, you know, Pakeha, or another nationality, but if you were any other nationality that's too bad, you have to go. But because he was Maori, and there was no actually Maori man at the time to take the courses, that he didn't have to go. Which, I mean, he just thought was really, was a real great joke, because he'd been ordered by the court that he had to attend this anger management and he's never had to.. So, you know, he thought it was a really good joke." (p. 18)

Her experience of the legal system more generally, and its effects

Sally turned to the legal system for help when she was "downtrodden", "abused", and "constantly put down" by her partner⁴⁴. It was not an easy decision, particularly because she was aware of society's attitude towards domestic

44: "And so that just really put me off and made me think that, you know, that the system's just not working, and that it really was a waste of time. But I would say to other women, 'Don't let that put you off if you're in danger.' I mean, for me I wouldn't really be bothered again unless it was a really serious situation, but for other women, you know, they might have that policeman who listened to me, or, you know. Now that the new order has been in place for a while too, I mean, it's probably really

violence. In many ways, it would have been easier to just “go with the flow”⁴⁵.

When Sally finally involved the legal system, she expected it to protect and help her. Instead she was “let down”⁴⁴. Indeed, she feels her involvement with the legal system has been a real battle^{27,28}, where she has had to take on the whole system as well as her partner⁴⁵.

Because it did not work for her, and “really was a waste of time”, Sally would not use it again unless circumstances were dire. Nevertheless, she would not discourage other women from using it. They might get the policeman who was helpful to her, and “teething” problems with the Domestic Violence Act 1995 should be over now. She believes that the more women who take a stance against domestic violence the better⁴⁴.

Sally's experience with the legal system, including that in court with the Judge, has really undermined her trust of it³⁹. She feels that a poor legal response encourages abused women to consider their situation less seriously, and discourages them

recognised now and understood well, kind of all the teething part is probably over. So, I mean, I wouldn't for me. It was a waste of time I feel. But for anyone else, I wouldn't ever say to them, 'Don't go and do it because of my experience,' because then it, then they're getting away with it too, you know. Do you know what I mean? It's, the more women who will stand up. Because that's the thing. You're downtrodden by your partner, you know, and you're, you're abused, and you're constantly put down. So then, you stand up and say, 'No, this is wrong, and I want to stop it.' You're not physically able to pick them up and throw them out. You're not strong enough to do that. So you go to the police who you think are there to protect you, and will help you. And you've got this legal system there. And, you know, and I felt really let down by them. And he, he sees this happening and thinks, well, you know, I mean that's all in his favour, you know. 'What, what are you going to do about it? Nothing,' you know. He's home free kind of thing. Whereas, you know, if the very first, first and second time he'd got stopped, you know, I think it would have, he would have thought twice about it, because, you know, he wouldn't want to end up locked up for the night or end up jailed for breaking it again. And it would have kind of made him stop.” (pp. 10-11)

45: “It's a very hard thing, and, I mean, it's a lot easier to kind of just go with the flow and take, you know, kind of all the crap you're getting. So, it is really, really hard when you decide, you know, you're going to stand up. And because to me I felt like I was taking on the whole system. I mean, I was trying to get myself heard with the police, trying to take it seriously, you know. And then you go to court, and then you got, you know, you get your ex-partner in the background, 'Huh, you know, nothing is going to happen to me,' you know. 'It's all you. You're just carrying on over nothing,' you know, kind of thing.” {Rachael: “Before you had any experience with the legal system, was it an easy decision to decide to involve them?”} “No, no, it wasn't. 'Cause, like in society, I still see a lot of attitude, as in, 'Well, you gave him double messages,' or, you know, 'you made

from making steps towards a violence-free life²³. Sally feels that when the legal system takes domestic violence seriously, abused women consider their own situation more seriously, and feel supported and more confident to leave^{29,46}.

Additionally, she feels that the legal system could have deterred Matt if he had faced consequences for his actions. As it was, she feels that the legal system allowed him to behave as he pleased, and accentuated his disrespect of the law^{17,18,23,24,28,38,44}.

She also worries that others who witnessed the poor legal response to her situation, particularly her daughters, will be negatively affected by it. They might be disinclined to use the police themselves if they end up in an abusive relationship, and/or might discourage friends from using it. In this way, the next generation is affected and "this attitude carries on"⁴⁷.

the bed, you lie in it.' So, I still see a lot of this attitude, although it's getting better. But, so that, you know, kind of for me, I put up with it for a while before I thought, you know, about, 'No, I'm going to stop it,' you know, 'it's got to stop.' Because it's not right, but then you kind of carry a lot of it yourself. Well I did for a while, thinking, 'Well,' you know, 'I've seen other people out there go through it, and the attitude of people around them was, 'Well, she chose it,' you know, kind of thing. So, you start thinking, 'Well, maybe it is me.' So, it's, it's, I found that hard to make that decision." (p. 15)

46: "Because when you get that understanding and someone listens to you, you start, it starts making you feel more confident and strong as a person, and thinking, you know, 'Well, you're right,' you know, 'I'm sick of taking this, and I'm not going to any more,' you know. You need, you need that back up to get away from it. And, ah, when the, when the system is working properly, and you've got the police doing their job of being protector, and, and supporting you, and then, you know, you go to court, and, you know, then you've got the system going how it's meant to be, and protecting you and everything, well it's fine." (p. 12) (from excerpt 48)

47: "There is, actually, one point that I want to make is that I've got daughters who are teenagers and of course they've seen this, and they've seen the hassle with the police. So now, you know, I'm just concerned that they're going to think if they ever get in that situation, you know, 'Oh, it's a waste of time ringing the police too.' You know what I mean? .. It affects those two too. Because, I mean, they might, you know, get friends in that situation too, and then they're saying, 'Well look, my mother tried to get help, and [they] didn't want to know about it,' kind of thing. So, it's, you know, not just this, this generation either. And this is how this attitude carries on." (p. 17)

Suggested improvements

Although Sally did concede that things may have improved for women requiring protection by the legal system against domestic violence now that protection orders have been in place for a while, she still feels that many improvements need to be made.

She directed several of her suggested improvements at the police. She believes there needs to be more understanding of how difficult it is for someone to ring them and other legal personnel to ask for help. She feels that it is important that police listen to and treat women who experience domestic violence seriously, and as human beings, not over-emotional women. Additionally, she feels that police need to reaffirm that abusive behaviour by a partner is not acceptable, rather than blaming women for the situation^{48,49}.

As mentioned earlier, Sally feels that her court experience could have been improved by closing it to the public (including a court reporter), and by providing a screen to shield her from her ex-partner⁴¹. Again, she feels it is

48: {Rachael: "What sort of improvements would you wish there to be in the whole legal system, so in terms of lawyers, the law, the courts, the judges et cetera? What sorts of improvements do you think could be made so that women who are experiencing abuse and violence are better protected?"} "I think that some understanding and.. understanding of how, you know, when you, when you make that call for help it, it's a really hard thing to do because, you know, you're, you're, you're finally standing up and you're, you know, you're standing up strong and saying, you know, 'Help me,' which is a hard, you know, it's a hard thing to say, 'Look, I need help. Help me.' And a bit of, yeah, being listened to, and not kind of white-washed or not treated like, 'Oh, it's just another stupid domestic,' and like, you know, 'I get sick of these, sick of women like you,' you know. Because when you get that understanding and someone listens to you, you start, it starts making you feel more confident and strong as a person, and thinking, you know, 'Well, you're right,' you know, 'I'm sick of taking this, and I'm not going to any more,' you know. You need, you need that back up to get away from it. And, ah, when the, when the system is working properly, and you've got the police doing their job of being protector, and, and supporting you, and then, you know, you go to court, and, you know, then you've got the system going how it's meant to be, and protecting you and everything, well it's fine. Well, yeah, I think, I think there needs to be a change... I think if it, if it starts with the police. And I think if we're treated as, like human beings. Because when they get to your place, you're usually crying, you're frightened, you're upset, and, you know, it's easy to look at you and say, 'Emotional woman who's upset. Calm down,' you know. And, "Really, what are you crying about, kind of thing? You, you let him in. What do you expect kind of thing?" you know. If you're treated with, 'How he's acted is not acceptable,' you know, 'we're going to do something about this and we suggest if it keeps happening that you,' you know, 'you keep calling us.' And, you know, and, and then you're offered like

important that legal personnel in the courts are more understanding. She believes it is important that judges take domestic violence seriously, as this affects the police attitude and response⁴⁹.

Finally, for the legal system to be effective, Sally felt it was important that all components of the legal system work well together with a consistent, strong message to the public and the next generation that domestic violence is not acceptable and those who choose to be violent will face serious consequences for their actions⁴⁹.

Sally participated in the research with the hope that the legal system response to domestic violence will improve⁵⁰.

victim support and those kind of things. So, it's good to, to have those choices, because like, you know, I say it makes you stronger, and you start seeing, well, if people are telling me, you know, it's not alright to be treated like that. And you're lead to believe by your ex, or your partner, that it's your fault, and you're treated like that because, you know, because of who you are kind of thing. But when you get someone of authority come along and saying that it's not right, you know, you start believing and thinking, 'Well, there's more to it,' you know, because you're getting treated like a human being." (p. 12)

49: "I think though, when the, the cases that are coming to the judges, if they're taken seriously the police see this, then the police are going to be more, more likely to take it seriously when they're going out to these charges, because it's being recognised, and it's being dealt with more seriously, and it's been dealt with. So, yeah, that might change a bit of understanding, you know, of the police who are on the front line dealing with the situations when they're happening. Because it's also daunting for them and really annoying, because they do a case and they follow it up and then it gets to court and it's thrown out. Well, you know, that must be really frustrating for them. So they like to, you know, know that what they've got to come to court with is going to hold up too. It all has to work in together really, to be effective... And also, I mean, we've got a lot of young men, teenage men, growing up. Well, we need to be sending out that message to them too that violence is not acceptable, especially on, on a female. And if you're going to carry on like that, you're going to get stopped one way or another, you know. So just don't even bother, you know. If you choose to go down that path, you're gonna to get caught, you're gonna get, come up against a brick wall, you know. It's all, basically the message needs to be, 'It's not acceptable. And if you, if you act like that, these are the consequences that are going to happen to you.' ... Because it, I mean, it's getting worse with each generation, you know, the violence. And it's, you know, what we can try to do to help the next generation, who,

who will be looking after us when we're older, and, and that kind of thing. Well, we need to do what we can." (pp. 17-18)

50: "I'm just hoping that, you know, by doing things like [participating in this research], 'cause it's, I mean, I'd rather not, I would just rather forget about everything that happened. But I wanted to say how, you know, my experience was, so that maybe you'd change, you know, for another woman, who, who was wanting help next time. Because like, you're bearing your soul. So, you know, I just hope that something constructive will come out of this, and that there may be a bit more consideration and, and that kind of thing, so, for other people who have to use the system." (p. 16)

Summary of the problems with the legal system

Sally mentioned several problematic features of her experience with the legal system. The police and a judge no longer considered her non-violence order valid when the Domestic Violence Act 1995 came into effect^{13,15,39}. Although the police told her that they intended to appeal the decision in the District Court, they did not follow this through, nor inform her that they had changed their mind^{13,14}. Her protection order has been ineffective because the legal system has inadequately enforced it^{17,18}. The legal system has consistently failed to provide Matt with consequences for his actions, and hence it has not deterred him from behaving abusively again^{17,18,23,24,28,38,44}. The police's attitude towards her and domestic violence has been very poor. They have treated her badly and made inappropriate comments to her²⁰⁻²⁸. The police have responded unsatisfactorily to formal complaints that she has made²⁶. Her second lawyer lacked life experience, making it more difficult to relate to her. She also made inappropriate comments to Sally^{35,36}. There was insufficient privacy in the District Court because of the public gallery^{38,39,41}. The lawyer who represented Matt in court absolved his responsibility for the assault, blamed her, minimised the seriousness of events, and lied^{35,39}. Judges are untouchable, unapproachable, and possess a distinctively powerful position⁴⁰. The legal personnel in the courtroom were predominantly male. Hence, Sally wondered whether her experiences could be adequately understood⁴⁰. The judge excused Matt from attending a domestic violence offender' program because there were none locally provided by Maori⁴³. Overall, Sally feels that the legal system has let her down. Indeed, it has been ongoing battle^{27,28,44,45}.

Summary of commendations

During the interview, Sally made several positive comments about her experience with the legal system. The first three related to the police. That is: there was an occasion where a police officer listened to her, and treated Matt's abuse and violence seriously²⁹; the police were quick to arrive when she called them for help²⁰; and the police officer who assisted her when Matt went to court for assault was very helpful^{34,41}. The other three positive comments related to her lawyers. That is: her first lawyer was very good, listening to her, believing in her, and keeping her well-informed^{33,34,35}; her second lawyer managed to get her protection order granted very promptly³⁵; and both lawyers treated her and her situation seriously^{36,37}.

JASMINE’S STORY

Jasmine has one daughter and one son. Her daughter, Kylie, is eleven years old, and her son is a teenager. Jasmine has been subject to psychological, sexual, and physical violence and abuse from Luke for approximately eight years. His mates have also repeatedly threatened her. Before the introduction of the Domestic Violence Act 1995, she had a non-molestation order or a non-violence order; after this, she had a protection order. She has pressed charges twice: once when Luke threatened to kill her, and once when he breached the protection order. Luke has recently organised regular access visits with Kylie.

Luke’s violence	
Jasmine believes that domestic violence usually follows a pattern. Initially, the abusive man uses psychological abuse and controlling tactics. When his partner resists and fights this, he follows it up with physical abuse. If this still fails, he becomes sexually abusive too. Hence, the woman ends up being subject to a combination of types of abuse. This understanding is based on her own experience of abuse and violence ¹ .	1: “Sometimes it’s just straight out physical, but it starts with psychological abuse, and like control, and different issues. And then if, if you’re the type that’s going to fight that, which I would fight, {inaudible}, and then along comes a bit of physical. And if that’s failing, then make a bit of sexual in there as well.” {Rachael: “Okay, so that’s what’s happened in your experience?”} “Yep. You start getting a combination.” (p. 1)
Luke isolated Jasmine from her family and friends. He achieved the isolation from some of her friends by sexually assaulting them. At the same time, Luke surrounded himself with people who were very similar to him. These men were also involved in criminal behaviour and condoned	2: “It’s hard to explain, but being the sort of guy that he was, he’d make sure that he was surrounded by people just like himself. He sexually assaulted a couple of my friends. He made sure that I was totally isolated from my friends, my family. So already I was isolated. And that’s the case with most of these women. They are so isolated. And then to go through the system and try and fight that when you’re already isolated, you become further and further isolated. It’s just, it’s not on, it’s not the way it should be done.. You don’t have a lot of choices. And like I said, he surrounded himself with people just like himself. Their answer to everything is, ‘Gosh, she’s a total bitch, give her a backhander.’ And I’ve seen their wives go in and out of Women’s Refuge... I’ve seen them lose their teeth, have their windows smashed in. I’m lucky, I haven’t had to go through all of that drama. But to be threatened that you’re going to die all the time. It’s not like once I’ve been threatened. It’s repeatedly I’ve

violence towards women.

Jasmine also knows that some of these men abused their wives.

Whilst she has not lost teeth or had her windows smashed as they have, Luke would repeatedly threaten to kill her, as would his mates²⁻⁹. She has also been assaulted¹⁰ and knocked unconscious by him¹¹.

At least on one occasion, Jasmine made Luke leave and find somewhere else to live. She moved all his belongings out of the house. This did not always keep him out though. Luke would just move himself back in. A prime time for this was when he came around and demanded to see his daughter for the weekend. Because he intended to stay at her house during this time, Jasmine would go elsewhere, and risk him taking over her house. At the time, Jasmine did not see many other options¹².

been threatened. And it's not just by one person, that's by him and all his mates that he surrounds himself with." (pp. 13-14)

3: "By then I was getting death threats from his mates and every Tom, Dick, and Harry." (p. 2) (from excerpt 30)

4: "Well, {laugh}, again the death threats came flying in... I had his mates threatening on a regular basis that if I didn't drop the charges, because he just kept turning up, he just kept abusing the hell out of me, and I just got to the stage where I was cracking... And just after I took out the protection order, and the threats were flying in again, I couldn't see any way out. Just, you take out a protection order to protect, to protect yourself, and then you're getting threatened more because you've done it." (p. 4) (from excerpt 28)

5: "Oh, he turned up and he was threatening me and standing over the top of me. And I just thought, 'I've had enough, I'm not taking this anymore.' It just gets my heart palpitating, I don't think straight, it's not good for the kids." (p. 5) (from excerpt 32)

6: "How can you protect a woman from someone who's threatening to kill her all the time?" (p. 5) (from excerpt 29)

7: "I barricaded us up in the bedroom, and I was using the phone, and he was threatening to break down the doors and whatever. And it was just so dramatic to have him around. Well, again, I got threatened left, right, and centre from his, all his mates." (p. 5) (from excerpt 32)

8: "I've had death threats repeatedly over the years since then." (p. 7) (from excerpt 45)

9: "To be threatened with your life repeatedly, and you know just what you're doing is going to give you, the consequence is going to be horrendous." (p. 9) (from excerpt 39)

- 10: “If he’s ever assaulted me he makes sure it’s not a mark you can see in court, and you have to have a mark in court. And a backhander and it’s out cold. Well, it doesn’t really (mark).” (p. 6)
- 11: “My daughter’s seen me knocked out once, and that really traumatised her.” (p. 11) (from excerpt 49)
- 12: “But he wasn’t living with me, but he was living with me for a short while when this happened. And then straight after [the first court hearing], I managed to get him out of the house, so he had to find somewhere else to stay, which he did. As soon as he found somewhere else to stay I just threw everything out of the house... I threw everything out of the house that was there, just moved him out. It didn’t keep him out though. He just kept moving himself back in. And just the stupid things, like seeing my daughter, he’d want to come around and see his daughter, and there was only one way that he was going to see her, because he’d come in and just demand, ‘That’s it, I’m going see her, it’s my weekend with her.’ So I’d just move out of my own house for the weekend. Not a very good idea. Chances are I’d come back and he’d taken over my house. But there weren’t a lot of options really, or I couldn’t see any options.” (p. 3)

Initiating legal involvement

Jasmine first involved the police when Luke threw a bullet at her and told her he would use it on her¹³. Later, in an attempt to get the law to back her up, she decided to apply for domestic violence orders¹⁴. She knew that if she continued to get no legal support, she would feel so trapped that she might kill him and go to jail¹⁴⁻¹⁷.

- 13: {Rachael: “So at what point did you decide that you needed some help from the law?”} “Oh, when I had a bullet chunked at me one day and told it was for me. And I thought, ‘To hell, it, there’s no way I’m going through that.’” (p. 1)
- 14: {Rachael: “Sounds like also, it must have been a hard decision to make, to get a protection order, even though you had plenty of circumstances going on, because you were afraid of the consequences of getting one?”} “Yeah, yeah. I was afraid of the consequences alright. But the breaking point was I needed the law to back me up, because if it didn’t I was going to end up breaking the law myself. So that was my idea of why I was there

getting a protection order. I had to have the law back me up." (p. 15)

15: "He just kept abusing the hell out of me, and I just got to the stage where I was cracking. And I thought if someone doesn't do something soon I'm going to put a bullet in this guy. I can't take it anymore." (p. 4) (from excerpt 28)

16: "I rang and just decided there must be something I can do, because if I put a bullet in this guy I'm going to jail. And if I don't get some sort of backup, more or less, it's going to happen." (p. 9) (from excerpt 39)

17: "I come from a really strong Christian background, and for me to think that my only way out is to pick up a gun and shoot someone. And I knew I'd go to jail if I did that." (p. 13) (from excerpt 42)

Lawyers and protection orders

Because the year was 1992/1993, Jasmine originally got a non-molestation order and/or a non-violence order^a. She replaced this/these with a protection order after the Domestic Violence Act 1995 took effect¹⁸.

The male lawyer who applied for her non-molestation and/or non-violence order/s was reputed to be a very good lawyer. However, he had not done work in the domestic violence area before, and so "had no idea what he was

18: "It would have been, I think, about half way through 1992, beginning of 1993, (I'm not sure) one hundred percent. Probably, I don't know, July I think it was. I had a, back then there was a trespass, not a trespass order, it was a [non-molestation order]. No, I don't think so. It has to go hand in hand, the two together." (Rachael: "I think you said on the phone, since then that you've had a protection order, you changed over to the new protection order?") "I was never told that the non-molestation, I was never told that they were still valid. I think you had to renew them, so I did. I took out the protection order." (pp. 3-4)

19: "Again, [my first lawyer] had never done anything like that. He had no idea what he was doing. He was really good, he was real particular about what we'd done, because he's a really good lawyer {inaudible}. He'd just switch from one to another and

^a It is not clear whether Jasmine had a non-molestation order, a non-violence order, or both, prior to the Domestic Violence Act 1995.

doing". Despite this he was "really good", and very particular with what he did¹⁹.

The female lawyer who assisted her with her protection order application was very inexperienced^{20,21,24}.

Whilst having legal aid lawyers did not imbue her with confidence, she felt quite intimidated by the lawyers that Luke might pay to assist him. She was frightened that they would "tear strips" off her in court. She believes it must make an "amazing difference" in the perpetrator's likelihood of escaping consequences from the legal system if he pays a lot of money for a lawyer. However, when a perpetrator repeatedly "slips through the system", he must realise that a lawyer is just "wasting" his money; that he will continue to escape consequences with or without one²¹.

Jasmine found it quite intimidating to use lawyers, who enjoy a high-status in society, when she felt so "down-trodden", "at the bottom of the pit", and "like the scum of the earth". She also found it humiliating requiring

decided he was going to get property and (protection) or something like that. So, and again I, it can be really intimidating. You've got someone who's in a high position, you've been absolutely down-trodden on and feel like shit and that's why you're there. You feel like the scum of the earth and you need someone to, to help you when you're a, an adult. You're asking for help at the bottom of the pit. It's just, and probably again to have someone there who's a referee to the situation, or who could help you through that sort of procedure would have been ideal." {Rachael: "Did you feel that your lawyers understood what was going on for you?"} "Definitely not.. things like to them it was just, basically it's a legal document, 'I want to get the legal technicalities right.' That's all it was. And there was no feelings or emotions or anything like that involved in it. And yet they're asking questions that, I remember getting asked just one question and straight away, just, I could feel the tears building up and, 'Oh my god, do I have to answer that?' They were asking you gut-wrenching questions, and you were expected to just sit there and answer it cold-blooded-heartedly." {Rachael: "So you didn't feel much empathy?"} "No, absolutely none. So yeah, that's why I'm saying to have someone there who's got an empathy for the situation would make just the most amazing difference." (pp. 18-19)

20: "The lawyer I had when I took out the last one, she was new at the job. She had to keep going through what it took. It took nearly five hours I think to actually get a protection order.. And then I said this one thing. I can't even remember what it was. And she says, 'I'll have to put that in the protection order.' And I says, 'No you won't because that will definitely jeopardise my safety.' And she says, 'Well in that case you've said something that,' I can't remember what her drama was, but she had to send it to another lawyer to get a signature on the protection order, because I made a change.. So I had to go across town and get another signature, and then I had to, I can't remember, I had to take it to the court house, I think I did. It was one hell of a drama. Though the whole time I was just freaking that someone

someone's assistance when she was an adult¹⁹.

She did not feel that her lawyers understood her personal situation. Rather, they thought of the legalities of the matter only¹⁹. The standardised process that they used was apathetic and "cold"^{19,22}. They expected her to answer their "gut-wrenching" questions in a "cold-blooded" way. She believes that it would have been a much better process if there were empathetic advocates' available¹⁹. These advocates could also provide information, assist with the process, and make sure that proper procedure was being followed^{22,25}.

The affidavit for the protection order caused some difficulties. Because her lawyer was very inexperienced, she had to keep "going through the book" to see what it took to get one^{20,21}. Consequently, it took much longer than Jasmine expected²⁰. Her lawyer also made many mistakes. Instead of accurately reflecting what Jasmine had said, she misinterpreted it and took it out of context. Jasmine made alterations the first time she read it, and after her lawyer made

was going to attack me as I was walking around town." (p. 7)

21: "Well, I've noticed if you're on the benefit you don't get a good lawyer. If there's a guy you're taking to court they'll get a good lawyer. And I think it helps, it makes the most amazing difference if you're a guy, to go out and pay six hundred bucks for your one hour session. The lawyer would be your walk in the door. It makes a huge difference. That used to be the scenario. It's not any more, because once you slip through that system once, twice, three times, four times, eventually you start to realise the lawyers just wasting your money and there is no, you know, you're not going to end up in jail anyway, so that's fine... So, I think years ago I was intimidated a lot with that, that if I'm taking someone to court they're going to go out and get the best lawyer they can and I've got no one. Shit, I'll feel intimidated all right. First, they're going to absolutely tear strips off me in court." (Rachael: "So you felt that being on a benefit, that there's been difficulty in the quality of lawyer?") "Definitely... If you're going in to, to take a protection order, for christ's sake, how pathetic can you get, sitting there with a lady who's never done a protection order in her life, and going through the book. And if you're going to court and you don't have a lawyer. I didn't even know I had to be in court in the first instance anyway. What's happening to the justice system? Where the hell is it?" (pp. 17-18)

22: "I think too, when you're taking out something like a protection order your heart beat is, I mean, a mile a minute. You're racing (away). And to be sat down, and they're going through the standard procedure of this question, this question, this question, this question. And it's all so, so cold, and whatever. Just, you know you're going to get consequences from doing it, and it's more the reason why your hearts beating a mile a minute... You definitely need somebody there to lead you along as you are doing these places. You do need someone to tell you how it works, someone who is going to follow up and make sure that it's doing what it's supposed to do. Like I had no idea that I could have had someone in court with me when I

supposed corrections. Her lawyer did not react well to her doing this. The first time was as if she had personally insulted her; the second time it was as if she was trying her hardest to be difficult. However, Jasmine did not want the comments in her affidavit to further compromise her safety. In particular, she did not want to make blatant accusations. To do so would have been the equivalent of signing her own death warrant²³. As it was, she knew a sentence in her affidavit would upset him²³, but her lawyer, who had no idea how badly things could be interpreted, insisted that it was necessary²⁴. This sentence said she and the children could be subject to physical and sexual violence from him. She worried he would interpret this to mean that there was a risk he would sexually molest his daughter²³. Similarly, for fear of what might happen, Jasmine did not want the lawyer to put another comment in her affidavit. Her lawyer was not happy with this but Jasmine insisted. Consequently, she had to organise another lawyer to sign her affidavit; it was "one hell of a drama"²⁰.

Applying for the protection order

went to court. It would have made a huge difference for someone to actually tell me that. I could have had the police records and had a look through them, I could have a copy. I could have had so many things that I could have had or could have done that nobody told me about." (p. 9)

23: {Rachael: "Did your lawyer seem to listen to what was being said, and be able to accurately get that in your affidavit?"} "No, no. The lady that did the protection order made so many mistakes to start with. I just sped read through it, and, 'Oh shit, what the hell's that she's put in it.' So I had to cross out and change it. I think I did it twice because she'd misinterpreted what I'd said. I mean I'd talk short hand, if I'm really sped up I'll talk faster or miss words out, whatever. She took that, and took things that I said out of context. And I had to change it, and I had to change it again. Until I'd changed it the second time she was, it was like I'd personally insulted her the first time. And the second time it was like I was just trying my hardest to be difficult.. I wanted a protection order. I didn't want a piece of paper. I knew I was going to get threatened because of what I'd done. A piece of paper, the way it was written I may as well have signed my own death warrant. I wanted a piece of paper that was going to be non-accusing, just, it was going to be left open to interpretation, not something that was going to be blatantly making accusations, and the way that it was. I used to have it in my bag, I've tossed it out after all those years. The way that it was, right at the end of the protection order, there was one little sentence, and the way that she'd written it was that me and my children could be subject to sexual, sexual, physical and psychological violence, I think she missed out psychological, and put sexual and physical violence. He's never hit my kids. I've never let him. I'd probably kill him if he hurt my kids. And for him to read that, that included sexual and he's got a daughter, oh." (pp. 19-20)

24: "[My lawyer] was very young, very inexperienced, and she, well, just being very young, the way that she wrote things she

was quite frightening. Her heart was beating "a mile a minute". This was mainly because she was afraid of what Luke would do as a consequence of her getting the order²². When she had to walk across town one day to get another lawyer's signature, and to drop the application into the courthouse, she felt afraid that someone would attack her²⁰.

Jasmine was granted the protection order, though she doubted how effective a piece of paper could be. She remembers dancing around her lawyers office, saying sarcastically, "I'm ten foot high and bullet proof." Her lawyer told her she had a bad attitude. However, Jasmine says that the poor legal system response to it has confirmed her original concern: it is only an ineffective piece of paper that is "supposed to stop bullets"²⁵.

It took more than a year to serve the protection order on Luke. When a policeman first tried serving it, he was not home. Much later, when she tried enforcing her protection order, she found out that it had still not been served. So a special squad became involved. They had little success. When they knocked on

had no idea how badly they could be misinterpreted. She told me I couldn't have a protection order without saying that my kids were threatened by sexual, physical abuse, or it was something of that nature which they {inaudible}. Psychologically, yeah okay, psychologically to have him around, I think would be just as horrible. But I wasn't allowed to put that in the protection order.. I was against the whole lot, yes." (pp. 20-21)

25: "You need some sort of standard procedures {inaudible}. So that when someone goes in to lodge a, to ask for a protection order, there's a standard procedure that someone has to go through. Like to, if you're going to apply for a protection order someone like an advocate would go in and tell you the ins and outs because the lawyer's not going to tell you. They're only going to do the paperwork. I mean, I got my protection order, I danced around the table in the lawyer's office. I said, "Well, I'm bullet proof, I'm ten foot high and bullet proof.' And she just looked at me and says, 'You've got one hell of a bad attitude.' And I went, 'Yeah.' 'You need to clean up your attitude.' Which really, that was the only way I saw it, a piece of paper. Shit, okay, I'm bullet proof, I've got a bullet shield that's going to save me... But that's exactly what I've had, and so the system's proved that's exactly what it is, a piece of paper that's supposed to stop bullets. It doesn't, it doesn't do anything." {Rachael: "And do you think it would be a bit more, have a bit more weight if it was being backed up by the system, so that when someone did breach a protection order there were consequences for that person?"} "Yeah. Yeah." (pp. 14-15)

26: "That's another thing. It took them more than a year to deliver that protection order to him, more than a year. He was over in [part of New Zealand] working in [a particular job], and he did move around a little bit but I gave them the address. And the policeman went round there and didn't find him so they didn't go back. I made a complaint a year later because I said that I wanted to file a complaint, but he never had (like a) protection order. I didn't know he hadn't [been served] it. They even had a

his door, Luke told them that the person they were after did not live there. They believed him. Jasmine describes it as “the biggest joke of the century”. Because she continued to follow it up and tell the police of his whereabouts, it was eventually served. Meanwhile, the protection order had not been enforceable²⁶.

As expected, Luke did not react well when he was served with the protection order. In her own words “he hit the roof”. Also, the statement that Jasmine had worried about (that she and her children might be subject to physical and sexual abuse) had the dreaded effect: Luke was “ropeable”. His mates thought she had lied and demanded that she withdraw it²⁷. She received several death threats from them. Because of these consequences, she believes that taking out a protection order is a “catch 22” situation. With or without one you are in danger²⁸.

What made it worse for Jasmine was that Luke is a “gun fanatic”, with firearms, ammunition, and other weapons on his property. Though the police have searched his house at various times, they

special squad out looking for him. They knocked on his door, and he answered the door, and they said, ‘Is [Luke] [Luke’s surname] here?’ And he took one look and he says, ‘No, he doesn’t live here.’ It was the biggest joke of the century. A special squad that were hired to go out and give him a protection order.” {Rachael: “And then being fooled by that?”} “Yeah. He answered the door himself and just said, ‘No, he’s not here.’ I couldn’t believe it. And then after that the cops went and chased it, chased him up to find out where he was until finally he got pinned down. I think he was in [a New Zealand town] one night, and I sent the police in [another New Zealand town] out to him. I had to constantly chase up myself to try and find out where the hell he was. And I think it was a friend, I, he’s got a son that’s in the police force, and I said to him. And he says, ‘No, don’t take that shit, he’s the biggest prick out.’ We got on to his son who got on to someone else who got on to someone to take it around there. A year, more than a year later.” (p. 20)

27: “He absolutely hit the roof when he got it, I had him on the phone”... {Rachael: “When he saw that line [about the potential for physical and sexual violence against you and the children], he got in contact with you?”} “Oh yeah, he was ropeable. All his mates were on to my case like a tonne of bricks, and how could I do that, and what a load lies, and withdraw that thing. And yeah, I’ve never stopped getting it in the ear. But I’ve learnt to just ignore it these days. But back then it meant a lot.” (p. 20)

28: {Rachael: “What was your experience like with getting a protection order?”} “Well, {laugh}, again the death threats came flying in... I had his mates threatening on a regular basis that if I didn’t drop the charges, because he just kept turning up, he just kept abusing the hell out of me, and I just got to the stage where I was cracking. And I thought if someone doesn’t do something soon I’m going to put a bullet in this guy. I can’t take it anymore. And just after I took out the protection order, and the threats were flying in again, I couldn’t see any way out. Just, you take out a protection order to protect, to protect yourself, and then

have never bothered to seize them²⁹.

you're getting threatened more because you've done it. So it's a bit of a catch 22." (p. 4)

29: "He's been searched since [one District Court hearing], and again they found ammunition in the house. And again nothing's happened. And that's one of the stipulations on that bloody protection order. How can you protect a woman from someone who's threatening to kill her all the time? He's allowed to have bullets and guns and crossbows... Obviously, if somebody's got a shit load of bullets in their house, they have pistols and rifles and shotguns, they're a gun fanatic, and they've got them stashed all around the property. (You only need to) go and sit inside the house." (pp. 5-6)

Going to court

Luke ended up going to court at least twice regarding domestic violence. The first time was over a charge related to Luke threatening to kill her. Prior to the charge, Jasmine had rung the police and told them about Luke's threats and about the firearms and cannabis that he had on the property. The armed offender's squad took three days to arrive. They rang and warned Luke twice about their intentions to visit, once on the day they were coming. When they finally arrived, they hailed him on the loudspeaker, and waited half an hour. During this time, he stashed the firearms and drugs. However, they never bothered to search the property anyway. Jasmine was very disillusioned

30: "Well, I had him up for a threatening to kill charge. The policeman took three days to get to my house, and I had my kids {inaudible}. It took them three days. And when they got there I'd already told them where they could find things, where, they had everything they needed to make a bust, and put him away for a long time. It took them three days. They rung him, they warned him they were coming. On the day they actually came, they rang him again and warned him again. And then when they did come it was a gun squad or whatever they call it... Well, it was a (minimal one) I think, being in [a small New Zealand town]. They sat in their car in the drive way, on the loud hailer, asking if he could please come out with his hands up, and gave him more than half an hour to do whatever he wanted to do, {inaudible} stash whatever he wanted to stash.. So he did. He stashed everything. They didn't even search the damn place. So, on the grounds that I'd given them all the information they needed and they could put him away for quite a while, and they didn't even bother. I was just so disillusioned (with the police). I mean they also told me to have a threatening to kill charge on him is a very serious charge. That alone could put him away, which it didn't. They told me that I didn't have to be present [in court], but when it came to the crunch they turned up on the day

with the police because of this. She had given them enough information to have him imprisoned for some time, and they ignored it³⁰.

Nevertheless, the police had told Jasmine that a threatening to kill charge was a very serious charge. If convicted he could be imprisoned. She was also told that she would not have to go to court and speak against him. This was reassuring because she knew that her life would be at risk if she did³⁰.

However, she believes she was told "a lot of bullshit". The police did not keep their word: Jasmine was subpoenaed to court.

Because the consequences frightened her, she saw her counsellor/hypnotist who wrote a note to the court saying it would be mentally injurious for her to have to take the stand.

Consequently, the charge was dropped, and Luke continued to be abusive³⁰. Jasmine believes it is ridiculous that she was expected to give evidence in court, face to face with someone who was repeatedly threatening to kill her. She believes that normally something similar to witness protection would have

that he was going to court to subpoena me to court {inaudible}, which there's no way in hell. By then I was getting death threats from his mates and every Tom, Dick, and Harry. If I put him away myself with my words I may as well have signed my own death warrant. So I pleaded psychological, psychological imbalance... See, the police didn't tell me anything, not a damn thing, apart from a lot of bullshit that they may as well have not bothered to tell me. That I could lay a charge and I wouldn't even have to be there, it was just rot... I was seeing a hypnotist at the time, [hypnotist's name]. He's, I think he's down as a counsellor as well. And he would write me a letter to say, 'No, it was not, it was derogatory to my, my development, and I shouldn't be made to stand on the stand. Never been to court before in my life. I didn't have any support or backup then. It was just the threats were coming, and I was, just it wasn't worth it.' {Rachael: "What ended up happening with that charge, do you know?"} "Got chucked out. So, as soon as it got chucked out it was back on all over again. Same drama, same bullshit." (pp. 2-3)

31: {Rachael: "You think that if he got some sort of consequence earlier on, that it would?"} "Well, if he had, if there was some consistency, if there was some sort of validation to the protection order. It's not like I'm some dumb bitch that goes down the courts and files an assault charge and then races back down and withdraws it. Threaten to kill, that's supposed to be a serious charge, supposed to be. And there's supposed to be something like witness protection or whatever. You don't see someone who's been threaten, threatened with death repeatedly by someone standing up in court giving evidence face to face with that person.. Well, I didn't go through with it. I couldn't, I couldn't face it. I was never told anything. I was never told what the steps were to taking him to court. I was told a lot of bullshit, what I was told. I was told right from the beginning that I laid the charge that I wouldn't have to be in court.. by the police in [a large New Zealand city]." (p. 7)

been offered to the victim³¹.

The last time, Jasmine contacted the police because Luke had breached the protection order. He had turned up at her house and was intimidating and threatening her. By now, she had had enough. She knew it was not good for her: her heart would palpitate and she could not think straight. She also knew it was not good for her children. So, she barricaded herself and her children in the bedroom and telephoned the police. Whilst in the room, Luke threatened to break down the doors. Later she went down to the police station. Luke was charged, and nine months later it went to court. In between times, his friends threatened her repeatedly³².

In court, it was obvious that the police were actually assisting Luke. One police officer had given him his file and had meticulously gone through it with him³². They were also very chummy, chatting together comfortably^{32,33}. This policeman tried insinuating to Jasmine that she and Luke were now friends, and everything was "sweet as"³².

Jasmine felt much uninformed

32: "The last time I had him in court for breaching the protection order, again they had more than enough to bust him. He had bullets, he had enough ammunition to blow the bloody town up. He had his whole (house), everywhere was just loaded with drugs. He, what else was there, I can't remember what it was, in court, I think, oh, he turned up and he was threatening me and standing over the top of me. And I just thought, 'I've had enough, I'm not taking this anymore.' It just gets my heart palpitating, I don't think straight, it's not good for the kids {inaudible}. So I went down and I laid a complaint that I'd asked him to leave. I had to find out first before I went down and laid the complaint how to actually say it. Someone else who tried the same thing said if you don't say, 'I want you to leave,' three times, then forget it, you can't lay a charge. I barricaded us up in the bedroom, and I was using the phone, and he was threatening to break down the doors and whatever. And it was just so dramatic to have him around. Well again I got threatened left, right, and centre from his, all his mates, that the drills that I've put my kids through over the years is just amazing. And finally, he got to court. I hadn't even seen the, the charges or the paper work or anything. [Luke] had all that, and the policeman in [a New Zealand town] had given him the whole lot, had been through with him with a fine toothed comb, was mainly mates with him. 'Oh yeah mate, yeah mate.' They got to court and they were talking together and chatting away. And he says, 'Oh, I see you two are mates now, and everything's okay, it's sweet as.' 'Oh, what?'" {Rachael: "The policeman says that you two were mates?"} "Yeah, yeah. I still didn't, I had never been to court, I had no idea how the court system worked. If someone didn't tell me that I had to be there on that day, I wouldn't have been there on that day. The (police) didn't tell me I had to be there on that day, nobody did. It was one of my friends that said to me, 'You have to be there, or again, they'll subpoena you, and then it's, the boots on the other foot, you ring up, you get a fine or something.' So I turned up there. I had no idea. I think it was about nine months after they charged [him]. {Inaudible} asking questions. How the hell do you remember what you said nine

about court: she had never been to one before. Because no one had contacted her, she had not even known whether she was expected to attend. As it happened, her friend told her she would have to turn up; otherwise she would be subpoenaed and could face consequences herself. As it happened, Luke faced no consequences for his actions. Jasmine thinks this is because she made a mistake during questioning. She blames her mistake on the excessively long lapse between the actual event and the court hearing (nine months in total)³².

months ago? So all you've got to do is say one thing wrong and the whole things out of court again. And of course I said one thing wrong, I forgot {inaudible}. Oops, the whole thing was out the door again." {Rachael: "And so what ended up happening?"} "Nothing." {Rachael: "He got off it?"} "Oh yeah." (pp. 4-5)

33: "[And that time in court], he has a policeman standing there holding his hand saying, 'Hey mate, mate.' What did I get? I had nothing." (p. 14) (from excerpt 34)

Jasmine’s experience of the legal system in general

Luke has a long history of criminal activity in addition to domestic violence^{34,35}. Jasmine realised the full extent of this when she had the opportunity to look through his police records. His crimes include possession of drugs, assaulting people, and threatening someone with a firearm. Before seeing his records, she knew that Luke was a reasonably bad person; after, she realised he was much worse³⁵.

Jasmine finds it frustrating that

34: "The police can't be that blind. These guys that go and do this, they're not just normal guys, they're big time criminals, and heavy, the heavy {inaudible} crimes. And they're not that clever. And I thought, you know, I thought the New Zealand justice system, before I had to go through it, was credible, that the New Zealand justice system was pretty good. If you did a crime you got locked up. I don't any more. I don't think it's, there's no validation to it.. [And that time in court], he has a policeman standing there holding his hand saying, 'Hey mate, mate.' What did I get? I had nothing." (p. 14)

35: "I went to the police station in [a large New Zealand city], and basically they didn't really want to know. They pulled out this records, and left me sitting in a room for about two hours, I think it was, with, this is behind the scenes of the police station with all the records, with all the desks full of everyone's files and things.. I had a hell of a time {laugh}. Then I realised that, I

despite all his crime, he has never been successfully prosecuted. This is partly because he has never been caught "red-handed"³⁵. It is also because the police seem disinterested or do not follow up leads properly. For example, Jasmine has tried to protect herself by attempting to get him in trouble for different crimes, but the police have repeatedly ignored all the information she has provided. When the armed offender's squad was involved, they did not search the property for drugs, although she had let them know there were plenty on the property³⁰. When she rang to say that he had left her house with cocaine and a pistol, and that he was drink driving, they accused her of being malicious and ignored her call³⁶. When copious amounts of drugs, firearms, and/or ammunition have been found on his property, nothing has been done or the prosecutions have been unsuccessful^{29,30}. It seems that police have not wanted to get involved. This seems unusual when they will break up parties, and pick up people for less serious crimes³⁶.

In court, Luke knows what to say

pulled out his record and it was just pages and pages and pages and pages and pages. And I realised, well, shit, this guy's {inaudible}, he's not just what I thought he was, he's worse, much worse. But the worst part was he'd never been caught, or he's never had a successful file up against him. And he's been done for blimming drugs, for beating people up, {inaudible}, and pulling out a gun and threatening. And he's never ever been done.. Always gets off the charge, yeah. It didn't matter what evidence they gave the police, {inaudible}. Basically I had to take them there, show him to the police with a gun in his hand, so that they could catch him red-handed. Fat chance that would have been. That's the whole drama behind it. He's never been caught red-handed." (pp. 1-2)

36: "I tried. Numerous times I rung the police and said, 'He's leaving my house, he has a pistol in his car, he's got cocaine in his car, he's got, he's loaded with drugs. Pick the bastard up.' Well, you know, right down to his car, his type, where he was heading. I mean, 'This sounds like a malicious phone call.' I said, 'For fucks sake, of course it's a malicious phone call. I want you to pick him up. [He's] driving drunk, he's been on drugs the whole weekend, and he's loaded with drugs, and he's got guns in his car. I mean, for christ's sake, pick him up.' No, they never did... And here's the law. It's says they're here to protect us. They wouldn't hesitate to pick you up if you're driving down the road and you've had one over the limit. Yeah, but if you're driving down the road and you've got guns in the car, and you've got cocaine and whatever, you're drunk off your tree, 'No we'll let you pass.' .. Oh, this was [Town A] again.. If it was [Town B] it wouldn't be any different. Maybe if it was [City A] it might have, but I doubt it. It seems like, I've seen them down the road picking up teenagers and breaking up parties, but when the serious bullshit goes down they're not there. [They don't want to] get involved with it." (p. 15)

37: "He's been found with bucket loads of blimming marijuana on his property, in his house, (and everywhere). It just seems

when to assist his case. He also chooses very good lawyers. Moreover, because he does not face consequences for these crimes and his violence towards Jasmine, he has learnt that the legal system is ineffective. Consequently, Jasmine suffers because Luke is not deterred from criminal activity, including domestic violence³⁷.

Not only did Jasmine have difficulty getting any support, for eight years, no one gave her vital information that would have assisted her^{38,40}. It is only recently when she rang Victim Support that someone provided her with what she has needed all this time^{38,39}. At the time she rang, she was at the end of her tether. Luke had been around at her house, screaming and yelling abuse at her. In desperation, she was thinking about leaving the country³⁸. She was also becoming tempted to "put a bullet in this guy"³⁹. After receiving the advice and support from the person at Victim Support, she felt much better. She knew what steps to take and who could help her. Next time he came around she stood her ground and firmly told him to get off her property. She felt more confident she

that he gets off every time... He's really good with picking his lawyers. And I suppose too, over the years I've realised he's not just a nutcase, he's a psychotic nutcase. He's a psychotic nutcase that will just, they'll say what they have to say, when they have to say it, to get what they actually need. So if you're a judge, then likely he's going to kiss your arse and say exactly what you want to hear... He just knows what to say when." {Rachael: "So it sounds like you've found that the protection order hasn't been helpful because it hasn't been backed up with police, number one, and then because he's managed to slip through the system once he's in court?") "And then once I took the first charge out and he slipped through that, then you realised it was just bullshit, and he was going to slip through, and he kept slipping through it. So in reality it just made my life hell... So no, when I first took out the very first protection, what's the other trespass, whatever, non-molestation order, and he passed through that system, he realised he was going to keep passing through that system." (p. 6)

38: "It's taken me, it's taken me eight years to find out. I decided {inaudible} about two months ago, I had my daughter's Dad on my doorstep yelling and screaming at me and abusing me, and I thought, 'This is just not on. I've had enough.' I had it all jacked up to go overseas. I decided I was going to go deep in to the heart of the desert in Aussie where no one would find me, with my daughter and son, but my son backed out so I ended up in [City A]. And I had [Luke] on my doorstep yelling, and just, just absolutely belittling [me] in front of my daughter. And I said, 'No, I've had enough. I'm not taking any more from him.' And who did I ring? I rung someone from Victim Support I think it was... She gave me the number to someone in a high rank in the Women's Refuge and someone else in the court system, and said, 'Don't take that crap. Get yourself in there, do this, do this, do this.' And just knowing that I had some sort of backup, or some sort of system, that I actually could go through, it made a hell of a difference. And I just stood there. And the next time he came around and tried the same drama, I just stood there and told him

would get some backup if she needed it³⁸. However at the same time, she still has grave concerns about what the law can do for her. In her own words, "it's not going to do shit for me". Indeed, If she ever is "backed into a corner again", she predicts she might use alternatives to the legal system: she will "buy protection from somewhere else"⁴⁰.

Jasmine believes that part of the reason that the legal system has not been helpful is that people made assumptions about her. That is, they assumed she was familiar with, and wanted, this sort of lifestyle. Nothing could have been further from the truth. She had never "faced that sort of crap" before. Neither had she ever suspected that Luke would turn out to be a "psychotic blimming nutcase"³⁸.

Jasmine strongly believes there needs to be an advocacy system^{19,22,25,39}. She knows from her experience that "you don't think straight" when your life is repeatedly threatened³⁹. Indeed, "you're psychologically screwed up and fucked up to the extent that you're fighting like hell just to survive and stay sane"⁴¹. An

to go to hell. 'Just get out of my place, get off my property, I don't ever want to see you again.' I felt like if I was going to need a back up there was a back up there. And no one had ever told me that I could use Victim Support, or Women's Refuge, or I can't remember what her name was, someone in the courthouse." {Rachael: "The court co-ordinator, the family violence co-ordinator, or something like that?"} "Something like that, yeah, yeah. And those years that I desperately needed help. And even going through the, the self-awareness program, the counselling, nobody told me any of it. No one's ever told me. To be told that far down the track, to go through that much crap. And everyone just assumes, makes an assumption, judging me by what they think.. They just make assumptions that, you know, that's the sort of person I was. I had never ever faced that sort of crap in my life. I had always been a {inaudible} or whatever. And to turn around and have a relationship with someone, and then realise, 'Hell this guy is a psychotic blimming nutcase.' And when you want help there's no help there... I think they just assumed that it was my drama, my scene, I'd been there done that, and that's the sort of bullshit I wanted. That's what you want, that's what you get." (pp. 8-9)

39: "I rang and just decided there must be something I can do, because if I put a bullet in this guy I'm going to jail. And if I don't get some sort of backup, more or less, it's going to happen. And then this one person, it must have been just my lucky day, this one person I rang gave me the information I needed... There should be an advocacy, well like an advocacy system. Definitely, when you're going through shit like that. You don't think straight. And how can you think straight. It's like when you go for an exam, you're that hyped up you don't think properly. To be threatened with your life repeatedly, and you know just what you're doing is going to give you, the consequence is going to be horrendous. So to go through all that and have absolutely no back up, and there's no foundation for what you're doing, and you're jeopardising your life by doing it, there's no point. You need to have a back up system where the person who's lodging

advocacy service could provide crucial support and assist women to determine what is real from what their partner has programmed into them as real^{39,41}.

She also believes that it is about time for “another big shake up in the system”. We need to stop minimising domestic violence and making it a taboo subject. At present, she does not think lawyers, judges, and police treat domestic violence seriously. If they were, she would not have felt so desperate that she was contemplating shooting Luke. She is also aware that a lot of women require accommodation through Women's Refuge, and worries about the support they receive from the legal system⁴².

Overall, Jasmine has found the police and the legal system more generally, to be inadequate. They have not backed her up^{25,30,31,32,33,34,36,37,38,40}. Nor has she felt adequately informed about what support she could have received^{38,39,40}. This was certainly not what she had expected. Before going through the New Zealand justice system, Jasmine thought it was “credible” and “pretty good”³⁴.

the complaint is going to get back up and support. Plus they can help that person process what they're trying to do, because you can't process it on your own, and you can't fight for the lawyers and judges and police. They've got some sort of hidden agenda or whatever. You might as well back down {inaudible}.” {Rachael: “So you'd like to see some sort of advocacy service that's”}. “It could have saved me one hell of a lot of trouble over the years.” (pp. 9-10)

40: “I've learnt these days. I know exactly what the law is. I know exactly what the law is going to do for me. It's not going to do shit for me. If I need protection, I'll buy protection from somewhere else. I won't get it from the tax-paying system.. I would not hesitate. I've had so many friends tell me, 'Don't go through that shit ever again. {Inaudible}. Make sure you've got some backup. We'll give you the backup.' So, I don't believe in that sort of thing, I believe that karma comes back to you, {inaudible}, bad karma, you get it straight back at you. But if I really absolutely got pushed, where I had to, got backed in a corner again, I'd find my own way out. I wouldn't be looking at the police system to help me.. I couldn't believe it. After all those years just one phone call {laugh}. I could have had someone there sitting there in the court with me and backing me up, but nobody told me... I didn't know [the support I could get]. I went through that crap eight years and I didn't know that.” (p. 21)

41: “When you, when you're psychologically screwed up and fucked up to the extent that you're fighting like hell just to survive and stay sane, you need someone to help you try and interpret reality from not reality. This is what you've been told, reality, and pounded into you as reality. And most of the time it's not. It's just one of these control scenarios that you've been put through and programmed in to, to keep you into that physical, sexual, physical abuse. But I realise now, it's not like that, and that's not reality. It's the most releasing thing that you can do.” (p. 22)

42: “I think there needs to be another big shake up in the

Because of her lack of legal back up and her isolation, Jasmine feels that she has made it on her own. If she had had more support, she believes that her problem with Luke would have been resolved much earlier on. As it was, it has taken about eight years. This is a lot of her life "that just went flying out the window"⁴³.

system. I think it's about time we stopped blimming sweeping it under the carpet and we stopped blimming making it a taboo subject. It used to be taboo years ago, and then we had a big shake up, and hey, everyone was talking about it and it was a big buzz {inaudible}. Because you were getting kids that were just, I mean it's okay to blow up your kids or it was back then, but it's not okay to break the skin. If you break the skin it's child abuse or whatever. So there was a big buzz back then. And, you know, you go through a big stage, probably about ten years or so, and slowly it dwindles down, the dramas, what is bad, and then they start to slide again. And then when things get really, really bad there's another big shake up. Well I think we're well and truly overdue for that shake-up. Because the judges aren't pulling it, the blimming lawyers aren't doing it, the blimming police aren't doing it. I mean if their attitude is that they're sick to death of this bullshit then what the hell are they doing in the job. They shouldn't be there doing it. They shouldn't be doing the paperwork. They should be in some other job." (Rachael: "So you think that the lawyers, judges, and police aren't taking it very seriously?") "Definitely not. No way. I come from a really strong Christian background, and for me to think that my only way out is to pick up a gun and shoot someone. And I knew I'd go to jail if I did that. But the torture and the drama just wasn't worth it.. It's about time. If, if there needs to be fundraising done or whatever, to do more pamphlets, and to go {inaudible}, this is what you do. There definitely needs to be more advertising. I can't remember how long ago, the drama with the TV programs, and then after a program you'd have, you know, 'If you have any problems with this sexual abuse, then ring this number.' I mean, once in a while you see a movie like that, but we really need to hit on it. I [know a lot of women use accommodation at] Women's Refuge. [I know that] more than a hundred people [have gone] through [Women's Refuge] in the short time that I've [known about Women's Refuge]. What sort of system are they getting? What sort of back up are they getting?." (pp. 12-13)

43: “I had no one backing me up. My family were living in Australia. I had no friends around. I’ve actually had to do it all my own, and I’ve done it on my own... Maybe things could have been to a finish or something a lot earlier than eight years. Eight years. That’s a lot of my life that just went flying out the window.” (p. 17)

Domestic violence and Jasmine’s children

Jasmine has done her utmost to keep her children from being exposed to Luke’s violence⁴⁹. However, she believes it is inevitable that domestic violence psychologically affects children, even if the abuse is not directed specifically at them. For example, they notice the effects of violence on their mothers. Jasmine noticed that her daughter, Kylie, became stressed when she was stressed herself⁴⁴.

Jasmine also had to drill her children on how to escape the house if need be. This was because of the recurrent death threats that she was receiving^{32,45}.

Also, Kylie saw her father knock her unconscious once. This severely traumatised her, and she did not want to see him for months. It almost broke the tie between them. Despite who her Dad is, and what he has done,

44: “I think mostly the perpetrators aren’t interested in abusing their kids. They’re psychologically abusing the kids, yeah, because they see what the mother’s going through. But [some people] don’t see it like that. They see it as, ‘I don’t involve the kids in it. They don’t see.’ That’s bullshit. The kids get involved alright. If I was stressed, my daughter gets stressed. So for me, it’s taken me a hell of a long time to just totally turn myself off to this situation, so that I don’t get stressed when her Dad turns up or (he’s around or whatever). So I think we’ve got pretty good.” (p. 16)

45: “I’ve had death threats repeatedly over the years since then. I had to drill my kids on how to escape the house, and not a fire drill, this is an escape for their life. And it’s not fair.” (p. 7)

46: {Rachael: “Did you have any custody, access, sorted out?”} “I did with my son, but no, not with my daughter. My daughter’s Dad wouldn’t go on the birth certificate even though he was the Dad, until about six months, oh, nearly a year ago now. Because he decided that he really desperately wanted to see his daughter so he wrote that yes, she was his daughter.” {Rachael: “So, he has some sort of access with her?”} “Yep, he’s just started after all these years having every second weekend. I’m not terribly happy with it, but every third weekend {inaudible}. I pretty much left it up to my daughter. If she wants to see him she can, if she doesn’t, she doesn’t have to. I went through a stage there for more than a year, she didn’t want to talk or be in the same room with him, didn’t want to know. And the shit that we went through because of this, of him trying to pull the, trying to pull the heavy

she still loves him a lot^{47,49}.

Jasmine believes this is quite an achievement for a child of eleven years⁴⁷.

Luke has only recently started having regular access to Kylie (every second or third weekend). Jasmine is a bit concerned about this, but leaves it up to her daughter to make the decision. When Kylie did not want anything to do with him for approximately one year, Luke got very angry with Jasmine. He blamed her, and started to "pull the heavy acts"⁴⁶.

Though Kylie sees her Dad, she realises what he is like and knows that he is involved in the drug scene. Jasmine increases her daughter's safety as much as possible when she is with him. There are safety plans in place, and she can be contacted at all times, should this be required⁴⁶. Afterwards though, Jasmine has to "pick up the pieces". She says this is not always easy when you are struggling yourself⁴⁹.

Jasmine is ambivalent about how much her daughter has been, and will be, affected by domestic violence. In some ways, she believes that Kylie has coped

acts and whatever, and blaming me for it, and telling me I've programmed her into not wanting to see him. The dramas were just, he's lucky then he didn't end up with {inaudible}. But I've stuck by her and said, 'Well, if you don't want to see him that's fine, I'm not going to make you see him. It's your choice.' Then all of a sudden she decided she did want to see him, so gradually bit by bit she's started going back to see him. She realises her Dad's a wanker, she knows that her Dad's a drug {inaudible}. She knows that any time he can have his house searched or end up going to jail. It's a bit of stress for a girl her age.. She'd be going on eleven...She knows what her Dad is, and she accepts that is, and just that is what it is, and there's nothing she can do about it. So really, I suppose she's, she knows a hell of a lot more for a kid her age than what most kids her age would. But she, she always feels safe. I make sure every time she goes there I've got my mobile phone on me, my mobile phone's always turned on, and all she has to do is plug a phone card in to a phone somewhere, or knock on someone's door that she knows. There's always a backup system for her to get hold of me." (pp. 11-12)

47: "In some ways it hasn't (been) too bad for my daughter. She's really pretty, and she's tiny, and she's been to karate, and {inaudible}. And she's in to meditation things as well. She's very different, and she's a really diplomatic sort of a thing. But to the same extent, I've heard her say in a joking manner, I don't know if she might repeat it when she's, when she's serious, I've heard her stand over one of her friends and say 'I know where you live, I know where your kids go to school,' in a threatening sort of, hand on her hips, and standing over the top of her. I'm sure that's going to come back when she's a bit older, and things don't go away.. Most people laugh at her because she's so tiny and she's pretty and, you know, just a big joke, but time will tell.. It's a lot for a kid to take on, to keep loving her Dad knowing that it's not a normal situation. In some ways it would be better off if he was in jail. At least he'd be out of the way doing his time and she'd know that there is some justice system there. So far that's

very well. However, she also has concerns for when Kylie is a teenager. She has already seen her jokingly stand over one of her friends imitating threats made by her Dad. Because Kylie is small and pretty, people think this is funny. Jasmine does not. She believes time will tell⁴⁷.

Jasmine does not know how children in Kylie's situation develop high morals and standards^{47,48}. Indeed, she worries that her children may not grow up morally sound and stable with the violence they've seen and the lack of legal consequences that followed this violence⁴⁸. Jasmine wonders if it would have been better for Luke to go to jail, and for Kylie to see that there is an effective justice system⁴⁷.

With Kylie's teenage years looming, Jasmine predicts they might both be in for some difficult times. She believes that she has the resources to cope with this though. Whilst she thinks that some people might think she (Jasmine) deserves what might lie ahead, she does not: she thinks it is a mistake, and not intentional, that she ended up with a man who is "abusive and

all she's known, there is no justice system, (it sucks).. That worries me, yeah. I'd like her to have high, high morals and standards. How do you teach a kid to have high morals and standards when your Dad should be in jail, and a lot of things? She's going to be having some conflicting scenarios going on, I think, when she's a teenager. Again that's going to fall back on me. And I mean, I suppose the way the system is, most people would say, 'Well, that's what you did, that's your problem, you deserve it,' you know. Oops, I made a mistake. I ended up with a guy who was abusive and psychotic... But it's lucky I can handle it." (pp. 16-17)

48: {Rachael: "It sounds like [the justice system] has been far from satisfactory for you."} "It has, yeah. Again, I've had to tell my kids like, you know, 'Don't worry about the police unless it's dire emergencies, and if it is, you're not going to get the police around if you just ring them up and say, 'Hey, we need you here.' In case someone's been killed, yeah, they might come if you're lucky.' So, I've never wanted, I've always wanted my kids to be absolutely morally sound and stable, but I don't know if it's going to end up being that way. Not with what they've seen already. They've seen what the consequences are. There are none." (p. 18)

49: "Then having said that [it would be good for there to be advocates who provide support], it's not just the women that needs it all. It's the kids as well. The dramas that my kids have been through because of all this crap is just not fair... They have had absolutely nothing apart from what I have given myself, and for someone who's going through shit of their own to try and deal with their kids problems, their kids emotional dramas and traumas, they get quite traumatised too. So just the added pressure of having to go through all that yourself. And you have to do it. You can't, you know, if you give a damn, that's why you're there doing what you're doing, because you do give a damn in the first place. To just sit back and watch your kids just disintegrate, well, then you'd go haywire, you can't do that. You

psychotic"⁴⁷.

Jasmine advocates the importance of making "those extra efforts" for children during circumstances of domestic violence. However, she realises that it is very difficult to meet children's needs when "you've been through all that trauma and shit" yourself. Indeed, dealing with children's emotional problems increases the pressure already on the woman. She would like to see more support available for children. She believes that natural-type therapies and counselling would be useful, as would parenting programmes for the abusers⁴⁹.

have to make, you've got to just keep plugging along and make those extra efforts." {Rachael: "So, you would find that useful if there was more support?"} "Oh, hell yeah." {Rachael: "What sort of things would you like to be available for children who are, you know, have witnessed or are experiencing that sort of drama?"} "Well, naturapathy to start with, like, is it (naturapathy) or natural detraumatizing people? I've seen kids that have been through it. I've had a [young family member] who was severely traumatised when he came to (live with me years ago). He'd been continuously beaten up, stab marks in his head, down his back, he'd really been traumatised. He went through a naturapathy course and he had backup, a backup psychologist, because he was very psychotic and not a very helpful teenager. And the changes that it made in him were just absolutely amazing, to hear of the changes was just incredible. I don't think that, it depends on the level of trauma that the kids have had to face. My kids, I've kept them mostly out of the firing line. My daughter's seen me knocked out once, and that really traumatised her. She wouldn't go near her Dad for months. It broke her, the tie that they have. Even though, even though her Dad's what he is, she still loves her Dad more than anything. It's the blood relative thing, it's her Dad. So maybe counselling, counselling session where, well parent, parent session, where the man has to go and do a parent course, learn how to be a better father. Better that he can't drive her around in his truck with his little girl, telling people he's going to chop their fucking heads off. Then imagine a little girl repeating that at school. I can do just as much damage by, I think, saying, 'No, you can't go and see your Dad,' as what I could letting her go to see her Dad. If I let her go and see her Dad then I have to try and pick up the pieces every time she's been to see her Dad, and make sure that she's okay psychologically and stays on the right track, and make sure that she's not getting emotionally mucked up (permanently). That's putting it all, all the onus back on me. Well, I can handle it, but not everyone can. It is hard work and you have to make yourself do it. And if, if you've been through all the trauma and shit yourself, it's just that much harder to make

yourself do it.” (pp. 10-11)

50: “The pick up the pieces act would be nice after all the drama is over and finished. And that where to from here. Definitely noticed there’s {inaudible}.. As in counselling, some counselling. Counselling the kids, counselling the woman so they don’t end up back there. Give them the support so that they don’t end up back in the same bullshit. If you’re not going to back someone up, someone who’s physically, sexually, and psychologically abused, [the abuser is] just going to muscle straight back in {inaudible}.” (p. 16)

Jasmine’s experience of an education course on domestic violence

Jasmine was encouraged to do an education programme about domestic violence. Whilst, it was very good, it did not really help her very much. Rather, it was a “bit of a crutch” to keep her going. Since doing the course, she has become involved with mediation. She is slowly gaining back control over her own life⁵¹.

51: “There’s a course that they plug for you to do... [It had] one of the top counsellors. And that was really good to do. She really, she’s a really pushy, pushy lady and she really pushed me in to doing it. But I think about the time she got me to go along I was just {inaudible} ‘For christ’s sakes, I’ve had enough of this crap. There’s no such thing as justice. All I want to see is this guy behind bars or dead. I’ve had enough’... It wasn’t a hell of a lot, it wasn’t a heap of help. It was just, it was just a little bit of a crutch to get you up and keep you going sort of thing, make your mind start to tick and start to {inaudible}. So, following her, after doing that, I started doing all sorts of other things to try help myself on. I started going to meditation groups and things, and slowly sort of gaining control of my own life back. Which is eight, eight years down the track after the first threaten to kill order.” (p. 4)

Summary of recommended improvements

Jasmine strongly recommends that there be advocates available to assist women through the legal system^{19,22,25,39,41}. She also thinks that it is important to have counselling and support available for women⁵⁰ and children^{49,50}. Finally, she believes that the legal system needs to show renewed interest in domestic violence⁴².

Summary of problems with legal system

Jasmine mentioned numerous legal system problems during the interview. These can be summarised as follows. First, her lawyers did not understand her personal situation¹⁹. The process that they used to obtain information for her affidavit was apathetic and cold^{19,22}. Her second lawyer misinterpreted some of what she said, so there were mistakes in the drafts of her affidavit²³. This same lawyer was inexperienced^{20,21,24}. Protection orders are only a "piece of paper", particularly when they're not being enforced by police²⁵. Police took more than a year to serve Luke with the protection order²⁶, and they never bothered to confiscate Luke's firearms²⁹. Police have also been over-supportive of and "chummy" with Luke on occasions^{30,32,33}. When Luke was charged with threatening to kill her, she was expected to give evidence against him without any witness protection³¹. There was an excessive amount of time between one of Luke's offences and the court hearing for this offence³². Police did not adequately inform Jasmine about one of Luke's court hearings that she was expected to attend³². Luke has escaped legal consequences for multitudes of offences, and police have ignored her when she has reported other offences to them^{35,36}. For eight years, she received insufficient information about support that could have been available to her^{38,39,40}. People working in legal system made incorrect assumptions about her³⁸. Finally, judges, lawyers, and police do not treat domestic violence seriously enough⁴².

Summary of commendations about legal system

Jasmine made one commendation about the legal system: her first lawyer was quite good, despite him not having done much domestic violence work before¹⁹.

Update: I last spoke to Jasmine in early January 2003. Her situation with her ex-partner and the legal system has remained awful. Her ex-partner has continues to harass her and breach the protection order. On occasions, he has rung her up to six times a day, and sometimes he turns up at her property. In addition to this, he and his friends sometimes keep watch on her. He is "nasty", and has a "zero-tolerance" for anything. Although he no longer threatens her overtly, she lived with him long enough to understand his body language and what this means. Her daughter is also frightened of him, particularly when he turns up at their house. Luke still participates in other illegal activities, including drugs and owning unregistered guns.

The police response to Luke's protection order breaches has remained poor. She has contacted them numerous times and has been down at the police station for many hours at a time. Despite

this, almost all of his breaches have been ignored. Police have kept “losing files”, and one case was reassigned numerous times over three different regions. Only one police officer has been helpful.

In an effort to improve the police response, Jasmine got a lawyer to write a letter to the police, reminding them about her protection order. This cost her \$100. She believes lawyers are far too expensive.

The police response improved somewhat when Jasmine started taking down individual police badge numbers with the explicit intention of lodging a complaint with the Police Commissioner. As it happens, two protection order breaches finally made it through to the District Court. For each, the judge has treated Luke as the equivalent of a ‘naughty boy’, has slapped him on the hand, and given him a \$100 fine. When she found out the outcome of these charges, she “balled her eyes out”. She thought the consequence was negligible. She was also upset that she was not informed of the hearing date of either charge, should she have wanted to attend the hearings.

Jasmine has recently had a baby. When she finishes her studies at the end of this year, she is thinking of moving away from the city in which she lives. Police have also advised her to flee. Whilst Jasmine will probably do this, she feels upset that she is having to. Really, if police had responded better, and protected her, moving would not be necessary. Jasmine has put her foot down regarding Luke seeing her daughter.

AROHA'S STORY

Aroha is a Maori, Christian woman in her thirties. During her 16-year relationship with Bob, she had three children: a daughter and two sons, all aged between 7 and 13. Throughout her and Bob's relationship, she endured much abuse and violence. She utilised two lawyers: the first to obtain a non-molestation order (prior to the Domestic Violence Act 1995); and the second to obtain a protection order (after the introduction of the Domestic Violence Act 1995). She has appeared in court once because Bob was charged with assaulting her. The police have been involved on numerous occasions, twice regarding Bob's violence, and several times relating to Bob breaching the protection order. Aroha has custody of the children, and Bob has been granted supervised access upon completion of an anger management program.

Aroha's relationship with Bob and her experiences of abuse

Aroha described Bob as a womaniser, who manipulates women to get his own way¹. He does not know how to treat women, and has a history of using and abusing them².

Being an emotional person and lacking skills to handle stress or crisis, Bob often utilises drugs to cope^{3,4}.

Indeed, he has a long history of drug use and abuse, including intravenous drugs^{4,5}.

He does not like authority, and particularly dislikes male authority figures⁶. He is very determined, and will pursue a cause at all

1: "He's a womaniser, okay, and he knows how women tick. And, and he will, he will, he will try to manipulate them in the way that he'll get his own way." (p. 33) (from excerpt 66)

2: "Because he didn't know how to treat a woman. He's always used and abused them." (p. 5) (from excerpt 25)

3: "He went back into drugs. He was, you know, already on drugs. And his true colours came out after that. He went back into drugs because he's, he can't handle crisis okay. He hurts, and, he's just very emotional. And however, he went back into drugs." (p. 6) (from excerpt 25)

4: "He was taking drugs, and because, oh, I suppose I'd lived with it for a long time, so it was nothing new... It was really, really hard. [We] struggled, struggled lots in finances, 'cause my money was going on drugs to supply his habit... And he lost it. He cannot handle stress very well... He couldn't handle what was going on with his Dad. He got heavily, heavily into drugs... Here was this guy, you know, stressing out, and I was his nurse. I would hit him up intravenously, I mean, that's what I'd done for years. Yeah, he was intravenous, as well as popping and whatever else he could get his

costs^{7,8}. He is very sneaky⁹.

Aroha described him as a 12 year old boy who is unwilling to grow up¹⁰.

Aroha did not like saying negative things about Bob, and during the interview she was concerned that her comments would be considered as put-downs¹¹.

Aroha experienced much abuse and violence from Bob during their relationship. He was very controlling of her and the children, deciding where they could go and who they could see¹². He played "head games" with her^{13,14}, and he was physically violent, beating her on several occasions¹⁵. Aroha felt unable to confront him about issues¹⁶.

Aroha mentioned two incidents where she retaliated. During one of his violent episodes, she picked up a knife to get him to back off and leave her alone¹⁷. Another time, near the end of the relationship, she hit him with a frying pan¹⁸. It seems she was tired of him

hands on." (pp. 12-13) (from excerpt 26)

5: "But there was one thing that that hadn't changed, and, he was still tampering with drugs... There were just those little bad habits. And people were saying things like he was taking drugs into the drug rehab... And there's people that go there to come off drugs and here he is taking drugs in." (pp. 5-6) (from excerpt 25)

6: "I don't think he likes authority, he doesn't like that man authority figure." (p. 33) (from excerpt 66)

7: "And, because of my ex-partner's persistence, you know, he's one that he won't stop, so he'll just keep going and going until he gets his own way." (p. 3) (from excerpt 40)

8: "He's a determined person, okay. If he needs to do something, he'll do it no matter what, yeah, no matter what." (p. 5) (from excerpt 25)

9: "I still couldn't trust him. Because he's, he's very sneaky. I mean, {inaudible}, so sneaky, you know, they'll, you know, rip you off and do things behind your back, and they do it in such a way that you wouldn't even pick up [on it] until months and months later." (p. 12) (from excerpt 26)

10: "I think he's still, you know, at the age of twelve. He's not willing to grow up." (p. 38) (from excerpt 30)

11: "I don't, I'm not trying to, I don't want to, I'm not, I'm not sort of like putting him down aye, the children's father?... I don't want to do that, because, oh, it's just funny, I mean, you know, I can't help it {laugh}. And things he does are just so funny. At the time it's not, you know, it's just, you know, when you think about it later on, it's just funny {laugh}." (p. 35)

12: "And so there was total control again, you know. I had lost it.. [He was] controlling me and the children, and where we went, and who

abusing her¹⁷.

Aroha's relationship with Bob considerably affected her self-esteem and mental state¹⁹. Both within and outside the relationship, she often felt bewildered and lost^{20,21,22,23,24}.

we saw." (p. 12) (from excerpt 26)

13: "I knew him enough to know that he was playing head games with me okay. He was playing with my head and my heart." (p. 10) (from excerpt 26)

14: "And things like that, you know, playing with my head... He, yeah, just playing silly head games." (p. 12) (from excerpt 26)

15: "A whole life just went, boom, okay. It just exploded. We just didn't know how to handle it. It resulted in a police matter, 'cause he'd, he'd beaten me." {Rachael: "Was that the first time he'd done that, Aroha?"} "Oh no, there was many times. There was many, many times." (p. 13) (from excerpt 26)

16: "I think later on during the months, I could see that they were right, but [I was] not able to confront him about it. I think there was a lack of communication." (p. 6) (from excerpt 25)

17: "Well, there was a knife involved, okay. But I didn't use it. But it was a form of threat, you know, 'Just back off,' you know, 'don't come near me.' Because I had had enough of the fella... I was hoping that he would just go for a walk, you know, but nah." (p. 28) (from excerpt 57)

18: "Mind you, I, I've hit him with the frying pan one day {laugh}, poured over him hot water, and I've never done that. But, you know, last year I thought, 'Bugger you,' you know, whack {laugh}." (p. 13) (from excerpt 26)

19: "My self-esteem was down. I suppose I hadn't had, my mentality wasn't, well, it just wasn't there." (p. 1) (from excerpt 24)

20: "I just didn't know what to do {laugh}. I just wasn't all there. It's different today, you know, I know what I'm doing. Back then I didn't." (p. 2) (from excerpt 24)

- 21: "I just don't know what the heck I was doing." (p. 3)
- 22: "There was a real battle going on in me. I wanted him but I couldn't. Oh no, that's not it, {pause}. It wasn't right for me to be with him at that time. I was sick in heart, sick in my head. I just didn't know what the heck I was doing {laugh}.. I was really, really unsure." (p. 10) (from excerpt 26)
- 23: "I didn't have it together in my head. I didn't know what I wanted. I didn't know whether I was trying to please my ex-partner or myself. So, I just didn't have it together then." (p. 9) (from excerpt 41)
- 24: "And in that time I had made, well, I still wasn't quite sure what I was, whether I wanted him or not." (p. 10) (from excerpt 26)

Leaving the relationship

- At least during the last few years, Aroha and Bob's relationship has been characterised by intermittent separation and reconciliation. She has moved town several times in attempts to make a new start and/or to separate herself from him.
- A couple of years ago Aroha left Bob, aware that she required a new start. She felt lost and confused, and had low self-esteem. Her aunt supported her, and encouraged her to see a lawyer (Lawyer 1) who visited the town where she
- 25: "I had my first encounter with Lawyer 1, in [Town A], 'cause I was living in [Town A] at the time. And I had just left the relationship, and I had no idea of what to do. My self-esteem was down. I suppose I hadn't had, my mentality wasn't, well, it just wasn't there". {Rachael: "I suppose you'd been pretty, you know, stressed with everything that was going on."} "Yeah, yeah. My ex-partner, I depended on him a lot, and so he had basically ran the household and, and everything else, you know, and what to do, and so he was pretty on to it in that area. But when I was on my own with the children, I had no one to help me except for my Aunty. And so she helped me. She was there to help me to seek a lawyer. And there was only one lawyer in [Town C] at the time, and he visited [Town A] so it was, it was sensible to just go this lawyer. So, I went in with my Aunty. And we took up a, a non-molestation order. I had no idea what that was about. {Rachael: "What had made you decide originally, 'I want to involve a lawyer', or want to involve the legal system in some way?... Was it your Aunty? Did she suggest it?}" "Yeah, I think it was my Aunty. I just didn't know what to do {laugh}. I just wasn't all there. It's different today, you know, I know what I'm doing. Back then I didn't, so my Aunty was basically helping, was doing everything. But I just didn't know." {"Yep,

lived (Town A)²⁵. She consequently obtained a non-molestation order to keep him away from her²⁵, but he ignored it, and she gave up²⁶. Because he came back into her life, the non-molestation order became invalid²⁶.

Bob started showing signs of change. He became involved with a church in the town he lived in (Town B), and attended alcohol, drug, and anger programs. He started treating Aroha better and spending time with the children. He then moved over to Town A, renting his own house. They made plans to get married. However, Aroha started realising that Bob's changes were limited to his outer appearance. Inside, he was still the same person with the same bad habits. She heard rumours that he was involved with drugs, and taking them into a local rehabilitation centre. She went into denial. However, as the months passed by, his re-involvement with drugs became apparent. She called off the

so your Aunty suggested it, and you thought, 'Okay, let's do this?'" "Yeah, let's do this, yeah, just to keep him out of my life, you know, because I needed a new start" (pp. 1-2)

26: {Rachael: "With the non-molestation order, so, did your partner keep, well, your ex-partner keep trying to contact you all the time?"...} "Yeah, he kept in contact alright.. He ignored it." {Rachael: "And was there anything you could at the time, like did you, could you enforce it with the police?"} "No, because I just gave up {laugh}." {Rachael: "What happened in the give up period then?"} "Well, he came back into my life {laugh}. And things was going okay for a while. And he was living in [Town B].. I was still in [Town A]. I was in a, a [Christian] fellowship at the time. And, so, during that period of, you know, things with the lawyer, as well as trying to get my life together. And life at that time was quite good. I was getting it together but I hadn't quite grasped a hold of the lawyer, you know. I was still pretty much a mess. Yeah, there was still things in my heart that hadn't been dealt with. And so what I done was I just slapped a bandaid on it, yeah, thinking, 'Oh, I'm okay,' you know. 'I didn't win the battle with the legal system but never mind you know, just forget about it', you know. 'Done that, been there, done that, and move on' {laugh}. It was life. And he was showing signs of change, and that was really cool.. He was involved with the fellowship too, in [Town B], and they were just building him up at the time, yep, just building him up. And he was starting to look clean and tidy, and he was going to Alcoholics Anonymous, and Narcotics Anonymous groups, and so, that was a neat sign." {Rachael: "Was he treating you differently during that period?"} "Yeah, he was. There was a big change. He was treating me okay, really nice. Because he didn't know how to treat a woman. He's always used and abused them. And so he was learning how from here, from [Town B], from other people, as well as visiting children. But there was one thing that, that hadn't changed. And he was still tampering with drugs. So on the outside he looked, everything was sweet, but on the inside, he was still the same person. I think he was going to Anger Management things and programs, and, so, you know... Yeah, he was seeing the children, and he was, the children would come over to [Town B] and spend

marriage²⁶.

Not long after this, Bob became involved with another woman. Aroha felt unable to cope with this and consequently left town with her children. She moved to Town C to be close to her Aunty. Here, she got a job, settled the children into school, and started saving money for a car²⁶.

Although she tried to keep motivated, she felt sad. Now thinking it very foolish, she tried to get Bob back, and succeeded. Things were not perfect though. It seemed that he had resumed the relationship for the children, not her. Furthermore, he continued to see the other woman. Not liking this at all, Aroha uprooted from Town C to move with Bob and the children to Settlement A²⁶.

Aroha described this time as "horrible". She could no longer trust Bob, and suffered much anxiety because of this²⁶.

Furthermore, she felt compromised that she and

some time with him. And then he eventually moved to [Town A] and things were going alright there too. But there were still signs that he, he still had bad habits {laugh}. The habits were still there. He's a determined person, okay. If he needs to do something, he'll do it no matter what, yeah, no matter what.. Okay, he wanted to move over to [Town A], 'cause we had decided to get married. And he moved into a house that used to be mine, 'cause I moved out of that house into another house, and so he went through the process of getting this house, and then finding the money and going through Income Support, and the power, and the gas, and so that was a good sign. He was determined and he done it. And that was choice. And then he was able to have the children. And, yeah, he's pretty good at saving, so, you know, he's pretty good with money. And so that went alright, but I'd turn up a couple of times and the house would be in a mess {laugh}, and I thought, 'Oh no,' {laugh}. But I never cleaned it up {laugh}, leave it like it is, it's his home. So, so there were some changes there, but there were just those little bad habits. And people were saying things like he was taking drugs into the drug rehab... And there's people that go there to come off drugs, and here he is taking drugs in... And, I just went straight into denial, you know. I thought, 'Nah, it can't be.' Because on the outside he looks okay. And so I was hearing these people's comments and I didn't believe it and.. there was a bit of a concern. I thought, 'Oh maybe they're right. Nah, nah, nah, nah, nah, nah.' Yeah, and so, ah, ah, what happened next? I think later on during the months, I could see that they were right, but [I was] not able to confront him about it. I think there was a lack of communication... I just didn't know whether to confront him or not. And so I thought, 'Well, I'll just see what happens.' And so the months sort of dragged on, and, and we hadn't really set a date for marriage, because I just wanted to see whether the rumours were right or not. And then one day I said that, that I, I wouldn't marry him because of what I had heard. And that really just blew him away. And what happened afterwards was that he did, he went back to drugs. He was, you know, already on drugs. And his true colours came out after that. He went back into drugs, because he's, he can't handle crisis, okay. He hurts, and, he's just very emotional. And, however, he went back into drugs, and so I saw that they were right. I said no

Bob were living together outside of marriage. Partly because of this, they again made plans to get married. However, the church would not marry them because they were already living together. In the end, feeling confused and struggling to cope with the battle within her, Aroha left Bob, and moved, this time to Town B. Here, she and the children stayed in emergency accommodation. When she found a place of her own, she rang Bob to get her gear from his house. He refused to give it to her. Aroha was not sure how to proceed. She did not want to get him into trouble by involving the Police or a lawyer; neither did it seem practical to follow people's suggestions to pick up the furniture using a van or truck. Although she did not really want him to, Bob "wormed" his way back into Aroha's life, and she got her furniture back. He moved over to Town B, staying with her for the next year. The workers up at the emergency house (who had

to marriage. He decided, 'Oh well, hmm, I'll go and find someone else then.' So he met someone else, and I didn't handle that one very well. And so I lost it completely, and I tried to get him back. And that was dumb. That was the dumbest thing you could ever do {laugh}... I got him back {laugh}... Took about four months {laugh}." {Rachael: "And what happened then?"} "Well, I had, I left [Town C] before I got him back, 'cause I couldn't handle what was going down.. I moved from [Town A] to [Town C], to my hometown. It was quite good, it was a good move. But I was sad. But trying to keep moving in life, you know. Not trying to keep still, but trying to keep motivated. So I moved to [Town C], got a house right next door to my Aunty. So my Aunty has been there for me for a long time. So I went back to her, and she was able to get me back on my feet. And [I] got a job over in [Town C], and some money was coming in, and the children were doing okay, I put them in the school. And I had a goal, this is my home, and I'm with family, and I got a job, and, and my aim was to buy a car {laugh}. So, I had \$600 in the bank {laugh}, and I had only been there for 2 months. And then, hello, he comes walking back into my life again. Oh, I mean the legal system had gone by then... [My non-molestation order] wasn't there any more, because I allowed him back into my life... A waste of time {laugh}, a waste of tax-payers money {laugh}. Yeah, so, yeah, he came back into my life again. It was good {laugh}. Yeah it was. But I was still having this battle within myself, because I wanted to move on, but here's this fella coming into my life, you know. I'd left him, but he could spend, you know, his life with someone else {laugh}. And yeah, he comes waltzing back in, and of course, being weak-willed, because I was a weak-willed woman, I let him in, hoping, you know, he could start up another relationship. And his intentions were not to even come back to me. No, they were for the children... But he was still with this other chick, this other lady, and coming to see me as well.. I did not like that. But I thought, 'I'll beat her at this game,' {laugh}. I got him back {laugh}. He [stopped seeing this other lady], but I had to move to [Settlement A] {laugh}. So I left [Town C], I dropped everything, okay. I left my job, dropped the school, and said goodbye to my family, and moved to [Settlement A] to be with this man {laugh}.. He got a house. He had help from his Dad to get the finances together to get into the

also helped her with her Christian faith) were not pleased with the resumption of Bob and Aroha's relationship, so they initiated CYPs involvement. Aroha decided she no longer wanted their friendship. She also became less involved with her Christian faith; knowing she could only have one or the other, she chose Bob over God²⁷.

Despite making some positive steps (e.g., getting the children enrolled in school, and helping them with their studies), Aroha described this period as a very difficult time. She had lingering issues of trust as a consequence of his recent relationship; he was heavily involved in drugs, and they struggled financially as a result of this; and he was also very controlling of Aroha, the children, and her money. Problems continued to escalate when Bob's father became terminally ill. He played mind games with her, pretending that he could not visit his father because she did not trust

house. So, that for his family." {Rachael: "Were you still having that conflict that you talked about?"} "Yeah, yeah. It was, uhhh, it was horrible.. I think the trust had gone, and I was having a problem with that. I couldn't trust him, like if he left the house, I'd think, 'Oh, he's gone to see her,' you know. And it's, ohhh, {laugh}. I'm at, anxiety comes in, you know, anxiety comes in, and you're just fretting, and you're watching your, the clock all the time {laugh}. It's not a life {laugh}.. It was horrible. But mind you, I put myself in that. I didn't have to, I could have chose to said, 'No,' you know, 'don't come and bother me.'" (pp. 4-9)

27: "Okay, right, I was in [Settlement A], the children and I were in [Settlement A] for about, about 3 months. We tried to get married again, but the pastors in [Town A], they were not going to allow us, they weren't going to marry us, because we were living together at the time. And I understood that, but, and I was having a little battle with that too, okay. Because I knew that we shouldn't be living together, 'cause it's out of marriage. I mean, I just wanted to do the right thing. And then when they said they couldn't marry us I thought, 'Oohhh'.. It makes it harder. And I just thought, 'Oh no.' However, I tolerated it for another month. There's been times when I left that place, and I just upped and left. I had enough. It was just too much for me... There was a real battle going on in me. I wanted him but I couldn't. Oh no, that's not it, {pause}. It wasn't right for me to be with him at that time. I was sick in heart, sick in my head. I just didn't know what the heck I was doing {laugh}.. I was really, really unsure. And I had some friends that came out and said that I shouldn't have been there. And, and they were right, they were really right. I needed to get out." {Rachael: "And so you up and left?"} "It took me three days... I hadn't said anything to my ex-partner about it. I knew him enough to know that he was playing head games with me, okay. He was playing with my head and my heart. And two marriages, you know, I mean two refusals to get married. I thought, 'Man.' And, I can't, I can't, yeah, I just had to go. And so, I just packed up one day and left, and came to [Town B]... where I stayed. And when I came to [Town B], I went up to the emergency house in town here, and I was there for about a month. And in that time I had made, well, I still

him. This was not true; she told him to go. Indeed, because she was Maori, she understood the necessity for Bob to visit and bring comfort to his father, as well as to "bring reality" to himself. Because Bob could not cope with his father's illness, he heavily used oral and intravenous drugs. Aroha nursed and mothered him. She even used drugs (valium) for the first time herself²⁷.

In response to all the stress and the drugs, things "exploded" one day. He had taken 20 valium tablets to dull the emotional pain he was feeling over his Dad, and he wanted the four tablets that Aroha was keeping aside for someone else. He also objected to her going to church with a new friend of hers. He beat her up. Due to notification by a neighbour, the police arrived on the scene, arrested him, charged him with assault, and jailed him for the night. A trespass notice was issued against him. Bob ignored the trespass order, returning

wasn't quite sure what I was, whether I wanted him or not, and, but I knew that [Town B] was where I'm going to stay. I didn't want to go back to [Town C], 'cause I'd been there and done that. I've been to [Settlement A], I've been to [Town A], I mean, you wouldn't want to go back to [Town A] if, you know, if things went down there, you know... And so, I got a house, I got this house. This came up in the newspaper, and I came and had a look at it, and I thought, 'Yip, that's me.' {laugh}. I left all my furniture in [Settlement A], but I had taken what I needed, mine and the children's stuff. I really need my gear to move into the house, and so I had contact with my ex-partner on the phone, and I says, 'Look, I've got a house and I need my gear.' And he was withholding it, he wasn't going to give it to me. And I have a fear, at that time I had a fear of going to the police, or going to a lawyer.. in case he gets into trouble {laugh}.. I was protecting him. But I wanted to approach him in a non-threatening way, yeah. And there was a couple of suggestions, you know, like a person said, 'We'll just get a van, and we'll just go there, one day we'll just get a policeman from [Town A], and go out there and pick up your gear and come back,' {laugh}. Yeah, I'm going, 'Oh yeah, that sounds alright.' And then someone else says, 'Oh, we can go there with a truck, and da la la.' And I thought, 'Oh yeah, that sounds okay.' But I didn't know anyone who had a truck {laugh}. It was really, really hard. However, he was able to worm his way back into my life again. I was able to get my gear, and I didn't really want him here, but he, he wormed his way in, okay. And we lived here for a year. We had CYPS on our back too. When I left the emergency house, because I had friends up there who, who have helped me with my walk with Jesus, over in [Town A], and they were working up here [in Town B]. And when they saw that I had gone back to this guy, they did not like it, and they thought they would try and help me, so they went to CYPS. By then, I think I no longer wanted their friendship, and any form of relationship, because I had made a decision that, 'Okay, I'll have this guy,' you know, and, and not God. So, because you can't have both. You can only have one. And so it really hurt, but I went back to my ex-partner. So we lived here. We got it together, got the children enrolled in school, and we were helping them with their studies, and it was okay. But I still had this trust with him... I still

the next day and staying the night. She felt very frightened. The next day, she rang the police to remove him²⁷.

It was now that Aroha made a firm, determined decision not to ever have him back. Because Bob was stopping the children in the street, and hassling them and the teachers at school, her decision was strengthened by the realisation that her children needed and deserved a better life. Accordingly, her attention finally swivelled from Bob to the children²⁷.

Knowing he would continue to hassle her, she and the children returned to emergency housing. Here, she was encouraged to see another lawyer (Lawyer 2, discussed below)²⁷. She applied for and was granted a protection order and custody of the children²⁸. Bob was granted supervised access to the children²⁹.

During the initial period that the protection order was in

couldn't trust him. Because he's, he's very sneaky. I mean, {inaudible}, so sneaky, you know, they'll, you know, rip you off and do things behind your back, and they do it in such a way that you wouldn't even pick up [on it] until months and months later.. [So] I was always on the alert, 'Where you going,' {laugh}. And yeah, it was horrible, horrible living. Yeah, so we lived here, and, yeah, he was taking drugs. And because, oh, I suppose I'd lived with it for a long time, so it was nothing new. So we went back to our old ways. I was being a mother to him, and, you know, being his, his bank account. And, yeah, a whole week he could just, you know, wander off, and he'd come back and know that we were still here. And so I was back to that woman again. And so there was total control again, you know. I had lost it." {Rachael: "He was controlling you?"} "Yeah, controlling me and the children, and where we went, and who we saw. And, and, okay, it wasn't too bad. Yeah, we got it together. Life was a bit difficult, oh, it was difficult, it was really, really hard. Struggled, struggled lots in finances, 'cause my money was going on drugs to supply his habit. Yeah, so everything was going okay, but then came, his father got sick. This was in July, beginning of July his father became sick... And he lost it. He cannot handle stress very well. And plus, you know, he was making excuses that 'cause I couldn't trust him, I mean that was an excuse, he didn't go and see his father, but that wasn't true. I mean I'm a Maori okay. I mean, when a family member is sick, you know, you go. You go there to be of some comfort, as well as to bring reality to yourself. And so, I said, 'Look, just go.' And he goes, 'But you don't trust me, na, na, na,' {laugh}. And things like that, you know, playing with my head. And, oh, I thought, 'Oh man,' {laugh}, 'oh, then don't go,' {laugh}. He, yeah, just playing silly head games. And, yeah, his father eventually died. But, by then, we had already broken up. His father died in October, and we had broken up in August, a couple of days before our daughter's birthday {laugh}. Yeah, but, that, that's how it began. Because he couldn't handle what was going on with his Dad. And, he got heavily, heavily into drugs. I was popping pills at that time. During the sixteen, fifteen years, that I've been with him, I never took drugs, until last year. And I was alright, it was quite good {laugh}. It was really good, actually. It kept me going. Because here was this guy, you know,

place, some contact continued between Aroha and Bob, as she was concerned about him and wanted to support him after the death of his father. However, she realised that this was not really helping either of them, and enacted the non-contact part of the protection order. He breached this many times, sending her flowers and letters, making contact with the children at school, and writing on her garage door. Consequently, Aroha started ringing the police to enforce the order. The back up of a domestic violence educational support group assisted her to enforce her order³⁰.

Aroha has struggled both within and outside the relationship. During the periods of separation, she worked hard to rebuild her life, but admitted feeling sad and confused^{23,26}. She was often plagued with uncertainty, perplexed about whether or not she wanted to be with him^{23,27}. Even now, having left Bob for good, she admits that

stressing out, and I was his nurse, okay. I would hit him up intravenously. I mean, that's what I'd done for years. He was intravenous, as well as popping, and whatever else he could get his hands on. It was over drugs, and the stress with his Dad dying, that a whole life just went, boom, okay. It just exploded. We just didn't know how to handle it. It resulted in a police matter, 'cause he'd, he'd beaten me." {Rachael: "Was that the first time he'd done that, Aroha?"} "Oh no, there was many times. There was many, many times. It was last year, and that time over in [Town A], that I ever went to a police. But I didn't ring the police that day. Someone else down the street rang the police. It was just over drugs. I had four valium that I was holding for somebody, and he wanted it. I mean, he had swallowed about twenty that day, and he wanted more because he was hurting. I had met new people too, and I had taken this girl to church, at [a church in Town B]. I was only going to take her, you know. It wasn't as if I was going to be converted {laugh}. And he didn't like that, me going to church. And, and his Dad, and the drugs, and, and yeah, it just went, boom, right in our faces. And he just didn't handle it, and, yeah. Mind you, I, I've hit him with the frying pan one day {laugh}, poured over him hot water, and I've never done that, but, you know, last year I thought, 'Bugger you,' you know, whack {laugh}... The police came. They took him away, and he went to jail for, for the night. And then he had a trespass order against him.. By then I had made a decision in my mind, you know. I had made that decision that's it no more, not having him back in my house. Well, the next day he came, he came back on to my property, and he stayed the night. But man I was scared. I was really scared. Come the next day, I rang up the police, and the police came and took him away. I had, I made that decision. I think that's the key. You've got to make a firm decision. I mean, it's got to come from here {pointing at her head}, as well as your heart. And determined to break away from it.. I'd reached that point. Yeah, it took me sixteen years {laugh}, but I got there.. Yeah, cor, 'Wake up,' {laugh}. He just kept hassling me after that. That's right, I went back up to the emergency house, 'cause I needed time out. I needed to get away from here, because I knew he was going to come back. And start getting myself established. And so that day I went up to the

she sometimes struggles to uphold this decision³¹.

Aroha expressed feelings of ambivalence when they were back together²⁶. She also felt a battle within herself, uncertain whether this was what she actually wanted^{26,27}. She described herself as being weak-willed²⁶, and believes there must have been something severely wrong with her to be, or want to be, with him²⁷.

Aroha often embraces responsibility for *leaving* the relationship^{25,26,27}, and ascribes either Bob^{26,27} or herself^{26,27} as responsible for *resuming* it. She acknowledges that she had some choice over whether or not their relationship continued²⁶, and sometimes blames herself for staying when she could have left³².

Aroha suggests that one of the reasons for resuming the relationship was her hope that Bob had changed²⁶. She also thinks it is hard for women to leave because of their desire to

emergency house, the children and I. I had some other friends who were up there, {laugh}, man, they were the same people who came to me at [Settlement A], they said to me that I shouldn't be there. Well, here they were in [Town B], up at the emergency house. They were the house parents. They'd been there for a year. And, and I thought, 'Oh flip,' yeah. So I ended up being up there and they helped me to make some firm decisions. And he knew of a lawyer, this is Lawyer 2 now, over in [City A]. He knew of a lawyer, and, and that I could go and see him, and ask him if he could help me with my situation. [The people at the emergency house] were able to lay out on the table what they, their advice. Yeah, but I was to go away and think about it and make a decision.. I can't remember [the advice].. [but] it sounded good, it sounded really good. Because I'd come to that point, you know, 'This is it,' {laugh}, 'I know what I'm doing,' {laugh}. And what was, I think too, by my experience with my, with Lawyer 1, that I did not want to do a non-molestation order again. 'There must be something else' {laugh}. 'A protection order, oh okay, that sounds alright,' {laugh}. And, yeah, oh no, actually, actually, sorry, sorry, sorry, sorry. I don't think [the emergency housing people] actually gave me any sort of advice, only that they were going to take me to a lawyer, and the lawyer was going to tell me what help there was for me. So, I made a decision, we made an appointment, and we went into see the lawyer. I think it was the next day, I needed to get things on the move, okay. Was it then? It might have been two weeks later, no, a week later, yeah... Because the children's father was stopping them in the streets as they were going to school, and when they were at school, and he was hassling the teachers. And by then I had to do something. Okay, just being up [at emergency housing] wasn't going to help, and so, or help the children. So my whole focus was no longer on the father of the children but on the children. They needed a life, and to be free from it. So, yep, I went to see a lawyer, and he laid it all out on the table for me. This is what, there's a non-molestation order, and a protection order, and blah blah blah. And he laid it all out on the table for me. And the protection order sounded really good to me." (pp. 9-15)

feel loved, and their wish to look after and support their partner. She has since realised that you cannot help men like Bob; “they have to get it together themselves”³³.

After 16 years, Aroha feels she has finally severed the relationship²⁷. Previously she had felt ambivalence about what to do, and had not made a clear and definite decision to leave and be on her own. Rather, she wanted to both “move on and hang on”; and she would say goodbye, “but not really”³¹. She is convinced that a firm determined decision is necessary to “break away” from an abusive relationship^{27,33}.

Learning from past mistakes also assisted her in her new direction. She had to “try a new avenue” so that she would not “fall in the same pothole again”³¹.

Aroha considers the end of her relationship with Bob from a Christian standpoint. Since she has turned “away from the old” and walked

28: {Rachael: “Was he allowed supervised access or...?”} “Yes, he’s allowed to have supervised access. I had organised it with Bamados, that was last year. Was it last year or this year?” (p. 20) (from excerpt 65)

29: “I applied for custody. Yeah I applied for custody of my children as well as a protection order. What else did I apply for? Oh yeah, legal aid, oh that was a real blessing... I applied for a protection order, a custody order, and, oh flip, I can’t remember anything else.” (p. 16) (from excerpt 42)

30: “I went through the legal system, done all that. Now it was up to me to make it work. And that was, my job was to act on it. If he had turned up at the school I was to ring the police. Well, it took me months {laugh}.. to start acting on it, yeah.” {Rachael: “So he had broken it in between?”} “Yeah, he had broken it, and broken it, and broken it. And I had, I, I, I was not meant to see him, okay. That, that’s what it states in the protection order, you have no contact with him whatsoever, on the telephone, letters, even meeting him down town. You have no contact with the fella. Well, I broke that, didn’t I {laugh}.” {Rachael: “What happened there?”} “Well, I, I wanted to help him to, it wasn’t to bring him back into the home, because I think he had understood that he wasn’t going to come back here, so he respected me in that, sort of {laugh}. And, so what I wanted to do, was to help him get over the grief of his father, the grieving of his father, and just to build him up, that, that was my whole intention. And when I saw that it wasn’t working, wasn’t helping, then I thought, ‘Oh ooh,’ {laugh}, ‘I’ve blown it.’ So, I had to become harder and stronger. I had to stand on my protection order.” {Rachael: “During the time that you let him have contact, was, did he stop, was he not abusive to you during that time?”} “No, he was alright... So he was he was playing the rules very well... And I had a support group who was helping me to maintain my protection order. And I’d ring her up, and I’d go, ‘Oh, blah blah blah blah blah.’ And she goes, ‘What does your protection order say [Aroha]?’ And I go, ‘Oh,’ {laugh}. So, it’s really good if you have a support group behind you just to keep you in line, keep you on track, because you can veer off. Your own

"into the new", good things have come her way: she has experienced "the favour of God". She also realises that she had to go through hard times before things could improve. She says "nothing's wasted in the kingdom of God": she now helps other women in abusive relationships. In doing this, she strongly believes that they need to make the decision to leave themselves³⁴. She has somewhat forgiven Bob for what he has done to her³⁵.

Having left the relationship behind for good, Aroha feels her whole life has changed. She feels clearer, more focused, more composed, and more confident. She is getting stronger all the time. She believes that now is a time for healing and moving forward. She knows that she has a future to look forward to^{30,31,33}.

feelings, they can get you into trouble. And so I had to become stronger. And I wasn't helping him, I was making things worse for him, and I had to see that, but it took months later. But he never came here, although he sent me flowers, and letters, and then he wrote on my garage. The marks are still there {laugh}." {Rachael: "Did you mind that happening? Did you consider that breaking the protection order?"} "Yeah, he broke it, because he stepped on the property. He broke it when he was going to see the children at the school. I didn't like it because they needed a life, they needed to carry on, and so I had to enforce it. I had to enforce the protection order.. by ringing the police." {Rachael: "Were [the police] helpful?"} "Yes, yes, they were very, very helpful. Yep, yeah, they were awesome, you know, they're there to help, you know. I see them in a different way now." {Rachael: "Did you have to call the police in to help often?"} "Many times I had to. That's where I had to enforce my protection order, whenever, like even now I have to enforce the law, 'cause he came to church yesterday {laugh}. And he knows he's not meant to, and so I had to enforce the police. I had to bring the protection order in to action and to let him know that he can't do that. I'm getting stronger all the time, you know." (pp. 18-19)

31: "I've grown up. I think it's that growing up time, you know. I think he's still, you know, at the age of twelve. He's not willing to grow up. He still thinks I'm that woman for the last sixteen years he's had, you know. He hasn't realised that I'm no longer that woman really. Well, there's other fishes in the sea, you know {laugh}. They tend to run away {laugh}. In a way it's quite good, I don't sort of miss it, but, yeah. Yeah, I just think, it's just a time of, yeah, getting it together, and, and healing process, and moving on, and making stands, and, yeah, knowing where your help's going to come from, in the, in the, yeah, in the physical, yeah. You know, it's been really good this time around, it's just been real choice. God's been good, you know. He's just been awesome this time, a lot more, I'm a lot more clearer and focused and awake, got my head out of the sand... [In the past], I think, {pause}, I was just, I didn't, although I had moved I hadn't made a decision. I was sort of like in the middle. I, I still I wanted to move on but hang on, you know. I just wanted to keep the old with

me {laugh}. But I hadn't made that decision, yeah. Although things were okay on the outside, inside I hadn't made that decision that I was going to be on my own, and that it was okay to be on your own. And that I was going to, I hadn't made that decision to say goodbye. When, when I was saying, yeah, I was saying goodbye, but not really. I didn't make a decision, that's what messed me up {laugh}... That battle, you know, it is, it's horrible, you know. It's horrible to be in that place. I get that even today, you know, a battle. Sometimes I make really good firm decisions, other times I go, 'Hhhmmm,' {laugh}... I still have difficulties in making firm decisions, yeah... I think what's helped, was just to learn from my past mistakes, that I was able to, I was able to work through it, all my past mistakes, instead of, instead of doing what I had done. Then, I change it, I gotta change, yeah, try another avenue, so I don't fall in the same pothole again {laugh}." {Rachael: "It sounds like you've got a lot of strength."} "Yeah, oh yeah, there's a lot of weaknesses in me {laugh} still getting worked on {laugh}, but yeah." (pp. 35-37)

32: "I didn't have to stay in that relationship, I had many opportunities to leave. But I stayed in it, so there is no one else to blame except for myself." {Rachael: "Did you think anything he did contributed to you staying in it?"} "There was lots of things. That's his own, that he needs to confront with, that he needs to face up to. But I had my own to confront and face and to deal with." (p. 17)

33: "I'm getting stronger all the time, you know. And, and I'm not going to go back to him no more. And you've got to make that decision too, you know. No longer, you know, cut it off, just cut the relationship {laugh}. But it was a process, you know. I mean, us abused women, it's because we want to be loved. And because we have that, you know, we're, we're so used to mothering them. We just want to be there for them. It's, it doesn't help, but it doesn't help them. So, if you, it's called tough love. You just got to be hard on them.. It's helped me {laugh}. It's helped me to become more stronger, and where I'm going, and what, what I'm doing. And you can't help men like that. They have to get it together themselves." (pp. 19-20)

34: "Yeah, because I, I decided to, you know, no longer walk in the way I used to walk, you know, going back to the old ways... My whole life had changed, yeah, my whole life, when I'd made that decision to change my life to good. Because it's the best, you know, for me. And then comes favour, there's a favour of God. It's 'cause you're turning away from the old and walking into the new. And when you make that decision, you know, good things come. But you've got to go through the hard times before any thing good comes out of it. And it's just a real blessing this time." {Rachael: "So, you said that when you first involved a lawyer, you know, years ago, with your Aunty..., you said at that time you weren't feeling together."} "No, I just didn't have it together." {Rachael: "Now, how do you feel?"} "I've got it together {laugh}.. [I'm] confident, and able to move on. There is a future that I can look forward to. And I'm willing to pass on, I mean, nothing's wasted, you know, in the kingdom of God. Nothing's wasted, even the old stuff, that can still be used for other people... I'm a, a committee member at [a helping agency] now {laugh}. So, I mean that, that's the favour of God. That's His favour, it's, if you continue to walk in Him. Yeah, and so, yeah, maybe to help other women that come through there, I'm able to help them. But I can't make that decision, they have to." {Rachael: "But you understand?"} "Yeah, yeah." (pp. 24-25)

35: "I've forgiven him quite a lot, but I just can't help him, you know." (p. 34) (from excerpt 66)

Aroha's first encounter with the legal system: Lawyer 1 and the non-molestation order

Aroha initially involved a lawyer in 1994/1995 with the assistance of her aunty²⁵. Having just left the relationship, she was unsure what to expect and had no idea what it could offer her in terms of protection^{25,36}. As

36: {Rachael: "Oh okay, so what, what had you gone to [Lawyer 1] expecting?"} "Flip, I don't know {laugh}... I just don't know what the heck I was doing {laugh}. I can't even remember." (p. 3)

37: "And this lawyer, he was alright. I think he was out for money. He wasn't there to help me." {Rachael: "So, he didn't seem interested in you? Did you get the feeling he was interested in you and your situation at all?"} "At the time I don't think so. I look back now and I really think that he didn't. He was very money orientated. I think I

mentioned earlier, she applied for and was granted a non-molestation order^{25,41}. She thought it would keep him out of her life and enable her to make a new start. Legal action was intended to give a clear message to Bob that their relationship was over^{25,42}. Aroha did not apply for custody at this time. She said she wanted to "keep that door open"⁴¹. She was also granted legal aid³⁷.

Aroha said the male lawyer who assisted her (Lawyer 1) was very money-oriented^{37,39}. She doubts he understood or was interested in her situation; he was not there to help her^{37,38}. Indeed, she sometimes sensed he wanted them back together³⁷. He had little time for her, and she often felt rushed⁴⁰. Although she said he was "alright" at one time during the interview³⁷, she generally found him to be unhelpful^{41,42}.

During the application process, and after receiving her non-molestation order,

found out that to hire him as a lawyer, it was like a thousand dollars, you know, each time. And, and when I applied for legal aid, my money ran out within like two months, you know. And I thought, and then after that I was stuck, and I couldn't do anything more. And, not so much, two months, I suppose about four or six months you know. [The lawyer] was doing the best he could, but I think he wanted us, to get us back together more than to keep us apart." (p. 2)

38: {Rachael: "So, lawyer number one, did he seem to understand what was going on for you, your experiences, and about domestic violence? You said that he was interested in money. Do you think he was, he could understand what was happening in your situation?"} "No, I don't think so." (p. 22)

39: "And I said to... my second lawyer, I said, 'The first lawyer I had, he, he, he just did not help me, he was in it for the money, and that's how I felt.'" (p. 16) (from excerpt 42)

40: {Rachael: "Did you have that same feeling [that you had with your second lawyer] with the first lawyer?"} "No." {Rachael: "Was [Lawyer 1] there when you needed him?"} "No." {Rachael: "Did he provide the information you needed?"} "No." {Rachael: "And so you didn't feel secure?"} "No." {Rachael: "You didn't, you didn't trust lawyer number 1?"} "No..." {Rachael: "Did you feel believed by lawyer number 1? and listened to?"} "Nuh, you know, I had like an hour with him and, you know, 'Sorry,' you know, 'next customer please..." {Rachael: "So, he didn't have the patience, this first lawyer?"} "Yeah." {Rachael: "Didn't have the, wasn't available, didn't have the time, like?"} "Yeah, yeah, yeah." (pp. 23-24).

41: "[I] applied for a non-molestation order. And that, that really upset my ex-partner, because he thought [it meant] that he was molesting my children, but that, that wasn't what that molestation order was. And, uh, it just made things worse. He just hassled me. He said things like, like he's saying today, you know, 'I love them, I wouldn't touch them,' you know. 'I, I haven't,' you know, 'molested my children.' And I thought, 'No, that's not right,' {laugh}, 'cause the

Aroha had little, if any, understanding of the order²⁵. Her ex-partner also lacked an understanding of it. Indeed, because he thought it meant he had molested the children, which he denied doing, the situation worsened⁴¹.

His persistence, reflected in the frequent letters from his lawyer (which then required replies from Aroha's lawyer), soon resulted in depletion of her legal aid grant⁴¹.

Bob also ignored the order and continued to contact her. Their contact resulted in invalidation of the order²⁶.

Aroha feels that her first experience with the legal system was a waste of time²⁶. Her lawyer's unhelpfulness, insufficient money, and her own frame of mind meant that she lost the first "battle with the legal system"^{41,42}. Believing her non-molestation order "failed drastically"⁴¹, and was a waste of time and taxpayers money²⁶, she would never recommend

lawyer had already told me what a non-molestation order is. I can't remember what it is now {laugh}." {Rachael: "But he explained it to you well at the time?"} Yeah, he did. Things was going sweet for a while. Applied for legal aid, I was granted legal aid. And, because of my ex-partner's persistence, you know, he's one that he won't stop, so he'll just keep going and going until he gets his own way. Well, he kept going and going, and he got his way, didn't he. Because by then, each time a letter came in from his lawyer, I had to go to my lawyer for him to write a letter to my ex-partner's lawyer. And by then the money had run out.. He kept opposing, yeah. He, he just, he was determined to see his children. And by then I'd given up. The money had gone, the lawyer hadn't helped me. I thought, 'What a waste of time,' {laugh}, 'well, here, have your children,' {laugh}." {Rachael: "Oh okay, had you applied at the time to have custody of the children as well?"} "Not then, no. It didn't come to my mind." {Rachael: "Your lawyer never suggested it either?"} "No, no. Although my Aunty had said something to me at the time, I thought it would be best, no, I thought at the time that, to keep that door open, so that he could see the children. So, I didn't apply for that then. The only thing I done was to, just non-molestation order. And that failed drastically. Yeah, I wouldn't advise an abused woman to apply for a non-molestation order." {Rachael: "Oh okay, what didn't work with it?"} "The lawyer for one, {laugh}, he was not helpful, no." (pp. 3-4)

42: "Lawyer 1, I needed him at the time, because I no longer wanted to stay in that relationship. And to keep him out of my life I needed to do something legal. Yep, and to make a stand. And to let him know, 'This is it, see you later.' Yeah, that was the whole reason. But when, later on down the track, like maybe six months later, I lost the battle, because my lawyer wasn't helpful, and plus I didn't have it together in my head. I didn't know what I wanted. I didn't know whether I was trying to please my ex-partner or myself. So, I just didn't have it together then. And so, and then the money ran out, and I thought, 'Where am I going to get the money from?' I just didn't have it. And I thought, 'Well, blow it,' {laugh}. So, yeah, I no longer furthered with the lawyer. It just stopped." (p. 9)

other women to apply for a non-molestation order⁴¹.

Her second encounter with the legal system: Lawyer 2 and the protection order

Sometime later, Aroha involved a second lawyer (Lawyer 2) from a nearby city (City A). Through him, she applied for a protection order and legal aid. She also addressed custody and access issues with this lawyer^{27, 43}.

She found Lawyer 2, a Christian man, to be very good. When she first met him, she told him the characteristics she had not liked about Lawyer 1 and he assured her he would not be like this himself. Lawyer 2 was true to his word; he was there to help her rather than being in it for the money⁴³. She particularly appreciated the time he had available for her, his accessibility and patience^{44,45,46,47}. She could telephone him at any time, or pop in and see him, whenever she had a query. She felt secure that he was a good lawyer⁴⁴.

43: "Yeah, and so it took me like four hours to write out an affidavit, to apply to the judge." {Rachael: "What was that like? Was that okay doing that?"} "Oh man, four hours, {laugh}. It was good because I had a neat lawyer this time. He's a Christian man. And he was there to help." {Rachael: "So he listened? Did he, did you feel he listened to what you were saying?"} "Yeah, yeah. He listened." {Rachael: "Did he believe you? Did you feel believed when you were...?"} "{Pause}. I'm not quite sure at that time because I'd just met him. Yeah, he was good... He was a good listener. He was able to help me to, he was just helpful... Yeah it was really choice. I applied for custody. Yeah I applied for custody of my children as well as a protection order. What else did I apply for? Oh yeah, legal aid, oh that was a real blessing." {Rachael: "Much easier this time?"} "Yeah, much easier, because I was learning from my past mistake with my first lawyer. And I said to him, I said to my lawyer, my second lawyer, I said, 'The first lawyer I had, he, he, he just did not help me, he was in it for the money, and that's how I felt.' And when, when I said that to him he knew he was, I don't know, he just.. I just didn't want him, I wanted him to help me, not just for the, yeah. And I think he heard that, and, and he says, 'I'm not going to do that.' 'Oh,' and I go, 'oh good.' So that was, that was really cool, yeah, and so, yep, yep." {Rachael: "And so you trusted him?"} "Yes, I trusted him. I applied for a protection order, a custody order, and, oh flip, I can't remember anything else." (p. 16)

44: {Rachael: "What would you say the most positive things about Lawyer 2 were, about your experiences with Lawyer 2?"} "I was, I was able to ring him at any time if I didn't understand any of the orders that I had written up, if I didn't understand, if I didn't have any understanding whatsoever with the process. Yeah, and that was really choice, because I was able to form a, a friendship, you know. But I knew where he was, you know, I knew his place, yeah, and I respected that... I could ring him up any time, you know, I thought,

Lawyer 2 was also non-threatening⁴⁷. Though he may have lacked understanding originally⁴⁸, he listened to her⁴³, and gained an awareness of her situation over time⁴⁸.

Aroha feels that it is important for women to have a good lawyer with these characteristics⁴⁷.

When Lawyer 2 told her about protection orders, she thought one would be very useful^{27,49}. Focused on looking after her children and ensuring their welfare, she realised that a protection order would cover them and herself in a variety of environments (e.g., at school, in the street, at home)⁴⁹.

Consistent with the process of applying for a protection order, Aroha provided information required for her affidavit. It was time to "let it all out", "to expose all"⁵⁰. It took four hours in all⁴³.

Because she did not feel embarrassed or ashamed of letting people know what was going on in her life, she

'Oh help,' {laugh}.. I was able to ring him anytime. I could pop in, you know, to see him with, with that issue, you know. And if, yeah, yeah, he was just there, you know. He was there for me, and it was really cool, you know. I was, I felt secure that this man is good {laugh}, you know." (p. 23)

45: "[Lawyer 2] is a busy man, even though he had time for me. He did too, he had time for me." (p. 29) (from excerpt 57)

46: "Oh yeah, the patience too, Lawyer number 2, yeah, he had a lot of patience, and time. He had, he, he was willing to spend time, you know, with me, through this process, yeah." (p. 23)

47: {Rachael: "Were there any negative things about the second lawyer, of your experience that you'd like to see improved for future?"} "No." {Rachael: "You felt no negative experiences?"} "None at all." {Rachael: Was there anything that you could see that would be beneficial for other women?"} "Have a really good lawyer {laugh}.. One who can hear, you know, who's going to listen, who is willing to, you know, basically lay down their life for this, these women, you know. Because that's what my lawyer has done, you know. He's, he's just lay down his life, and by that I mean his time, yeah, his, his time, and his patience, and his understanding, and, and non-threatening, you know. Yeah, yeah, real choice, really neat this time." (p. 24)

48: {Rachael: "Do you think [Lawyer 2] had a very good understanding of domestic violence?"} "I think he did. I think he knew what he was doing... Actually come to think of it, at the beginning, no. I don't think he really understood. It wasn't until I kept going to see him and see him {laugh}, that he understood that, 'Oh, this woman's for real,' you know... But at the time I don't think he understood what, what it was all about." (p. 22)

49: {Rachael: "Was it an easy process getting the protection order?"} "Yeah, it was actually, I think by then I had grown up. I was focused on looking after my children and making sure that they were okay.

felt quite comfortable sharing her experiences with her lawyer. Whilst doing this, she also had to confront issues of her own⁵⁰.

Aroha was pleased with the speed that her application was processed. Both her temporary protection order and the accompanying custody order were granted within one week^{51,52}. Later, because Bob moved into a house at the entrance of the culdersac she was living in, Aroha and her lawyer applied to have the conditions of her order extended. Aroha found the legal system very helpful in this matter, with the judge extending the distance he could not come near her to 800 meters⁵³.

Bob never defended the temporary order, so after 3 months it became final⁵⁴.

As described earlier, Bob breached the order many times^{29,55}. Aroha has effectively used the police to enforce her order at these times. Only a day or

And the protection order was the best one. It covered them all, it, it was a good covering. It covered them when they were at school, even on the street, or even, even at sports, and around the house, home, even up at the emergency house, wherever they went they were covered. And even myself." (p. 14)

50: {Rachael: "Was it hard sharing your experiences in that affidavit?"} "No. No, 'cause it was about time to let it all out now, yeah just to be honest and open, because if I wanted help I had to expose all {laugh}. And it turned out well... And I wasn't ashamed, you know, I wasn't ashamed to let people know what was going on in my life at the time. And I had to confront a few issues, I had to look at myself." (p. 17)

51: "Within a week I was granted a protection order." {Rachael: "So it went really smoothly?"} "Oh yeah {laugh}... I was granted a protection order, wow, in less than a week, yeah {laugh}.. It was looking really good." (pp. 17-18)

52: "I mean, the judge approved it, boom, boom, boom, you know, there's his signature." {Rachael: "So, you got your protection orders, the custody, and that, all approved at the same time, all within a week?"} "All within a week." (pp. 20-22) (from excerpt 65)

53: "The system, the law system for me this time was awesome. The judges, they, look, I had to extend, I had to make an extension on my protection order. There's a certain area that men can't sort of come near you, there's a distance or something. Well, he lived down here on my street, the children's father, what a cheek. I mean, it's the only entrance you can come in.. So, what I done was, I went back to my lawyer, but I had to move out of the house, because I didn't, I just didn't like what the heck he was doing. And so, I went back up to the emergency house, went in to see the lawyer, and I said, 'He's on my street, at such and such a house.' And I had to draw a diagram, 'cause I was here, and he was down there, and, and yeah. I just needed him to, to seek the lawyer's approval to extend the, I don't know, the area. Well, there was no way that I was going to come

two before our interview, she had to enforce it because he turned up at her church ²⁹ .	back into the house until I had that approval, right. I was up at the [emergency] house for, like, two weeks. So within that two weeks I got a letter sent to me, and the judge had approved me of 800 metres." (pp. 25-26)
Overall, Aroha has found her more recent experiences with the legal system to be very good ^{53,56} . She feels the legal system response and the utility of her protection order are dependent on her enforcing her order ⁵⁶ .	54: "When I applied for the [protection] order, he had 3 months to do something about it, it was only temporary. Well he did nothing. After 3 months it became final." (p. 26) 55: "Because he kept breaking the, the, he kept breaching the order." (p. 29) (from excerpt 57) 56: "This time around, you know, [the legal system] were there for me. As long as I continue enforcing my protection order, and even having a support behind you, you know." (p. 34)

Her experience in a court hearing where Bob was charged with assault

Aroha went to court as a witness the last time that Bob assaulted her. One problem with the system was the delay between the actual assault and Bob's appearance in court. She feels that during a long delay (six months for her), an abusive man can soften his partner's heart, so that she is no longer willing to appear in court against him. Because of this, she feels that an assault charge needs to be addressed in court virtually immediately, the next day if possible ⁵⁷ .	57: "Oh yeah, that's right, oh okay, okay, oh yeah, that's right, there is a problem though with the system, okay, particularly with abused women okay. Even my, my friend said the same thing too, when she was up at the [emergency] house. Six months is too long for an abused woman to wait to go to court, for their partners to face up to their responsibilities in abusing their partners or wives. It's too long... Like women need to be strong, okay. They, men need to be responsible for their actions... Anyway, what I'm trying to say is that when the police have charged the men with abuse, violence, [and it] goes into the court, I don't think the police should wait six months, I think they need to get it done straight away... It's too long, because by then the men are able to worm their way back into the woman's life, and the woman will just go, 'Oh,' melt, melt, 'oh poor you,' you know. You know, they'll just love them again. And then where's the court system?, you know. Because the men had already, by then, had grabbed their, their heart, you know, to, to change their mind. And they won't go back into court... It's too late, you know, if you wait six months later. [It would be better if] it was done, boom, straight away... next day, don't wait {laugh}. As soon as the men are locked,

She believes it is important that men are made accountable for their actions⁵⁸. This did not happen during Bob's court case. Rather, prolific lying by both Bob and his court-appointed lawyer absolved him of responsibility. She was blamed instead^{58,59}.

The two hours she was on the stand were absolutely horrible⁵⁸. Questions were being fired at her from Bob's lawyer⁶⁰, and he twisted the knife incident (where Aroha had held a knife to make Bob back away from her during an assault) and used it against her, claiming that she had tried to stab Bob⁵⁸. They made her feel like "dirt". At one stage, she broke down and cried because of all the lies. The judge provided a 5-10 minute recess for her⁶⁰. He also asked if she would like her friend to accompany her on the stand. Aroha declined this, feeling that she would be okay⁶¹.

Her inexperience with the court did not help her. In

you know, out of that jail cell, you know, they should be in court, with the, with the woman there. And they should do it right then and there." (pp. 26-28)

58: "The men need to be accountable. That's all it is, okay. They need to face what they've done, okay, because, yeah, just, just the men. I mean, the, you know, women are probably having a hard time too, but, yeah, it's just a try, you know... He blamed me {laugh}... Well, there was a knife involved, okay. But I didn't use it. But it was a form of threat, you know, 'Just back off,' you know, 'don't come near me.' Because I had had enough of the fella... I was hoping that he would just go for a walk, you know, but nah. However, he used that against me. He said that I had tried to stab him, and things like that, and that, yeah. And there was a whole lot of lies... It was horrible {laugh}, yeah, it really was. But I had, I was determined to go through it, because I had to, I knew I needed to, so that I could be set free, you know.. Because I hadn't been to court. I mean, he, he was always in and out of court, so, he knew the system, okay. He knows it so well. And me, you know, here I am standing up the front here, with, the judge was over there, and yeah." {Rachael: "Had you been prepared at all for that?"} Well, [my lawyer and I] were supposed to go to court together, but it never happened. This was a police matter, it wasn't with my lawyer.. Yeah, it was a police matter, but my lawyer, he was willing to take me into the court room to show me what happens in that situation. And, it never came about. And so it was a crash course for me on the day {laugh}." {Rachael: "Did you think it would have helped if you had have seen the court and known a bit what to expect? Would that be something that could be improved?"} "Yeah, yeah, I think so, yeah. I think it would have, it would have helped me a lot, yeah. But, but I understood why it didn't happen, and, you know, because he's, he's a busy man, even though he had time for me. Oh yeah, yeah, yeah, yeah. He did too, he had time for me. And plus, I was busy as well. Yeah, and, and plus [Bob], oh, he, yeah, my ex-partner, he was in and out of court all the time. And so it was, it was either here in [Town B] or in [City A], 'cause he kept breaking the, the, he kept breaching the order. And so, that'll, I was the only one sending him into jail {laugh}." (pp. 28-29)

contrast, Bob was very familiar with the court system: he had been to court several times for breaching the protection order. She believes it would have been better if she had been familiarised with the court environment and process prior to the hearing. Although it was a police matter, her lawyer had planned to do this with her. Unfortunately, both he and she ran out of time to do this, so it was a “crash course on the day”⁵⁸.

Despite how horrible it was to be on the stand, she was determined to go through with it. She knew it would help “set her free”⁵⁸.

After she was cross-examined, the police officer (who had been working with her for about a year), advised her to leave, saying that her partner's lies would only upset her. He rang her later to inform her that he had been found guilty and sentenced to six months periodic detention⁶⁰.

She found all the legal

59: {Rachael: “You said that... your partner was charged with assault and you had to go into the court yourself... What happened there?”} “Oh, oh, oh. He lied, he lied through the whole thing, you know. He had his lawyer, well, it wasn't his own lawyer, it was someone approved from the court.” (p. 26)

60: “The questions that were coming at me [from his lawyer], I had to really listen, and, and, and think about the event on that day... Oh man, they twisted that, man, they just, oh, they just, yeah, he just, he made me feel like, you know, dirt {laugh}... I mean, it was a two hour procession we were there for. I was standing up on [the stand] for two hours {laugh}. It was a long time. I broke down and cried because of the lies that was just coming from out his lawyer's mouth, I just broke down and cried. And so, there was a recess for, like about five minutes, ten minutes. And by then I had got it together, and I was able to carry on through.” {Rachael: “And so, a lot of the, your bad experience in being in there, on the stand, was because of his lawyer?”} “Yeah, his lawyer {laugh}. His lies {laugh}. Yeah, because, by then, you know, I, I was already facing the truth, you know. I mean, ah, I had to face the truth, ‘Yes, I was holding a knife,’ you know, ‘I was, yeah,’ you know. I mean, cor, you know, I didn't have to say that but I did. I mean, you've got to tell the truth in court {laugh}.. And then he had his for two hours.. The policeman that has been working with me for this whole year, oh he's really good, he's, he's, he's really neat, you know, this policeman... He said to me when I had come off the stand, that it will be a waste of time for me hanging around, listening to his lies {laugh}.. ‘Go home.’” {Rachael: “And you're glad you did that?”} “Yeah, I was, I really was, because, he, yeah, this policeman knows it, knows this guy really well, and yeah, he knew that the lies were just going to come out of his mouth, and it was going to be of no help to me. And so, about half past seven at night, I got a phonecall from the policeman, and he said that he was found guilty. And he had, was given six months [periodic detention], yeah, well, the lawyer found, oh, the judge found him guilty.” (pp. 29-30)

61: “I mean, you know, even the judge, you know, he, he stopped the

personnel, with the exception of her ex-partner's lawyer, very good⁶² (that is, the police officer, her lawyer, and the judge^{60,61,62}). She was disappointed with Bob's lawyer, believing his diversion of responsibility away from Bob to be unhelpful to him. It seemed that Bob and his lawyer were on a similar wavelength⁶³.

whole thing, you know, stopped the whole thing, stopped the whole court, so that I could go out and have a moan, a groan, you know, and a cry {laugh}.” {Rachael: “So that felt like he, the judge, was supporting you?”} “Yeah, yeah, yep, yep. And, because my friend was there too. He, he suggested that it would be alright if she could come up to the stand with me, yeah. And I said, ‘No,’ {laugh}, yeah, ‘I’m okay, I’ll handle it.’ So, yeah, he was very, very helpful.. It was over in the [Town B] courthouse. It was really neat... He was, he was really neat, he was a neat guy.” (pp. 30-31)

62: “Yeah, no, the court system was choice. The police were really neat. The lawyer was just awesome. It was just awesome {laugh}.” {Rachael: “And so the part of the court process that wasn’t good was the experience of his lawyer?”} “Yeah, yeah, his lawyer.” (p. 31)

63: “He was not a very good lawyer. He was not helpful to [Bob]... Yeah, it was not helpful to him.” {Rachael: “In what way did you think it wasn’t helpful to him? Was it to do with the responsibility? Like you were saying that your ex-partner refused to take responsibility. Do you think the lawyers were really sort of encouraging him to not take responsibility?”} “Yeah, yeah, yeah. They were basically on the same wavelength, you know.” (p. 31)

Judges

Aroha has generally found judges very good, because of their speedy processing of her protection order application^{51,52}, and her experience in the District Court⁶¹. As mentioned above, the judge presiding over the assault case was particularly understanding, suggesting her friend accompany on the stand,

64: {Rachael: “So your experience of the judges have been good?”} “Yep, as you keep, as long as the women keep to that protection order, you know, as long as they enforce it all the time. And if they, the men, come back, 'cause they will, they will try, to get on the telephone and ring the police.” {Rachael: “So, you’re saying that you think the lawyers and judges supported you more because you were very firm in sticking to it?”} “Yep.” {Rachael: “If you hadn’t have been, do you think they would have been there to support you as much?”} “No, no, they wouldn’t have, they wouldn’t have been there for me if I’d, yeah.” {Rachael: “So you think, 'cause they could see you were taking it seriously, that they were going to take it seriously?”} “Yeah, yeah.. Yeah, they took it seriously, yeah. That’s the one.” (p. 26)

and later providing a recess when she was upset⁶¹. She has found judges have treated her situation seriously. However, she believes women only have positive experiences of a judge if they enforce their protection orders, and hence show that they are doing their utmost to be free of domestic violence⁶⁴.

One problem identified by Aroha related somewhat to judges, although she placed some of the blame for it on her ex-partner and his lies. That is, Bob has consistently avoided facing much consequence for his actions, although he has breached the order enough times to be sentenced to jail. Aroha is getting a "bit tired" of this as it impedes her ability to move forward. She would prefer to see him go to jail. Because of his lies, and the precedent set so far, she doubts this will happen⁶⁵.

65: "The next time, next time the police pick him up he'll be in jail, yeah. There is a, there is one problem though, or maybe another one. I don't know, I don't know, I suppose it's [Bob], I, I, I don't think it's the court system, I think it's [Bob]. Because he knows how to lie, because he knows the court system, so well, 'cause he's been in and out of there for years, you know. The judge has always let him know, every time he breaks, he breaches the order, he gets locked up for the night, or maybe two, and then he lets, he's, he's been let go.. without much consequence, yeah. And I'm sure that the protection order says there's two years jail. What's happened?..." {Rachael: "So you don't think that's helped by them letting him get away with it?"} "No, yeah, yeah, it hasn't helped at all. It just, just, yeah, 'cause I suppose it, it makes me a bit more stronger, you know. I've just got to get a bit more stronger, each time they let him out, and he, he, he, breaks, he breaches again, like a month later, then it's up to me to get on the phone and ring the police, and say, 'Hey, he's here,' and la la la la la. And they take him away and lock him up, and he's before the judge again, and they let him off, you know, I mean, {laugh}." {Rachael: "Are you hoping next time they won't let him off?"} "Yeah, yeah. Well, the police, you know, they can only handle so much, you know. I mean, they know this guy inside out now {laugh}. I mean, you know, [Bob's] teaching me something, he's teaching even the police something. I mean, it's all a learning thing, but I'm getting a bit tired of it, you know. I'd, I'd like to just, you know, put him in jail, you know, yes, so that I can move on with my life. But it's not going to happen like that... But he's a good liar too, he lies really well." (pp. 34-35)

Police

Despite Bob beating her many times, the police have only become involved twice. At least one of these times was not initiated by her; someone down the street rang them. She admits she avoided using the legal system at other times because she was afraid of getting Bob into trouble. For example, when Bob refused to let her get her belongings from where they had lived, she did not want to ring the police or a lawyer. Instead, she protected him, preferring to resolve the problem in a non-threatening way²⁷.

Since having the protection order, she has rung the police several times to enforce it. She has had very positive experiences with them. They have been "helpful" and "awesome". She now sees them in a different way²⁹.

She dealt with one particular police officer for a period of one year, and he was present at the court

hearing for Bob’s assault charge. She found him very good⁶⁰.

Custody and access

As mentioned above, Aroha applied for custody of the children at the time she applied for her protection order^{27,43}. She was legally made the custodial parent, and Bob’s contact was restricted to supervised access. Aroha agrees that the children need to be in a safe environment where somebody is overseeing Bob’s access to them. This is because he has not the skills to deal with his children now that they are slightly older, he is not responsible, and he off-loads his “junk” and problems on to them. Aroha believes that the children’s welfare should come before Bob’s wishes⁶⁶.

She organised supervised access to occur through Barnados, but Bob refused to co-operate; he did not want to be supervised⁶⁶. Because of his resistance and non-adherence to the

66: {Rachael: “How did the custody stuff go then?”} “Oh, he didn’t like that {laugh}. No, he didn’t like that at all {laugh}. I, I applied for that when I got that protection order, I applied for the custody as well. He wasn’t allowed to have access either. So I got three things in one go when I went to see a lawyer.” {Rachael: “Was he allowed supervised access or...?”} “Yes, he’s allowed to have supervised access. I had organised it with Barnados, that was last year. Was it last year or this year? Oh no {laugh}, he don’t want it.” {Rachael: “Oh, he doesn’t want access?”} “Oh, yes he does.” {Rachael: “But he doesn’t want it to be supervised?”} “Yeah, he’s so used to having, to getting to me to get to the children. Because it’s his children he wants, it’s not me. And he’s got to go through me to get them, so he’ll, he’ll try to soften me up a bit, you know. Not {laugh}. Not this time. He’d rather just have them, you know, unsupervised, but I’m thinking about the children now.. They need to be in a safe environment where somebody is going to be watching them. Yeah. {Pause}. And forget about the, you know, the father of the children {laugh}, tough cookies, you know.. He’s alright, but, oh, he needs to grow up {laugh}. They’re no longer children... So they’re growing up, and so you’ve got to grow up with them, and what, when they were little, you, you’ll have skills for when they were little. Now that they’ve grown, those skills that you had when they were babies, no longer works. And when they’re grown up, you’ve got to use your head {laugh}, you know, other ways. He ain’t got that that mentality {laugh}, you know.” {Rachael: “So it was in their best interests not to, for him not to have access without being supervised?”} “Yeah, just for time. He’s not responsible either. He ain’t responsible, he’s still very much hurt and I don’t want him to put his, his junk on the children, because they can’t carry his junk, his problems. I mean they, they’re children, they just need to live like children. They don’t need our problems.” {Rachael: “So was it hard getting custody?”}

supervised access arrangements, Bob subsequently involved a (female) family lawyer, and the court appointed a lawyer to represent the children. The children, and Aroha (and presumably Bob) saw the children's lawyer separately. Aroha recommended that Bob attend whatever programs were on offer. The reports were written to the court. Bob was directed to complete an anger management program before he could have supervised access. Aroha feels pleased with the decision of the court and believes it will be helpful for the children and for Bob. It also felt good that the legal system understood where she was coming from, and what sort of person Bob is. At the same time however, she expresses doubts about whether the directive of the court will really be of any help. She does not believe Bob is a good parent, and knows he needs to learn some parenting skills. Even if this occurred, she doubts any skills would be useful

"No, it was sweet." {Rachael: "Did you have to go into the court to get it?"} "No, the judge approved.. It was approved. We got the stamp of approval {laugh}... Yeah, it was sweet, it was really, really sweet. I know the guy in the courthouse here, the registrar. When I was having a look at the papers, when I finished talking to you for the first time, first time, his stamp, his, his signature was on it. I mean, right from day one, right throughout the whole papers, his name, his signature is on there. And it was dated on that day, you know. I mean, the judge approved it, boom, boom, boom, you know, there's his signature." {Rachael: "So, you got your protection orders, the custody, and that, all approved at the same time, all within a week?"} "All within a week." (pp. 20-22)

67: "He's got another lawyer, which is good. I think that was the best move he ever made." {Rachael: "What does he involve that lawyer for now?"} "Custody {laugh}, and access {laugh}. Yes, he's woken up, well no, not really, no, not really... Well, he's agreeable to supervised access. But the courts were involved with this one... He's not willing to go through the steps that's necessary, that I've already laid down on paper through my lawyer. And because of his mumblings and groanings, you know, that, the court wanted to, to speak to me and to see the children as well. And so, that was good, that was okay.. They had already appointed a lawyer of their own... And, yep, so we went through that. I saw the lawyer, and then I had to take the children in two weeks later for her. She was a lady lawyer, very nice lady, you know, very nice, nice lady. And she spoke with the children, and yep, yep, and she had written up a report, the first report of me, and then the second report of the children. And so they went to the judge. And they were fine, you know, they were, they were happy to see the children, you know, together, and having to speak with them, her having to speak with them. And so they were pleased. And, and so what's going to happen now, is that they are going to get [Bob], they are, yeah, they want to see [Bob] go through a anger management program first, before he goes to see the children, before there's any sort of contact.. Even before [he has supervised access]... [That's good], 'cause it's going to take like three months, and so {laughing} that's real good. I mean, I mean it's,

until much later in the future⁶⁶.

Aroha found the children's lawyer to be very good. She is also hopeful that Bob's lawyer will be a good influence on him. So far, she has found her non-threatening. She worries however, that because she is a woman, and Bob is a womaniser, that he will try to manipulate her to get his own way⁶⁶.

it's going to be helpful to him, okay, that, that's all it is. But my children, my concern is for them. Yeah, so yeah, it was really good. It turned out really well, because the court system was able to see me, you know, my, why, why I have set up all these things, you know. Yeah, because they see now, the, the, their father, the children's father, they see what type of person he is. They're not going to take any poop from him, you know. They, they're just going to give him the best things to do, for him to do, before he can see the children. He doesn't like it {laugh}. He'd rather just avoid it, you know, and, yeah not go through this process... It's going to keep him on track, yeah. And, and, oh sad that [his lawyer] is a woman, but hopefully she'll, she'll see who he really is, you know. But yeah, he's, she's going to keep him on track..." {Rachael: "You were saying that his lawyer is a woman, and you said that it's a bit of a pity. What, what were you meaning there?"} "Because he's a womaniser, okay, and he knows how women tick. And, and he will, he will, he will try to manipulate them in the way that he'll get his own way. Yeah, yeah, that's, that's the only reason why, you know, it's sad that he's got a woman lawyer." {Rachael: "If he had a male lawyer, do you think he'd be less able to manipulate the lawyer?"} "I don't think he likes authority, he doesn't like that man authority figure. Although, this woman, this lawyer, oh, oh, oh, she's going to do him a lot of good, you know, it's going to be okay. I don't feel threatened by her at all {laugh}... I'm glad that he did something right {laugh}..." {Rachael: "Do you feel that he was able to be a good parent?"} "No {laugh}. And I did say something to the lawyer that, the lawyer that came from the court system, okay, that was appointed by the judge... Oh, that's right, she assessed him as well. I said to her, I said to her, 'Well, whatever the programs you've got available too, just give it to him as well,' {laugh}." {Rachael: "So, you think after doing these programs, he'll be a better able to be..., will he be a fitter parent?"} "I'm hoping, I'm hoping." {Rachael: "You look like you're not too sure though?"} "I think I'm just wasting his time {laugh}. Oh, oh, I think, I know that he needs to learn parenting skills, and it's going to be of help for him at a, at a future date. It may not happen now, but, you know, at a future time. Maybe twenty years later {laugh}. I can't help it, I'm not hard against him. I'm not, you know. I've forgiven him quite a lot, but I just

can't help him, you know." (pp. 31-34)

Summary of problems with the legal system

Aroha's problems with the legal system can be summarised as follows. Her initial lawyer was interested in money, not her situation^{37,38,39}. This same lawyer had little time for her, which meant she often felt rushed³⁵. She did not understand her non-molestation order, nor find it useful^{25,26,41}. Her legal aid grant was depleted before her situation was resolved, because of her ex-partner's legal persistence⁴¹. The delay between an assault charge and the associated court hearing was so long that she felt reluctant to appear in court against him⁵⁷. Bob's lawyer assisted him to absolve personal responsibility for his violence^{58,59}. Finally, Bob has faced few negative consequences and Aroha attributes this both to Bob's lying and the Judge's treatment of the breaches⁶⁵.

Summary of commendations

Aroha made several positive comments about the legal system during the interview. Her second lawyer was very good⁴³. He was interested in her situation as opposed to the money⁴³, and he was more accessible and had more time for her^{44,45,46,47}. A protection order was granted speedily^{51,52}, with an extra condition to suit her individual situation⁵³. Her protection order has proved useful^{29,49}, though this is dependent on her enforcing it⁵⁶. She found her lawyer, the judge, and the police officer at the assault hearing very good^{60,61,62}. In particular, the judge was understanding and treated her situation seriously⁶⁴. She has found the child counsellor assisting with access issues to be very good, and is hopeful that Bob's lawyer will have a good influence on him⁶⁶. The court considered the needs of the children over Bob's wishes, protecting their welfare by granting supervised access⁶⁶. Finally, she has had very positive experiences of the police who have helped enforce her protection order²⁹.

Update: Aroha has maintained her decision never to return to Bob, and remains clearly separate from him. He is sometimes "still a pain". Now that her children are older, she works and enjoys this. She also enjoys her involvement with the church. She has recently moved to another house in Town B. Although several men have shown interest in having a relationship with her, she has chosen to remain single.

More recent update: Approximately, eight months ago, Aroha became re-involved with the legal system over Bob's unsupervised access with the children. Although she has complied with the access arrangements in place, she finds it inappropriate, and she worries a lot about the children's welfare each time they are with Bob. This is partly because of Bob's serious drug addiction. One

time recently, something awful happened during access. The police became involved, and the children ran home to her. Since then, she has put her foot down. She will no longer allow Bob to see the children unsupervised.

Aroha has been very disappointed with her more recent involvement with the legal system. It has been terrible. Aroha's lawyer, Bob's lawyer, and the children's lawyer have all been unhelpful to her.

At a recent Family Court hearing, the judge told her she is a "domineering, forceful, and controlling woman" – all because she is trying to protect her children from harm. She does not believe judges have a good attitude towards women who are attempting to protect their children.

Aroha feels there is no one that she can put her faith in. She is on her own. She feels the situation is made worse because she is Maori. That is, because she is not white and middle class, she is ignored, and might as well not be there.

Aroha wrote the following about her current situation: "I'm actually looking for another lawyer, with a backbone, to defend my children. The lawyer I have at the moment is favouring the children's father, and he is no help to me. We are going to go through a psychological assessment, well the children are, and they are not happy about it. The boys are being blamed for a nasty event that happened during access with their father one weekend. And what's even more disappointing is Bob, the children's father, has not accepted responsibility for his behaviour. Stink aye! However, my lawyer warned me that this would happen.

However, today, I'm off to see another lawyer who I've spoken to. This is really crazy: I spoke to a lady lawyer in town, I was with her two minutes, and she says, 'I'm sorry, I cannot help you because this man has been in to see me and I have heard his story, and I cannot help you.' Stink aye, Rachael. I'm afraid that he has been into every lawyer in Town B and City A, given his story over, and I cannot use those lawyers because he's been in, corrupted them, and gone. In the last four years, he's had four lawyers. The lawyer he has now, he's ruthless. I need a lawyer who has a bite, yet is also able to defend the children and to convince the judge to favour the children. Well, to protect them from Bob. So, I'm still battling."

ALANA’S STORY

Alana is a Pakeha woman in her late forties. She and Mark began their relationship five years prior to the interview, and it lasted two years, ending in August 1996. They had one child, Liam, who is four years old. Preceding her relationship with Mark, Alana had been married for 20 years. She has two grown-up children from that marriage.

Alana experienced chronic psychological abuse from Mark during and after their relationship. This abuse, though directed at her, quite often involved Liam. Because Mark has poor parenting skills and compromised Liam’s safety both during and after their relationship, Alana’s overriding concern has been for the safety and protection of her son.

Alana has used three main lawyers. After going through a defended hearing in the Family Court in 1998, Alana was granted a protection order, which also covered Liam. She has also attended two mediation conferences regarding Mark’s access arrangements to Liam. Now living a considerable distance from Mark, lawyers have advised her not to pursue custody of Liam unless Mark takes further action himself. Alana finds the absence of legal custody very disconcerting. Generally, her experience with the legal system has been very poor.

MARK’S ABUSE OF ALANA	
Alana	
Alana was a strong, self-assured person when she met Mark ^{1,2} . She is very resourceful, finding out what she needs to know to assist her ³ .	1: “And so I thought, ‘Well shit,’ you know, ‘I have been through a fair amount of life. I’m, I have got, my values are solid. I know what I’m about. I’ve got, you know, my, I’m just pretty settled in myself and pretty sorted out.” (p. 55) (from excerpt 82)
	2: “I’m not a weak person...” (p. 53) (from excerpt 82)
Her son, Liam, is more important than anything else to her ⁴ , and always comes before other commitments. She is a strong advocate of the importance of parenting,	3: “I’m quite a resourceful person, and if I want to find things out I’ll just search and search for a number, and, until, you know, I find what I want to find out. Which is another thing that worries me for other women in my situation who maybe don’t have those skills. And they must be totally lost. Like I was lost and I was able to, to ring for help and ask for help.” (p. 16) (from excerpt 87)

and believes it is the most important job anyone can do. Her grown up children are both admirable and she has no doubts that Liam will grow up to be the same. This is despite Mark having mentioned that Liam will turn out to be a criminal and drug addict⁵.

During and after her relationship with Mark, Alana wrote a considerable amount to keep herself sane⁶. She is looking forward to the time when she can dump everything to do with the abuse⁷.

4: “It’s my child that I’m fighting for, and that’s more important, you know, than anything.” (p. 44) (from excerpt 167)

5: “Anything I do, anything, whether it be further education or work or whatever, always has to come second to [Liam]. [Liam] always has to be first. And so it needs to be fitted in around him rather than him fitted.. And, I mean, I’ll fight tooth and nail, Social Welfare, about that too {laugh}. Because to me I’m already doing the most important job that anybody in New Zealand can do. I don’t care what their position is. Nobody does a more important job than I do, and that is responsibly bringing up a child. I mean, I’ve done it with two. That’s my son {pointing to a photo}. He graduated from [a New Zealand] university with a double degree last year, and he’s [overseas] at the moment. And that’s my daughter. And she graduated from [another New Zealand] university last year. And they’re bloody neat people. They’re really neat people, you know. And [Liam] will be the same. I’ve got no doubts about that wee boy at all. Like one thing [Mark] threw at me was, ‘Oh, now he’s going to turn into a crim and a drug addict,’ because I was leaving.” (pp. 34-35)

6: “I used to write heaps and heaps of stuff just to keep myself sane really.” (p. 32)

7: “I’m looking forward to the day I can just dump all this. But what I’m keeping it for is, I just hate it, I, I hate all this stuff now. I have to keep it for if we ever get back into court over [Liam].” (p. 33)

Mark

Mark is approximately 15 years younger than Alana⁸. He is a big guy, and stands six feet five inches tall^{9,10}.

Alana repeatedly described Mark as a very scary person^{11,12,13,33}. As well as

8: “There was a big age difference between me and [Mark] too. He was actually five when I got married {laugh}. I was having my first sexual experiences when he was born {laugh}.” (p. 55)

9: “I mean he’s a really big guy, aye, and when he stands over you he’s six foot five. And he’s mean looking. And he’s a physical, violent guy anyway, like he’s a streetfighter and into all that sort of thing.” (p. 20) (from excerpt 90)

being big, he is mean-looking⁹, and very dangerous¹⁴. He is "pretty messed up" and "emotionally unstable"¹⁵. He has had a "really bad upbringing" and has "fried his brain with drugs"¹⁶. He holds grudges indefinitely and is very vindictive^{17,18}. He has no qualms about being violent to women¹⁹, and is a physically violent guy ordinarily⁹. Alana believes that there is no doubt that Mark has an anger problem^{20,21}. However, it is only very occasionally that he recognises this himself²².

Mark is impulsive, acts without thought for the consequences, and "definitely does not err on the side of safety"²³. He has a long history of alcohol and drug use^{16,24} and associates with many people who are involved in drugs^{25,26}. He did not hesitate to use drugs around Liam^{27,28,29}. He is anti-law and anti-rules^{30,31}. He has a multitude of driving offences, and has previously lost his license

10: "He's a big guy. He's six foot five. He's huge." (p. 14)

11: "'Cause he's a really scary guy anyway." (p. 4) (from excerpt 179)

12: "He's a really scary person, and yet he, he comes across as such a nice guy. And that's because he has got nice things in him. And, and other people don't, like, I think his sister is quite surprised at my perception of him. But that's because she's never seen him how I've seen him." (p. 45)

13: "You get to know somebody, and you get to know things about them. And, and he's a pretty scary sort of person. He's really scary." (p. 61)

14: "He's dangerous. He is really dangerous, because, I think because he's damaged." (p. 26) (from excerpt 36)

15: "He's pretty messed up, emotionally unstable, and knowing his background I can understand why." (Alana's own writing) (from excerpt 41)

16: "He's had a really bad upbringing and he's fried his brain with drugs." (p. 59) (from excerpt 106)

17: "One of the things in my affidavit was how vindictive [Mark] is as a, generally as a person, so anybody who crosses him had better bloody well look out. And his capacity for holding on to a grudge for a very, very long time, and always intending to act on it when that person has forgotten about it." (p. 11) (from excerpt 143)

18: "And, you know, just grudges, like hanging onto grudges." (p. 61)

19: "He's got no compunctions really about being violent to a woman." (p. 27) (from excerpt 35)

20: "For example, he, [Mark's] got an anger problem. There's, there's nothing more certain than that." (p. 13) (from excerpt 134)

for 10 years³².

Alana believes that Mark is emotionally stunted: a small boy in a man's body. Her counsellor, who met Mark, agreed, going further to describe him as a toddler in a man's body. Alana also described Mark's tantrums as toddler-like, but much more dangerous³³.

Mark often comes across as a "such a nice guy" and Alana says he has some nice characteristics. Some people, including his sister, would probably be surprised at her perception of him¹³.

21: "From the affidavit it was clear that, you know, he has got a real temper problem." (p. 13) (from excerpt 134)

22: "Because funnily enough [Mark] had said to me when we'd been in... the counsellors office trying to sort out an access plan. And [the counsellor] left for a couple of minutes to make a cup of coffee. And he's got all posters around his room. And [Mark] was looking down at that wall and there was a stopping violence poster, except it was still anger management on that one. And [Mark] was looking at it and reading it, and he said, he said, 'That's what I need.' And I hadn't been looking at it and I said, 'Oh, what?' you know, 'what's that?' And he just nodded his head to the poster, and I looked, and that's what it was. And so he was sitting there saying I need, like it was one of his, 'cause he does have the odd moment when he does realise his problems, and realises that he could do with help. But then they go, you know. And so, at that stage he, he was saying to me, 'I need help for anger.' And he does need help for anger. He really does." (p. 32)

23: "[Mark] is impulsive, acts without thought for the consequence and definitely does not err on the side of safety. Add to this dope, alcohol, mates, boredom, vehicles, guns, and it is a recipe for tragedy." (Alana's own writing) (from excerpt 41)

24: "Well, he actually went to about two or three different drug and alcohol agencies." (p. 16)

25: "[Mark] had taken him, spend his time with [Liam], at a friend's of his place, who was an alcoholic. He was a, a drug addict, not just a dope addict. He'd been in jail I don't know how many times. He'd been committed to [mental institution] down there lots of times. He was like a really, not the sort of person you want your kid to have anything to do with." (p. 18) (from excerpt 42)

26: "When I was strong enough to stand up and say, 'You can't do, you can't treat [Liam] like this anymore. I'm not going to let you take him to druggies places...'" (p. 46) (from excerpt 92)

27: "He would not allow me to protest the use of drugs around [Liam]." (p. 29) (from excerpt 61)

28: "He got stoned, and, and he took [Liam] just for a walk up the track." (p. 42) (from excerpt 67)

29: "[Mark] would have been stoned off his face while he was there, and not looking up, and [Liam] wasn't even three." (p. 19) (from excerpt 42)

30: "And I said [to the policeman], 'Well, he's anti-law.'" (p. 25)

31: "[Mark] doesn't like rules, doesn't believe they should apply to him and won't abide by them if it doesn't suit him." (Alana's own writing) (from excerpt 41)

32: "He's a mental driver, like he's, he didn't hold a license for ten years because of drink driving, speeding, and driving while disqualified. It was just he, he just never got it back because he was always in court over a period of more than ten years. And he was a speed freak, and he was a really scary person to be in the vehicle with." (p. 40) (from excerpt 58)

33: "And then I was trying to explain to [the counsellor], I think, why I was afraid of [Mark] and why I was afraid of [Liam] with [Mark]. And I used to think about it a lot, and say, 'How could I get this point across so people understand what's going on in here with me?' So I said, 'Look [counsellor],' I said, '[Mark] is a really scary person because basically he's a, he's probably about a ten year old boy in a man's body.' And [the counsellor] looked at me and he said, 'Not ten,' he said, 'try a toddler.' And so like he's an experienced counsellor, and even though he had only two hours to assess or make any opinion of [Mark], within that two hours he found that [Mark], in his opinion, was, like emotionally he stopped at, at the age of probably younger than [Liam] is now. His emotional development and skills actually stopped then. And he is. He's like a very young boy in a man's body. And I said to [the counsellor], 'Well, he is, he's this kid in a man's body and

his skills haven't progressed, you know, sort of past this age, and if he has a tantrum,' I said, 'you can't pick him up and give him time-out. And he's very dangerous when he has a tantrum.' 'Cause that's what they are they're like, kids tantrums. And [the counsellor] said, 'Well, that's what jail's for.' But it's, you know, that's, a lot can happen before somebody needs, or, you know, does get put in jail. But he is." (p. 26)

Mark's violence in a previous relationship

Before describing Mark's abuse and violence to Alana, it is important to describe his violence towards his previous partner, Fiona. Alana's knowledge of this further intensified her fear of him, as she knew of what he was capable^{34,35}.

Mark's relationship with Fiona lasted for 10 years. They brought up one child together, although he later found out this girl was not biologically his. Their relationship was very volatile³⁶. He was physically violent to her on several occasions, and repeatedly told Alana of three of these times. Once, he picked Fiona up and held her against a wall until she could not speak and her eyes bulged. Another

34: "He was scary, because of things he'd told me about his other relationship too. Not just violent things though. But on one stage, on one occasion, when she dumped him, she was living, she stayed living in the flat they were in, and he was living in his car. And I mean he told me he, he could not see anything sick about this, but he, there was a car park right next to the flat, and he went and parked his car in the flat, in behind the flat, and he was living in his car there. And he could look through the fence and see her door. And that was what he was doing, and seeing who was coming in and out of her house. Now he told me that in complete innocence as though that was a normal thing to do. He could not see, like, I was like, 'What?' you know. I didn't say that, but in my mind. Because I, I never tried to put him down or criticise him. And I was thinking, 'This, this is not normal behaviour. That's really obsessive behaviour.' .. But it wasn't his behaviour so much, as the fact that he could see nothing wrong with it. Like, he didn't feel, he didn't say to me, 'Well, this might seem a bit weird to you, but I did this.' It wasn't weird to him. It was okay. And it was like, 'Oh man, there's something wrong with you. There is something wrong,' you know. You don't do those sort of things. People don't behave like that, normal healthy people don't do those sorts of things." (p. 60)

35: "[The judge] says... 'This is particularly so in the case where the applicant's perception of the respondent is due not just to what she had observed in their relationship, but also what she had been told by the respondent about his behaviour in past relationships.' The major incident he's referring to there is that [Mark] had told me about three,

time he dragged her out of a car by her hair³⁵.

Consequent to his violence and rows, Fiona would kick him out, and so they lived together off and on³⁶.

Alana was not only frightened by the violence during his relationship with Fiona, but by some of his behaviour once Fiona broke up with him. He was obsessed with her³⁶. During one of their break-up periods, he parked his car adjacent to her flat and lived in it. He watched her through the fence, determining who was coming and leaving her house. What made this even more frightening to Alana was that he did not think this behaviour was abnormal³⁴.

Another time, after their relationship had ended, Mark firebombed the ute^{35,36} of Fiona's new partner because he suspected he was saying horrible things about him to her daughter³⁶. He had no remorse for his actions, telling a judge that he

of about three times, when he was violent with that mother of that little girl... And one of them was, she'd, they'd been having an argument and she'd really pissed him or something. And he picked her up, this was him telling me, and he held her up against a wall. She's about the same size as me, probably slighter than me. And he held her up, and she couldn't speak, and her eyes were sticking out, so. In another incident, he dragged her out of the hair, out of the car by her hair. And this sort of thing. So, he's, he's got no compunctions really about being violent to a woman. So, that incident was in my affidavit to try and demonstrate of what he was capable of. And why, one of the reasons, I was scared of him. So, he was questioned about that. And he told the judge that he told me that once before [Liam] was even conceived, when in fact he told me that throughout the whole relationship, he repeated it often. But the judge says in his summing up, about being afraid of his behaviour in past relationships, 'In that regard, in the early period of their relationship, before [Liam] was even conceived.' So, the judge has taken [what Mark said] as a {inaudible} of truth. 'The respondent told the applicant that he had been involved in an altercation with [Fiona's] boyfriend.' Oh, this was torching the motor vehicle one." (p. 27)

36: "I told [the policeman] a couple of incidences that they might, you know want to take on board. Which, one was a previous relationship he'd been in, and that split up. And it was the same thing, he was obsessed with this woman. And, and he hated her, he absolutely hated her. I've never seen anybody hate anybody so much. And yet when they were together, like 'cause he still, we still socialised in a way, well, she was in the same circles. You'd never know, you'd never know that he hated her. It was like scary too. It was like he had, he had a really bitter hatred for this woman, and yet he could hide it so well socially. It was like, aarrghh, this is weird. Anyway, there was a, a, a little girl born in that relationship. It was a really volatile one. It went for about ten years, and, they never lived together for something like three months at a time. When there was a big row, she always kicked him out {laugh}. But when the wee girl was five, he, he, he found out that it wasn't his child through DNA testing or whatever testing they did. So, it was like done through the courts and

would not pay reparation for the vehicle because this would indicate he was sorry for his behaviour ³⁶ .	everything, and he, he was not the father. And it was totally devastating for him. But then, he also heard that that his ex-partner, the mother of this little girl, the guy that she was seeing, [Mark] believed that he was saying things to put the wee girl against [Mark]. So, he went and fire-bombed his ute, you know. Like, 'What?' And he went to court for it, and he was ordered to pay restitution. And he said, 'Look,' this is what [Mark] told me, that he said to the judge, nah, he's not paying restitution because that would mean he was sorry and he's not sorry. So, he was.. he's dangerous. He is really dangerous, because, I think because he's damaged." (pp. 25-26)
Alana says that whilst she (Alana) and Mark were together, he festered a bitter hatred for Fiona. Indeed, Alana had never known such hatred. Despite his feelings, whenever he saw Fiona through their connected social circles, he hid his hatred and was very nice to her. Alana found this quite scary ³⁶ .	

Alana’s concerns regarding Mark’s treatment of Liam

At the outset, Alana never expected her relationship with Mark to be anything but casual ³⁷ . However, very early on, she got pregnant to him and hence Liam was born. Alana took on full responsibility of Liam’s care because Mark worked long hours and she wanted to make things as easy as possible for him ³⁸ .	37: “In our situation, I, I never was in a relationship with [Mark] that I envisaged being anything more than casual.. Definitely not sitting down saying, ‘Well, let’s start a family.’” (p. 57)
Although Alana experienced problems with Mark before Liam was	38: “I was forty three when I had [Liam], which is quite old to be having a baby {laugh}. And plus, because I was, because the relationship was the way that it was, and because [Mark] used to work quite hard and get up quite early, I took the whole responsibility of the baby on, and [Mark] got the fun bits, and I had all the work. All of it. Because I was trying to make life good and easy for him.” (p. 41) (from excerpt 63)
	39: “Co-parenting with [Mark] (a contradiction in terms) was a nightmare from the time I brought [Liam] home from the hospital. It started before [Liam] was born and it became more and more obvious to me that [Mark] could not be trusted to look after [Liam] properly,

born, co-parenting with him was a “nightmare”. Clear concerns about Liam’s safety were evident from around the time of his birth, and these continued whilst Mark was in contact with their son^{39,40}. Alana said it wasn’t that Mark would deliberately hurt Liam. Rather, Liam was not safe because Mark was very irresponsible and lacked parenting skills^{41,42,43}. He had “very little notion of what is responsible and caring parenting, how to put it into practice and be consistent with it”⁴¹. “Liam’s safety and welfare were not Mark’s first consideration”³⁹.

Alana gave several reasons why Mark was not a responsible parent: he does not like rules and won’t abide by them; he’s emotionally unstable; he acts impulsively without thinking of consequences; he does not err on the side of caution; and he overuses drugs and alcohol⁴¹. Because Mark did not value or have fear for his own life, he seemed

and that [Liam’s] safety and welfare were not [Mark’s] first consideration. [Mark] consistently put his own needs first regardless of what was good or appropriate for [Liam’s] comfort or safety.” (Alana’s own writing)

40: “My whole worry about [Liam’s] safety when with his Dad had started when [Liam] was just little just a few weeks old. And, and was probably one of the major reasons that, that, you know, that we broke up, and that I couldn’t live with him anymore. And we separated anyway, and, but the relationship went on. But then, ah, things started happening that made me really worried about [Liam’s] safety when with his Dad. And I couldn’t talk about it because of, you know, the power and control thing that had run throughout our whole relationship. I couldn’t get anywhere with it, and in the end I got so worried, ah, I did say something. He, he started to threaten me anyway. He got really agro and started to threaten me, not necessarily physically, although {pause}, but anyway, well, that’s, that’s what prompted me to go and start, start the whatever I had to do to get a protection order and all the rest of it. And then things just went from bad to worse really.” (p. 1)

41: “[Mark] seems to have very little notion of what is responsible and caring parenting, how to put it into practice and be consistent with it. Based on my experience and knowledge of [Mark] there is no doubt in my mind that while his intentions might be good, he cannot be trusted to look after [Liam] properly, especially for extended periods of time. [Liam] is at risk while in the care of his father, not because [Mark] would intentionally hurt him, but because his behaviour is irresponsible and untrustworthy. [Mark] doesn’t like rules, doesn’t believe they should apply to him and won’t abide by them if it doesn’t suit him. He’s pretty messed up, emotionally unstable, and knowing his background I can understand why, it’s one of the main reason’s I stuck with him, but until he can sort it out properly and honestly then things are going to keep going wrong for him. [Mark] is impulsive, acts without thought for the consequence and definitely does not err on the side of safety. Add to this dope, alcohol, mates, boredom, vehicles, guns, and it is a recipe for tragedy.” (Alana’s own writing)

unable to value or fear for anyone else's life, including Liam's⁴⁴.

Alana provided many examples of Mark's irresponsibility, poor parenting skills, and inappropriate behaviour with Liam. He used drugs in front of Liam^{27,28,29}. He would not put on, or allow Liam to wear a safety belt in cars or aeroplanes⁶⁵. He encouraged Liam, age two, to roll down a long concrete ramp between the top and bottom floor of a two-storey house on his plastic rider⁴⁴. He took Liam out in the rain whilst he was ill with a cold. Consequently, Liam got really wet and his cold worsened. He would not attend to, or allow Alana to attend to, Liam in the night when he was ill⁶⁷. He dragged Liam, age 3, around a domain on a bonnet behind his ute⁴⁴. He was sexual to Alana whilst Liam was present⁸⁹. He exposed Liam to a fire risk by drying his work clothes in front of, and very close to, a gas heater all night⁶⁴. He handled Liam roughly⁶³.

42: "[Mark] would never deliberately hurt [Liam].. Just through irresponsibility, [Liam's] not safe when he's with his Dad. Just, things like, he'd come home with wet pants when that just never ever happened at any other time. And the first time it happened, [Mark] had taken him, spent his time with [Liam] at a friends of his place, who was an alcoholic. He was a, a drug addict, not just a dope addict. He'd been in jail. I don't know how many times he'd been committed to [a mental institution] down there, lots of times. He was like a, really, not the sort of person you want your kid to have anything to do with. And, that was the first time that [Liam] wet his pants when he was there. Well, see, I know that [Mark] would have been stoned off his face while he was there and not looking up. And [Liam] wasn't even three... His father was not, wouldn't have been capable of focusing on him. He's not when he's straight, you know, for any length of time. For short times he can focus on him. But, so, there were these problems. And it was hard for me to say anything because of the way our relationship was. It was like, 'Jesus.' What do, you know this is not good, I don't like what's happening, but if I say anything to him, he's going to yell and scream and rant and rave at me, which he did. Like I could sort of say even something really reasonable. I get, 'Don't you fucking tell me how to bring up my son,' and, you know, all this sort of stuff. And it was like, 'Ah, don't do this to me,' you know. 'Cause, this is all in front of [Liam] as well." (pp. 18-19)

43: "But my problem was never that, that [Liam] didn't love his Dad, or want to be with him. It was that he wasn't safe when he was with his father. And not because [Mark] would deliberately hurt him, but just because he's an, an idiot basically, when it comes to looking after children, and even himself." (p. 49)

44: "My ideal is that his Dad was caring and responsible. Because there have been times when I'd love to say, 'Ooh, take him for a week because I need the break, or take him for a weekend, or take him overnight.' But I've never been able to do that. And I'd willingly do it if I felt [Liam] would be safe. But he's too, he's little. Maybe even when he's older and he can recognise safety issues. I don't know, I don't know because [Mark] is such, he's so mad. Like, during one of the

He yelled at Liam when he fiddled with things⁶⁶. One time, for no apparent reason, Mark suddenly got angry, leapt out of his chair, walked across the room, and whacked Liam's head so forcefully that he sent him sprawling. Liam was 17 months old. Mark was remorseful later but Alana feared and still fears that he would do something like this again. Except for when he hit Liam across the head, Mark never recognised that there was anything wrong with his treatment of Liam. This is what scared her most⁴⁴.

Some of the above events are described more fully below.

visits, he took his two, his niece and nephew, and [Liam] to a domain. And he had a bonnet, which he tied to the back of the ute and put the kids in. Now, [Liam] was over three, but probably not a lot... And he towed these kids around the domain on this bonnet. Now, this is a three year old, a five year old, and a nine year old, or something like that. The guys got to be whacked in the head to do something like that. I don't care, like he said, 'Oh well, I was only going about walking distance.' But I know [Mark] damn well, and he wouldn't have been going walking distance. And if he started going walking distance and that worked and no body fell off and got killed, he would increase speed. I know him, I've know, I know him. He doesn't value himself, and he has no fear. And you have those things, you have to value yourself before you can value other people. If you don't value your own life, how, you can't value anybody else's life. And you have to fear because fear gives you the ability to look at dangerous situations and decide whether they're okay to do, or they're not okay. He doesn't have fear, he doesn't have it. So, so he can't, like when [Liam] was about two, [Mark's] parents had got a, a concrete ramp that leads up like, the garage is under, the house is on top. And so, there's a concrete ramp, rather than stairs, lead up to it. And [Liam] was two, not much more than two. And he had one of those little plastic ride-on things. [Mark] was encouraging him at the top of the ramp to ride his ride-on down the ramp. And he doesn't see anything wrong with it. This is the scary thing. If he could recognise that, 'Oh, that was a bit stupid.' Then maybe you could get through to him. But he doesn't believe that there is anything wrong with it. And, and that's another reason I'm really scared of him. It's because it's not even like you can sit down and say, well, huh, well, you can't say anything to him, because you just get yelled at and abused. If you pushed it, he would, he would, he would hit me. And I feel quite certain now that he would hit [Liam]. Not for a start, because everything's sweet while it's a novelty. But if he had [Liam] for any length of time and the circumstance arose, I, I know he would hit [Liam]. And I hate to say that, but when [Liam] was about seventeen months old, [Mark] and I must have been having a discussion, I don't know what it was, but it was obviously something that got [Mark] upset. And like I say, we never sort of shouted or anything. So, quite often when he got upset it

was a complete surprise to me. It was like, ‘Why?’ you know, ‘what have we,’ you know, ‘what happened to make you react like this?’ Well, he, he just leapt out of his chair, and [Liam] was sitting on the floor in the sitting room, and [Mark] just whacked him across the head as he walked past, and [Liam] sprawled. Now, [Mark] cried about that later. He was really upset that he’d done that. But he did it. And, and, he, he, he would, you know, he would do it again.” (pp. 44-45)

Mark’s psychological abuse of Alana during the relationship

Mark’s terrible effect on Alana was not limited to his poor parenting and inappropriate treatment of Liam. During and after their relationship, Alana also suffered chronic psychological abuse. The psychological abuse (described below) was characterised, amongst other things, by: excessive control of her; mind games where any option she chose had a bad outcome for her; controlling her as a mother, and forcing her to leave Liam in unsafe situations; destroying property she considered precious; throwing things and making holes in the wall; taunting her with stories of his cruelty to animals; intimidating and frightening her; and isolating her from friends

45: “My son came down and stayed with us, he came down from up north and stayed with us for a couple of weeks, I think. And everybody, I think, everybody around me who was my family knew, they knew I was in a really bad situation. And there was nothing they could do. They couldn’t actually do anything. And I, I didn’t realise that at the time, but I’d think back to things that were said. Like [my eldest son], he said to me, ‘Mum, he doesn’t hit you does he?’ And I thought, ‘Weird. No, he doesn’t hit me.’ But then, I think back and I think, ‘Well, there was obviously something there that made him worry that I might be being hit.’ And it was obvious to everybody in my family.” (p. 38)

46: “I had two years of conditioning, which I didn’t even realise, you know, was really psychological. I knew I was being treated badly, but it if anybody called it abuse, it was like, ‘Oh,’ you know, ‘that’s such a nasty word. I’m sure it wasn’t. He just doesn’t know or he’s ignorant or whatever,’ or, ‘he doesn’t know what he’s doing.’ Or, ‘Poor guy,’ you know, ‘he’s had a really bad upbringing and he’s fried his brain with drugs, and given the chance, you know, he’ll come right.” (p. 62) (from excerpt 106)

47: “I rang my brother... I was in tears. And [I] told him what had happened. And I was just saying to him, ‘What’s,’ you know, ‘what’s wrong with me? What’s wrong with me?’ And he’s like, ‘[Alana], there’s nothing wrong with you.’ But I didn’t believe him, you know. And I didn’t, didn’t believe that for a long time. I thought it was all my fault, you know, simply because he’d told me it was all my fault. All

and family who might support her.

Although Alana's family suspected that she was in a "really bad situation" with Mark⁴⁵, she herself did not recognise many Mark's actions as abusive at the time^{46,47,56,68,70}. Neither did she accept that she was being psychologically abused when a counsellor suggested it⁴⁸. Because Mark would often cry about his difficult past (not about the situation at hand), she would feel compassion and want to support him⁴⁹. She excused his behaviour with his poor upbringing and heavy drug use. She also hoped that he might improve⁴⁵. It took her a long time, with the assistance of a book, to recognise his behaviour as abusive⁵⁰. This book assisted her to understand abuse and violence in terms of power and control. At the time of the interview, she was aware that a lot of his behaviour resembled that described on the Duluth wheel of violence^{40,179}.

the time, it was all my fault, everything... It was, 'No, there's something wrong with me, you know. I'm, I'm too hard on this man, and I expect too much.'" (pp. 39-40)

48: "My other counsellor, this priest, said, 'This guy is systemically abusing you on a psychological basis.' And I said, 'Don't be silly,' you know. I wasn't prepared to accept it at that stage." (p. 21)

49: "That's the thing. He could always get me because he would cry reasonably often. Not necessarily about our situation, but about things that had happened to him in his past. And it was like, 'Oh,' you know, I just can't handle that. I'd just melt if he cried." (p.39)

50: "It was also quite a long process of actually recognising that all these things had happened, you know... And also that book helping me identify things that were abusive. Because they're so bloody subtle, Rachael. Some of them are so subtle." (p. 61)

51: "Why do you need to feel threatened by a man for it to be psychological abuse? That's not how I understand it, okay... There's a big range of it yeah." (p. 28)

52: "It seemed to me that you almost had to prove you were either physically hurt or physically about to be hurt to lend any weight to psychological abuse... I don't have to be on the verge of being bashed by a guy to have been abused by him... Like, my experience of it is that it's really insidious. It, there are heaps and heaps of little things that go to form a picture of psychological abuse... Like, psychological abuse is a real thing and it's a really horrible thing to happen to anybody." (p. 6)

53: "And there is a, forms of psychological abuse which are recognisable too, like, like threats, specific threats. But there's a lot of psychological abuse that's really, really subtle. And reading the book, guys that do it don't even necessarily consciously know what's, you know, going on there. But it's, it's really, can be really bloody subtle." (p. 33) (from excerpt 117)

Alana considers there to be a large range of abusive behaviour⁵¹. Psychological abuse need not be accompanied by physical abuse or the threat of physical abuse to be considered substantial^{51,52}. Although some psychological abuse is recognisable (e.g., threats), she believes it is less straightforward than physical abuse. She conceives it to be very subtle and insidious^{52,53,54}. Men may not even be conscious of what they are doing⁵³. This is the difficulty with psychological abuse: in isolation, some occurrences may seem trivial and insignificant⁶¹. However, many smaller events accumulate over a period to form a "pattern" or "picture" of psychological abuse^{52,54,61}.

Because she recognises that psychological abuse comprises many subtler abusive events, several of these are described below. This is just a proportion of the abusive experiences she endured during and

54: "In some cases, maybe not in some cases, there may be, you know, several really blaring things that happened, which just sort of so point to psychological abuse that it's going to hit the judge in the face anyway. But all the cases aren't like that. Psychological abuse is, from what I've learned, and it, it can be really subtle and it can be build up over a long, long time." (p. 64) (from excerpt 123)

55: "Like, I really loved gardening. And one of the houses we shifted into in [City A], it was a neat old house, and it had quite an enclosed back yard, and a, a porch thing with a roof. And there was a wisteria, which is one of my favourite plants. I just love them. And it grew, it, I quite like wild, rambling, you know, gardens. I, anyway, this wisteria was absolutely beautiful. It was well-established, and it was just glorious. And, and I said, I was really excited, and I said to [Mark], 'My god, a wisteria. Look at this. This is beautiful. I've always wanted one of these. And this is just going to look so lovely.' Well, he got out the clippers, and like, he just {crying} demolished it basically. Now, that seems like such a petty thing but it's not. It's not. Because, it's like, it happened. Those sorts of things happen all the time." {Rachael: "And it's something that you said that you really loved. And to have someone who knows that you love it"} "Someone's who's supposed to love me doing stuff like that." (p. 29)

56: "Well, that's weird isn't it? Like, last time when we were talking and I talked about the wisteria. And I got, that sort of upset me. And it was like, oh my god, you know, that's quite a small thing. And it really upset me." {Rachael: "It didn't seem small to me."} "It was compared to a lot of the things that did happen. And a lot of things I didn't recognise as abuse at the time." (p. 52)

57: "So, when I say about cutting the wisteria as being quite a small thing, but bad enough to get me upset and make me cry. Simply, because it's just an example of everything. It wasn't just that incident that made me cry. It was just like the, the nasty little things that he could do to make me basically hate myself, and feel bad, and feel inferior. And feel all those things that I wrote in the back of the book, that, you know, I felt in the relationship. And, yeah." (p. 58)

after her relationship with Mark. In some, Mark utilised Liam as the tool of his psychological abuse; in others, he involved only Alana. Alana feels that though some of these examples might be considered insignificant on their own, collectively they constitute the destructive pattern of psychological abuse to which she was subject. She found psychological abuse to be a "real thing" and "really horrible"⁵².

For example, having shifted house, Alana was thrilled to find a well-established and beautiful wisteria on the property. She excitedly told Mark how happy she was because she had always wanted one and it was one of her favourite plants. Not long after, he chopped it down to almost nothing. She said things like this happened to her all the time⁵⁵. Although she felt this was small relative to other things that happened, it really upset her⁵⁶, and she cried about it during

58: "I mean, there were, these were the things, like, that were really, really difficult for me. I mean, okay, we'll talk about psychological abuse. When I was pregnant, [Mark] took me out. We were living [in a particular part of New Zealand], and [Mark] took me up some of the back roads. And I'm quite, actually quite nervous on little lanes, you know, high, going up mountains and that. And he wanted to go hunting, he wanted to go spotlighting. So, and he wanted me to come. And I always felt really neat if he wanted me to, you know, go with him. When we first got together, he wanted me to go with him all the time, and then after we were living together it sort of dropped off greatly, and he was doing a lot by himself. And I sort of thought, 'What's changed here? Why, why is this happening?' So, that when he did include me, I felt really good. So, he's, he's a mental driver. Like, he's, he didn't hold a license for ten years because of drink driving, speeding, and driving while disqualified. It was just, he, he just never got it back because he was always in court, over a period of more than ten years. And he was a speed freak, and he was a really scary person to be in the vehicle with. But we toddled up this little road. And it kept getting higher. And I didn't know what was, how bad it was going to be, or where we were going to get a chance to turn around. Okay, I'm a sissy when it comes to that sort of thing. But I said to him, '[Mark], I don't like it,' you know. 'Look, I'm really happy if you let me out here. I'm really happy just to sit here. And you go and do your thing, and pick me up on the way back.' Well, he got angry with me. And he wouldn't let me out. And, and it was just like, I just had to sit there and know that he was sitting there hating me. And, and then eventually, he got, he like got really angry with me, and got the ute stuck. And that was all my fault. And he had to push it out by himself because I was like quite pregnant. And, and he was just furious with me. It was like, well, I couldn't understand it. Because to me, it was, 'I don't mind. You go off and do your shooting. I'm really happy to sit here. I'd much rather sit here than be driving up around these roads.' And he wouldn't let me do that, you know. He wouldn't let me. So, that sort of thing, that sort of thing happened a lot." (pp. 40-41)

59: "He, he knew I was a soft person. He knew I had a real soft heart

the interview⁵⁵. Reflecting later on why she still felt so upset, she explained it was an example of all the nasty things he did to make her hate herself and feel inferior in the relationship⁵⁷.

Another day, Alana, heavily pregnant, was pleased that Mark invited her to go spotlight-hunting with him. However, she gets very nervous travelling on narrow, high altitude back roads. Compounded by the fact that Mark is a reckless driver, she became frightened during the journey. Not wanting to spoil his hunting, she told him she would be more than happy for him to drop her off on the side of the road and pick her up after he had finished his hunting. Mark became very angry and refused to let her out of the car. She was forced to sit there, knowing he hated her. To make matters worse, the ute got stuck and he became even more furious⁵⁸.

Knowing she has a soft spot for animals, he would

for people and animals, and couldn't tolerate cruelty to animals. And that was one of the ways that he tortured me. Because he was brutal to animals, and he would tell me of the incidents. And I didn't know how to react. I, commonsense told me not to react because by, by reacting he would get what he wanted. But it didn't stop him. He would, you know, he would do things and say things." (p. 27)

60: "I didn't have any power with [Mark]." (p. 5) (from excerpt 172)

61: "I've written [on this piece of paper], 'He decided where we lived, who we socialised with, who paid for what. He would not allow me to protest the use of drugs around [Liam]. He held me to blame for problems in his life that existed before I even met him. He used his size, his words, his moods to bully and intimidate me, in order to have things how he wanted them, regardless of the consequences to myself and [Liam].' And like, obviously, I've been, it's really upset me that paragraph [in the judge's summary]. I've put [on this piece of paper], also, 'Except, he lives where he wanted to, socialised with who he wanted to, he worked and gave up work as he wanted to, he blamed me for problems that he had long before I even met him. He controlled, to one degree or another, every aspect of our life together. From our social life, contact with my family, vehicles, [Liam], right down to how the bloody garden should be.' And I mean, this is the difficulty I think with psychological abuse, is that some of things that happen can seem trivial, but when they're repeated, and when, when there's a pattern there, it's abuse." (p. 29)

62: "And if you talk to [Mark], he firmly believes that I controlled him. But then, if asked to give an example of, he would not be able to do so." (p. 51)

63: "I was forty three when I had [Liam], which is quite old to be having a baby {laugh}. And plus, because I was, because the relationship was the way that it was, and because [Mark] used to work quite hard and get up quite early, I took the whole responsibility of the baby on, and [Mark] got the fun bits, and I had all the work. All of it. Because I was trying to make life good and easy for him. And

also torture her by telling her about his brutality to animals⁵⁹.

Alana said she had no power with Mark⁶⁰. He controlled almost every aspect of their lives and made almost all of the decisions. He decided where they lived, who they socialised with, who paid for what, and even what contact she had with her family⁶¹. Surprisingly, despite all this, Mark feels that Alana controlled him (though he has not been able to provide any evidence of this)⁶². He blamed her for his problems and used his size, words, and moods to bully and intimidate her so that he would have things how he wanted⁶¹.

As mentioned above, Mark's psychological abuse often involved Liam. For example, Mark had told Alana that if she ever wanted some help with Liam in the morning she only had to let him know. So, because she was feeling very tired one

anyhow, we'd been on this holiday, and we'd got up to these friends in [a New Zealand city]. And [Mark] would sleep, he might sleep until lunch time. And [Liam] was six months old and still waking up maybe five o'clock in the morning. And this one particular morning I thought, 'No, I'm going to make a stand.' And I said, 'cause he always said to me, 'Look,' he said, you know, 'all you need to do is give me a kick and I'll get up and do it.' So, I gave him a nudge, and I said, 'Oh [Mark],' you know, 'do you mind getting up and giving [Liam] his bottle? Because I'm, you know, I'm really buggered, and I'd like to have a sleep in.' Well, he was so angry, he didn't say anything, but he was really angry. And he got up and he got [Liam] out of his cot and he treated him, he handled him so roughly. Like, this was a little six month old baby, and he, he was just doing it with such bad temper that, he, he didn't hurt [Liam], but he was handling him roughly. And then he plonked him down. And he was so, it was such a bad experience that I was so scared for [Liam] that I never ever asked him to do it again. Which was what he wanted, you know. It was what he wanted. He wanted it to be such a bad thing for me and [Liam] that if he'd be the one to get up and feed him, then I'd never ask him again. And I didn't." (p. 41)

64: "I mean, even after we split up we went and stayed with him [where he lived] for a while. And this one particular night, he hadn't got his work clothes dry, they were washed, but not dry. So, he put them on an airing rack, and he put the gas heater, you know, in front of it, and he put it on three. And [Liam's] bedroom didn't have a door, and it was like right opposite where all this drying arrangement was. And I was worried, man. I was really worried about this, because we were going to be going to bed and this was going to be on three in front of these clothes all night long. And we were away from [Liam] so if there was a fire it would go to his room and we'd be up the front sort of thing. And I said to [Mark], {laugh}, really I suppose as bravely as I could, you know, 'I don't think that's safe mate,' you know, 'I don't think we should go to bed.' 'Oh, it'll be alright,' you know. So, we went to bed. And, [Liam] was about two and a half by this stage, just over. And I lay there until I thought he'd gone to sleep. And then I got up and I checked it. And that was about two or three o'clock in the

morning, she nudged him in bed and asked if he could give Liam his bottle. Mark responded angrily, and handled Liam, who was only six months old, extremely roughly.

Because it was such a bad experience and she was so scared for Liam, she never asked him to help her again. She believes that he intentionally treated Liam badly so that she would not ask him for help again⁶³.

One night, Mark put some damp work clothes on a rack in front of a gas heater so that they would dry for the morning. The clothes were very close to the heater, and the heater was on full temperature. He intended to leave the clothes and heater like this all night whilst they slept. Alana really worried that the clothes would catch fire and endanger Liam. Her fear was heightened because Liam's room was opposite the heater and had no door, whilst her and Mark's bedroom was at the other end of the house. Because Mark would not

morning, I think two o'clock in the morning. And already I could smell the fumes, because the carpet was new, and the carpet in front of the heater was like really hot. And I just rearranged the clothes and put the drier ones to the back and the wetter ones to the front. Now, I should in a normal healthy relationship, that situation would never have arisen. Now, here I am creeping around trying to make my baby safe, doing a sensible thing, and being scared of getting caught for it. And when I got back to bed he was awake, and he said, 'You better not have shifted that stuff.' And it's like, that, that's psychological abuse. And that's really bad psychological abuse because it's involving the children. And it's not allowing, it didn't allow me the right to look after my child properly. I had to put up with unsafe situations." (pp. 42-43)

65: "I mean, we, that time we came back up north we flew up, and [Liam] was six months old. And like I bound myself in as everybody does when they get in an aeroplane or a vehicle, belt yourself in. And when they're babies they have a little round belt that goes around the baby and then hooks on to your belt. And [Mark] was holding [Liam] And the steward, stewardess, whatever they're called these days, came up with [Liam's] belt. And [Mark] of course hadn't belted himself in because he doesn't believe in seatbelts, he won't wear them. And she sort of checked, and she said, 'Oh,' you know, how to attach this, showing him how it should be done. And she came back three times and he refused to buckle himself or that little boy in. And I was like, 'Come on [Mark], I'll put him on my belt. And he was, he wasn't talking to me. It was like he was angry with me, angry with the stewardess. Like, and last time she came back, he had made it look as though he was belted in, and [Liam] was belted in. He had his arm across so that she couldn't see. And she obviously wasn't gonna take him on and make a big fuss of it. She damn well should have... She knew, but she could just tell by the way that he was looking at her. And, and he was like furious because somebody had tried to get him to make his baby safe. So, you know, like psychological abuse very much involved, controlling me as a mother, which I say is basically what got me out of the relationship anyway." (p. 43)

allow her to alter the drying arrangement, she lay awake until he fell asleep at 2 or 3am. She then got up to check the situation and change around the clothes so that the drier ones would be further from the heater. The new carpet was so hot she could smell fumes emanating from it. Despite creeping around so that he would not hear, he was awake and waiting for her when she returned to bed. He told her that she better not have shifted anything. She believes no one in a normal, healthy relationship would have to creep around afraid of being caught for trying to make a baby safe. She felt distressed that Mark would not allow her to look after Liam properly, and forced her to put up with unsafe situations⁶⁴.

Another time, when travelling by aeroplane, Mark refused to put Liam's safety buckle on, and would not allow Alana to put it on. He got angry with Alana for attempting to persuade him, and even

66: "We had a highchair, and it was a borrowed one from his sister, and it had, it was a plastic one. It had a wee rip in the plastic and we used to put that packing parcel tape over it. And [Liam] was only little, man. And he turned round, and he'd pick at it of course. He'd bloody pick at it. It's what kids do.. [Mark] would just yell at him. He would just shout at [Liam] not to do it. He would get so angry. And it was like I was just a bundle of nerves. And this used to happen every, every meal time. When [Mark] wasn't there it was a breeze, it was cruisy at mealtimes. When [Mark] was there and I used the highchair, it was horrible. And so in the end I wouldn't use it any more. I just used to feed him on my knee. And it's like, why do you have to live like that, you know. People, you shouldn't have to live like that. You shouldn't have to live being afraid of somebody else's anger. And never knowing what is the right thing to do, what they want from you. It's really, it's horrible, and it's really destructive." (pp. 41-42)

67: "Like, we went, we went and stayed in a wee batch out in the country there once. And, [Liam], [Liam] had a wee bit of a cold. I think, I can't remember whether he started with a cold, or he didn't have one. Anyway, [Mark] knew the people who owned this land, and we had to go and do the visit thing. And, of course, then the old dope came out and he got stoned. And, and he took [Liam] just for a walk up the track a bit, and it was raining. And it was like, I mean, you should be able to say, 'What are you thinking of?' you know, 'you can't take that boy out in the rain, don't be so silly,' and not have it come back on you. I couldn't say that, and so [Liam] either ended up with a cold or a worsened cold. And that night, he, [Liam] had a pretty bad night, and he was coughing, and he was crying, and he was really unhappy. And I was just laying in bed beside [Mark] dying to get up and pick him up. And [Mark] was just shouting at [Liam] to shut up. He's only a baby.. a toddler and you don't shout at them to shut up. And, and I said, you know, 'I want to get up and get him.' [And Mark said], 'No. He's got to learn,' you know. Oh, I mean, that's not how I raise children. And I was in this trap of being with someone who was, had no parenting skills at all, and I had no power to do anything about it." (p. 42)

intimidated the airhostess for pursuing the matter⁶⁵.

Another example of psychological abuse involved Liam's high chair, which had a small tear in it that had been covered by some tape. Not surprisingly, Liam would sometimes pick at it. Mark would get very angry about this, and yelled and shouted for him not to do it. The situation was so awful for Alana and Liam that she avoided using the high chair when Mark was present, sitting him on her knee instead. Alana believes that no one should have to live in a state where they are really frightened by someone's anger, never sure what the right thing to do is. She described it as "horrible" and "really destructive"⁶⁶.

Mark would not allow Alana to get out of bed during the night to comfort Liam when he was ill and crying. Instead, Mark would shout at him⁶⁷.

Once, when Alana's Mum

68: "Another thing he did, like, my Mum came down to stay when [Liam] was still, really quite small. And we had a, it was actually a three bedroom place, it was really tiny, it was a little old mill cottage. And the toilet was in the bathroom. Now, I didn't recognise this at the time, I just thought it was really bizarre behaviour. But my Mum was in the loo. Because [Mark] was always really nice to my Mum. But she was in the loo, and he wanted to go. So, I said, 'Well, get a bucket, you know, and go somewhere else. Mum's in the toilet.' So, do you know what he did? He got a bucket, and he went into her bedroom, and he shit in her bedroom, in the bucket. And, I mean, I was like quite shocked, and thought, 'That's really bizarre, man,' you know. What a, why would you do something like that? We had all this long grass out the back that led down to a river. If he was really desperate, he could have gone down there. And, but that was another little thing that I sort of chose not to look at too carefully. And I think, once again, like they talk about, in psychologically abusive relationships, how they try and separate you from those people who are likely to support you. And I think that's what he was doing. He knew damn well that if he came out and he was outwardly horrible to my mother that I wouldn't tolerate that. So, I think what he was doing, was making it, making it a risk, that I would see it as a risk for my Mum to come and stay, that, if she saw something like that. But he would insist on sex in a place where Mum could quite easily walk in and catch us. And it was like horrible, it was horrible. Because I didn't want my Mum to face anything like that. And yet it was like, I didn't really have a choice, because my life would be hell if I didn't go along with it." (p. 57)

69: "Also, that book helping me identify things that were abusive. Because they're so bloody subtle, Rachael. Some of them are so subtle. It's like, I had two brothers living in [an area of New Zealand]. They were still there, and their wives. And one in particular, my younger brother, I was really close with him. But because they live quite, a wee way out, they, right out in boon docks... And so we didn't see a lot of each other, but it was really cool like when they did come into town, and they'd call in for a coffee, or whatever. And, and after those visits [Mark] would say, 'Oh, I get the feeling they don't like me,' or, 'I get the feeling that I've, you know, done something to upset

was staying with them, Mark was unable to get access to the toilet because her Mum was in there. Consequently, he went into her mother's room and defecated into a bucket. Such inappropriate behaviour by him made it risky for Alana to invite her mother to stay with them, and she subsequently became even more isolated. Although she thought his behaviour was bizarre at the time, it was another event that she chose to pay little attention to⁶⁸.

Mark also isolated Alana further by insisting they have sex in places where her mother could easily discover them whilst she was visiting. She felt she had no choice but to have sex with him in these uncomfortable circumstances. Otherwise, he would make her life hell⁶⁸.

Furthermore, after each time her younger brother and his partner visited, Mark would play mind

them.' And I'd been sitting the whole time and the conversation was normal to me, and he wasn't being excluded or anything like that. But that was just a, a tool and method to make me feel uncomfortable, once again. And it worked. Because I did, without knowing why, I was being loyal to [Mark] and thinking, 'Well, god, I hope they're not upsetting them or anything.' ... And it was, it was distancing me from my family." (Rachael: "So, yeah, I understand what you mean about it being very subtle.") "Yeah, really, really subtle." (p. 61)

70: "I mean, my daughter, [Mark] hated her, he absolutely hated her. And I read in that book that they don't, they don't like anybody around, like, he wouldn't like anybody around me who doesn't actually reinforce what [Mark] wants or how he wants to live. And so, what they do is, they try and get rid of the people, who I guess that can say, 'Mum, or [Alana], what the hell are you doing here? You know, this guys no good.' And they don't want that, so, they'll do things to, you know, make it difficult for you to see those people who are likely to support you. And that's certainly happened to me. But at the time I would have sworn black and blue that it hadn't." (p. 37)

71: "Well, I was sort of reasonably isolated, and, only in that it was a new town. And, and [Mark] was away from, he'd be away for twelve hours in a day. Anyway, we found out that just around the corner from us, a wee way, were a couple that [Mark] had known from [City B]. And they were, they were alcoholics, and right into their dope, but they were a pretty nice couple, you know. And anyway, [Mark], he'd never been exactly friends, they'd been associates... But [Mark] decided that, you know, we would start socialising with them. So, we sort of did... So, we'd go around there... After [Liam] was born, so, like we didn't see them lots and lots, but we would see them every now and then. And after [Liam] was born, they started, I don't know, sort of looking after me. So, that they'd come round to my house if they were going into town, which was a half hour drive away. They'd come around to my house first, and they'd come in and they'd have a coffee... I quite liked the relationship. It was good, because I liked talking to them when they were sober and not stoned. And we'd have a coffee, and they'd say, 'Is there anything we can get you in town?

games, saying that he had the feeling they did not like him. Although she had not noticed anything to indicate this, she was loyal to Mark, and became isolated from her younger brother and further distanced her from her family⁶⁹.

Mark isolated her from friends as well. Indeed, he did not want anyone around her who might question his behaviour or offer her support^{68,70}. One time, when they had moved to a small town and Mark was working twelve hours a day, she got to know better a couple they saw socially (Mark had earlier made the decision that they would socialise with this couple). They were helpful and supportive, offering to do small errands for her whilst they were in town. Before long, Mark decided that they were not going to socialise with them any more and forbade her to see them again⁷¹.

When Alana gave birth to Liam, Income Support Services required that she

Because you've got the baby, and we know it's difficult.' ... So, they started being nice. And anyway, I never thought about it at the time, but I'd, you know, say to [Mark], 'Oh, you know, they called around today. And they picked up some nappies from town and brought them home, and had a cup of coffee.' And that sort of thing. And not long after that started happening, he came home, [Mark] came home from the pub one night, and he said, 'We're not going to have anything to do with [this couple] anymore.' ... I said, 'I'm not going to do that.' But he was adamant. And I, I didn't stop seeing them but... I think what was happening was that these people were befriending me on a different level to [Mark]. And we were having a relationship where they were helping me. And I don't think he liked that. I can't understand why. This is all in retrospect. I couldn't understand it at the time. But looking back, I recognise it now... And that's the only thing that I can think of, is that we were having a relationship that didn't involve dope, that it was straight, it was helpful, it was nice. And he didn't want that, he didn't want that obviously." (pp. 55-57)

72: "See, another thing he did, I suppose in a way this was one of the forms of psychological abuse that he used on me, was after [Liam] was born. I'd actually been on the sickness benefit prior to him being born. And so they knew I was with social welfare, they knew about me. And I mean, I'd lied and said I'd lived on my own and all this sort of thing. And after [Liam] was born, I said to [Mark], 'Well, you know, we've got to register him. We've got such and such a time to register him. We'd better get that sorted out. What are we going to do? How are we going to do it?' And like, he would just go, just with me saying it like that, he would just sulk and not say anything, not give me an answer. I probably approached him at first. I was just cool but after that. It was like, it was a worry for me to approach him about it.. One time he said to me, 'You'll just do what you want anyway.' And that was all I got out of him. Or I'd ask him, and he would just, like, his face would immediately be a sulk. I don't know why. I still don't know why. But he wouldn't give me any answer. In the mean time, social welfare were writing me letters saying, 'Hey, look,' you know, 'you've had your baby now. You must have had your baby by now. You need to come in and get on the DPB so you can get more money.' And I

give them a copy of his birth certificate. Unsure whether Mark would want his name on the birth certificate, as it would affect the benefits they were receiving, she asked him what they should do. Mark sulked and would not speak about it. Because each time she brought up the subject he sulked, she became worried to approach him about it. She felt very stressed and confused about what to do, and knew he would get angry at whatever option she chose. Because Income Support Services was applying pressure for her to provide the birth certificate, she was forced to make a decision (Mark was still refusing to tell her what he wanted her to do). In an attempt to appease him, she gave Liam his surname, but did not name him as the father on the birth certificate so that he would not be financially disadvantaged. Mark, later, used this against her. She hated having to think for two people, trying to work out what he wanted, and

knew to be on the DPB, I had to turn up with the birth certificate. So, I was saying to [Mark], 'Look, we really need to do something.' And he, he just wouldn't. It was weird. I mean it was abusive. It was just fucking with my mind something wicked. Because I didn't even know where he was coming from, or what he was getting at, or what he wanted me to do or say, or whatever. Well, you can't, as you probably know, you, you cannot put the father's name on the birth certificate without him either being there or giving you a signed permission note to do it. Which, I wasn't getting anything. I wasn't even getting words from this guy. And it hurt me, because it really hurt me. I guess what I wanted him to say was, you know, 'We'll go and put both of our names on it. And you're going to go off the DPB, you know. You're not, you're not going to be on it. We're going to do this properly.' But I didn't get that. So, I thought, 'Oh my god, what,' you know, 'what am I going to do? How am I going to do this so I don't get in the shit, and I keep the peace, and he's not pissed off with me?' ... Well, what I did in the end was, I went in five months after he was born and I gave him [Mark's] surname. And I could only put myself down as the parent, as the Mum. So, to me that was a compromise. It was like, I don't know what to do, you know. I can't put his name down. I'm not allowed to do that. I put my name down as Mum. But, you know, I'm sure [Mark] would like it if [Liam] had his surname. So, it was like, all the time trying to do thinking for two people. Like, do my own thinking, and then try and figure out what it was that he wanted from me, what he wanted me to do.. He wouldn't tell me.. Later on, in one of his affidavits, I think it is, he says, that he believes I was trying to remove [Liam] from his life. And one of his reasons for that was that I'd never put him on the birth certificate." {Rachael: "What a twist."} "I know. He's, it's, it's quite, I don't actually know how I even got, you know, came through really. Because I've never had anybody screw with my head before. And it, it's really, really hard. It's, it's a nightmare." (pp. 35-37)

73: "See, another thing that he used to do, which I thought bizarre, which nobody else has ever done to me before. Ooh, this is probably getting filthy. But like, like with oral sex, with sucking him off, like, I was really shocked the first time he did it to me, but he. Because

then being wrong whatever choice she made⁷².

Mark's psychological abuse also involved sexual coercion. During oral sex, Mark would actively force her to swallow his semen, despite her not wanting to do this⁷³.

Mark would also check through the phone bill to ascertain to whom she had made toll calls. More specifically, he was checking how many calls she made to her ex-husband's number (Alana's elder son lived with her ex-husband). She felt awful knowing that someone was checking on her. Also, a photo of an ex-boyfriend and his friends went mysteriously missing. Although small incidences, they were creepy, and she felt as if she was playing someone who worked on a different level⁷⁴.

When Mark got into trouble regarding a drink driving offence the police made several attempts over a period of time to make

whenever I've done that in the past, I never swallowed, you know, I always. And that was fine by any of my other six and a half million partners, which I mean is about six {laugh}. But it was cool with everybody, everybody that I had sex with, that was just normal. But he wouldn't let me. And he would always hold my head down and make me swallow. And I didn't like that. But I didn't, all of these things, I didn't actually associate, I didn't recognise them as psychological abuse." (p. 34)

74: "I used to ring [my ex-husband's house], 'cause my son was still living at home. So, I used to ring there occasionally. And if [my ex-husband] was on the phone, we'd chat away, and then I'd talk to [my son]. And I never realised that he was actually, 'cause he never made toll calls, or very rarely, and he was checking the phone bills to see how often I rang home rang, the farm. And he never said anything until we might be in a discussion about something. And then, it would, well, you know, 'I feel the meat in your sandwich. You're ringing your ex-husband, you know, every week.' Which was not true. But the shock that he was actually checking up on me was awful. I didn't like that. And then, and that didn't sort of come out, he must have been doing that for some time. And then, another weird thing. I had photos of, which I'd brought down, when I went to Polytech in [City A], I'd brought down a range of photos of family, and my dogs, and my children, and some of my friends. And one of them was a photo of that [old boyfriend], that bikey that I saw before [Mark]. And his mate. And I'd been friends, you know, friends with [that old boyfriend's] mate as well. In fact, that was just amongst my stuff. And we went through each other's photos, and, you know, showed each other photos and that. And, and [Mark] saw the photo of [my old boyfriend], and knew who it was, [this old boyfriend] and [his friend]. And it was like, you know, it was cool. Like he'd always told me he didn't believe in jealousy, and, you know, you should be able to talk to your ex-partners. And so, to me there was no reason why I shouldn't show it to him, and say who it was. And that photo disappeared {laugh}. It, it, it went, you know. And so, the only thing that I can think of is that he took it, you know. There was nowhere else it could go. It was just like me and him and [Liam] living together. And it, the photo, had just

contact with him at their house. Every time they came around, Mark forced Alana to answer the door and protect him. Being a law-abiding citizen, she felt very uncomfortable about this, but was forced by Mark to mislead the police. On their final visit, the police phrased their questions in a way that compelled her to provide the information they needed. Mark would not talk to her for three days. Alana felt grossly manipulated and then punished by Mark, despite doing everything she could possibly do in the situation. It was at this time that she realised without a doubt that she and Liam were no longer safe⁷⁵.

Another time, for no apparent reason, Mark threw a cup in her direction, smashing it. He then flung back the door so forcefully that it made a hole in the wall (the door narrowly missed Alana). Yelling at the top of his voice, he dragged her past Liam's room. She was

totally disappeared, it's gone. And so, little things like that can make you feel, even though they're quite small incidences, they can make you feel quite creepy. That you're not actually dealing with someone who's, you know, playing with a full deck really." (p. 40)

75: "Also, at that stage, he'd been done for drunk driving again. And they'd stuffed up the summons. He was actually put through a boozebuster, so he got the ticket and the summons at the same time, and they'd stuffed up the paper work. But they knew the vehicle, because it was my vehicle. Anyway, the cops came round knocking on our door. And like that happened four times, and he trying to find out who this guy was, 'cause they'd messed up his name. But they knew me, and they knew my vehicle. So, they'd, and every time they came to the door, he would like scuttle out of the room. And I'd say, [Mark], I don't want to deal with this. This is your stuff. You deal with it.' And, no, no, you know, and he wouldn't face it. And he'd like, basically forced me to, to deal with it. And it was horrible, and I hated it. And, and in the end, I went to a lawyer, and I said, 'This is the situation. I want to know what sort of trouble I can get into if I keep basically lying and misleading them as to who he is.' 'Cause they didn't have his last name. And the lawyer, he was such a sweetie, he said, 'That's.' I told him that [Mark] was making me go and answer the door to the cops. And he said, 'That is despicable.' And that actually made me feel quite good, because I, I sort of thought, but I thought, 'No, I'm meant to be the loyal woman who stands between her man and all danger, sort of thing,' (laugh), you know. So, the last time the cops came around looking for him, they put their questions in such a way that unless I lied outright to them, I had to answer. So, they said something like, 'Is there a [Mark] lives here?' And I had to say, 'Yes.' 'What is his last name?' And I had to give it. And he wouldn't talk to me for about three days because I'd done that. Now, that's psychological abuse. As far as I'm concerned, those sorts of things are psychological abuse. So, manipulating you in the extreme, and then punishing you for when you've done everything you can possibly do, you're still punished. And so, at that stage, that was January, and things were not going too well, really. But I didn't, I no longer felt, I'd identified without a doubt that I was no longer safe and neither was

afraid that he was going to hurt him. However, he continued to drag her outside and into the carshed, where he got out his rifle. During this extremely frightening experience, she was afraid that he was going to shoot her or himself, and so she tried to calm him down. She apologised profusely but did not understand what she had done wrong. He told her if she ever left him he would either shoot her or himself (Alana was unsure who he intended to shoot if she left him). He then went back inside, got Liam out of his cot, and they sat on the couch. Alana felt completely shell-shocked. In the calmness that descended, he decided to get some help from an alcohol and drug service. Despite leaving for the appointment the next morning, he came back very drunk at 3am the following morning. Realising that things were never going to be okay, she got hold of Relationship Services. She felt so low she could not

[Liam]." (pp. 38-39)

76: "Anyway, this particular night, something had happened. Nothing bad, just talking, I don't know what. And all of a sudden he just bloody well lost it. [Liam] was in the cot asleep. And he stood up and he just hit this cup, man. Not actually at me, but in my direction. It just smashed on the mantelpiece. And I thought, 'Ah,' you know. I just was like immediately almost in shock, because it was so, like, scary. And then he grabbed, we lived in an old house, solid old house, and he grabbed the door and he flung it back. And that missed me by about that much and made a big hole in the wall. And then he was like yelling, and I don't even know what he was saying. It was just like this noise, just this angry man. And he grabbed me, and he dragged, started like, well dragging me in that I wasn't, I couldn't not go because he was making me go out of the room. And like all I can remember thinking, like, my mind was pretty much a white-out, except for, 'My god, my god, please don't let him do anything to [Liam], don't let him hurt [Liam].' 'Cause we were going towards Liam's bedroom door. And as soon as we passed that it was like, you know, this relief. And then I, he kept dragging me outside, and eventually took me out to the carshed. And I was hysterical. I didn't know what was going to happen, but I knew it wasn't going to be anything good. And funny thing, but my only instinct, I guess, made me take the blame. I didn't even know what was going to happen. I didn't even know what it was about. But I kept saying, 'It's my fault, it's my fault, I'll get help, I'll do this, I'll,' you know. And I don't even know why I was doing that, but looking back I was probably trying to calm him down, because I guess, yeah. But we got to the shed and he pulled his bloody rifle out, and I didn't know whether I was going to get shot or he was going to shoot himself. And I mean you can imagine the bloody mess I was in. And, and then he." {Rachael: "It sounds terrifying. And unpredictable as well."} "Oh, really, really unpredictable. And he just said to me, I, I'd sort of calmed him down a little bit, I think, 'Please don't do this [Mark], don't do this,' you know, ra ra ra ra, all the bloody carry on that you can't even really remember what it was, just a feeling for it. And he said to me, 'If you ever leave me, this is what's going to happen.' And we went back inside. And he went and got [Liam] out of

look into anyone's eyes. She was also very scared that Mark would physically harm her and Liam⁷⁶.

Because of the power and control that ran through the relationship, Alana could not bring up any concerns, including those that related to Liam. On the few occasions she did, he would storm out and avoid the issue, or he would scream and yell at her, often in front of Liam. Consequently, Alana went to great lengths to be very diplomatic. She was invariably cautious what she said and did, trying, often impossibly, to appease him because she was so afraid of the consequences should she upset him. She felt completely trapped with someone who had no parenting skills. She did not want things to continue as they were (with Liam being unsafe), yet she was powerless to do anything about it, because of his frightening and obstructive reaction. She strongly believes no one should

his bed, and, and we sort of sat on the couch. And I guess I was just shell-shocked really. Lifeline was the outfit that we, well, he called Lifeline. And Lifeline came. And that was the next day. And they spent ages talking with [Mark], and made him an appointment at A&D. Well, he went, huh, he, this was getting close to Christmas. They made him an appointment at A&D, that's what he wanted. And eleven o'clock in the morning of the day of his appointment. And we'd, things had been calmed down, which they do after a crisis, don't they, 'cause the fucker gets what he wants. So, everything's sweet again. And eleven o'clock, he, we'd been looking at the paper together. And he, it was time for him to go to his appointment in [City A]. And, you know, we had a big hug. And he was so positive man. He said, 'Look,' he said, 'babe, I really think that things are going to work out from now on.' So, he left the house at eleven in a really positive good frame of mood, frame of mind. And I didn't see him again until three o'clock the next morning. And it was like, huh, I didn't know where he was or what had happened. I didn't know how to get in touch with him, and I never did that anyway. Like, if he was ever away for a long time, I was determined not to be one of these women who checked up on their men, and rang around the mates to see where he was. I never did that. I didn't see him again until three o'clock the next morning. And he came in and he was off his face and drunk. And I knew then that this was never going to ever be okay. And I got hold of Relationship Services. And, and that was the period of time that I was so down to it that, I mean, I couldn't even make eye contact with, with people. And, I got Relationship, I made an appointment with the Relationship Services. And they met me, actually, at the Plunket rooms, which wasn't too far away from where we lived. And it was now a case that I was really scared for myself and [Liam], got really scared of something physical happening." (pp. 37-38)

77: "[Mark] and I never used to argue. We never used to have the screaming matches. I would quite often want to talk about a situation to see if something could be sorted out about it. And so, we might talk, but not very often. Because [Mark's] way of dealing with things was to storm out and go to the pub, or yell at me and then storm out."

ever have to live like
that^{40,42,64,66,67,68,77,78,79,80}.

Alana does not think others have a good understanding of psychological abuse^{81,116,117,118,122,123,136,181}. In fact, despite all her reading she does not properly understand it herself. She is aware that despite being a strong person, it happened to her, and she would never have believed that this was possible. She has not let a partner treat her badly before or after Mark⁸².

Alana did talk about some of the factors that contributed to her remaining in such a destructive situation: love, children, and overestimation of the strength she had to help Mark. She said the presence of love for Mark, acted as 'the hook'. Her child trapped her, in that she wanted to keep the peace so that Liam would not be affected by Mark's behaviour. She also wanted Liam to have a father present in his life,

(p. 35)

78: "And, you know, like I'd say to him, he'd say, 'What's the problem?' This is over the phone. I'd say, 'You know, I'm sort of pretty worried about [Liam].' Because I was always trying to be so diplomatic. I'd turn myself inside out trying to find the right way to say it.. not to upset him. And I'd say, 'Well, you know, it's this driving thing, you know. I'm really worried about that [Mark].' And, he'd say, 'You're really asking for it now,' you know. Stuff which written down in an affidavit doesn't, they're just words. But when they're being said to you, they're really, really frightening. It's really scary." (p. 46)

79: "So, then, I had the problem of, how do I make sure [Liam] is looked after properly without making [Mark] angry, and risking the relationship, and the family? And in the end, there was no answer that I could find. And there never was.. I never found an answer, and I tried really hard, and I never found it." (p. 62) (from excerpt 106)

80: "No matter how I approached [Mark], I could find no way to appeal to him about his behaviour involving [Liam] and his responsibility to [Liam], without causing a nasty situation and putting the relationship at risk. I became caught up in this huge dilemma of how do I protect [Liam's] safety and welfare and keep the relationship going. Many times I was faced with the choice of standing by and biting my tongue or facing [Mark's] anger and hostility and worsening the risk to [Liam] and myself." (Alana's own writing)

81: "I can only talk about my own experience, but I don't think there's a true understanding of psychological abuse.. I really don't think there is at all. I mean there may be for some people." (p. 33)

82: "And another interesting thing, I've written it down here. I think one of the reasons that psychological and emotional abuse has a long way to go before it's accepted seriously is that it's so common. And it's really common, eh. And it's so common that I think a lot of people think that that's okay, it's the norm, it's alright, well, some people may not condone it. The perception may still be that the

and for Mark to have his child and be able to act as a father to him. She said the moral argument over the importance of fatherhood, for both the child and the father, entrapped her for some time. Alana also spoke of wanting to make Mark's life better for him: if she could have magically done this, she would have done. She believes that some women, including her, over-estimate their strength. Whilst trying to build up their partner through all his weaknesses, women end up weaker than when they went into the relationship. She had thought that her life experience combined with her strengths (e.g., tolerance and patience) would ultimately lead to him becoming a stronger person himself. This did not happen and she now doubts it ever does⁸².

Alana believes that psychological abuse is very common and this is one of the reasons it is not taken so seriously. She also feels that though some people

woman is weak in putting up with it. And this shows a tendency to put blame on the woman instead of her partner's bad treatment of her. It also shows a lack of understanding of the dynamics of the situation. Hell, I don't properly understand it myself, but I do know that I'm not a weak person and it happened it to me. So, even if I don't understand it, I know that that argument that it only happens to weak women is false. Because I wasn't, you know, I wasn't weak. If anyone had told me how my relationship would be and the effect it would have on me, I would not have believed it. I would probably have said something like, 'What do you think I am? I'd never let a man treat me like that. He'd be down the road fast enough to make your head spin.' Which is what I would have done, you know. I mean, I never let anybody walk over me ever. Two, two other guys that I was involved with, one before [Mark], he was a, an ex-bikey, and he was a bit of a hard man. And we had a relationship... But I was fine in that relationship. And in the end, I didn't think I was being treated right, like treated like a queen for a start.. I mean, I let it happen, but not for very long. And I decided that, 'This guy's not treating me right, and I don't deserve to be treated like this, so see you later.' Yeah, and so, I mean, I was capable of doing that. I presume because, I never, I mean, I really liked [that boyfriend], but I guess, I obviously wasn't in love with him. Because that's the hook. And then after [Mark], I had a guy who was really very nice, he was really nice. He, I got to know him, he'd come to my place and have coffee... And then the last time I ever had anything to do with him, he turned up to my place at about two o'clock in the morning, and he was drunk, and he knocked on my bedroom window. And I was furious. Because of course, it took me back to that other guy that used to come and knock on my window. And I wasn't even having a sexual relationship with this bloke. So, I just, yeah, like I really ripped him, told him off, and told him to get the fuck out of here. And, you know, if he wanted to impress me, that was the very last thing that was ever going to do it, was to turn up at my place drunk and knock on my window. And, and anyway, he did leave, and he fell over the gate, and I hope he hurt himself {laugh}. So, I guess why I'm saying that, is that, that was two occasions, both, one before [Mark], one after [Mark], where I wasn't going to take this behaviour from a man. But I took it from him, I took it from [Mark]. Well, they say

may not condone abuse, they think that a woman is weak for putting up with it. In effect, these people blame her instead of her partner⁸². She also believes that drugs and alcohol are at the bottom of a lot of relationship troubles⁸³.

one of the traps is children, you know... And you try and do the right thing. And then once you're in the situation of living with him, and you have this child, ooh, you know, it's like wanting to keep the peace so that your kids aren't affected by their father's behaviour. Wanting them to have their father, that's a biggie. And wanting their father to have them, that's another biggie. 'Cause, I mean, this guy, he had my heart strings completely tied up. And if he talked about his childhood, or I guess, I wanted to make his whole bloody life better for him. I wanted to put things right. I mean, if I'd had a magic wand, I would have waved it and put things right for him... Also, I think some strong women, and this, this is what I thought was going on with me, who believe that their strengths allow them to ride through their partner's weakness. And that in time, your strength will pull them up to be strong too. And [these women's] strengths, like patience, tolerance, loyalty, consistency, understanding, empathy, forgiveness, and faith. And all those strengths, I think I believed that if I just held on to that, if I kept on showing him that he could trust me, that I had faith in him. But while you're doing that, while you think you're being strong, and you think your strengths are protecting you, they're not. They're not, because you're being, like, undermined in so many different ways, that in the end, you're actually weaker than when you ever went into that relationship. So, I think that that's a biggie, is that, you believe you're strong... I thought, 'Well, shit, you know, I have been through a fair amount of life. I'm, I have got, my values are solid. I know what I'm about. I've got, you know, my, I'm just pretty settled in myself, and pretty sorted out. And he's not. And so, if he does these silly little things, or does different things, or, I can tolerate them. I've got the tolerance and the understanding that, you know, I'll let it cruise. And if I let that cruise, well, eventually, he's going to become stronger and more confident and all those things. It didn't happen. And I don't think it does. I don't think it does really.'" (pp. 53-55)

83: "I do believe that drugs and alcohol is at the bottom of a lot of the trouble that people get into. Especially in, you know, relationships, and that sort of thing." (p. 34)

Separating from Mark

After December 1996, Alana became certain that she was in a “dangerous relationship” with little hope of improvement. Knowing she had to leave permanently for Liam’s safety, she discretely separated out her gear in preparation. As it happened, in August 1996, Mark’s job ended. He decided to move from [City A] to another region of New Zealand for work, and intended her and Liam to move with him. However, Alana saw this was an opportunity to “remove Liam and [herself] from an at risk situation”. They decided that he would move to [Region A] and she and Liam would move to [City B]. They had the understanding that he would work on his problems. They also planned to “work at putting the relationship back together on healthy ground”. She was heartbroken, not really wanting to go and still wanting everything to work

84: “After December 1996, and when [Mark] did not follow through with A&D [in City A] or his anti-depressants, I knew [Liam] and I were in a dangerous relationship with little hope of things getting better. I consulted a lawyer, Relationship Services, and got quotes from removal companies to shift [to the other island of New Zealand]. By August 1996, I had separated as much of my stuff from his as possible without it being obvious, ready to take off quickly if I needed to. In August 1996, [Mark] was made redundant and decided he would get a job [in a certain part of New Zealand] and we would move back [there]. I took that opportunity to separate, telling him I could not shift back to [this part of New Zealand] with him, with the ways things were between us. We agreed it was not over between us, he would go to [this part of New Zealand] and try to sort himself out, we would go to [City A] and we would work things out. I saw it as a safe solution to remove [Liam] and myself from an at risk situation as well as an opportunity to work at putting the relationship back together on healthy ground.” (Alana’s own writing)

85: “Well, we left [City A]. And me and [Liam] went to [City B]. And he went to [Region A], because he had a job to go to. And we, well, like, we were still basically a couple. We weren’t seeing other people. And when he came over, we were sleeping together and doing things as a family, and that sort of thing. But the abuse basically was carrying on. Because, from the point of view that, like, he’d come over and we’d spend time as a family, and sleep together. And it was like, I guess, the hope was and the understanding was that he was going to get over there, and we were going to have time apart, and he was gonna sort of work on, on his problems, really, and work at getting back together again. So, he’d come over, and then he’d like go away. And I just I wouldn’t hear from him. I wouldn’t know when he was coming back next. He would just, sometimes, he’d arrive on my doorstep on a Saturday morning, or he’d ring me the night before. And it’s an awful situation to be in. Words, I don’t think words can really express, you know, what you go through. It’s a real rollercoaster of emotions.” (p. 15)

out for them^{84,85,86}.

Intermittently, Mark travelled to [City B] to see Alana and Liam, and so the relationship continued somewhat, on both a sexual and family level. However, the situation became a “real rollercoaster of emotions” for Alana because of his erratic involvement with them. Sometimes he would not contact her for a long period; other times he would give her little notice or just turn up unexpectedly. It was an “awful situation”. She does not think words really express what she went through⁸⁵.

After hitting a “really, really bad patch”, Alana rang Samaritans, who were unhelpful to her, and accused her of being in a co-dependent relationship. She subsequently attended a co-dependency group, which did not relate to her experience at all. She knew she did not want Mark's problems to continue so that he would rely on her.

86: “And then eventually, I, I started separating all my stuff that I could, that he wouldn't notice. Because I knew that if I was gonna go, I actually had to rush away quickly, while he was at work. As it ended up, it didn't happen that way at all. But, you know, another opportunity came up. And I guess I took it. And I took it with a bloody broken heart. I didn't want to leave him, you know, I didn't. I wanted it to be good for us. I wanted us to be a family, and for everything to come right, and to make it work. And, and I was heartbroken.” (p. 39)

87: “So, it was like ogghh. Anyway, in the end, I, I hit a really, really bad patch. And, and I got off my butt and I actually, I tell you what, I rang Samaritans. Because I just crashed. And, she said, the woman I got was like, not helpful at all. And she said, ‘Oh,’ she said, ‘what do you want?’ She said, ‘Do you want, do you want a lover, or do you want a son.’ Or something like this, similar, something or other, to that, it wasn't a son, I don't know what the other thing she. And I was like, ‘Aaahhhh, don't talk to me like this,’ you know, ‘I don't need this.’ ... She said, ‘I think you're in a co-dependent relationship.’ And I'd never heard of co-dependency before. And I, it sounded like she was accusing me of, of, that's what it sounded like to me... And there's not very much information about it... Like, I'm quite a resourceful person. And if I want to find things out, I'll just search and search for a number, and until, you know, I find what I want to find out. Which is another thing that worries me for other women in my situation, who maybe don't have those skills. And they must be totally lost. Like, I was lost, and I was able to, to ring for help and ask for help.. I found a number for a co-dependency group, and I thought, ‘Well, I'll go along and see what this is all about. And it actually told me nothing, because they didn't identify what co-dependency was. And so the best that I could get out of it was, co-dependency, this is the only understanding I had of it, was that it's when you want your partner, you don't want him to get out of whatever is his problem, because you need him to rely on you. And that was my understanding, from all the information from anybody I talked to, that was what it was. That, so, you know, you need him to have his addiction problem so that you're the one that's there to help him. And that was like, ‘Eerrrh, no, why do you think I'm not living with this bastard anymore?’ sort of thing,

She wanted him to change; because he had not, she had left him⁸⁷.

Alana became increasingly aware that there was no hope for their "strange sort of relationship". It was "taking a real toll on [her]". She was sick of his unpredictability, and of being treated "hot and cold". She repeatedly tried pulling away from him, but it did not seem to work. When she suggested that Mark take Liam off on his own for a few hours, he would only go off for a short while and return to spend "ages and ages" in her home⁸⁸. One time when they broke up, she told him that their sexual relationship had to stop. Continuing a sexual relationship was no good for her, and she required a complete break to get on with her life. Immediately after this conversation, Mark walked across the room and started making love to her. It was "real mind games". He would "screw with [her] head whenever [she] pulled

you know." (p. 16)

88: "When I realised that there was no hope for this relationship, and I was sick of being treated hot and cold, never knowing when he was going to turn up, never knowing what it was going to be like. Because when he used to turn up for visits, we went off as a family. So, I, I knew that it was taking a real toll on me, sort of being in this strange sort of relationship, where the guy. And I, I also felt an invasion of privacy because he'd come and he'd just stay at my house, and like use my house as his house. And, you know, after a while, I sort of knew that I had to, if I was going to get better I had to pull right away from that. And I'd tried lots of times. And I, I said to him, 'Look, you know, we're not a couple any more. Can we just keep this casual and light?' But it never worked. I don't know how I got there... So, I started pulling away from visits and suggesting to him that he should take [Liam] off on his own. And, and even then, that didn't work, because he'd come to my house and he'd spend ages and ages there, and then they'd go off for a short while, and come back and spend ages and ages again." (p. 18)

89: "We split up and we were to no longer be a couple. And I'd, I'd said that, you know, 'That if we're not a couple, you can't sleep here anymore.' And I mean I couldn't stick to that, a lot of the time I couldn't stick to it. But it was real mind games. Because one particular time, we had this big long talk, and that, the result of it was, 'Well, that's cool [Mark], if that's what you want. If you don't want to sleep together that's fine, you know, we'll do it that way. But if we're not a couple, you know, all the sex has got to go too.' And, and [continuing a sexual relationship] was no good for me, because I needed to make a complete break if I was going to get on with my life. I couldn't, I was just being screwed around, really, really badly. So, then after that conversation, he was sitting on the couch and I was across the room sitting on the floor, and he comes over and starts making love to me, like immediately after that conversation. And I said, 'What are you doing [Mark]? Haven't we just talked about this?' I said, 'Why are you doing this?' And he said, 'Because it's the way I feel about you.' So, even though he kept saying he didn't want a

away from him". On other visits, he might put his foot between her legs when she was bending down getting Liam ready, or he would make sexual comments to her. She felt "really uncomfortable" that he did things like this in front of Liam. Because she was afraid of Mark's response, she did not know what to do about it⁸⁹.

Alana was also unhappy with Mark's behaviour whilst Liam was in his care during his visits to City B. He would get stoned, which meant that his capacity to focus on Liam, already poor, was further debilitated. It was not unusual for him to return Liam home with wet pants, although Liam never wet his pants at any other time⁴⁴.

Around this time, Mark started harassing Alana about taking Liam to stay with him for the weekend (Mark lived a couple of hundred kilometres away from Alana)^{90,91}. When she resisted, he got really

relationship, he would screw with my head whenever I pulled away from him. He would do something or say something to pull me back in. And it worked, you know, it worked for a long, long time. And it just about drove, actually, me mental. It had a, you know, it screwed my head something bad, really, really bad. And then he would do something like, because I never ever initiated any advances to him at all. I was really very, you know, really careful about that. And there were these things that would happen. Like, he might come over for a visit one weekend and there would be nothing happen between us. And the next time he came over, which could be three weeks or a month later, I might be down, you know, getting [Liam] ready, and, getting ready to go with his Dad. And he might come up and put his foot between my legs. Or say to [Liam], 'Gosh, your Mum's a sexy little thing, isn't she?' And like involve [Liam] in it too. Which made me feel really, really uncomfortable. And not knowing what to do about it. Because of course, the whole time, anything that I didn't feel comfortable about, I couldn't actually, I always had to weigh up, 'What do I do? What do I do that's going to make this guy not angry with me, and not get, and make things really unpleasant, and not get angry in front of [Liam].' It's like, you don't, nobody should have to live like that. You shouldn't have to live like that. You should be able to talk, to say what's on your mind, to fight without it being, you know, really nasty." (pp. 58-59)

90: "And then he started harassing me for overnight visits, to take [Liam] back to the [region where he lived] for weekends. And it was like, 'No, no, no, no, no, no. I'm having trouble with you having this boy for six hours in a day, you know, every third weekend.' And so, I, I started to stand up to him, and I started to resist him, and I said. He got really nasty, and things started to get real nasty. And I still resisted. And so in the end, I actually wrote to him, and I said, 'Look, you know, can we sort out some sort of more structured visitation plan. And I want to do it with a third party present.' Because, that, I mean, I was really tactful. I said, 'That will keep us both on track.' And it, what I really meant was, 'It will stop you yelling at me.' So, I said, 'I'm seeing this counsellor, and he knows [Liam] and has a lot of dealings with children and he's prepared to act as a mediator and,

nasty, so she tactfully suggested they having a third party present to help with arrangements. Subsequently, a plan was worked out with the assistance of a counsellor. Mark could see Liam regularly but Alana insisted that he could not have overnight access. The counsellor reinforced this view, and told Mark that things needed to be taken in little steps⁹⁰.

Unfortunately, things worsened when Alana was strong enough to stand up to Mark and tell him her concerns about Liam's safety, and when she insisted they adhere to the access arrangements^{90,92}. Mark only wanted to see Liam if it was completely on his terms⁹³. When he could not get his own way, he threatened her and became very aggressive⁹². He became "overtly nasty"^{91,106} and his psychological abuse became more direct. Her previous two years of conditioning did not help her¹⁰⁶. He told her that if

you know, help us work out a plan. But if you want somebody else, I'll go with whoever you want, so long as it's a qualified person and, you know, not some back-street psychic,' or something like this. So, he, he rung and he said, 'No, that's cool, you know, we'll, we'll do it with this guy.' So, we had a two hour session and worked out a plan. And the shit just started, it just increased from then on. Because, you see, prior to that plan he'd been able to see [Liam] whenever he wanted to, to be able to come over and see me whenever he wanted to. And the minute it was put into any sort of, like, he got to choose how often he wanted to see [Liam], and the only thing that I insisted on was no overnight access. And [the counsellor] reinforced me in that. And he was saying to [Mark], 'It needs to be taken in little steps,' and putting it as diplomatically as possible. But the shit really hit the fan after that. And things just, just really went from bad to worse. At one stage I'd said to [Mark], 'If you want to go and see [the counsellor] on your own,' I said, 'we've got, we've got another,' I think we had another hour, or two hours, of actually Family Court paid for time left, 'you take it if you want to go and talk to him, you, you take that time.' Well, he turned up. And he had this session with [the counsellor], it was one or two hours, I can't remember. And like, my counsellor. Oh, after that session [Mark] came around to my house, and to pick [Liam] up. And it then got really heavy. And like, I mean, he's a really big guy, eh, and when he stands over you, he's six foot five. And he's mean looking. And he's a physical, violent guy anyway, like, he's a streetfighter and into all that sort of thing. And he came back from that session with [the counsellor], and he was just, he was just fit to explode. And it was a really horrible scene. And I thought he was going to hit me. And I was just scared. And then he took [Liam]. And I was scared. And he said he wasn't going to bring him back, he'd bring him back when he wanted to, sort of thing. And it was like, 'Oh my,' you know." (pp. 19-20)

91: "[Mark] turned nasty after we put some rules to access November/December 1997 and this escalated from about March 1998 with pressure from him for overnight access and taking [Liam] to [Region A] for weekends etc. I wouldn't agree to that while [Liam] was so young. During January 1998-June 1998 I became increasingly

she acted to protect Liam, he would report her to Social Welfare for past benefit fraud⁹². He kept harassing her, ringing her frequently, leaving intimidating messages, and putting her on the spot^{92,94,95,96,97}. He also rang Liam frequently and told him that his Mum would not let him see him¹⁰¹. Because of the intimidation and harassment, Alana put a call-minder service on her phone so that she would not have to take his calls²⁴. When she changed her phone number, she had a “friendly” visit from his sister three days later⁹⁷.

Access visits during this time were also fraught with difficulties. Alana noticed that Liam was returning home “unhappy” and in a “negative state of mind”⁹¹. Because Mark used threatening body language when she dropped Liam off, she would have to give him to Mark in public places like McDonald's or parks⁹⁸. She also feared that Mark might kidnap

concerned about [Liam's] safety and welfare while in the care of [Mark], based on numerous incidents during access visits, [Liam's] unhappy and negative state of mind when he was returned after some visits, and seen against the background of consistently irresponsible and uncaring behaviour around [Liam] virtually from birth. I attempted to raise some of my concerns with [Mark] very carefully because of past experience with [Mark's] reactions, but the shit hit the fan anyway. In addition I believe now that [Mark] thought I was seeing someone and this fuelled the situation. In June 1998 I stopped the current access arrangement in favour of supervised access. Because I took this step and because of [Mark's] mounting violence, bullying and intimidation etc I started the process of applying for a protection order.” (Alana's own writing)

92: “When I was strong enough to stand up and say, ‘You can't do, you can't treat [Liam] like this anymore. I'm not going to let you take him to druggies places. I'm not going to let you let him, let you have him in the vehicle without a, a, without belting him in. And I'm not going to let you do this. It's not going to happen any more.’ [This] was when he started to threaten me. And he was threatening me because he couldn't get his own way on. I mean, that was outright threats, you know. You know, he'd say like, well, leaving messages, like that dogshit message, which is only two words, but they were about the two scariest words I've ever heard in my life. And what they implied. It was not just dogshit. It was what they implied. And, and, threatening to get me in trouble, you know, either with Social Welfare thing, and get my daughter into trouble. And, and, you know, like I'd say to him, he'd say, ‘What's the problem?’ This is over the phone. I'd say, you know, ‘I'm sort of pretty worried about [Liam].’ Because I was always trying to be so diplomatic. I'd turn myself inside out trying to find the right way to say it, {laugh}, not to upset him.” (p. 46)

93: “That's actually [Mark's] attitude. He doesn't really want to see his son unless it's entirely on his terms.” (p. 22)

94: “[My lawyer] she sent [a letter] out [to Mark] and advised me, she was very good, she advised me to get out of the house 'cause the shit

Liam, thinking this to be quite heroic behaviour⁹⁹.

One day, after an individual session Mark had with her counsellor (in which Mark was stoned on drugs), things got "really heavy". He turned up at her house enraged and "fit to explode". He angrily took Liam and said he was not going to return him until he wanted to. Alana felt very frightened that he was going to hit her. It was a "horrible scene"⁹⁰.

Frightened by [Mark's] "mounting violence, bullying and intimidation", Alana decided to pursue legal help to protect herself and Liam⁹¹. She obtained a protection order, and the Family Court arranged formal supervised access (described further below). However, because of Alana's "mounting panic" and because she felt uncertain that the protection order would actually protect her and Liam, she and Liam moved across to the other main island of New Zealand in February 1999

would really hit the fan when he got that letter. Which, which I, I did, I left. And I got call mind, yeah, call minder on my phone, because he was ringing quite a lot, and putting me on the spot and harassing me and this sort of thing.. It was a really empowering move, you know. It was brilliant. It made such a big difference to me. So, when I, I went away for the weekend after I knew he would have received this letter, and when I got back on Monday I went through my messages. And there was just one from him, and there was silence, and then he said, 'Dog shit,' in this really scary, 'cause he's a really scary guy anyway. And I just freaked, man. I just grabbed [Liam], and I locked my flat up, and I took off and went back to my daughter's, and really panicked about that. It was horrible." (p. 4) (from excerpt 179)

95: "He was ringing me up, and leaving messages, or catching me unawares, and talking to me directly, right up to, really close to the day of the hearing." (p. 11)

96: "In the court, I, I managed to get that through. I said, 'Well, he has been ringing me, and in, intimidating me, and harassing [Liam], and he even got his lawyer to ring me.' So, I sort of managed to get that in." (p. 12)

97: "Well, it was things like, I, those phone calls, like, really cunning, really cunningly, intimidating and harassing.. [The dogshit answerphone message], they were like, they were out in the open. But a lot of the threats were implied, you know. So that when I took, took the step of changing my phone number, I had a visit, I think about three days after that, from his sister, who never came to visit me {laugh}. It was a friendly visit. But, I mean, it was a just checking up of [Alana] and what's going on." (p. 60)

98: "I never went, ever went alone to drop [Liam] off to his father after that. And it was always in public places like McDonald's or [a particular] Park. And even then, he, he was like really obviously threatening me with his body language, his look, and being really intimidating. Even at that last mediation conference, which was the end of April, he walked in with [Liam's] lawyer. And like, you should

(approximately 10 months before the interview). This was against the advice of lawyers^{100,101}. She believes that if she had not moved, Mark would have been physically violent to her¹⁰².

After relocating, Alana rang Mark and encouraged him to ring Liam whenever he wanted to. However, he “hasn’t rung that little boy once”. Alana feels that as well as being unmotivated, Mark is playing games, intentionally not ringing Liam in an attempt to punish her, and in the hope that one day Liam will resent her. When Alana volunteered time for Mark and Liam to see each other around the time of the mediation conferences, he intimidated Alana and said abusive things to her. He told her that he thinks that she is trying to stop their relationship out of spite, and that one day Liam will “hate” her for preventing contact between them. Whilst she thinks it is possible that Liam might resent her for a time, Alana believes that one day Mark

have seen the look that he gave me. I was just sitting on my own because my lawyer was held up in another thing. And like, he, I just knew if he could have seen me dead, that’s what he would have wanted.” (p. 31)

99: “Even abduct [Liam], was another thing I was really afraid of. Because that’s [Mark], you know. [Mark] is really into all of these like, based on true life movies you have on TV, about rape and incest, and child abuse. And, you know, all he’s, like, he’s really fascinated by that sort of stuff. And so to him, that would be a heroic thing to do, to abduct his son. It would be, in his head, I know. I mean, you can’t tell a judge that, you know, these things, because you’ve got to tell the judge things that actually happened, or that you can prove. But you get to know somebody and you get to know things about them.” (p. 63)

100: “I knew damn well that this protection order wouldn’t actually protect me. Another reason why I came up here. Just geographical distance is one of the best protections.” (p. 26)

101: “I shifted here in January against advice from lawyers. Not just my own lawyer who I changed by then... but other lawyers that I rang and told them sort of briefly my situation, and said, ‘What, what should I do?’ And they all said, ‘Look, you’re in the court system now. You have to stay there, you have to stay [in City B] and see this through.’ But I was, just had this mounting panic all the time. And, and I thought about it really carefully. And I made the decision to come up, and, and I, you know, shot through and I come up here. And, in, on the first of February of this year, I actually rang. Because of course, the thing that I was scared of, in coming up, and I’d been warned against, was that he could get a court order to have [Liam] returned to [City B].. I could go with him, it would just mean that. Oh no, I wouldn’t let [Liam] go back to [City B] (inaudible). For a start, I guess I was pretty resentful that he had the power to force me, I suppose, sort of via my son, to live somewhere. And I was really shocked that could happen but it can. So, I rang him on, at the start of February. And I said, ‘Look, you know, I’m here.’ He knew I was up here but he

may have some “hard and heavy” questions to answer from Liam¹⁰¹.

Overall, the effects of Mark's psychological abusive were terrible, and she really does not know how she came through it⁷². She hates what has happened to her and how he treated her¹⁰³. She was clinically depressed, very frightened, highly emotional, and very worried about Liam¹⁰⁴. She said it was a “nightmare” having someone “screw with [her] head”⁷², and she thought she was going “mental”. She totally lost “all sense of [her] self”¹⁰⁵. She lived in a state of confusion between what she believed and what Mark told her she should believe. On one level, she knew what had occurred, but because of how Mark put things, and because of his anger and hostility, she doubted herself¹⁰⁶. Because he repeatedly told her that things were her fault, she sometimes blamed herself, wondering what was wrong with her.

thought it was temporary. And I said, ‘I really want to stay here. You know, Mum's old and she's crook.’ Which I don't like to think I exploited my Mum, because those things are true, and I really did want to be close by her, but I guess I was trying to perhaps gamer a wee bit of, get him on side a little bit so that he didn't go, ‘Ra ra, you've got to come back here,’ and all the rest of it. And I said, he said, ‘What about me and [Liam]?’ And I said, ‘Look, I don't know, I don't know, but feel free to ring and keep up the relationship, at least by telephone, until, you know, until something else gets sorted out. So, that was the first of February. He hasn't rung that little boy once. And the only times he's seen him has been as a result of a mediation conference when I've volunteered time for them to spend together. And each of those times, he's, he's got something into me. He's like intimidated me or said, you know, abusive things. But the last time, he said, he was really angry with me, and he could have, I could have had him for breach of contract, but I'm not out for trouble, I just want safety, for peace. He said, you know, ‘He's, he's really going to hate you.’ ‘Cause [Mark] believes I'm trying to stop a relationship between [Liam] and his father out of spite. And he said, ‘He's going to really hate you for this.’ So, that was in April. So, what [Mark] is doing, he is still, he is still actually trying to play with my head. But he's also playing with [Liam's] head by not ringing him. And the reason he's not ringing [Liam] is probably two-fold, just lack of motivation, and the other one is, it's, it's to punish me. Because what he, in fact, he's, he's got nothing over me anymore. The only way he can get to me is through [Liam]. And he, he's, in fact, like, trying to make come true, what he wants, which is [Liam] to hate me because I've kept him from his Dad. And as part of that, he has, he has no contact with his son... When we were still living down there, he'd ring [Liam], and he'd say, ‘Oh Mummy says, you know, Mummy won't let me see you.’ ... I mean, it was repeated over and over again, which was like harassment of [Liam]. And it was really difficult for me to know what to do. Because I genuinely wanted [Liam] to have a relationship. I mean, that's the whole thing, isn't it? That's what they do. They put you in a situation where there is nothing that you can do that's right, and then, yeah, screw you up majorly. But for a guy to go to that extent, to not contact a little boy that he says he loves so much, in order to punish

She worried that she was being too hard on him, expected too much⁴⁷, and was being over the top¹⁰⁷. Because he told her she was vindictive^{107,108}, she always questioned herself, and she lacked confidence in expressing her opinions. She was worried that she might come across as a vindictive woman, when revenge was not her motive. It was a "very screwed up state of mind"; "a really screwed up state of affairs"¹⁰⁷. She tried so hard to see things from his view that she "almost gave [herself] up completely"¹⁰⁶. However, "one thread of reality" for her was Liam. Despite being trapped, unable to look after Liam properly without making Mark angry and risking the relationship and family^{80,106}, she hung onto her motherly instinct that children should not be treated like Mark was treating Liam^{105,106}. She worried for Liam's safety^{105,109} and who he would grow up to be. It was this sense as a mother that propelled her out of the relationship. Her elder son

me, because it's like his only hold on me is bizarre... I mean, there may become a time when [Liam] will blame me. But I've always been really straight and honest with [Liam]. And I give him stability and I give him honesty. And I never, I never ever down his father, dis his father to him, at all. You know, it's always the opposite. If [Mark] comes up, I always say something positive. I find something positive to say, {laugh}. Because, I mean, you have to. So, there may come a time when [Liam] does say, 'Oh Mum,' you know, 'why did you do this?' But I think if I stay true to him and stay truthful that he'll understand.. And I actually think he'll have some, his father will actually have some really hard questions to answer. I think it will be the other way around, that even though [Liam] might resent me there for a time, his Dad's got some pretty heavy, hard and heavy, questions to answer later on. So, yeah." (pp. 23-25)

102: "I'm hoping that it's turned out okay for us. I think if I had stayed down there it would, it wouldn't have been okay for [Liam and I], you know. Like something would have happened. And I do believe that something physical would have happened to me." (p. 60)

103: "I hate what happened to me and how he treated me. I, I, I hate that. But I, I think, yeah. I mean, god, I've had so much counselling {laugh}." (p. 15)

104: "I was really frightened. I was clinically depressed. I was just a mess. And extremely worried about [Liam], and about what might happen to me if I sort of continued to take steps to make [Liam] safe." (p. 2)

105: "[My older son] said to me, he said, like after I'd gotten out of the relationship, some wee while afterwards, he said, 'Look Mum,' he said, 'I, I think if it hadn't been for [Liam], he said, 'I think [Liam] saved your life.' And I said, 'How, how do you mean?' And he said, 'If it hadn't been for [Liam],' he said, 'I don't think you would ever have gotten out of that relationship.' And I think he's right... Like, I totally lost all sense of my self. And I thought I was going mental. And I didn't know which way was up. But my instinct as a mother always

once told her that Liam probably saved her life, and she believes this. If she had not had Liam, she thinks she might still be in the relationship¹⁰⁵.

Alana never wants Liam to be exposed to their previously terrible situation, again¹⁰⁹. She still believes that if Mark had Liam for any period, the novelty of having him would wear off, and he would end up hitting him⁴⁴. Although she is still afraid of Mark, she doubts he will come looking for her and bash her. She believes he will be much subtler with his revenge¹¹⁰.

hung on to the fact that you don't treat kids this way, this is not how you bring up kids, you don't do this to kids. And in the long run, that stayed pretty strong in me and was why I finally got out. But I think that if I hadn't have had [Liam], and I hadn't been continually worried about him, I would still be in that relationship. I can't say, but being a mother was what propelled me out of that relationship, was, you know, fear for [Liam]. Not just of anything physical happening to him, but what sort of a person he was going to become." (p. 40)

106: "I lived in this state of confusion between what I thought I believed and what [Mark] told me I should think and believe... One of the reasons I sought counselling was to try to sort this out. Like, I would say, 'Well, this particular thing happened, and my reaction was such and such.' But then [Mark] would tell me I was wrong, or it didn't happen, or I was making something out of nothing. And on one level, I knew that it had happened and that it wasn't right. But on another level, I was unsure and doubted myself because of how [Mark] was putting it. And his anger and hostility towards me if I didn't see it his way. I would think, 'Maybe I've got it all wrong. And also, I love him.' And I knew there was always one way of seeing things, and my way wasn't necessarily always going to be the right way. And I tried so fucking hard to try and see it from his point of view that I almost gave myself up completely. But the one thread of reality for me was [Liam]. And I guess, I lost most of my faith in myself as a person, but the mother part of me stayed relatively clear. And I knew this was not the right way to treat or bring up children. I knew that with your kids that you put their safety and welfare first, even if you have to put yourself out, alter your lifestyle, so that it's okay for them too. That's part of the commitment. Your life doesn't revolve just around you any more. And that's part of the joy, which it is with kids. So, then I had the problem of, how do I make sure [Liam] is looked after properly without making [Mark] angry, and risking the relationship, and the family? And in the end, there was no answer that I could find, and there never was. I never found an answer, and I tried really hard, and I never found it. And I mean, all of the psychological abuse through the relationship set me up, or set the situation up, so that when I, when I decided to make my stand for [Liam], to keep him safe, was when he brought

into play like more direct psychological abuse. And of course, I was a sucker for it because I had two years of conditioning, which I didn't even realise, you know, was really psychological. I knew I was being treated badly, but it if anybody called it abuse, it was like, 'Oh,' you know, 'that's such a nasty word. I'm sure it wasn't. He just doesn't know or he's ignorant or whatever,' or, 'he doesn't know what he's doing.' Or, 'Poor guy,' you know, 'he's had a really bad upbringing and he's fried his brain with drugs, and given the chance, you know, he'll come right.' And so, when I finally stood up for [Liam] was when, you know, was when I needed the law to help protect me and [Liam], protect us both. Because that's when he turned really like, overtly nasty.. I knew that in order to protect [Liam] I needed the law. And in retrospect that's probably not true, but it's just that because of the state of my head, I was scared of him." (pp. 59-60)

107: "When you've been in an abusive relationship like that, you're still not convinced that it's not, a lot of it's not up here, that you're not being over the top, that. You're being told by your ex-partner that you're vindictive even though you're not. But that doubt is still there. You're questioning yourself the whole time. And then, when you do come up with various things, points to your lawyer, 'Well, you know, why don't we do this? Or, why don't we do that?' it's, it's, very diffidently, I suppose, because you don't want to come across as a vindictive woman, and make what he says true about you. Even though you know that's not your motive. It's a very screwed up state of mind, you know. It's a really screwed up state of affairs." (p. 12)

108: "[Mark] has tried to say that I'm being vindictive because the relationship fell through and ra ra ra ra. [This] is just not true. I've handled it and it's been fine." (p. 35)

109: "And the thing that makes me mad about this whole thing is when I got out of the relationship, probably the main motivation for me getting out was [Liam's] safety. And we were in a bad situation, both of us, me and [Liam]. And it's like, you can't separate, you're supposed to separate your personal feelings and look at the relationship between the child and the other partner. And I can

understand that, you know. That’s a, a really good thing to do. But in my case, I took my kid out of a really shitty situation, and myself. I’m safe now. Why should I just put my child back into that situation?” (p. 32)

110: “I’m not, I’m not scared necessarily that he’s going to come up here and bash me or anything like that. I think that any, any vengeance or revenge that he takes against me will be far more subtle than that. And this is, part of it is not ringing his son. And I sort of think, well, I am scared of the guy. I’m still scared of him. Because anybody who’s capable of going to those lengths to hurt somebody else is somebody to be scared of. They are still someone to be scared of.” (p. 25)

ALANA’S EXPERIENCE OF THE LEGAL SYSTEM	
Overview of her involvement with the legal system	
Feeling she and Liam needed protection by the legal system ¹⁰⁶ , Alana initiated legal involvement through a lawyer in May 1998 ¹¹¹ .	111: “This all happened in [City B]. I got my, I got my protection order last November, last November [1998]. And the whole process probably started in about May last year [1998].” (p. 1)
Subsequent to this, she has used two other lawyers and has been to court twice: once for a defended protection order hearing with an unexpected mediation conference following this; the other time for another mediation conference. She has also encountered judges, Family Court co-ordinators, police, Mark and Liam’s	112: “And with the affidavit, it’s like I was, it was extremely important to me that I be absolutely truthful in my affidavits and in everything that I told my lawyers, for two reasons. Just because that’s what, that’s what I do anyway, but the other reason was I was hoping some, if I continued to be scrupulous about the truth that [Mark] is never going to be able to say, ‘Oh, but she lied about that, and she, she lied about this.’ So, I guess what I was hoping was a, perhaps even a positive spin off for him, that he would maybe not be able to deny what had happened, because he couldn’t say I’ve exaggerated this or I’d lied about this. And in a way, not from the point of view of us getting back together at all, but from a point of view that he may look at himself and think maybe he needs to make some changes. Because he’s still my son’s father, and I need a good man for my son’s father, you know. So I was always really, really careful about the truth.” (p. 7)

lawyers, counsellors, and several other agencies.

Throughout her involvement with the legal system, Alana was scrupulous with the truth, ensuring that information reflected the situation accurately and nothing was exaggerated in the slightest. Amongst other things, she hoped that this would have a positive impact on Mark; that he might look at himself and make some positive changes¹¹². Because she was aware that some women can be vindictive to their ex-partners through their children, she was “so tough” on herself. She has tried “to get it to be good for everybody”, but to keep Liam safe at the same time¹¹³. Although thinking it sounds unusual now, she chose male professional help as much as possible because she thought they would be less biased to her, and this would be fairer to Mark¹¹⁴.

Overall, Alana feels that she has “been through the

113: “I feel so sad because I know a lot of women can be real bitches, and they can be real vindictive, and they’ll do things like take their child away from the father to punish him. And like, I’ve just been so tough on myself, and so much working the opposite way to try and get it to be good for everybody. And so, I don’t know, it’s, it’s like I’ve really tried to distance myself and my situation from it, and keep [Liam] in it, and, but keeping him safe at the same time.” (p. 33)

114: “I chose a male [lawyer]. I’ve chosen males as much as possible all the way through to keep myself fair and honest. It’s, it was a really twisted little thought, but it was like, if I go to a female she might just, she might have a bitch about men, or this that and the other. And she might like falsely reinforce me, whereas a male. I mean, that, that doesn’t necessarily make sense, although it can happen. But I guess I was wanting to be as fair as possible to [Mark].” (p. 17)

115: “I think if it does come to a custody or access thing in court, I will handle it a lot better. Simply because I’ve been through the mill. And I’ve, I’ve been in the system.” (p. 43) (from excerpt 167)

116: “I felt that, like psychological abuse is a real thing, and it’s a really horrible thing to happen to anybody. But it’s not really taken seriously. Well, that’s my, that was my experience. That’s how I felt, was that it wasn’t actually taken as seriously as if you’re bashed.” (p. 6) (from excerpt 122)

117: “I can only talk about my own experience, but I don’t think there’s a true understanding of psychological abuse.. I really don’t think there is at all. I mean there may be for some people... I think [the legal system], they need evidence of either physical violence as well, or the threat of physical violence, for them to give any weight to psychological abuse, you know. I mean, I don’t know how much of that book you got read.. but, you know, there are a lot of guys there who, like, physical violence you can’t deny it, it’s there. You can’t say, ‘I haven’t been belted up.’ You recognise it. And there is a, forms of psychological abuse which are recognisable too, like, like threats, specific threats. But there’s a lot of psychological abuse that’s really,

mill” with the legal system¹¹⁵. Based on her experience, she believes the legal system (including the Family Court and lawyers) has a poor understanding of psychological abuse, and does not consider it very serious, definitely not as seriously as physical abuse^{116,117}. She also believes that the legal system needs evidence of physical injury or the threat of physical injury to consider psychological abuse as serious^{117,118}.

Alana believes and feels disturbed that the legal system is not fail-proof. She said there could be no assurance that life-changing judgements, decisions, and recommendations made by legal personnel, who are not personally affected by these actions, would be right¹¹⁹.

really subtle. And reading the book, guys that do it don't even necessarily consciously know what's, you know, going on there. But it's, it's really, can be really bloody subtle.” (pp. 32-33)

118: “And that's why I started, why I started even telling you, is that, if he hadn't [have threatened me with the rifle], I probably wouldn't have got my order. Because that was quite a big thing. And I, I think I, that's what I'm saying, I think there needs to either be violence or a threat of actual physical violence before they take psychological stuff seriously and give it any weight.” (p. 38)

119: “This was a biggy for me, was trusting that your lawyer will do the best for you. Knowing that, that their stake in it is business. That's all it is, business. They might believe in what they're doing but the bottom line is to them it's business. But to you it's the most important issue you'll ever have to face. Like it's your safety, and your children's safety. And that's a very hard thing to, to put your trust in a lawyer when the bottom line is it's dollars to them.” {Rachael: “So, your, what's going on for you in your life, which is so important to you, being less significant to a lawyer who's got a different outlook, I suppose?”} “It has to. I mean, really it has to. Because at the end of the day, if you lose your kid, whether it's custody, or access, or protection order, that lawyer doesn't have to live with the consequences. You do. So, even if the judge, I thought about this a lot, you know. A judge can sit up there and he could order shared custody, or he could order particular access arrangements, and something could happen to your child as a result of that. That judge would never know, he'd never know. You're the one that lives with it. So, they haven't got, there's no way they can have as much at stake as you do. But if you combine that with the fact that they seem so damn busy, that they don't have a lot of time for you, they don't even have the time to get your story straight, it's really hard to trust them. It's real hard to trust them. It's not that you think they're dishonest, but they can't put a passion into it that you feel. I think they do understand the seriousness of it but it's like this little, little segment in time for them. And then, once you leave their office they're onto the next thing, and once the person leaves they're onto the next thing.

And they don’t actually have to live with the consequences.” (pp. 48-49)

Protection orders

Alana started the process of applying for a protection order in May 1998 because Mark got “really agro” when she finally approached him about the matter of Liam’s safety. Her order was granted in November 1998¹¹¹. Although she successfully obtained one, she was very unhappy and dissatisfied with the process to which she was subjected¹²⁰.

She felt discouraged when her first lawyer told her that it was difficult to prove psychological abuse¹²¹, and further discouraged when her second lawyer told her that judges do not like long documents. Because psychological abuse comprises many events, she believes a reasonably long document is required to capture it, unlike the few statements that would be required to represent the occurrence of physical abuse. If judges

120: “Basically, I wasn’t satisfied. I was successful in getting my protection order but I wasn’t happy with the road to getting it, as far as the law went. And I think the Family Court is not always a very good place or very fair.” (p. 63)

121: “[My first lawyer] talked to me about protection orders and told me that it was very difficult to prove psychological abuse. So, that wasn’t very encouraging.” (p. 3) (from excerpt 178)

122: “See, another thing [Lawyer 2] used to say to me is, ‘Judges don’t like long documents.’ But if you’re physically abused, you can put, ‘Well, he bashed me on this date, and he threatened to kill me on another date,’ and you might only need to make three statements for an affidavit to get your protection order. When it’s psychological abuse, to build up a believable picture of what’s been happening to you, you might have to have pages. But then you’re told judges don’t like long documents. And it’s like, you feel, well, I felt sort of caught really, because to show the judge what my life was like and, and the things that happened to put me in, in the situation, and the state that I ended up in, I, I couldn’t do it quickly. I couldn’t do it in a short document.” {Rachael: “Really, by saying that you needed a short document because judges don’t like long ones, did that make you feel like your, your story and your, you know, all your experiences weren’t being valued, or?”} “Oh, absolutely. It, I felt that, like psychological abuse is a real thing, and it’s a really horrible thing to happen to anybody. But it’s not really taken seriously. Well, that’s my, that was my experience. That’s how I felt, was that it wasn’t actually taken as seriously as if you’re bashed.” (p. 6)

123: “And I think at the crux of that is the fact that if judges truly do not like long documents, and I can imagine that they don’t.. then it can be very difficult to substantiate a case, if, of psychological abuse,

do not like long documents, she feels it is very difficult to substantiate a case for psychological abuse^{122,123}. She also found that descriptions of his behaviour in her affidavit did not seem able to portray how frightening the event was in reality. In her affidavit, his threats just seemed like words⁷⁸.

The bailiff could not locate Mark to serve the protection order. It seemed that people around him were "shielding" him. In the end, on the advice of the Family Court co-ordinators, she put a public notice in the paper. Mark was served in this way¹²⁴.

Alana believes that if she not been granted her protection order, the legal system would have sent Mark a clear message that his behaviour was acceptable. It would have encouraged him to do whatever he liked, endangering her further¹²⁵.

Alana knows that her protection order would not

because there are lots and lots of incidences that need to make up the picture. In some cases, maybe not in some cases, there may be, you know, several really blaring things that happened, which just sort of so point to psychological abuse that it's going to hit the judge in the face anyway. But all the cases aren't like that. Psychological abuse is, from what I've learned, and it, it can be really subtle and it can be build up over a long, long time." (p. 64)

124: "[The Family Court co-ordinator] said the bailiff was having trouble serving him, and knew that the people, or got the impression the people around him were shielding him from the bailiff. And told me about putting an ad, serving the papers through public notices in the paper. Now, my lawyer never came up with that. So, that's what happened. So, he was served in that way." (p. 11)

125: "In real life [a protection order hearing] is really, really scary. It's really scary because you've got a lot on the line. I knew that if I didn't get my protection order that it wasn't just a case of not getting my protection order but it was sending a message to [Mark], 'What you've done so far is okay. It's alright.' And for a person like him to get that message, it's just giving him the green light to do what he likes. And so, I was pretty bloody scared because I knew that if I didn't get my protection order, I was actually going to be in more danger than I had before I even went for it." (p. 9)

have protected her and Liam from Mark, and it was because of this that she put the geographical distance between them. She believes that this is one of the best protections available¹⁰⁰. In fact, with the aid of hindsight, she is not sure whether she actually required legal protection¹⁰⁶.

Although Mark has breached the order, she has not acted to enforce it. This is because she wants safety and peace and does not want to cause trouble¹⁰¹.

The protection order hearing in the Family Court

Because Mark defended Alana’s protection order application, there was a defended hearing in the Family Court. She found the prospect of Mark’s defence “scary” and “intimidating”^{125,126,127,129,130}. Her counsellor had told her that those who defend protection orders are the most dangerous of offenders¹²⁸.

126: ” When we had our protection order hearing, he defended it, which was scary enough.” (p. 8)

127: {Rachael: “You’ve got a protection order. Were you asked, to, for a hearing for your protection order? What was that like?”} ... “Horrible, it was just awful. I was nervous. I’d never been in court before. I didn’t know the system. I didn’t know the ins and outs. I’d been told by a lot of people a lot of different things. My own lawyer had told me it was going to be a, a squeak to get it, so I was really nervous.” {Rachael: “What did she mean by a squeak?”} “That we didn’t have a lot to go on. And that’s when she said I should cry and fall down and shake and do whatever I needed to do to convince the judge that I needed a protection order. So, I shook. I mean, I did. I shook the whole time. I do that, I guess, when I get upset or nervous

Alana found the protection order hearing “horrible” and “awful”¹²⁷. She felt nervous because it was a new situation¹²⁹. She was unfamiliar with the system and had never been in court before¹²⁷. Feeling intimidated and lacking confidence^{127,129,130}, she shook the whole time¹²⁷. She found it really scary because she had so much at stake¹²⁵ and did not know what was going to happen¹²⁹. Her lawyer had made her feel “definitely very far from confident” that she would get her protection order because it was based on psychological abuse^{127,129}. Furthermore, she did not know what Mark’s lawyer might ask or how the judge would treat her¹²⁹.

She found it frustrating that despite her being truthful, Mark lied throughout the whole thing^{131,132}, denying and downplaying events¹³³. She described the ordeal as a war she did not want to fight¹³¹.

anyway. But I was shaking the whole time. And I, it wasn’t really because I was scared of [Mark]. It was just that the whole thing was really intimidating to me. I felt really intimidated and had no confidence at all.” (pp. 8-9)

128: “My counsellor, ‘cause I’d been in counselling basically the whole time, told me that in his experience of things, guys that defend protection orders are the ones that are the most dangerous. And so, here was my guy defending it, which, you know, scared me even more. Because he said, you know, people who, men who are not going to actually really do a hell of a lot to a woman, don’t usually, don’t defend that protection order, because they think, ‘Well, it’s no skin off my nose. I’m not too worried about it.’ He said the men that defend them are, quite often turn out to be the most dangerous ones. So, I had that as well. There was a lot on the line.” (pp. 9-10)

129: {Rachael: “You said it was really intimidating... What sorts of things made it particularly intimidating? Other than all you had on the line?”} “{Pause}. Well, I think that the judge sits up there, and he’s quite, a, intimidating. I suppose in the same way that your school principal is, that sort of feeling. Trying to remember everything and not, not forgetting important things I needed to say. I guess just the whole, just the whole set up of it. It, it was initially intimidating. I’ve been since been back to another mediation conference, and even though I was quite nervous, I wasn’t intimidated. So, it’s that thing, it’s like a new situation. I guess the new situation was the intimidating thing. Because I didn’t know what his lawyer was going to ask me, or how the judge was going to treat me. And the judge actually was really condescending, very patronising... I was intimidated. I didn’t know what was going to happen, in that, what, what the result would be. Which of course you can’t. But I guess the build up to the actual hearing, things I’d heard from other people, things my lawyer, both lawyers, had told me. I was definitely very far from confident that I would get my protection order. At one stage actually, my lawyer, [Lawyer 2] suggested that I just drop it.. that I drop it rather than stir things up again. That he might just go away.” (p. 10)

130: "The first time I was [in court, for the protection order hearing], I had very little confidence and was very intimidated by the whole thing." (p. 43)

131: "He lied, you know, on several important issues in the protection order hearing. And he will do it more so when it comes to the custody hearing, if, hopefully it never will, but if it does, he will. And I need the court to know that he's been caught out lying, and, and that he'll lie, you know, with such an angelic little face, or big face... He's not really to be trusted to tell the truth. I said to my counsellor when we first, even before it got to the stage of looking like getting to court, and I said to [my counsellor], I said, 'Look,' you know, 'I can see that I'm being dragged into a war that I don't want to fight, but if I have to, I'll fight fairly against someone who's going to fight dirty.' And it's, you know, a really frustrating feeling. But, I mean, I have to, I have to keep truthful about absolutely everything. I, I, I don't need to lie because what happened was bad enough that I don't need to lie is how I feel, you know. I don't need to exaggerate or lie because what happened to both myself and, and to [Liam] is bad enough. It doesn't need to be exaggerated." (p. 14)

132: "Because I've scrawled angry comments, and 'Lies, lies, lies,' you know. Because [Mark] did, he lied." (p. 13) (from excerpt 134)

133: "All [Mark] did was deny things and he did not come up with examples of what his idea or his perception of it was. All he did was deny instead." (p. 28) (from excerpt 136)

Alana's experience of the judge during the protection order hearing

During the protection order hearing, Alana found the judge intimidating in the same way that a school principal is intimidating¹²⁹. He was "very condescending", and "very

134: "I thought [the judge's], in his summing up, he was very patronising of me. It was almost like, 'Well, we'll give her her protection order, you know. I really don't think he's going to do anything to her but we'll give it to her because she'll make it, it will make her feel better.' He, in fact, said that to me. He said, 'Well,' when he granted the protection order he said, 'there, does that make you feel better.' And I thought, 'You bastard,' you know. I found him

patronising"^{129,134}. She felt very upset by some of the comments he made during the hearing, during his summing up¹³⁴, and throughout his written summary of the hearing^{135,136}.

Alana found that her experiences of psychological abuse were dismissed¹³⁶, and that there was a lack of understanding regarding the severity of effects from psychological abuse^{116,117,118}. Instead, the judge indicated that Alana and Mark had both experienced almost equal difficulties in the relationship, and that each probably got their own way some of the time and just had forgotten these times. Alana found such comments "really bad"¹³⁶. She could not believe the impudence of the judge for making such a comment, with his impression of the situation being so contrary to that she was experiencing¹³⁷. She finds it particularly "scary" and "awful" that a judge, who

very condescending, very patronising. And I found that he accepted, I know that they're only human, and he doesn't know whether I'm telling the truth or whether [Mark] is telling the truth, he doesn't know. But his job for god's sake is a judge. He's done it for years. That's what he gets the big bucks for. He must have, his experience and whatever must tell him some things. For example, he, [Mark's] got an anger problem. There's, there's nothing more certain than that. And I think I showed that quite clearly in my affidavit. And he's, [Mark] told him, he asked [Mark] about whether, oh, he said, because he, [Mark] lives [in Region A] and we were [3 hours away in City B], and he said that he wasn't going to get [Mark] to attend a, anger management, they don't call it that now, do they? But, whatever. Because he didn't think it was necessary and it would require [Mark] travelling over to [City B] to do it, you know. And so he said, you know, I think he once specifically asked [Mark] was he getting any help with that problem. And [Mark] said he was in counselling now. That's bullshit. There is no way that he would be in counselling, not, not a, you know, an accredited counsellor. And the date that he gave as his last session was like about two months prior to that. And I just thought, 'What a shame, man.' Like, this guy could really benefit from some help like that and he'll never do it voluntarily, and what a perfect opportunity to help him get things perhaps back on some sort of a right track. And the judge just let it go by. And I thought really disappointed about that. Because my ideal is that my son and his father have a relationship. I have no qualms about [Liam] spending time with his father if his father were responsible and would look after him properly. So, that's my ideal, you know. But it's not going to happen. But if the judge had have insisted that [Mark] attend, 'cause it, from the affidavit it was clear that, you know, he has got a real temper problem, and [the judge] could have taken advantage of that situation and instructed him to have some sort of, you know, what do they call it these days.. stopping violence. And he didn't. So, that was like a real disappointment. And I thought it was real lax of the judge. But I'll give you a copy of the actual summing up of the protection order. Because I've scrawled angry comments, and 'Lies, lies, lies,' you know. Because he did, he lied. The judge said to him, 'Where are your weapons now?' And he said, 'Oh,' he said, 'I got rid of them ages

did not know either of them at all, could say that both controlled the other, when Mark gave no evidence or examples to back this up. He just took Mark's word for it, giving him as much credit as he gave her¹³⁸. Furthermore, she did not appreciate when the judge excused Mark's behaviour with a comment that his previous relationship had almost driven him to commit suicide¹³⁶.

Alana was shocked and disappointed that the judge seemed to so gullible regarding Mark's lies^{134,139}. He seemed to accept what Mark said as true. Mark did not need to substantiate things at all^{136,138,140}. For example, he erroneously believed Mark's claim that he was attending counselling, without any evidence of this. He also believed Mark's false claim that he had got rid of his guns because they were a suicide risk. Police found them on his property after the protection order was served. Although she realised the judge was

ago.' He said, you know, something along the lines of, 'I tried, I considered killing myself with a gun once before, and so I thought it was safer to get rid of them.' And I knew damn well he wouldn't have gotten rid of them. So, the judge just accepted that, 'Good boy,' sort of thing. But when the cops over in [a nearby town] rang me up, because they have to go and check for weapons after a protection order has been granted. So, they rang me to find out what sort of a situation were they going into, and where the weapons might be, and a lay out of the house, and this sort of thing, which I gave them. And of course, they walked in his place and they picked up the guns exact, I was only guessing at where they would be, and they were all there. And they picked them up." (Rachael: "So, this was after he told the judge he'd gotten rid of them?") "Oh yes. And it's, and anyway, the other person who was really supportive of me after the protection order was granted was the constable in [that town]. And he said straight away, 'He's perjured himself. And he's already breached the protection order immediately by having those weapons.'" (pp. 13-14)

135: "The judge said, he's basically saying that, well, what I take from that is, he's saying that I have got, it's basically in my mind, you know. It's not. I don't know, I don't really know how to explain it but I know that it upset me really badly at the time. It was like I'd been validated by having a protection order granted and then it had all been taken away in the summing up.. Really undermined." (p. 30)

136: "[The judge] is downplaying it by saying that it was only told to me once [that Mark had been violent to a previous partner]. And that was before [Liam] was even conceived. So, he's taking [Mark], what [Mark] said as fact... You see, in my affidavit, I, I named lots of incidences and things to support the protection order application. And, and [Mark], when [Mark], all [Mark] did was deny things and he did not come up with examples of what his idea or his perception of it was. All he did was deny instead... (Reading from the judge's summary). 'The respondent has had,' that's [Mark], 'has had a difficult, has had a difficult previous relationship, which at one stage led him to contemplate suicide. He told me that his self-esteem had fallen away,' ra ra ra ra. But that sentence there, 'The respondent had

human, she thought he would be more accurate at determining the truth seeing that was his job, for which he was paid good money¹³⁴.

Overall, she feels the judge's summary was denying of her and supportive of Mark¹³⁶, summing up a picture of a couple who did not get along¹⁴¹. In fact, she doubts she would have been granted the order had her affidavit not included the incident where Mark got his rifle out and threatened to shoot her/him if she ever left him. She feels that this incident should not have been necessary to get the order, considering the reality and destructiveness of the other abuse she experienced¹¹⁸. Indeed, she doubts the judge presiding over the defended hearing really believed she needed the protection order at all, giving it to appease her instead^{134,136}. He even asked her, patronisingly, whether she felt better now

had a difficult previous relationship, which at one stage led him to contemplate suicide.' But added to this, 'He has found his relationship with the applicant just as problematic and frustrating,' {laugh}, 'despite what he has considered as his best efforts in the relationship. He has continually felt pressured by the applicant to go along with her because of her feelings when he believes that his own feelings have not been respected.' I resented that hugely because I gave examples of the abuse and of what upset me and what screwed me up. And he has given, even though he sees his own feelings have not been respected, he hasn't given a single incident to back that up. And yet the judge takes this as read and that made me really angry... Well, I don't know if you see it this way but to me, even though I was granted my protection order, it was almost like, 'We'll give the little woman this and keep her quiet so we get on and help [Mark],' you know, 'with the access custody thing.' I find that this is very supportive of [Mark] and really denying me, denying, you know, all of the things I had to support my application... What he's doing is almost saying, 'Well, can you excuse this guy for what he's done? Because the poor thing, look, he's had this really bad last relationship and that almost drove him to kill himself.' And it's like, but, then he goes on to say, 'I am therefore faced with two parties, each saying that they have been forced in the relationship to give in to the other. This is a quite common position. People generally in relationships are very keenly aware of the occasions when they do not get their own way but fail to notice when they are in fact given what they want. Two parties can come out of a difficult relationship each believing that they have been forced to give into the other, when in fact each of them actually got what they wanted for part of the time.' And I just found that really bad." (pp. 28-29)

137: "I thought it was all my fault, you know, simply because he'd told me it was all my fault. All the time it was all my fault, everything. And that judge has got the cheek to say that we just, basically, what he's saying is that we all get our own way really some of the time but we choose not to remember that. You old bastard." (p. 40)

138: "It's really scary because if you've got a person who doesn't

that she had been granted the order¹³⁴. She thought it was almost as if giving her protection order enabled him to get on to the “real business” of access and custody for Mark^{136,142}.

She also found it very disappointing that the judge did not make Mark attend a stopping violence program or some other therapeutic avenue because of the distance he would have to travel. She thought that a program could have been very useful for Mark, and thought the judge was “real lax” for making so little effort¹³⁴. She believes the judge's conception of their relationship was counterproductive to Mark, and lessened any chance of him improving¹⁴⁰.

know either of you from a bar of soap, like that judge, and, and he's got me saying, 'Well, I was treated badly because of blah blah blah.' And then he's got [Mark] going, 'I was treated badly.' Who, who does he actually believe? And the only one who can come to a good judgement is by what you have to back up what you say and things that happen to you and the things that went on, to back up what you're saying to support your case, that you've been controlled or whatever. Which in my case, I did have stuff to back up, and [Mark] didn't... It was quite obvious that he didn't need it from [Mark], and he could make his judgement and make comments as though [Mark] had given him a lot of information to say that. 'Well, yes, this really was a situation of two people both trying to control the other and, you know, both of them getting their way sometimes, but only remembering the times when they didn't get their own way.' That was a really, that was awful for me. Because I'd put a lot of effort into purging up and remembering, desperately remembering as much as I could to back up what I was saying. And [Mark] did nothing to back up what, because he actually didn't have anything. He wouldn't have been able to. And yet still getting the same degree of credit from the judge as I got. And that was awful.” (pp. 51-52)

139: “It just really blew me away that a judge can be sucked in so badly.” (p. 31)

140: “It was like, [Mark] can just say sentences and not substantiate them at all, and that's been enough for this judge. Anyway, I mean, he's still given me that protection order. But I think he could have, I don't like what he's written at all. And I also think that it was counter-productive to the little chance that [Mark] might have got some help. And I think that's really sad.” (p. 65)

141: “[The judge] has basically summed up a picture of a couple who didn't get on.” (p. 64)

142: “I think that [the judge] just, it was just like, 'We'll throw her a bone so we can get on with the real business of making sure this man gets time and stuff.' And it is a bit of a men's bloody club.” (p. 46)

Mark's lawyer during the protection order hearing

Alana did not find Mark's (female) lawyer "overly aggressive". Indeed, she was "pretty mild". It could probably have been much worse: "she probably could have ripped [her] to shreds, but she didn't". Although she "semi sort of attacked" her affidavit, this only fired Alana up. She feels this was probably a good thing¹⁴³.

However, Mark's lawyer was sly with one question. In her affidavit, Alana had mentioned how vindictive Mark is to those he feels have crossed him, with the implication that because he thinks she had crossed him (probably more so than anyone else so far) that he would planning revenge. Mark's lawyer cunningly asked whether she had crossed him. Alana replied, "yes", meaning Mark thinks she has crossed him. Unfortunately, this was interpreted as if she had actually done something against Mark. In hindsight, she wishes she had

143: {Rachael: "What was your experience of his lawyer that day?"} "{Pause}. Well, she was a, she's a woman. She wasn't overly aggressive. I didn't feel like, she probably could have ripped me to shreds, but she didn't. Pretty mild in a way. I mean she asked me questions and she, she semi sort of attacked me on some of the things I'd said in my affidavit but she actually in a way made me get a bit of fire up, you know. I sort of started to get a wee bit angry, which was probably quite good. And so, I was able to answer everything. She got a wee bit tricky in the end, because like, one of the things in my affidavit was how vindictive [Mark] is as a, generally as a person. So anybody who crosses him had better bloody well look out. And his capacity for holding onto a grudge for a very, very long time and always intending to act on it when that person has forgotten about it. And so, I mean, I was well aware that, that [Mark] believed that I'd crossed him. And so the point I was getting, trying to get over in my affidavit, was that in [Mark's] eyes I had probably done the worst thing to him that anybody had ever done to him in his whole life. And so therefore, he would be planning to get me, you know. No doubt about it. And at the, I think the very last question she asked me was, was to do with that vindictiveness of his if anybody crosses him. And she said, 'And did you cross him?' And I just said, 'Well, yes.' Which, you know, was a pretty slimy little question I thought... In fact, what I should have said, and in the calm of retrospect, I knew I should have said, 'Well, no, I didn't cross him but he believes that I did.' But, you know, you don't, you don't always get it right.. But she wasn't as bad as I thought she would be. Plus, she'd actually breached ethics prior to it... After he was served, he got a lawyer, that's when he first got a lawyer. And she rang me and tried to get me to, to talk with [Mark], or to, I don't know what she was after. But, and I was like, I didn't know that, that was like against ethics in law. But I was quite shocked that she'd done that. And I just said, 'Well, no,' you know, 'I can't really talk about anything at the moment.' And when I told [Lawyer 2], she was like blown away. She said, 'She's not allowed to do that.' And so, I sort of felt, 'Well [Lawyer 2], you should take advantage of that, you know. His lawyer's done something unethical.' But I think they're like

qualified her answer to better capture what she meant¹⁴³.

The only other negative comment about Mark's lawyer related to her inappropriately contacting Alana at home to discuss something instead of contacting her lawyer. Despite this breach of ethics, Alana's lawyer was uninterested in following this up. Alana felt this was similar to the "little boys club" scenario: lawyers stick up for and protect one another because they know each other¹⁴³.

a little boys club, and they do stick up for each other... She was so shocked that this lawyer had rung me, because it was like, 'A very big no no,' is what she told me. And yet she didn't do anything about it. And she didn't even use it in any way to, you know, to further our. I mean, the other woman is a lawyer. I, I don't care if she'd gotten into huge trouble over what she'd done. She's a lawyer, she should have known better. That's her job... You'd think she would have taken advantage of it and highlighted the point herself." (pp. 10-12)

Custody and access

Alana believes that Mark has been using access, at least subconsciously, to maintain a certain amount of control over her¹⁴⁴. She has found nothing more threatening or stressful than having to fight for and protect Liam. It is like "primeval", the "most primitive basic feeling", when your child is in danger. "All your claws are out"¹⁴⁵. As mentioned

144: "He's been using this access thing, I believe anyway, perhaps this is screwed up, I don't know. But I believe that he's used the whole thing, even subconsciously he might not have even been aware of it, but it was still, but to, to keep a certain amount of control over me." (p. 51)

145: "I don't think there's any more threatening situation or any more stressful situation than a woman who, who's fighting for her child. It's like primeval {laugh}. It's the, just the most primitive basic feeling is when you've, when you think your child is in danger. All your claws are out, and even if someone is trying to help you, they're still out man, just in case, you know. It's really, really important. And so, I think that someone who has been through it is, is going to be sort of more on an understanding level, because they've actually had. A

earlier, Liam is more important to her than anything⁴.

When Alana first involved a lawyer regarding Liam and her situation, she had no knowledge about legal custody¹⁴⁶, and for a significant proportion of her involvement, she continued to feel bewildered and uninformed¹⁷⁸. For example, throughout a significant part of the proceedings, she was completely unaware that she did not have custody of Liam¹⁴⁶. Neither did she know what a mediation conference was and whether decisions made during one were binding^{147,148,162}.

Alana also felt disillusioned about how the legal system operates regarding some aspects of custody, access, and domestic violence. For example, she was shocked and resentful that she and Liam could be forced to stay living somewhere, even if they were in danger because of Mark¹⁰¹.

lawyer doesn't know unless the lawyer has been through the same thing. They can, they can never actually know what that feels like to have to be, to feel threatened because of your child, or to have your child threatened in some way. They cannot know that, you know. It's just something you can't know until you've been through it." (p. 63)

146: "Another thing about him was that I felt he expected me to know a lot of, of the law about custody and things like that. And I didn't have a clue. No idea at all. And I found out, while this guy was still my lawyer, I found out quite accidentally through a, a Family Court co-ordinator that I didn't actually have custody of [Liam], which I guess I'd never really thought about, but assumed that seeing I was the Mum and he was living with me that that was how it would be until the court might change it for some reason. But that wasn't the case. So therefore, [Liam], ah, [Liam's] Dad was still taking him for visits, and I found out that he was not legally required to bring him back to me, that he could have just kept him, and then I would have had to have gone to the Family Court to fight, to get him back. But my lawyer never told me that. He assumed I knew it. So when I found out from the Family Court co-ordinator that this was the case I freaked, you know. And, and he, he sort of was very off, the lawyer was very offhand about, when I tackled him about that particular thing. I guess that's when I started to lose trust in him. 'Cause I thought, 'This is a big major thing here that this guy has assumed incorrectly that I should know about.' Because I didn't." (p. 2) (from excerpt 178)

147: "I didn't know anything about mediation conferences. And so [when the judge announced that we were going to hold a mediation conference straight after the protection order hearing], this was totally like, I was totally like shanghaied, ambushed with this." (p. 8) (from excerpt 161)

148: "Because I didn't actually know anything about mediation conference, apart from the obvious, that it was mediation. But I didn't know if it was binding, if you had to stick to it, or what. I didn't know." (p. 22) (from excerpt 161)

Additionally, she felt nervous that one meeting between Mark, Liam, and Liam's lawyer could have such important implications (Liam's lawyer made an assessment based on this one visit). She knew this one encounter was unlikely to be representative of the actual situation, and would not indicate problems or safety concerns that were present. Rather, it would seem full of "warm fuzzies"¹⁴⁹.

As mentioned earlier, Alana's concern for Liam's safety was one of the main reasons she left Mark^{40,109}, and she took considerable risks to achieve safety for them both¹⁵⁰. Because she never wanted Liam re-exposed to that terrible situation¹⁰⁹, she did not like that somebody in the legal system could require Liam to have a relationship with his father, when this could be detrimental to him and compromise his safety¹⁵⁰. As referred to previously, there are no guarantees that the right decision is made^{119,149}. She believes

149: "I can remember, oh, that's another lawyer I should talk about too, is [Liam's Lawyer], who was appointed as [Liam's] counsel. And, and that really scared me. Because here was yet another person, who could listen to what I had to say, and listen to what [Mark] had to say, and come up with his own assessment of the situation, which would carry a reasonable amount of weight. And yet, there are no guarantees that he gets it right. Nobody can, nobody can come into a situation and be one hundred percent sure of making the right judgement. That can't happen. Anyway at the, the last mediation conference. Like, I've had two, one came immediately after the protection order, and then one was set up for the end of April. And I'd met [Liam's Lawyer] once, I made a special trip down to meet him and to introduce him to [Liam]. And he wanted to observe a visit between [Mark] and [Liam], which scared the shit out of me really. Because I knew that if he observed a visit between [Mark] and [Liam], he would see that [Liam] really loved his Dad and his Dad really loved [Liam]. And he'd say warm fuzzies, this is cool. But he would have to be, he would have to be with [Mark] and [Liam] for a reasonable amount of time before any problems would come up, because otherwise he just wouldn't see them. So, he would go the judge and say, 'Well, as far as I can see, they have a really good relationship, and I don't see why there should be any barriers to access or anything like this. I don't think that it needs to be supervised.'" (p. 49)

150: "I don't like the idea that someone else is going to say, 'Well, now you've got your protection order, now let your son get on and have a relationship with his father.' It's like, well, you know, the reason I took a lot of risks getting myself and my son out of this situation, why should I be safe and put my son right back into it?" (p. 43)

151: "[These fathers think], 'My son needs me, this is really important, and he needs me.' But, they see that side of the equation, but they don't see the other side of the equation. 'Well, my son needs me so therefore I can't leave him alone in the house to go to the pub. And I can't get into the car and drive drunk with him.' They don't look at the other side. Or they just, they just grab what suits them, they grab

these fathers think they are important in the lives of their children, but they do not see the "other side of the equation": that they are responsible for their child's safety¹⁵¹. Mark believes he is an "aggrieved father"¹⁵². She wonders how a judge can distinguish her from women who are vindictive and intentionally make it difficult for their ex-partners to see their children¹⁵³.

Alana still does not have custody, and despite being assured by lawyers and others that having Liam stated on the protection order is adequate, she feels unhappy about the current situation^{154,155}. She has been advised to bide time¹⁵⁶. Although she realises it is best to get some time behind her¹⁵⁷, and she is afraid to do anything¹⁵⁸, she still frets about the absence of custody and feels insecure. She is concerned that one day she will find a letter in her mailbox from his or her lawyer, advising her that he is pursuing it¹⁵⁹. She is sad that Mark does not ring

whatever's going that fits what they want, and they take notice of that. And they don't, and they can easily.. they can wipe, you know, the other side of things." (p. 52)

152: "[Mark] was okay when access was on his terms, when he could see [Liam] when, how and if it suited him, and while he wasn't questioned or held accountable for any of his actions around [Liam]. This is about me standing up to [Mark] and saying, 'You can't treat [Liam] like this, it's not okay,' and despite all his usual methods he couldn't make me back down this time. [Mark] is making a case as the aggrieved father, I'm sure he's convinced himself of it, and I have no doubt there's plenty of reinforcement from mates, etc, but it's just a big smoke screen that lets him off the hook as far as examining his behaviour and the real issues. He's a master at it, I've seen him do it in all areas of his life where things aren't going how he wants and even when you know he's his own worst enemy he still sucks you in. His behaviour toward and around [Liam] from the time he was a few weeks old makes a big lie out of his claims that he is concerned for [Liam] and has his best interests at heart. Care and concern for [Liam] has never stopped him doing exactly what he wants to do even if it is at odds with [Liam's] safety and welfare." (Alana's own writing)

153: "This is a lot of the trouble, when women get into court, just from what I've heard, is that there are women who use children as weapons against partners and there are women who are vindictive. And how do you judge whether you're, whether I'm one, one of them or not? How does the judge know whether I'm one of them or not? I mean, they should. Like I said the other day, that's what they make the big bucks for, and they've got heaps of experience, and they should, I don't know, be able to work some things out." (p. 52)

154: "I don't have custody of [Liam] yet. [Liam's] stated on the protection order, and everybody's assured me that that's enough, but I'm not happy about it." (p. 14)

155: "I haven't I have got no form of custody of him at all, except protection through him being named on the protection order. And you

Liam, but said his lack of contact is reflective of his disinterest in their son.

Liam seems to cope fine without Mark's contact¹⁵⁷.

All throughout, Alana has tried to keep Liam from being affected by the legal situation¹⁷². She gives her son honesty and stability, and always finds something positive to say about his father¹⁰¹. Having sought advice on what to tell Liam, she has told him that his father smokes marijuana, and when he does, he is not capable of looking after him¹⁵⁷.

Whilst she believes that fathers play an important role in the lives of children, she does not think that this means any father is better than no father¹⁵⁸. Although she used to go out of her way to encourage a relationship between Mark and Liam^{157,159}, she is aware that it is too much of a threat right now¹⁵⁷. Whilst she used to beat herself up about it, she feels it takes a lot to follow through with this option¹⁵⁸. Liam still

see, it's still a worry to me because it's like anything can jolt this guy. And I guess, in a way, without it like being any sort of burden to me or overtaking my life in anyway, I still, every time the mail comes, I still have just that little wee thing, I wonder if there's going to be a letter from a lawyer in here, you know, wanting another, wanting the custody thing sorted out, and the access thing sorted out. And so, I know that the longer time, you know, the more the more time goes by, the more secure I feel. But it's like, still not a secure feeling." (p. 23)

156: "All I'm doing is laying low. The next move could be up to me, like, I could start the whole thing again. But quite frankly I'm afraid to. So, where it's left at the moment is that it's basically, well, my lawyer has advised me if [Mark] does nothing then let it lie." (p. 45)

157: "What I want to do is get some time behind me, a decent length of time. And even though I'm really sorry that he doesn't ring his son, in a way it works to my advantage. Because I can then show that he has chosen not to have contact when contact has been open to him. My heart breaks for [Liam], but [Liam], he copes with it. I've got advice on how much I should tell him and what I should tell him, and I'm very careful with it. And I have told him that his father smokes marijuana, and that when he does, he's not capable of looking after [Liam]. And one or two counsellors have said the same thing to me, that they will understand, you know, if you tell them that much, they will understand and accept it. And he does, you know. It doesn't stop him loving his Dad. He really loves his Dad. It's, I don't want him to stop loving his father because I'm hoping that at some stage they will have a relationship. But it's too much of a threat to both of us for that to happen now. So, in a way, what [Mark] says is right, is that I am trying to keep [Liam] away from him. But that's only a consequence now of his actions." (p. 45)

158: "I think [Liam's lawyer] is quite a strong advocate of the importance of fathers in the life of children, especially of little boys. And I don't disagree with that. But, but, but, but it's not the case of any father is better than no father. Sometimes fathers are not good in a child's life. And it takes a hell of a lot of conviction and courage to,

loves his father^{43,149,157}, and Alana wants him to continue doing so, with the hope that one day they might be able to have a relationship^{44,101,157,160}. She hopes this might be possible when Liam is older and can recognise safety issues. However, because Mark does such crazy things, she worries about this too⁴⁴.

to follow that conclusion through. For me it did. Like, I used to beat myself up badly about, 'Am I doing the right thing? Have I got the right to do this?' you know." (p. 51)

159: "I have gone out of my way, made compromises, changed my plans, travelled to the coast and generally done whatever I could for [Liam] and [Mark] to have time together." (Alana's own writing)

160: "Because my ideal is that my son and his father have a relationship. I have no qualms about [Liam] spending time with his father, if his father were responsible and would look after him properly. So, that's my ideal, you know. But it's not going to happen." (p. 13)

The first Family Court mediation conference regarding access arrangements

After the protection order hearing, the judge unexpectedly announced that the remaining time would be utilised for a mediation conference to sort out the interim access arrangements^{161,162,163}. At this stage, Alana did not even know what a mediation conference was^{161,162}. Still swimming from the protection order hearing, Alana felt totally "ambushed"¹⁶¹. Because she had been focusing on the protection order and had left custody and access issues aside, she was "totally unprepared" and had difficulty thinking

161: "I got my protection order, but immediately after it, like, he ruled on that, and, and straight away he said, 'I hope to hold a, a mediation conference.' So, this was like a complete surprise to any of us. Nobody had requested this. Not [Mark], not me, not the lawyers. This was just the judge's own initiative. We were under a time constraint, because he looked at it and he said, 'What time are we seeing such and such?' and, 'Okay, we've got time to hold a short mediation conference.' I mean, I was just like had been through this protection order hearing which was really traumatic for me. And none of it had sunken in. And I didn't know the form, I didn't know anything about mediation conferences. And so, this was totally like, I was totally like shanghaied, ambushed with this. And I felt really strongly that my lawyer should have protected me. And she didn't. Like, I've since found out that she could have asked for time out, taken me outside, and said, 'Do you want to actually go, 'cause you don't have to? Do you want to go ahead with this?' .. I had nothing prepared. I'd been concentrating solely on the protection order, and leaving the custody and those sorts of issues to one side. So I was totally, totally unprepared for it. And I felt she didn't protect me. She didn't do the job. She should not have let that go ahead. She should have said to the judge, 'My client is in no state to face a mediation conference

of issues related to access^{161,162}. Additionally, she felt rushed because of the imposed time constraint^{161,162,163}. She did not want to be pushed into anything¹⁶³, particularly since the protection order had been “really traumatic” for her^{161,163}. She was extremely disappointed that her lawyer, (Lawyer 2), did not protect her by telling the judge that she was in no state to do the mediation conference^{161,162}.

She ended up leaving the mediation conference, unsure whether or not she had interim custody (she did not and still does not), and unsure if decisions that had been made during the conference were binding¹⁶².

having just come out of a protection order hearing.’ ... I felt she didn’t do a very good job there.” (p. 8)

162: “[Reading a letter she wrote to Lawyer 2]. ‘As the mediation conference, coming as it did a complete surprise and immediately following the hearing, I was totally unprepared and not able to focus as carefully as I would have given the time to prepare properly. I felt under pressure to reach an agreement and was also aware of the time constraints. I would have preferred an opportunity to go away and think over options for interim access after I had had a chance to settle down from the hearing, protection order hearing. Apart from the obvious, that it is a form of mediation, I knew next to nothing about mediation conference, what it entailed, how it was conducted, or if the result is binding or not. I would appreciate if you could advise me if I can withdraw my agreement made in the conference, and if so, what happens next. Also, your advice on the offers I have made etc. And do I have interim custody of [Liam]?’ {Alana finishes reading letter}. I didn’t even know that... It was after that when I talked to her and she said that she had in fact told me, explained mediation conference, which she really never did. It’s not something I’m likely to forget. And then, she was like off, basically off for Christmas.. I haven’t, I have got no form of custody of him at all, except protection through him being named on the protection order.” (p. 23)

163: “We were under a time constraint, we were all aware of that, which was a pretty bad place to start from anyway. And he just wanted to rush it on. So, what he wanted to achieve was a result at the end of that conference whereby there was an interim access arrangement. And I didn’t want to be pushed into that in any sort of a hurry at all. And not, not coming straight after the, you know, the trauma of sitting through that protection order thing.” (p. 22)

Alana’s experience of the judge throughout the first mediation conference

Having already upset her with the protection order, the judge continued to

164: “[The judge] would say, ‘Well, what can we come to? What can, you know, how can he visit? What can he do? What can he do?’ And it was like, you know, ‘I don’t know.’ Because basically, I don’t want

upset Alana during this part of the hearing. He rushed things, would not listen to her, and would not let her mention what her worries were with unsupervised access. When she did try and bring up events that had caused her to be worry about Liam's safety with Mark, the judge told her that she had to let the past go and move on. Alana felt like she was "going mental". Because she was so upset, she did not think to tell the judge that the past is the reason she could not move on¹⁶⁴.

During the conference, the judge made a patronising comment that upset Alana. He told Mark that Liam wetting his pants during his access visits was just a result of "little boys having a good time with their Dad." He then crossly told Alana that it could also be caused by overanxious mothers^{164,165}. Alana felt blamed. She also felt that the judge, as a man, was backing up her partner. They were united as men, "all men together"¹⁶⁵.

any contact at all unless it's supervised, until [Liam's] a lot older. And, but he wouldn't let me say why not. He wouldn't let me say what my worries were, and why I thought. So, a few things I got in, like, being totally unprepared, and it was really hard to think of all the things that I said. 'Well, for example, he comes back, he's come back probably a third or even a half of the days where he's wet himself.' And so I said to the judge, and I said, 'That never normally happens.' And he said, 'Oh,' he said, 'you know, little boys can wet their pants because their mother's overanxious too.' And he looked at [Mark], and he said, 'This is just little boys having a good time with their Dad, isn't it?' And it was like, fuck you, man. Like, I was just, that's what I mean by patronising." {Rachael: "It almost sounded like he was colluding with [Mark] to say a comment like that. It was almost like a buddy, buddy"} "It was, it very much was. And that's the feeling that I got. And then, I, every time I tried to say, 'Well, listen, this is, this is what's happened, and this is why I'm worried,' he'd say, 'No, look, let's move on. Forget about the past. Let's move on.' And I was too upset, and I couldn't even think at the time to say to him, 'I can't,' you know, 'I can't move on because the past is why I have these problems with moving on.' It was like shit, you know. I thought I was going mental there too {laugh}. So he said, I think we arranged a temporary access thing for two and a half days for the Saturday and the Sunday, I'm not too sure, I'm not too sure. But it was like a temporary thing. And, and [Mark] said to him, 'Well, it's not worth it.' And the judge says, you know, 'What do you mean?' And he says, 'Well, would you be bothered coming over to see your son for only two and a half hours a day?' I mean, this was the way the {inaudible} talks. This is, this is where he's coming from. And of course the judge was not happy about that. He said, 'Well, yes I would.' But, you know, he should have taken on board that that's actually [Mark's] attitude. He doesn't really want to see his son unless it's entirely on his terms. And, and, then the judge said to him, 'I see, I envisage these visits moving very quickly towards overnight visits in about two or three months time.' And of course, that just made my whole inside of me panic. It was like, ah, you know. What's happening here?" (p. 22)

165: "Well, you see it came through quite clearly with [that] judge. I

Despite the judge granting Mark only limited access to Liam, his comment that Mark’s access would move very quickly to overnight visits, made “the whole inside of [her] panic” ¹⁶⁴ .	reckon when he said to [Mark], ‘This is just little boys having fun with their Dad, isn’t it?’ that they were like really chummy, buddy, buddy. All men, all men together. And when he said, when I brought up the fact that like [Liam] had started wetting his pants during the day only when he was having visits with his Dad, and only sometimes, not all the time, but I took from that something had not gone right for [Liam] during those visits, that had upset him. And the judge said to me, ‘Little,’ and he was quite cross when he said it, he said, ‘little boys can wet their pants because their mothers are overanxious too.’ So, he was blaming that back on me. And I thought, ‘You old bastard.’” (p. 53)
Alana feels that though judges make very important decisions, they have little stake in the matter and do not have to live with the consequences. Furthermore, they would never know if their decisions had detrimental outcomes on some children ¹¹⁹ .	

The second mediation conference regarding access arrangements

During the interview, Alana did not share much about her experience of the second mediation conference. However, she did say that unlike the first mediation conference, she had time to prepare before it ¹⁶⁶ . Hence, she had more confidence ^{166,167} . Overall, she felt “a whole lot better” ¹⁶⁷ .	166: “Anyway, at this, I found my way to the Family Court for the second mediation conference. And I was a wee bit more confident than the last one because I’d had time to prepare for it.” (p. 49)
Although Alana’s comments were mostly	167: “I think if it does come to a custody or access thing in court, I will handle it a lot better. Simply because I’ve been through the mill. And I’ve, I’ve been in the system. I’ve been in the courts only two times, but the first time I was, I had very little confidence and was very intimidated by the whole thing. The second time I was a whole lot better. Even though it wasn’t a hearing, it was just a mediation conference, but it feels the same. I had a lot more confidence. And of course, the next time, if I do end up in court again, I’ll, I’ll be as on to it as I can possibly be, because it’s my child that I’m fighting for. And that’s more important, you know, than anything.” (pp. 43-44)

brief and positive, she did describe in quite some detail, the poor treatment she received from Liam's lawyer (described next).

If she ever has to go to court again she said she would be "as on to it as possible". This is because "it is [her] child that [she] is fighting for" ¹⁶⁷.

Liam's lawyer's behaviour at the second mediation conference

Alana felt that Liam's (male) lawyer was yet another person who would make conclusions and influence decisions, with no guarantee of correctness¹⁴⁹.

At the second mediation conference, Liam's lawyer arrived with Mark. At first, Alana thought he was Mark's new lawyer, but he was not. Mark gave her "filthy" looks, as if he wanted to "murder [her]"¹⁶⁸.

Shortly afterwards, Liam's lawyer approached her, and suggested they have a meeting. In this meeting, she disliked his behaviour

168: "My lawyer was held up, this was [Lawyer 3] by this stage, and he was held up in court. So, I was sitting there waiting and, and then [Liam's lawyer] and [Mark] walked in. And I didn't actually recognise [Liam's lawyer] straight away, because I'd just met him the once, and it had been a couple of months prior. But afterwards I thought, I knew [Mark] had ditched his last lawyer because he, he didn't want to pay legal fees. And I got a letter saying he, he, he, he didn't have his lawyer any more, because he no longer wished to pay her, {laugh}, which really cracked me up. So, I thought, 'Oh my god, [Mark] has got another lawyer.' And that's when [Mark] gave me that filthy, like, wanting to murder me look. And [Liam's lawyer], I don't know whether he didn't see me or didn't recognise me, but he didn't acknowledge me. And I was sitting on the seat, and there a wee petition before the next lot of seats, because they try and have it in the Family Court waiting area that you can be separate from the other party. So, they went and just sat on the other side of the petition. And, and I sort of sat there thinking, 'Come on [Lawyer 3], come on. I want my lawyer.' And then this [Liam's lawyer] came around to me, and he said, 'Oh, he said, 'look have we got time for a little meeting before we? Come into this room.' So, we went into a little interview room. And he just was like really aggressive." {Rachael: "Did you recognise who he was?"} "I did at that stage, when he came up to me, yes, and I

towards her. He was “really aggressive”, “domineering”, “bulldozing”, and “intimidating”. He “hounded [her] about access” and was “pounding [her] with Mark’s rights”. Alana felt “really shaky”. She was very worried that although this lawyer was representing Liam, he was far more concerned with Mark’s rights as a father, not Liam’s rights as a child. Alana thinks that Liam’s lawyer is a “strong advocate of the importance of fathers in the life of children, especially little boys”¹⁶⁸.

Alana believes that to empathise adequately with the situation, children’s lawyers need to consider whether they would feel safe having their own children in the situation that they are presenting to the judge. Liam’s lawyer thought it was unnecessary to do this¹⁶⁸.

Because Alana was very concerned about the “really inappropriate” behaviour of Liam’s lawyer, she

realised then that that was [Liam’s] lawyer. He was aggressive.. He hounded me about access. He, huh, he said to me, ‘Well, what are your objections?’ And I mean, I’d already given him some of them when I’d met with him. And, and he said, ‘Well, what about [Mark’s] rights?’ And he started pounding me with [Mark’s] rights. And it was like, you know, I mean, I was feeling really shaky by the way this guy was being. Really sort of domineering and bulldozing and intimidating and at me and at me and at me. And I sort of said, ‘[Mark’s] rights, I said, ‘he trampled over all of those a long time ago,’ you know. And I mean, I wasn’t, afterwards, as you always do, and I had time to calm down and think about it, I, I thought to myself, ‘Well, this guy didn’t want to talk about [Liam’s] rights. And he’s actually [Liam’s] counsel. He’s there for [Liam], all he was concerned with were [Mark’s] rights.’ And I was really worried about that. I actually wrote a letter to [Lawyer 3] and, after the mediation conference, and I got back up here, and I wrote just asking some questions, and then saying, I wanted it on paper. I’m pretty careful, I try and get the things, how things might be significant on record. And I just wrote and said about, what was it with [Liam’s] lawyer that made him so aggressive. And he seemed to be more interested in [Mark’s] rights than [Liam’s] rights. And, and [Lawyer 3] replied at some stage and said, ‘Look, just don’t worry about it yet.’ Because [Lawyer 3’s] stand was that we will wait and see what [Mark] does. And if he does nothing, then we will do nothing. And so, if [Mark] does nothing, then we don’t need to anything about [Liam’s lawyer] either. But if it all blows up in court again, but, then, I presume we would look at that. Because I would say that his behaviour towards me was really inappropriate. He was [Liam’s] lawyer and he was pushing [Mark’s] rights. And I tried to say to him at that stage, I said, ‘Well, look, how would you,’ because he’s got young kids, and I said, ‘would you want to leave your children with this guy?’ And he said, ‘It’s not about me, and it’s not about my children.’ And he’s right, but the point is, if you’re gonna have empathy, if a lawyer who is a lawyer for a child in this situation is going to have any sort of empathy at all, the obvious thing is look at the situation and say, ‘Will I have my children in this situation?’ ... And no, I, I didn’t like that, the way he treated me at all... I think he’s quite a strong advocate of the importance of fathers in the life of

informed Lawyer 3. He told her not to worry about it at this stage. If Mark takes any further action, she assumes this will be raised then¹⁶⁸.

children, especially of little boys. And I don't disagree with that, but, but, but, but.. it's not the case of any father is better than no father." (pp. 49-51)

Alana's lawyers

Alana has used three main lawyers. She has also sought advice from several others at different stages¹⁶⁹.

169: "Well basically, I had experiences like with three lawyers, as well as I actually rang and got advice, you know, over the phone from several others at different stages of the happening." (p. 1)

Alana has found lawyers to be very busy people, in fact, too busy^{119,170,171,172,182}. She believes that they try to squeeze too many clients into one day, possibly because of greed^{171,172}. She does not envisage this situation will change: they will continue to "take on as many clients as they can stuff into one day"¹⁷¹.

170: "I think that's one point, is that lawyers are very, very busy people." (p. 2) (from excerpt 178)

171: "I felt that I was always rushed. They didn't have the time that, they obviously hadn't been listening to some of the things that I'd said, and hadn't even written down some of the things correctly. I mean perhaps that's not the case. I've only say got experience mainly of [Lawyer 2]. And I just get the feeling that they're too busy, man. They're just greedy I think.. And I mean, you're not going to change that. You're never going to change that. They'll take on as many clients as they can stuff into one day." (p. 63)

The busy-ness of lawyers meant they had little or no time for her, things were rushed, and mistakes were made. Alana found several "pretty serious mistakes" in her affidavit because of rushed appointments^{171,172}.

172: "But my criticism of lawyers that I've come across are that they're real busy. They're so damned busy that they don't have a lot of time for you. Things are rushed, things are pushed through, mistakes are made. I picked up two or three pretty serious mistakes in my affidavits. Appointments are changed. Like I'm a single mother at home trying to keep my son out of this whole situation. Everybody I know who can baby-sit works. So you get an appointment set up with your lawyer, and you'd arrange a babysitter, and then you'd be rung at the last minute saying, 'Oh, can we put this off because such and such else has come up?' And it's like, it's awful.. [I felt] totally pressured, really stressed out, badly stressed out. It was really traumatic, the whole thing, but then to have that happen it was like, I

She felt a “nuisance” ringing to find out information, and often had to chase things up herself. Sometimes, lawyers inconveniently changed appointments at the last minute because something more important had come up. This was awkward because Alana then had to rearrange babysitters. Although lawyers were meant to be helping her, they sometimes made the situation worse. She found the whole experience “traumatic” and “awful”. She felt “really stressed out”, “totally pressured”, and “pulled in all directions”. She encountered a powerlessness similar to that experienced with Mark¹⁷².

Alana found it hard to trust that her lawyers were going to do their best for her. Although they probably considered her situation as serious¹¹⁹, at least initially¹⁷³, she did not believe they could feel the same level of passion¹¹⁹. First, she knew it was only

don't know, I just sort of felt I was being pulled in all directions, and, and well, totally powerless as well, which I didn't have any anyway. But I mean these were people, these weren't [Mark]. I didn't have any power with [Mark], but these were people that were supposed to be helping me, and they were making the situation worse for me... And so, about the lawyers, I believe that they, I don't know if they're greedy or what, but they take on too many clients I believe. And when they're dealing with someone like me, when you're in a really highly emotional state, and you're feeling really threatened anyway, they, they need to be able to give you time and reassurance. And because, I mean, the, the bottom line is, is, what they're doing is they're fighting on your behalf in a law court, and to them it's a job but to you it's your, it's your child's, it's the most important thing in your life, it's your kid, you know, and your own safety. And it's like, it's really hard to trust them I think, that, that they're going to their best for you, or whether it's just a job to them.” {Rachael: “Did you feel, with both your lawyers, did you feel important as a person then?”} “Initially, but not, that didn't last for very long. It was, then, like I would get to the stage where I needed to ring and find something out from my lawyer, and I would feel bad doing it, as though, you know, I'm being a nuisance. And I really had to push myself to, to find out things from my lawyers, and to insist on being told, you know, different things, and how things were going, and, and what would happen.” {Rachael: “So they didn't make that effort to inform you of what was going on? You had to”} “Very superficially, really superficially, would they, you know, ring and let, you know, what was going on. Normally I would need to chase them.” (pp. 4-5)

173: “So, no, you don't feel important after a while at all. You don't feel as though, you just sort of feel as though you're another number. But initially you do, like you feel heard, and you feel when you tell your story, you know, your lawyer's sort of looking at you with eyes bulging and thinking, ‘My god, my god, this guy should be in a cage,’ sort of thing, you know. But then after a while things happen.” (p. 5)

174: “Because, I mean, I can understand lawyers aren't counsellors, and they don't want to sit there and listen to you bleat on for hours

a job for them^{119,172}: “this little, little segment in time... once you leave their office, they’re onto the next thing”¹¹⁹. Indeed, she felt like “another number”¹⁷³. Second, they do not know what it feels like to be threatened¹⁴⁵. Third, they do not have to live with the consequences. These consequences were all important to Alana because they equated to hers and Liam’s safety¹¹⁹.

Alana believes it is important that lawyers are able to give adequate time and reassurance to their clients. This is particularly important because women may feel “really threatened” and in a “highly emotional state”¹⁷². She understands that lawyers are not counsellors: “they don’t want to sit there and listen to you bleat on for hours about this, this, and the other”. Rather, they need to “sift out the facts”¹⁷⁴.

about this, this, and the other. They’ve got to sift out the facts.” (p. 33)

Alana's experience of Lawyer 1

Alana's first lawyer was male, and reputed to be

175: “The first, the first lawyer I had was a male and reputed to be very good, although I didn’t know that at the time, you know, but I

"quite a strong and good lawyer"¹⁷⁵. She wanted him to assist her in two ways. First, she needed help because Mark was threatening to tell Social Welfare that she had been receiving a benefit for the two years she had been in a relationship with him. Second, she was extremely worried about Liam and her safety¹⁷⁶.

During their first appointment, he seemed "really strong" and he "gave [her] a lot of hope". She thought she was "onto the right person". However, this hope faded fairly quickly. She found him to be "quite bullying" and "quite aggressive". He had a poor attitude¹⁷⁷, regarded her as an "over-emotional woman"¹⁷⁸, and discounted her as a person. It was as if she was too much trouble and bother¹⁷⁷.

Lawyer 1 did manage to work through a solution regarding her problem with Social Welfare. Evidently, he also spoke to her about protection orders.

found out later that he was quite a strong and good lawyer." (p. 1)

176: {Rachael: "What had you expected [Lawyer 1] to, had you, when you involved him originally, had you kind of had some idea of what was available for him to do?"} "I was going to him, I was in two, two lots of trouble. I was concerned for [Liam], and I was being threatened by his father if I sort of took any action or said anything to try and protect [Liam] or look after him. One of the threats was that during the, the two years that I lived with [Mark] I actually didn't go off the benefit. I kept, you know, was on the benefit. So that was, one of his threats was that he would dob me in, you see. And that was not even that straight forward because my daughter was, had an involvement too. And he was threatening her, to get her into trouble, and get her sacked, and all this sort of thing as well. So that was like awful, because I was genuinely afraid that there was a possibility that I'd go to jail. I mean I didn't know anything about the law, or anything about those issues. And I knew that people did go to jail for defrauding Social Welfare. And I thought, 'My god, what,' you know, 'what do I do if I go to jail?' So.. so when I went to [Lawyer 1], there was the issue of Liam's safety, and of me being threatened, and then how to deal with the Social Welfare thing. So, they were the two things I went to him for. I was really frightened. I was clinically depressed. I was just a mess. And extremely worried about [Liam], and about what might happen to me if I sort of continued to take steps to make [Liam] safe." (p. 2)

177: "Ah, that first lawyer I got was, he, for a start, when I first met him, when I had my first session with him, he seemed really strong, and he sort of gave me a lot of hope, and I thought, 'Yes, I'm on to the right person.' But that seemed to, to fade fairly quickly. And he was quite bullying and quite aggressive, and quite, you know, ra ra ra." {Rachael: "Is that in terms of decision-making, bullying in that respect?"} "Just, more in attitude really. It was like, ah, almost like he, he ended up discounting you as a person and you were too much trouble, too much bother. And I, I lost trust in him. And I actually rang him, and I had lost trust that he was going to do the best for me that he could, and I, I rang him, ah, about something in particular, and I

However, she felt discouraged because he told her that they were difficult to get on the basis of psychological abuse. He also told her he would not have time to prepare the protection order application because he was going on leave¹⁷⁸.

At some stage, Lawyer 1 started to compose a letter arranging Mark's supervised access to Liam. However, she was unhappy with its formality and content. She did like being referred to by her formal title and surname; rather, she wanted to be referred to as Alana. Also, she was very concerned its wording would make matters worse. She asked that the letter not be sent¹⁷⁸.

Lawyer 1 also expected Alana to know a lot about custody and other law. However, she "didn't have a clue" about such things. Lawyer 1 incorrectly assumed that she did, and omitted to inform her about issues with important

got up a lot of courage and I asked him that question. And he said, 'Well, you've answered your own question.' And he was quite rude. And so I, I dumped him, I dropped him." (p. 1)

178: "I got the feeling that [Lawyer 1] sort of dismissed, eventually dismissed me as sort of an over-emotional woman. I was over-emotional {laugh}, but then you are when you're in those situations. I think that's one point, is that lawyers are very, very busy people. And they, another thing about him was that I felt he expected me to know a lot of, of the law about custody and things like that. And I didn't have a clue. No idea at all. And I found out, while this guy was still my lawyer, I found out quite accidentally through a, a Family Court co-ordinator that I didn't actually have custody of [Liam], which I guess I'd never really thought about, but assumed that seeing I was the Mum and he was living with me that that was how it would be until the court might change it for some reason. But that wasn't the case. So therefore, [Liam], ah, [Liam's] Dad was still taking him for visits, and I found out that he was not legally required to bring him back to me, that he could have just kept him, and then I would have had to have gone to the Family Court to fight, to get him back. But my lawyer never told me that. He assumed I knew it. So when I found out from the Family Court co-ordinator that this was the case I freaked, you know. And, and he, he sort of was very off, the lawyer was very offhand about, when I tackled him about that particular thing. I guess that's when I started to lose trust in him. 'Cause I thought, 'This is a big major thing here that this guy has assumed incorrectly that I should know about.' Because I didn't." {Rachael: "And something that could impact your life."} "Absolutely." {Rachael: "Massively."} "Massively. And so I lost trust in him. Then, you know, and then I think it all fell to bits really. And when I finally tackled him with, you know, "Are you going to do the best job for me?" And he, he basically, his answer was something like, "Well, you've answered your own question,' or something like that. So, so I just went ahead and." {Rachael: "So did he, your first lawyer, did he, you said he didn't explain anything really to do with custody. Did he explain much about the law in other areas? Or did he like say, 'Look, this is the law in relation to that,' and explain it so that you could understand it?") "No,

implications. For example, he did not tell her that though she was the caregiver for Liam, she did not have legal custody of him and Mark could take him at any time. When Alana found this out, she “freaked”¹⁷⁸. She lost trust that he was doing the best he could for her^{177,178}. After this, things “fell to bits really”¹⁷⁸. When she got up enough courage, she tackled him about the matter. Because he responded rudely and was unhelpful, she “dumped him” and chose another lawyer^{177,178}.

Not long afterwards, Alana unexpectedly received a large bill from him (\$700). Ineptly, Lawyer 1 had failed to explain that her legal aid would not cover work done towards the Social Welfare problem. She felt let down. The financial stress caused by this compounded with “heaps of stress” she was already under¹⁷⁸.

Overall, Alana felt that Lawyer 1 “didn't really do very much for [her] at

not, not in particular.. He told me, oh, he went to, he evidently, he talked to a contact of his in the fraud part of Social Welfare for me. I needed time to sort myself out about that. So I said to him, ‘Well look, you know, I’m being threatened at, to be dobbed in, so can we, can you perhaps say to your person in Social Welfare that I have a client who wants to dob herself in.’ And, but, you know, just so that it was on record so that if [Mark] then rang up and dobbed me in this lawyer could then say, ‘No, you’re too late, because she is already gonna come forward with it, it’s just a matter of time.’ So I got that set up and he did that, evidently. He talked to me about protection orders and told me that it was very difficult to prove psychological abuse. So, that wasn’t very encouraging. And what else did he say? {Pause}. He didn’t inform me fully about my legal aid position so I’m ending up, I had a \$700 bill from him that I’m paying off at five bucks a week, and it’s going to take me a long time to pay that off. He gave me all the legal aid forms to fill out, which I did, and they weren’t completed. There was information that still needed to come at the time that he stopped being my lawyer. When I went to my second lawyer, I explained all about [Lawyer 1] and the legal aid situation, and she said, ‘Don’t worry, we’ll deal with it.’ And by memory, I think she actually rang him that same day, that first day I ever saw her. I presumed she had anyway because when we were talking about it, she got up and she went to the phone, and I presumed that she made a call to him. But as it turned out he hit me with a bill for \$700, saying that any work he did for me as far as the Social Welfare thing went, because it wasn’t criminal, I wasn’t entitled to legal aid. But he never explained that to me at the start, so I assumed that the whole lot was covered by legal aid. And consequently, I’ve ended up with this big bill. And then I assumed when I went to my second lawyer that she would cover it and sort it out, and she didn’t. And then when, fairly well down the peace of her being my lawyer, she, I got this bill from the first lawyer and I told her and showed her. And she said, ‘My god, \$700 dollars. How much time did you spend with him?’ And she said, ‘No,’ she said, ‘we can’t cover that,’ you know. She said, ‘We’re only getting enough legal aid to do what we’re doing.’ So it was like both of those lawyers let me down badly as far as legal aid went, which just added stress on top of, you know, the heaps of stress I was under.

all"¹⁷⁸.

Anyway, yeah, so that basic, basically with him, he didn't really do very much for me at all. He started to compose a letter, 'cause I wanted [Mark], ah, I had made up mind that I wanted supervised access only. And he started to compose a letter to send to [Mark] saying that. But it, I'm pretty fussy about how things are put and I don't want things put in such a way that it's going to make matters worse. So, for example, I said, 'Well, I would like you to refer to me as [Alana] and not Ms [Alana's surname], you know. I want to keep it, keep it as good as I can. But I didn't like the letter that he wrote. It was like." (Rachael: "Did he show you the letter before he sent it?") "Yeah, he never sent it because I wasn't happy with how, what was in it and things that were being said. Because the whole time I was thinking that sooner or later we're probably going to end up in court over a custody battle, and I had to be very careful about the things that I say and the things that I do. So, the letter never went. And then he went on leave anyway, and he said he didn't have time to prepare a application for a protection order for me." (Rachael: "Had he done anything with the custody by this stage?") "No." (Rachael: "So, he had just started the supervised access?") "Yeah." (Rachael: "And that had drifted off?") "Yeah." (Rachael: "And then he didn't have time to do a protection order for you?") "No. So then I went to [Lawyer 2]." (pp. 3-4)

Alana's experience of Lawyer 2

Alana's second lawyer, who assisted Alana mainly with her protection order, was a woman. She had a good reputation, and informed Alana she had been successful with all her protection order applications. Lawyer 2 also assisted with supervised access arrangements¹⁷⁹.

179: "So then I went to [Lawyer 2], who had a really good reputation. And I actually asked her what her reputation was like in the area of protection orders, and she said she'd never lost one. So I thought well that's {laugh}. And she, she started the letter and she was very good about, I think I might have given her the draft of [Lawyer 1's] letter, and she worked on that. And I told her what I wanted left out and what I wanted put in. And, and got a, what I thought was a good letter, stopping access and offering supervised access. And she sent that out and advised me, she was very good, she advised me to get out of the house 'cause the shit would really hit the fan when he got that letter. Which, which I, I did, I left. And I got call mind, yeah, call minder on my phone, because he was ringing quite a lot, and putting

Lawyer 2 did “good work”. At one stage, she wrote a letter to Mark’s lawyer, stopping access and offering supervised access. Alana thought this letter was “good”. She was also pleased that Lawyer 2 considered her safety and advised her to leave her house around the time that Mark would receive this letter. Lawyer 2 thought the “shit would really hit the fan”. It did. Mark rang and left a menacing message on her call-minder: silence followed by the words “dog shit”. When Alana returned to the house and heard the message, she “freaked”. She grabbed Liam, locked up her flat, and went back to her daughters¹⁷⁹. She still considers these two words to be the most frightening words she has ever heard⁹².

Although she felt Lawyer 2 did good work, she found her, like other lawyers, to be far too busy¹⁷⁹. Lawyer 2 sometimes took a week to return her calls, even when Alana had left several messages for

me on the spot and harassing me and this sort of thing.. It was a really empowering move, you know. It was brilliant. It made such a big difference to me. So, when I, I went away for the weekend after I knew he would have received this letter, and when I got back on Monday I went through my messages. And there was just one from him, and there was silence, and then he said, ‘Dog shit,’ in this really scary, ‘cause he’s a really scary guy anyway. And I just freaked, man. I just grabbed [Liam], and I locked my flat up, and I took off and went back to my daughter’s, and really panicked about that. It was horrible. But [Lawyer 2], she did do good work. But my criticism of lawyers that I’ve come across are that they’re real busy.” (p. 4)

180: “Or, another, another thing is that I’d ring and I’d really need some information or need to talk to [Lawyer 2], and I might not hear from her for a week. And I might ring three or four times in that week to get her to call me back, and eventually, after a week, she’d ring, ‘I’ve been really busy,’ you know. So, no, you don’t feel important after a while at all. You don’t feel as though, you just sort of feel as though you’re another number.” (p. 5)

181: “That’s another thing actually, that I thought was quite shocking. After [Lawyer 2] sent that letter stopping access but offering supervised access, she said to me, she said, ‘Oh well, if something happens,’ meaning something violent, I mean, if he came to my house as a result of that letter and bashed me, we’d be, basically be home and hosed for the protection order.” {Rachael: “As if it was almost going to be a good thing?”} “Oh, definitely a good thing. That sort of like blew me away. I thought, ‘My god,’ you know, {laugh}, ‘success at all costs.’” {Rachael: “So, do you think she kind of really understood what your experiences?”} “No.” {Rachael: “Particularly of abuse?”} “No.” {Rachael: “And how frightening that can be?”} “No. I don’t think, I think, in my experience with the court and both of my lawyers, that they, that they don’t actually understand or put a lot seriousness to psychological abuse, very much. I, I feel that really strongly, because it seemed to me that you almost had to prove you were either physically hurt or physically about to be hurt to lend any weight to psychological abuse.” {Rachael: “Which is supposedly

her¹⁸⁰. Sometimes, she would ring and cancel appointments at late notice because of other commitments¹⁸³. As mentioned above, she felt like "another number"¹⁸⁰.

Alana criticised Lawyer 2's understanding of psychological abuse several times, and gave examples where this was evident. For example, she was shocked when Lawyer 2 told her she would be "home and hosed" for the protection order if Mark did anything violent after receiving the letter about supervised access. It was as if she considered such behaviour by him would be helpful. She did not feel Lawyer 2 really understood how frightening an abusive person can be¹⁸¹.

Alana also found it "hard to respect" Lawyer 2, when she told her to shake or cry on the stand during the defended hearing for the protection order. Whilst Lawyer 2 thought it would a way of conveying her fear of Mark to the judge, Alana

recognised by the law now."} "It is, it is supposedly, but I don't know how much weight that carries on it's own. [Lawyer 2] said to me, 'When you get in front of the judge for the protection order,' she said, 'cry, shake, do what ever you have to do to convey your fear of [Mark].' And like, I found it really hard to respect her for saying that sort of thing, because I thought, 'My god,' you know, 'like I don't have to be on the verge of being bashed by a guy to have been abused by him.' So, no, I don't think they do understand psychological abuse. Like my experience of it is that it's really insidious. It, there are heaps and heaps of little things that go to form a picture of psychological abuse." (pp. 4-6)

182: "So, I was always really, really careful about the truth. And I had to correct my affidavits because [Lawyer 2] knew my story and she'd written down lots of notes. Oh, another thing about the busy lawyers and not feeling very important to them, was that she made like quite glaring mistakes in the information I gave her. When they came back on to an affidavit they were like totally wrong or, or so highly exaggerated that I wouldn't put my name to them, and I'd make them change them so that." {Rachael: "So, did that make you feel that she'd like listened to you?"} "No, no. It was like she was always like scribbling notes and obviously when she went back, she'd either written things down incorrectly or she'd misread them or put her own spin on them. That was what happened a lot. She put her own spin on stuff and she'd exaggerate. And I sort of felt this, this doesn't need exaggerating. This is bad enough on it's own, it doesn't need to be exaggerated in order for it, you know, to be seen as abuse, so." {Rachael: "And by her wanting to exaggerate it, it almost gives the message that what you were experiencing wasn't bad enough?"} "Oh, that's the nail on the head. That really is. That's exactly how I felt. Initially, it was, 'This guy should be in a cage basically. He should not be anywhere near this child. He's, you know, he's just an arsehole,' to, to that attitude that you said. It's like all, originally we were going to go for the protection order and custody, interim custody and sole custody, all in the one hearing. And so it didn't end up that way. It was just the protection order in the end. But she'd say to me, 'When you take out,' she looked through an affidavit and she said, 'when you

thought it illustrated a poor understanding of psychological abuse. A woman does not need to be on the “verge of being bashed” to be abused¹⁸¹.

Lawyer 2 also made “quite glaring mistakes” in Alana’s affidavits. Incidents of abuse were “highly exaggerated” or “totally wrong”¹⁸². It was “real drama queen stuff”¹⁸³. It seemed that Lawyer 2 had either “written things down incorrectly”, had “misread them”, or had “put her own spin on them”. Alana felt it was unnecessary to exaggerate the abuse: it was “bad enough on it’s own”. Indeed, she found that exaggerating incidents downplayed their actual seriousness¹⁸².

Alana refused to sign affidavits that were not representative of her experience^{182,183}. To assist Lawyer 2’s accuracy, Alana would give her pages of detailed incidents. In response, Lawyer 2 reminded her that she was a professional: Alana just

take out the issues that apply to custody we’re not really left with a hell of a lot are we?’ But then, I mean, I had I had pages, I even wrote out pages of incidents, I’d dated them, I, I went into it in great detail for her to read, because I was so worried she would make mistakes and that she would not, not get it right, that I, I wanted to give her as much help as I could and in the end I think she didn’t like that at all. She would quite often say, ‘Look, you’ve just got to trust me. I’m a professional. I know what I’m doing. You have to let it go and put your trust in me.’ And I was thinking, ‘That’s a lot to ask me. I’m a mother. It’s a hell of a lot to ask me to put my trust,’ you know, ‘in, in a stranger, especially when you’ve got no stake in it.’ It’s just dollars to you, but this is my life and my kid’s life.” (pp. 7-8)

183: ‘Well, one of the things at the time that gave me a lot of trouble in dealing with the lawyers, or say the one lawyer really, which was my main one, [Lawyer 2], who got me my protection order was the affidavits. She would just get me to tell her incidences and things that had happened, and then she would write them down. She quite often got it wrong at that time, writing it down, she would get it wrong. And then, she might type up an affidavit. And well, in one particular case, and this was getting really close to, to the hearing, she, ‘cause I did two, two affidavits. And she typed up one, the second one, and I was given it, I think the night before it had to be filed with the Family Court, to read it. And I read it. And she’d said to me previous to that, because I’d done a lot of corrections in the first affidavit, and she said, ‘Look, you’ve just got to trust me, you know.’ And so, I thought, ‘Well, I’m going to do this. I’m going to just chill out and trust her.’ Well, when I got my affidavit, it was just a mess man. And I, I, it was delivered to me that night, because I’d meant to get it in the afternoon, but it wasn’t ready. So, a lot of this was going on, you know. You were always being built up to have this appointment or have something ready, and then it wouldn’t because the lawyer was too busy, or, you know, she’d been late in court, or whatever her problems were... So, I don’t even remember what was wrong with it, but I can remember thinking, ‘I can’t sign this,’ you know, ‘this is a load of crap.’ And I actually rang and I said, ‘Look, this is just real drama queen stuff, and I’m not putting my name to it.’ So, I sat down,

needed to relax and put her trust in her. However, as mentioned earlier, Alana found it difficult to trust a stranger with such an important issue as her son's life, when a lawyer's main interest is money¹⁸². On one occasion, Alana wrote her own affidavit. Quite surprisingly, her lawyer was impressed with the final result. It might not have been the "great big sob story" that she had expected¹⁸³.

Several of Lawyer 2's other comments upset Alana. For example, on one occasion (when Alana and Lawyer 2 had decided to apply for a protection order only, not a protection order and custody), Lawyer 2 told her she did not have a lot to go on once statements pertaining to Liam's safety were removed from her affidavit¹⁸². Lawyer 2 also told her she was lucky to be granted her protection order. This "blew [her] away" because Alana could identify many incidents of abuse that fitted on the Duluth wheel of violence¹⁸⁴.

they held off, they whatever, whatever legally they do so that your affidavit can be delayed being filed... And I wrote my own affidavit out, and took it in to her. I had time because I delayed the whole thing for about a week or something. And I sat down and I wrote my own, and took it in. And I think [Lawyer 2] was really, you know, a wee bit worried about what it was going to be, if it was going to be like this great big sob story. But she was really impressed, and she said, 'Have you had someone help you do this?' And I said, 'No.' And she said, 'Well, it's really good.' And so I put my name to it and that was my second affidavit." (pp. 46-47)

184: "Well, the long shot is that [Lawyer 2] got my protection order, but she said that, ah, I was lucky to get it, which blew me away. Because like, I could identify many incidences, and they all, ah, fitted that Duluth wheel of violence." (p. 5)

185: "I mean [Lawyer 2] said to me, at one stage she said, 'Oh,' she said, 'well look, why don't you just,' this isn't the exact words. Basically, why don't I just let him have his access unsupervised. She said, and this is pretty much the exact words, she said, 'God,' and I think at that stage she knew that I wasn't a Christian because I wouldn't swear on the bible and that sort of thing, 'God,' she said, 'or the universe, or whatever you believe in, has a way of looking after these children.' And I thought, 'That's all very well for you to say [Lawyer 2], but it's my child that you're gambling with.' So, I thought that that was pretty shitty... There are too many children who have been killed in this country, you know, by parents, to believe that they're protected in any way." (p. 51)

186: "[The policeman] said straight away, 'He's perjured himself. And he's breached the protection order, immediately, by having those weapons.' Well, I rang my lawyer and told her, and she said, 'Oh, I haven't got the energy for this.' And that made me feel once again like she thinks I'm just being vindictive." (p. 14)

At another time, Lawyer 2 suggested that Alana just allow Mark to have unsupervised access to Liam, because God, the universe, or some other greater force would ensure he was protected. Alana believes that too many children die at the hands of their parents for this to have any truth. It upset her that Lawyer 2 was prepared to gamble with her child¹⁸⁵.

On another occasion, Lawyer 2 advised Alana to drop the protection order rather than “stir things up”. She thought Mark might just go away if she did this. With encouragement from the Family Court co-ordinators, Alana ignored this advice and continued pursuing her protection order¹²⁹.

Finally, when police found several guns on Mark's property, and the policeman told her Mark had perjured himself, Alana rang her lawyer to inform her of this. Lawyer 2 told her that she did not have

the “energy” for this. This comment gave Alana the impression that Lawyer 2 thought she was “just being vindictive”¹⁸⁶.

Alana's experience of Lawyer 3

Alana did not give any information about her third lawyer during the interview. She only said that she decided to involve him because she did not think Lawyer 2 was strong enough for custody and access issues. Presumably, this lawyer was present at the second mediation conference.

Alana's experience of other lawyers she minimally involved

At different times, Alana phoned other lawyers to get advice¹⁶⁹. She commented that the validation from one lawyer was helpful and made her feel “quite good”. He told her that Mark was “despicable” for forcing her to protect him from police that were repeatedly knocking at her door regarding a drink driving charge⁷⁵.

Alana’s experience of the Family Court co-ordinators

Alana found that the Family Court co-ordinators were “absolutely brilliant”. They sustained and encouraged her throughout her involvement with the Family Court. When she would “lose [her] courage a wee bit”, they would reinforce her. Without them, she is not sure she would have had the “courage to go through and do it”^{187,188}. She believes they were the only legal personnel who recognised she had “very much been in a psychologically abusive situation”¹⁸⁷. They were also very informative. For example, the co-ordinators explained custody, and informed her she did not actually have legal custody of Liam. Also, the co-ordinators suggested the protection order be served on Mark through the public notices of the newspaper¹²⁴.

187: “And the people who sustained me through all this, the only people, apart from personal support, probably the only people actually who sustained me through it at all, and recognised that I had very much been in a psychologically abusive situation, that it was a bad situation, and that I needed a protection order, were the Family Court co-ordinators. And they were brilliant. Absolutely brilliant. And when I’d flag and sort of lose my courage a wee bit, about going forward with this, I’d ring and they would reinforce me. That happened half a dozen times probably. And without the Family Court co-ordinators, I don’t think I would have actually had the courage to go through and do it.” (p. 10)

188: “Court co-ordinators were really good, I told you that.” (p. 25)

Alana’s experience of the police

Alana found the policeman involved with the removal of Mark’s weapons to be

189: “And that policeman, he was good. He, he was so kind and gentle and supportive and lovely to me over the phone. And adamant that, because he wanted to know a wee bit about [Mark’s]

good. He was “so kind”, “gentle”, “supportive”, and “lovely” to her over the phone¹⁸⁹. He also told her that Mark had perjured himself by saying he no longer owned guns¹³⁴.

background for when they were going into get the guns.” (p. 25)

Alana's experience of counsellors

Alana involved two main counsellors because she wanted to be told what mistakes she had made and what she should be doing¹⁹⁰.

Alana described her first counsellor as a “really lovely guy”. She went to him for about three months but stopped because she did not feel she was making any progress. She subsequently had a break from counselling for two to three months¹⁹⁰.

Alana's next counsellor (also male) was “sort of quite good”¹⁹⁰ but he sometimes did things that “blew [her] away”^{190,191}. For example, he once breached ethics by counselling Mark whilst he (Mark) was stoned.

190: “I met this [first counsellor]. He was a funny little man... And he said, ‘Well tell me what, why you've come here, and what you want from me.’ And I said, ‘I don't really know, but I need to talk to someone, and I need to talk to someone like either a father or like a father-figure, or,’ I said, ‘a minister or a priest.’ And, you know, I said, ‘I'm not religious, but I don't want someone to, what I need is someone to tell me what went wrong, if, if I made mistakes, what they were, what I should be doing.’ I actually wanted to be told, you know. And I knew that counselling didn't really work like that. So, that's why I wanted someone like a priest. But I ended up at this place. And he said, ‘Well, it might interest you to know that I'm an Anglican priest.’ Priest, is that a priest? Minister, whatever... He was lovely. He was a really lovely guy. And I went to him for about three months. And I just didn't sort of feel as if I was getting anywhere. Nothing was being resolved for me. And so I stopped going. And I can remember saying to him, like, ‘I can't come here anymore. I'm not, nothing's happening.’ And then I went out and sat in my vehicle and I just bawled and bawled and cried and cried and cried and cried. And then I went without counselling, probably for another two or three months. And then I started going to this [second counsellor] guy that I ended up going to, for probably, oh, a long time, over, well over a year. And I mean, he was sort of quite good. But there were things that he did which were, like, that blew me away, even at the time.” (pp. 17-18)

191: “I rang my [second] counsellor, anyhow. The following week I had a session with [him], and [he] told me that when [Mark] had turned up to him he, and [my second counsellor] does a lot of work

Because of this, he could not provide a statement about this to support Alana's case. Another time, he made a comment that Liam had improved since having regular contact with his Dad. Alana found this very confusing because the counsellor had not seen Liam since the regular contact between Liam and Mark had begun. She said that she felt like she was "going mental". This was because he was a guy that she had put "a lot of trust in" and "really opened up to", and he was making these "bizarre" statements¹⁹¹.

Although this second counsellor told her much later that he knew she was in an abusive relationship, he did not direct any of the counselling towards this until Alana questioned him about it herself. This disappointed her. She felt the counselling was "adrift", and that she had to "really fight" for information. In fact, Alana mentioned that she felt just as "crazy" in the counselling (and with

with drug addicts, he was stoned. And I said, 'Oh my god,' you know. I said, 'Well, can we have that, can we get a record of that so that when we go for the protection order or the custody things, we can show that even turning up to a counsellor to talk about things to do with his son, he turns up stoned?' And [the second counsellor] said, 'No.' He said, 'I'd be, I'd be,' what is it when they're struck off, like counsellors are struck off, whatever that term is. He said, 'Because if I even suspected that he was under the influence of anything like that I'm not allowed to counsel him.' And I said, '[Second counsellor],' you know, 'why did you do that?' you know. Like, I was just blown away. He either should have, he should have turned [Mark] away, and he could have said, 'I could not counsel this guy 'cause he'd turned up stoned.' So, he let me down really badly there. And another time, he said to me, 'I've,' he said, 'I've seen, I've seen a real difference in [Liam] since he's been having regular visits from his father. Which might sound a fair enough comment, but he hadn't seen [Liam] since the regular visits had started, he hadn't seen them. And it was like, how can you make this statement? And I was like, I felt like I was actually going mental. Because he was a guy that I'd put a lot of trust in, and really opened up to. And he was making these bizarre statements that, you know. He, he couldn't, he couldn't make that judgement about [Liam] because he in fact hadn't seen him the entire time he was, he was talking about. And it was like, 'Aaaaaahhhhh.' .. The counsellor hadn't seen [Liam] to make the statement that he'd seen an improvement in him.. Bizarre." (p. 20)

192: "He said, I'd been seeing him for some time, and I said, 'Well, look [second counsellor], what's going on here? What, what do you think of me? What did you, what conclusion have you come to about me and my situation in the relationship, ra ra ra? And he said, 'For god sake,' he said, 'I knew the first time, the first two or three times I ever met you that you were in an abusive relationship.' And I hadn't even talked about relationships then, I'd been talking about the [Liam] [Mark] situation. He said, 'I knew,' he said, 'I could pick up,' he said, 'I just hadn't worked out whether it was physical abuse or psychological abuse,' he said...And he never ever once put it to me that I'd been in an abusive relationship until I'd pressed and pressed for. I didn't know

her lawyers and the judge) as she felt in her relationship with Mark¹⁹².

Alana believes that counsellors can be both beneficial and detrimental¹⁹³, and is of the opinion that a book she read was more beneficial than her counsellors¹⁹².

what he thought, or what was happening, or where I should go, or what I should do. And I was just, like, lost... As I say, that book there was more help to me than any of my counsellors. Like, I said to him once, 'Well, do you think I'm being uptight about this dope thing?' you know, 'that's what I'm told all the time, that it's no big deal and I'm just making a big fuss out of it and all, ra ra ra.' And [the second counsellor], you know how I said does a lot of counselling with addicts, he said, 'Look,' he said, 'I think marijuana is the most insidious drug, the most insidious and dangerous drug there is.' ... But it's like, I had to really fight to get that information {laugh}... We were just drifting, you know... just adrift. And once again I thought, 'My god,' you know, 'I don't know what's happening here.' And I sort of sometimes felt just as crazy in counselling as I did in the relationship. As I did with my lawyers {laugh}. And that judge." (p. 21)

193: "Counsellors can do you good and they can do you bad." (p. 21)

Ideas for improvement

Alana knows from her own experience that women in abusive relationships become "really fragile", "really vulnerable", and "very emotional". They are simply "not in any state to look and pull out the bare facts" for their lawyer¹⁹⁴. Hence, she feels it would be very helpful if women had an advocate available to support them through the legal system^{145,194,195,196}. This could be someone who has been through the system¹⁴⁵, understands

194: "I think, I think too, that when it comes to psychological abuse, because it's not as straight forward as physical abuse where the evidence is, is there. And women who have been in abusive relationships are really fragile, and they're really vulnerable, and very emotional. And they, they do, they, I feel they really need somebody with them to, who understands the system and who doesn't take any shit from lawyers, and this sort of thing, to help them through. Because, I mean, I can understand lawyers aren't counsellors and they don't want to sit there and listen to you bleat on for hours about this, this, and the other. They've got to sift out the facts. But the point is, you're not in any state to do that. You're not in any state to look and pull out the bare facts. And you can't do it. You really do need somebody else.. to be a support person that you can, you can go out and cry on their shoulder or whatever. But someone to help keep you strong too." (pp. 33-34)

195: "I really think that with people who have got a psychological abuse case, if, if the lawyers or most of the lawyers are like mine, I

it¹⁹⁴, has “skills at putting words on paper”¹⁹⁶, and “doesn’t take any shit from lawyers”¹⁹⁴.

Because lawyers do not have the time required to prepare a woman’s affidavit or to deal with the emotional element of a woman’s story, an advocate could assist with the process of evoking a woman’s story and preparing her affidavit. An advocate would be a “calmer person who can ride with you through all the emotions and then pick out the pertinent facts”. They could then help you write your affidavit, give you time to read it, and check it past her lawyer¹⁹⁵. This person would be able to take the time to sit down and listen to all the things that have happened, and get it written down correctly¹⁹⁶. They would “keep you strong” and be a shoulder to cry on¹⁹⁴.

Additionally, Alana suggested someone be available to occupy children during lawyer’s

really believe [the women] need help. To go along, not only to be there with the lawyer, but to actually help you sort out your facts. And you need to pour out a whole lot of emotion, you need someone who can sit there and let you do that, who’s got the time to let you pour out that emotion and then get the pertinent facts out of it. And then help you make up your affidavit, give you plenty of time to read it, to change what you think needs to be changed. And, and to do that for you. And then, you know, take it to the lawyer and make sure that it’s okay by her or him as well... So, what you can change is just perhaps having a calmer person who can ride with you through all your emotions and then pick out the pertinent facts that are going to please a lawyer and a judge.” {Rachael: “So, it comes back to the advocate or just somebody that has got the time and the passion as well?”} “Yeah, yeah.” (pp. 62-63)

196: “So, if anybody else goes through similar sort of circumstances to what I did, one of the most important things would have been to have, a lot of time to write your affidavit. And help, you know, if you’re not good at, at expressing yourself.. I don’t think the lawyers have the time to do it, I don’t know. I can only talk about mine. Somebody who has perhaps got skills at putting words on paper, and can help you, and can actually sit down and take time and listen to your story, and listen to the things that have happened to you and get them right, get them right. Not stuff it up, and put things down wrong. Because then that just winds you up even more.” (pp. 46-47)

197: “The other stressful thing when you’re a single Mum is what you want to do is you want to expose your child as little as possible to [what’s going on]. I mean, even telephone calls can upset little kids, even the tone of your voice. Even if they don’t understand what’s being said, they know that Mum’s angry or Mum’s upset or whatever. And it’s, it does actually really impact on them, so it’s important to expose them as little as possible. And yet, you can’t always do that because you’ll get a phonecall from the lawyer and you’ll need to discuss things, and your child’s right there. Or you might not have a babysitter and you have to be at the appointment with your lawyer at such and such a time, and your only option is to take your child. And

appointments, if babysitters cannot be arranged. This would make it less stressful for single Mum's, and would mean that children are exposed to the legal process as little as possible¹⁹⁷.

if it's a really little one, they, their little world's all screwed up to a certain extent anyway. And they, they want to, you might be in the interview room and they might be out playing with the box of toys, but they will always be coming in to check that you're still there and you're okay. So, that's really difficult. You pretty much need, I mean, quite often when you're doing something or going through something like that, even a babysitter doesn't work. Because your child doesn't want to be away from you either. So, that's a big problem, a really big one.. I, I think like, that advocates, people, like a help, a person, a buddy if you like, that, that can possibly, I don't know, take the child for an icecream or a milkshake or something like that... Something so that the child's not like suddenly whisked away from the mother. Because like, they're quite often like, quite clingy and worried about what's going on anyway. But you can't always get your friends or your relations as babysitters because people are working." (p. 48)

Summary of problems

Alana had many problems with the legal system, which can be summarised as follows. The legal system has a poor understanding of psychological abuse, and does not consider it as seriously as physical abuse. This, combined with how difficult it is to substantiate psychological abuse (particularly if judges do not like long documents), makes it difficult for women to get protection orders on the basis of psychological abuse^{116,117,118,122,123,136,181}. Lawyers are far too busy, which meant her lawyers rushed her, and one made mistakes in her affidavit. For this same reason, Alana also felt a nuisance contacting her lawyer^{119,170,171,172,182}. Lawyers let her down regarding legal aid by not following through with her application for legal aid. Her first lawyer failed to explain that a large proportion of his work was not covered by legal aid, and hence, she received a bill she did not expect and could not afford¹⁷⁸. He was also bullying, discounted her as a person, and regarded her as an over-emotional woman^{177,178}. Her second lawyer lacked understanding of psychological abuse, and was sometimes flippant about the seriousness of it^{181,182}. Sometimes, this lawyer left her with the impression that she thought she was vindictive¹⁸⁶. Her lawyers assumed that she knew about legal matters like custody, and hence did not explain things to her that could have had serious implications^{146,162,178}. The judge who presided over the protection order hearing was patronising and condescending. He lacked understanding about psychological abuse and its severe effects. He gave equal credit to Mark's comments despite hers being backed up with evidence, and his not being. She was also disappointed that the judge did not make Mark do a Living Without Violence programme^{129,134,136,137,138,140,141}. The mediation conference for access was unexpectedly placed

immediately after the protection order hearing. Her lawyer did not protect her from this situation^{161,162,163}. During this mediation conference, the judge rushed her, would not listen to her, dismissed what she said, made inappropriately chummy comments to Mark, and blamed her. The judge announced that Mark's access would quickly progress to overnight visits, which seemed hasty^{164,165}. She and Liam could be forced to live somewhere, even when in danger¹⁰¹. Important decisions were made based on one meeting between Liam's lawyer and those concerned¹⁴⁰. Alana felt that the 'little boys club' was in operation at times¹⁴³. Mark's lawyer breached ethics by contacting her at home instead of contacting her lawyer¹⁴³. Liam's lawyer took her into a room before the second mediation conference over access, and very aggressively pounded her about Mark's rights, but was less interested in his own client's (i.e., Liam) rights and welfare¹⁶⁸. The legal system imposes life-changing judgements with no guarantee of correctness^{119,149}. A case has a different meaning for legal personnel and clients: for her lawyers it was just a job, but for her it was the safety and protection of her and her child^{119,172}.

Summary of commendations

Alana had a couple of commendations to make about the legal system response to Mark's psychological abuse. The Family Court co-ordinators were brilliant. They were informative, encouraging, and had a good understanding of psychological abuse^{187,188}. Her second lawyer wrote a good letter, and advised her to get out of her house around the time he would receive it¹⁷⁹. One lawyer she telephoned validated her experience of a particular event, which felt good⁷⁵. Finally, one policeman was helpful and supportive when he removed the guns from Mark's property^{134,189}.

Update: Since our interview, Alana became re-involved with the legal system. This was because Mark showed renewed interest in having unsupervised access to Liam. He would not agree to unsupervised access.

Alana's involvement with the legal system has been similarly poor. Once again, she has found her integrity as a person, and a mother, has been rubbished.

Briefly, Alana found that her last lawyer did not represent her as he should have. Because he was rushed, he did not dedicate sufficient time to her case. This lawyer also undermined her confidence in a big way. He did not seem to be on her side.

She has also experienced "crap" from the counsel for child and the psychologist. Both are entrenched in their perception of events. She was particularly upset with the psychologist's section

29A report. In this report, the psychologist took Alana's comments out of context, and represented her view incorrectly. This psychologist obviously did not listen to her, and thinks she is alienating Liam from his father. Indeed, he labelled her as having "alienating parent syndrome". This is despite her telling the psychologist that she would like Liam to have contact with his father within the bounds of what is safe and good for Liam.

The counsel for child has no time for her. He also thinks she is alienating Liam from his father. When they tell her that Mark may have changed, Alana cannot help but think that it is not their child that they are throwing in to test the water. They also will not move beyond their conviction that Alana cannot separate her issues with Mark from Liam.

Alana also feels that the Judge's summary for her protection order has negatively influenced her case, even years later.

Instead of implementing access gradually, and at Liam's pace, access has been organised for one week at a time. Liam's first visit with Mark did not go well, and he did not want to do it again. Sometime later, Alana initiated a second visit, in which she asked Mark to adhere to the judge's guidelines (e.g., no drinking, no talking about adult issues). This visit did not go well either. Mark did not focus much on Liam, and the novelty of having him wore off. Liam returned disappointed. Furthermore, he was afraid that Mark would not return him. Phone contact has also been unsuccessful. At one stage, Mark did not contact Liam for over six weeks. Mark has not developed a positive relationship as recommended.

Whilst access matters are still not resolved, Alana feels that she has come a long way. She now feels more confident that her perspective is reasonable. She is not thrown into doubt.

Despite riding this storm for several years now, she believes that as a Mum, she has kept things on an even keel for Liam. Liam is thriving in every way.

LISA'S STORY

Originally from Australia, Lisa has been living in New Zealand for several years. At the time of the interview, she was in her thirties, with no children. She had been going out with Phil, a Maori man, in his mid-forties, for the last three years, though she also had a relationship with him when she was younger. Though Phil was abusive to her, Lisa chose not to involve the legal system. The interview focused primarily on why she chose not to use the legal system.

Lisa's relationship with Phil and her experience of abuse

Lisa has known Phil for about sixteen years. When they were younger they went out for four years. Lisa then travelled overseas, and later resettled in Australia. When she returned to New Zealand to care for a family member, she resumed her relationship with Phil. With him for three years this time, she broke up with him two months prior to the interview¹.

Lisa described Phil as immature for his age, emotionally unstable with relationships¹ and "totally dysfunctional"². He was verbally abusive; not in a name-calling way (e.g., "you fat bitch"), but in a manipulative way. "He wanted his way no matter what". Having fallen "totally in love with him", she found herself being controlled by him, but allowing it to continue. This sickened her. He wanted her all to himself, and

1: {Rachael: "Were you two together when you were in Australia or when you came [back]?"} "New Zealand. I had known [Phil] since I was 19, and I'm now 34, or 35 in a week's time {laugh}. And so I've known him for like, like 16, 17 years. And I was with him for four years. Then I went travelling around the world, and did the world thing. And then sort of settled in Australia, but came back because my [close family member was] sick. And so in the last three years we got back together again. So I know him very well, and I know his background, and his emotional instability with relationships. He doesn't handle, he's not very mature for 45." (p. 1)

2: "He was a verbal abuser. And it's quite, quite funny, because in the last two and a half, up until about six months ago, I, I've, I've done a huge amount of reading in my time, really interested in psychology and relationships, and things like that, and how to raise children, and, you know, love, all that sort of stuff, so I was quite keen, and I read a lot of books about it. And I came across this book called 'The Verbal Abuser'. And I picked it up one day, and I started reading it. And all of a sudden, after two and a half years, I realised that I was, I was in a verbally abusive relationship. And all of a sudden I could put a finger and a name to what my problem was with him.. I knew something, no, yeah, he was totally dysfunctional. Because I'd come from, I believe, a very functional family, and my life in Australia was very, very different to what it is here, with some really, you know, loving

would not allow her to see her friends. He was also paranoid that she would sleep with his best friends, and hence he isolated her².

Lisa describes Phil and her relationship as codependent, with intermittent periods of bliss and stress. When things were going well, and Lisa was having a good time, Phil would feel he was losing his power and control over her and put her "back into line again" by going into these "eruptions of fiery temper and throwing tantrums". Most of the time she couldn't even understand what his problem was: he made the smallest things into massive issues. When Phil was "ferociously angry", he was very intimidating, and she would feel terrified. He would scream at her, and his eyes would bulge³. He has clipped her across the back of her head three times in three years^{3,4}. Each time he did she left him for a period of up to one month³.

Lisa insinuated that Phil's physical violence to her was not at a serious level. In the back of her mind, she doubted he would "smash" into her or "bash" her up. This was despite her knowing

family and loving friends around me. And I never come across such a dysfunctional man {laugh}. And I think, ah, I put myself in a position where I fell in love with him, and was totally in love with him, and, and found myself being very controlled by him, but allowing it to continue because I loved him. And realising just how sick it really was. And then spending the next two and a half years going to counsellors trying to get out of the relationship I was with. So the three years I was with him, six months of that was my choice. The rest of it was total, ah, totally wanting to get out. But couldn't. So it was, emotionally, emotionally I was tied to him. And he was extremely verbal. But not verbal like, 'You fat bitch, blah blah blah.' He wasn't name-calling. It was more, it was more manipulation. He wanted his way no matter what. And I was not to see my friends. He hated me, he closed me off, so there was a lot of isolation, wanted me all to himself, scared stiff that I was going to sleep with his best friends, you know. All that pathetic paranoia... Because I'd also had a partner in the past who was like that, who was his best friend as a matter of fact, when I was 19. So there was very much that kind of, sort of, stigma... I saw a lot of that sort of stuff going on years and years ago when I was younger. And I got the hell out of it. And then all of a sudden I find myself back in [a suburb], you know, state housing area. Everyone was unemployed, everyone put their money in together once a week to buy all the piss that they could drink, and it was really.. Yeah, and yeah, so it was, yeah, very much like that." (p. 2)

3: "He was extremely, he was intimidating when he got really ferociously angry. But I always felt safe that he wasn't going to bash me up. You know, I never, he'd always stand over me and finger up my nose and screaming. His eyes would pop out and it was terrifying. But I, I felt sort of, I felt in the back of my mind that he wasn't going to just smash into me. But strangely enough he spent 10 years previous with another woman... and she had been beaten to a pulp many, many times by him, and hospitalised. And he used to just bash the living shit out of her. But with me he never did. I got a clip across the ear, like I said,

that he had grievously beaten a previous long-term partner of his on multiple occasions, and had hospitalised her³.

In addition to the abuse, Lisa was displeased to find herself back in a suburb and social environment she had been exposed to in years prior and had “got the hell out of”².

Several months into the relationship, Lisa came across a book about verbal abusers and read it. She could finally “put a finger and name” to what the problem was: she was in a verbally abusive relationship².

Knowing this, Lisa decided she wanted to leave the relationship, and with the assistance of counselling, she has been “fighting all the way to not go back to him, and not to want him”. It is the hardest thing she has ever had to do. It has been a “crazy roller-coaster”. She considers that the first six months in the relationship was her choice; the two and a half years since then was “totally wanting to get out”. But she has found it very difficult to leave because of her love for him, and because she feels emotionally

about three times. But each time it happened I left for maybe a, a month, three weeks, a month, I was gone. And, yeah, but I was codependent relationship with him, so yeah, that was the kind of relationship it was. Very smooth sailing, two, three weeks bliss, perfect. And then he would go into these eruptions of fiery temper and throwing tantrums, and really like quite bizarre behaviour for his age. Very strenuous for me, stressful totally, 'cause I couldn't understand what his problem was. Because he would find little things, you know, completely blow them up, so they were like massive things. And I'm very kind of la la, so it didn't really, and I couldn't understand what his problem was half the time. And he, it was because he would always feel like he was losing control, so it was a control thing. So he would get his control back by having a big rage and screaming tantrum. And so he would get his power back like that.. Yeah, and things were smooth, we were sailing along, and I was having a good time. He'd put a stop to that and do the big tantrum screaming thing, which would put me back into line again, as if I needed it. I don't know, it was really, really quite bizarre.” (p. 3)

4: “For example, [Phil] had chosen to clip me across the back of the head, which he's done three times in three years.” (p. 1) (from excerpt 7)

5: “I, I always thought that, you know, maybe there was room for change. And I was going to counselling. And whenever I would leave he'd sort of, you know, want to come with me and want to get himself fixed, but it never happened, so. And I just had to deal with it the best I could. And chose to stay with him, for when it was good it was good, and when it was bad I was out.” {Rachael: “Because you're no longer in the relationship are you?”} “Well, we've sort, we've sort of, it's, this is the longest I've never been with him. It's been two months. And I went up to Auckland a week ago, for a week. And prior to that, three days before that, he came around to fix some guttering for my Mum, and I was at home. And we got talking, and of course, you know, I fall back in to his arms again. And it was all nice and stuff. And

tied to him. Also, there are times when he has been prepared to change. For example, whenever she leaves, he wants to go with her to counselling (though this has never eventuated)⁵. Also, because he does not pursue her or contact her when she breaks up with him, she feels the urge to see him after a couple of weeks, and consequently, the relationship resumes⁶.

She finds her love and attraction for Phil difficult to understand considering who he is and his detestable behaviour. Being an intelligent and "learned" woman, she tells herself that their relationship is unhealthy and dysfunctional, yet another side of her still loves him. At the same time, she declares that she does not love him at all⁵.

Their recent separation, lasting two months so far, is the longest they have been apart during their three year relationship. However, they almost made up a week ago. He came around to do some work for her Mum, and she fell "back into his arms again". When she mentioned she was going up to Auckland for a week, he "lost the plot", screaming and yelling that she didn't love him or

then I say, 'Look I have to go to Auckland to do a bit of work for a friend of mine.' Well, he just lost the plot, and just screamed, and yelled, and was just in complete rage that I didn't love him and I didn't care about the relationship because I was going. And it was totally pathetic. And so I just let him go, just let him go, and I just went up to Auckland. So I haven't seen him since. I pine for him, you know, momentarily. I kind of go into a lapse, and wonder what he's doing now. But then I'm soon out of it {laugh}. So you snap out of it.. I feel confident that I can, I can never see him again. I don't want to. I've spent two and a half years trying to get out of the relationship, and fighting all the way to not go back, and to not want him. And, oh, it's been a crazy roller-coaster. It's been the hardest thing I've ever had to do in my life... It's quite strange, strange feeling, knowing he's just such a prick and I'm so attracted to him. It's like, oh god, you know, you, I find myself thinking, 'Well you're a reasonably intelligent woman, you're fairly learned, or you read.' It's like, 'Don't you know that this is unhealthy and dysfunctional?' and blah, blah, blah. But then there's this other side of me that goes, 'No, no, I still really, no, I still love him.' Which is crap, because I don't, I don't at all." (pp. 3-4)

6: "He never bothered me once, I mean, once I come back home, he, he'd never come around, he'd never ring. You know, and that's probably part of it as well, because, oh, god, I haven't heard from him for two weeks. I'd better go and see him." (p. 4) (from excerpt 8)

care about the relationship. Lisa went anyway and hasn’t seen him since. Though she sometimes pines for him, Lisa is confident that their relationship is over this time⁵.

Lisa’s reasons for not using the legal system

Lisa has not used any component of the legal system for several reasons. She has not wanted to exacerbate relationship problems further by doing this. Instead, she has played the role of “peacekeeper”. She also believes she has chosen to stay in the relationship, and hence, is somewhat to blame for any violence that occurs. Presumably, she believes she should leave if she wants the abuse to end. In addition, she knows what he is capable of, and what she is prepared to put up with. Also, she does not feel the physical violence she has experienced from him has been serious enough. That is, there has not really been a need to call the police and have him arrested. Finally, she has not wanted to get him in to trouble, particularly as she knows that he has previous convictions related to partner abuse and violence, and hence, could face a jail sentence. To

7: “I just personally, myself, chose never to use a lawyer because, it’s a very good question {laugh}, because I, I chose not to, and it was my choice not to, because I felt like I didn’t want to cause any more animosity than there already was in the relationship. And I’m very much the peacekeeper, so I tend to kind of just, I don’t know how to put it, just, just to be the peacekeeper and not to cause any more problems than there already was by bringing in lawyers or bringing in other people in to the argument, as such. There was never any cause for me to really have to do that as well, because the way I left all my relationships anyway. So that was always my choice and it was my choice to stay. So I felt like I know the man very well, well enough to know that, what he’s capable of doing. And it’s my choice to stay in the relationship, so then I had no one else to blame for any violence that might occur. Because I know very well what my limits are. So that’s kind of like if, say for example, [Phil] had chosen to clip me across the back of the head, which he’s done three times in three years. It’s not enough for me to want to scream, you know, ‘Beating,’ you know, ‘beatings,’ and call the police in and arrest him for assault. And I think the other thing too, is that he never brings it up, but I know that if I did do that, he would go straight to jail because he’s on his last warning from a previous relationship. So I don’t want him to go to jail for an offence of that nature, where I was in control of doing something about that at the time as well. So, it’s kind of like I don’t, I don’t want to set him up basically... I know him very well, and I know his background, and his emotional instability with relationships. He doesn’t handle, he’s not very mature for 45. So I kind of, I kind of consider that when I when I cry, you know,

send him to jail for “clipping her around the ear” would be equivalent to setting him up⁷.

Lisa has never felt the need to have a protection order. This is because Phil does not contact or harass her when she ends the relationship⁸.

‘Violence,’ or whatever it is. So that’s basically why I choose to not involve police or lawyers.” (pp. 1-2)

8: “{Rachael: “And you never thought about getting a protection order?”} “I didn’t need to. He never bothered me once, I mean once I come back home, he, he’d never come around, he’d never ring. You know, and that’s probably part of it as well, because, oh, god, I haven’t heard from him for two weeks, I’d better go and see him. So a lot of it was that, so I never needed a protection order to be out on him anyway. In the past, other relationships, I’ve never had to either, because once I’m out, I’m, I, I tend to sort of like go. I don’t sort of stick around.. But this time, I’m, I’m just down the road, but he doesn’t have, no, he wouldn’t bother me like that.” (p. 4)

Lisa's view of the police

Through domestic violence education groups, Lisa has met other women who have used the legal system and heard their experiences of it. She feels the police have a lot more power to deal with domestic violence than ever before, and says that a friend who has called the police several times has found them to be very good. However, her friend’s relief is only ever temporary because the police are only there for a short time. When they leave, the woman’s ex-partner returns to her address. She also feels that police lack understanding about why women may stay with and/or return to an abusive partner, and require education regarding this. Police

9: “Oh, I found when I talk to a lot of my girlfriends who are in the same sort of situation sometimes, or I’ve got, you know, like I got involved with some of the women from [an education] group, and we get together to have natters, and moan and stuff, and chew the rag. And one I’m particularly close to, she had called the police out a number of times on her partner. And they were great, but they were only there for such a momentary time, that as soon as they leave again, you know, he’d be back around banging on her door. And it was just like there isn’t, they have a lot more power than they ever have before, the police. But I don’t know. It’s kind of like a, it’s sort of like an old attitude, ‘Well,’ you know, ‘then don’t see him,’ you know, ‘why, why do you keep going back to him?’ you know.” {Rachael: “So, a lack of understanding?”} “Yeah, yeah, total. They need to be educated {laugh}. They need to be educated about why women keep going back. It’s not because they want to get beaten up, or want the other eye to be black. It’s not like that at all. So, they get, you know, they’ll come in and they’ll interview them, and they’ll be very diplomatic, but there’s not a lot of, kind of like, ‘Hey mate,’ you know, ‘you’ve got to keep away from her,’ you know, ‘if we see you round here again we’ll lock you up.’ It’s like they, they

attending domestic violence scenes also need to give clear messages to abusive men about the legal consequences of their actions, rather than encouraging men to make reconciliation attempts with their ex-partners. The latter is inappropriate because affected women are not needing this: they are “absolutely terrified”⁹.

She also feels it would be beneficial if the police had female liaison officers who were always rostered on to deal specifically with domestic violence¹⁰.

need, men respect police who are going to be like that with them, rather than, you know, just leave a fella, you know, {inaudible} and sort it out to her on the phone. I mean, that’s not what women need. Because they’re absolutely terrified. They’re beside themselves with fear. And as soon as the police go again, then, you know, like this idiot was back around again.” (pp. 4-5)

10: “Maybe if there was, if the police had like liaison officers who specifically deal with domestic violence, who would be female, that could go in and do that kind of work... They need a few more of those like that on the force, but on a roster basis, so there’s always one available, you know, at any given time, that there’s always one available.” (p. 5)

Lisa’s view of protection orders

Lisa believes that the difficulties faced in getting a protection order, accompanied by the embarrassment of using police to enforce them, deter women from applying for protection orders¹¹.

11: “The whole problem with protection orders, it’s like, you know, they don’t bother having them because it’s such a rigmarole to get one, or, or it’s a hassle. Or, or they feel like, you know, they don’t want to involve the police because, you know, it’s embarrassing, the neighbours, or, you know, whatever their reasons for not doing it. But there’s a whole multitude of reasons why they don’t.”

Lisa’s view of lawyers

Lisa has heard very negative feedback from women who have utilised lawyers, and believes they are primarily motivated by money. She thinks that those doing legal aid are of poor quality and are not prepared to do as much as they would if they were

12: “I’ve heard loads of stories about women, you know, going to lawyers, and they’ve just been like crap. And they haven’t listened or, you know. Yeah, at the Refuge, when I did the, the [education] group... that was really cool, and a lot of stuff came out in the [education] group, like why women weren’t using lawyers, and how they found lawyers, and stuff like that.” {Rachael: “And so a lot of it wasn’t positive?”} “No, no. My girlfriend, [Debbie], has had a lot to do with lawyers, and she has

paid much more. Because of this, she says she would pay as much as possible if she ever used one herself¹². She would also use a female lawyer, because she believes women are gentler, warmer, and more understanding. A woman “who’s fragile and breaking up inside, and who can barely eat or function” is not going to want to talk to a man in a suit, who has a “face like a bag of spanners”¹³.

Lisa relayed the experience of a close friend of hers (Debbie). Debbie has had a terrible time with lawyers. Indeed, she has had an “absolute gutsful”, and would rather “pick up and move house than deal with a lawyer”. In organising access, they have not listened to her or adequately considered that her ex-partner was sexually molesting her daughter. Instead she was treated as a “paranoid mother” or a “bitch” who doesn’t want her ex to see his daughter. She was “powerless” and “completely beside herself”¹².

Her friend, Debbie, has used three lawyers in all, and has eventually managed to restrict his access to supervised access. Even though he has behaved

had an absolute gutsful. It’s like, you know, she’d rather pick up and move house than deal with a lawyer, you know, making her have, her daughter have access to her father who was believed to be interfering with [the daughter]. And, and he was allowed to have access to [the daughter]. And [Debbie] was like, ‘Why doesn’t anyone listen to me?’” {Rachael: “So, she felt her lawyer wasn’t listening to her?”} “No. And so she was moving house and avoiding letting [her ex-partner] have access to [her daughter]. Because [Debbie] was powerless, because no one was out there, ever prepared to listen to her. They all just thought she was being, you know, a paranoid mother, or being a bitch, because she didn’t want her ex to see the daughter. It wasn’t like that at all. Of course she wants her daughter to have a relationship with her father, but not like that... So that kind of stuff. You know, I’ve known [Debbie] for 16, 17 years, and, and having being around her a lot at that time, in the last two years, with [her ex] and lawyers, it was, yeah, nobody had time. She changed about three times.” {Rachael: “Has she found someone now that’s a bit better?”} “No, no. And so, she went, she did two male, and one female, yeah... She was completely beside herself. Well, it’s like, ‘What the hell am I supposed to do if no one is prepared to listen to me?’ But she put [her daughter] in to have a psychiatric evaluation, and she got herself done as well, and then, then consequently to that, they, they made him have one. And then the report came back that yes, there was definitely trouble there, and that [the daughter] could see her father supervised for two hours a week. And as far as, and then, then the supervision thing started at [a particular centre]. And the, the [supervising] lady would come and pick [the daughter] up, and then [the ex] assaulted the [supervising] lady, and told [the daughter] that, you know, she was a little bitch, and blah, blah, blah, and started screaming and yelling, and tried to tell [the daughter].” {Rachael: “That the [supervising] lady was a bitch?”} “Yeah, yeah, and her mother. And just poisoning her mind with stuff like that. And then got violent towards [the daughter]. So he was completely out of control, and yet he was still allowed to see his daughter.. They kept the supervision, but

despicably during supervised access visits (e.g., he assaulted the person supervising the access, "poisoned" his daughters mind, and was violent to her), his supervised access has continued, albeit with two supervisors. Lisa believes this is pathetic. With the daughter terrified to see her father, she thinks he should not be entitled to see her until she is old enough to make her own decision about the matter¹².

then there were like two [supervising] people. That, I mean, how pathetic.. He shouldn't be entitled to see her until she's old enough to make the decision that she wants to go and see him. The poor little thing was terrified about seeing her father. So those are the sort of things that happen with lawyers and stuff." {Rachael: "Have you heard of any women having any positive experiences with lawyers?"} {Pause}. "No, not really, no, no. No, I mean, if I ever needed to use a lawyer, I'd be paying a lawyer, and paying, you know, as much as I could possibly pay. Free lawyers only work for you for so much. It's like they'll only do so much because it's not being paid as much, to do it... So, you know, there's not a lot of quality involved as well. I mean, money talks, like you can pay for a good lawyer and you can get what you want. But when women are in a position where they've got nothing, like no money to rub together at all, and they need to see a lawyer, that, the quality that they get is quite sad compared to if they had, you know, a good seven or eight thousand dollars to, to, give a lawyer to help fight for their rights. Money talks... For sure, I know money talks, especially when it comes to lawyers. I've seen good lawyers work for people, and I've seen really bad, you know, like legal aid, and, you know, these free lawyers work. And I can see the difference. It's quite clear." (pp. 5-7)

13: {Rachael: "Do you think anything can be improved so that women do feel more inclined to use lawyers to get protection orders, or to?"} "Well, if lawyers, if lawyers, a female tends to relate better to the female, right. Of course, I always go to a female doctor only 'cause she knows what a period pains like. But, but I, I chose now to go to a lot of females for a lot of things, like counselling, females, or, you know, my doctor, or, or I, the physiotherapist, I asked to have a female, you know, you know, giving me physio. It's, it's not because they're male, it's because they've got a better understanding. It's kind of like it's, it's a gentleness or a warmth that a woman has. So when a woman who's fragile and breaking up inside, and who can barely eat and function, goes to some, you know, lawyer, that's sitting

there with a suit on, you know, looking like a right, you know, face like a bag of spanners, it's like, you know, these women get very, you know, not intimidated, but just don't feel like they need, want to talk to that man about that problem at that time." (p. 5)

Lisa's experience of a domestic violence education group

Lisa found the domestic violence education groups that she attended really beneficial. The women "just raved about them". It provided a forum for them to talk together about issues in their lives. Lisa believes that it is important that these groups continue to operate in the future¹⁴.

14: "I found, I thought the [place where the education group operates from] is really fantastic, though I must admit I'd be a real supporter of making sure that [this place] always stays open, or that, you know, particularly the groups, the [weekday] groups and the closed groups are really beneficial. So, I mean the women, I went to two, and the women just raved about them. They thought they were absolutely brilliant.. Yeah, really good... It's really great, it's really great. The most beneficial part all the girls would say, would be the rounds, where you get to talk once a week about your week. Yeah, because a lot of women never get a chance to talk about, you know, what a prick the husband was, or what a nightmare the kids have been, or, and, be really open about it. So, that's really kind of like important that that stays running." (pp. 7-8)

Update: Lisa resumed her relationship with Phil after the interview. However, because the relationship was not very good, she had two three month breaks from him during that year. Very recently, she ended the relationship for good. This was because Phil got drunk, and then very angry. He had a "real go" at her teenage nephew, and threatened him. It got so bad that she rang the police. The police responded very well and listened to her. She said Phil's treatment of her nephew "was the straw that broke the camel's back"; she could not be in a relationship with someone who was threatening her family.

AN EPILOGUE TO THE WOMEN'S STORIES

The objective of this first phase of the research was to explore how well the legal system serves the needs of women who experience abuse and violence from their male partners and ex-partners. Several women's satisfaction with different aspects of the legal system have been individually represented using narrative methodology (Chapter 7). Narrative representation was chosen because it recognised women's tellings of their experience as a legitimate contribution to knowledge about women's lives. Their voice, as represented by excerpts from their interview transcripts and my representation of what they shared during their interview, can be used to raise others' awareness and understanding. From this place, change can be initiated, women's experience with the legal system can be improved, and their own and their children's safety increased.

After reading the stories of the ten women who participated in the research, it is evident that women who have experienced partner violence and abuse encounter many problems when they utilise or become involved with the legal system. It is also evident that women are very appreciative of certain qualities in legal personnel when they experience these. In this chapter, I re-emphasise and discuss some of the problems women raised, as well as the factors they found useful¹.

Women's experience of their own lawyers

It was evident whilst I was listening to, constructing, and reading the women's stories that women viewed and positioned lawyers in particular ways, often based on or confirmed by their experience with lawyers. First, women were of the opinion that lawyers are primarily motivated by money and less interested in their clients' personal situation. Hence, women felt that lawyers were less concerned with their safety, protection, and other matters that were intensely significant to them, including their children's welfare. Related to this, women perceived lawyers'

¹ Please note that I am not intending to provide a summary of all the issues raised by women participants. Rather, I discuss issues that I became particularly aware of whilst listening to, writing, and reading the women's stories, as well as those that seemed particularly relevant (again from my perspective). I expect readers will have noticed many of these same issues whilst reading the women's stories. I have particularly focused on women's satisfaction with lawyers, judges, and the legal system more generally, instead of their satisfaction with police, protection orders, Family Court co-ordinators, counsellors, or others. This is because the research questions were most closely aligned with these legal personnel. Women's experiences of other legal personnel and components were included in their stories because women spoke of these during their interviews, and such factors provided a more coherent picture of any woman's experience with the legal system and partner violence and abuse.

interactions with them as being only a job for them. The consequences of their work were not important, nor did they have to live with these consequences. Other research (Morris, 1999; New Zealand Law Commission, 1997c, 1997d) has also pointed out that women frequently find lawyers as self-interested and primarily concerned with making money, rather than being concerned with women's needs. This perception and experience of lawyers is unlikely to imbue women with confidence in the service lawyers provide.

Other comments by women related to the status of domestic violence work for lawyers. In particular, many women found that their lawyers were much too busy and did not have enough time for them. They felt rushed and pressured for time during appointments. They also felt a nuisance contacting their lawyers between appointments. Some lawyers were poor at returning phone calls, even when the woman's call was urgent in nature, or she rang several times. This latter concern has also been identified by Morris (1999). Some women in the present research were also upset that time constraints sometimes meant lawyers made mistakes in their affidavits. Not only does the busyness of lawyers and time pressure cause women stress and dissatisfaction, it can deter women from seeking assistance outside of their appointments when required. One woman specifically mentioned that lawyers need to be able to give more time and reassurance to their clients. This could increase perceived legal support and responsiveness. More time with clients also enables the women's situation to be treated seriously. Insufficient time means that lawyers compromise their representation of clients.

In addition to this, some women felt a large gap in the status between their lawyer and themselves. For example, one woman commented that she felt intimidated by her lawyer's high status when she felt so downtrodden and low herself. Another woman mentioned that lawyers live in a completely different social world to their clients and have different values. These women felt their lawyers were condescending, judgmental, or looked down on them. Some lawyers were thought to lack life experience (particularly when they were younger), which made it difficult for these women and their lawyers to relate to one another.

Some women commented that their lawyers lacked understanding about their personal situation. They also felt their lawyers lacked understanding about domestic violence, psychological abuse, the seriousness of such abuse and violence, and the reasonableness of their panic and distress. Women in Seuffert's (1996) research also reported that their lawyers did not understand the dynamics of domestic violence. They felt their lawyers sometimes minimised and trivialised domestic violence, or blamed them for it. Other New Zealand research (Morris, 1999; New Zealand Law Commission, 1997d) has also commented that lawyers (and judges) are thought to lack awareness of women's lives and the situations that lead them to seek legal assistance. Amongst other things, lawyers (and judges) were thought to be ignorant or indifferent to the violence that may be dominating women's lives, and the urgency with which they need matters resolved so that they and children can feel secure. Women experience

greater satisfaction with lawyers who have a good understanding of domestic violence (including psychological abuse), and who do not dismiss women's distress or panic to their situation.

One woman thought that her lawyer had the impression she was vindictive. Because her ex-partner used to tell her she was vindictive, she always questioned herself, and lacked confidence in expressing her opinions. More specifically, she was worried that she might come across to her lawyer as a vindictive woman when revenge was not her motive. Another woman commented that lawyers sometimes conceive of women as vindictive when they are not. Women involved in other research have also reported that lawyers have told them they are vengeful (New Zealand Law Commission, 1997b).

Some women also felt their lawyers insufficiently considered their children's safety and interests. For example, one lawyer was prepared to gamble with the safety of one woman's son by suggesting a "greater force" would protect him if they chose to pursue unsupervised access. Another woman commented that her friend was treated as a paranoid and vindictive mother by her lawyer for trying to protect her child from further sexual molestation. The lack of emphasis on children's safety is discussed further below when I discuss women's experiences of the legal system more generally.

Several women commented that their lawyers did not explain terminology, omitted to tell them important information, or did not provide enough information about matters that could have had serious implications. However, no women commented that their lawyers spoke in legal jargon, as has been found in previous research (Morris, 1999; New Zealand Law Commission, 1997c).

A few women found the decision making process unsatisfactory. For example, one woman felt her lawyer bullied her. Another woman noticed that her lawyers did not provide the options and information required to make informed decisions. Instead, they did what they thought was in her best interest. A different woman felt powerless in the decision making process. Sometimes her lawyer and her partner's lawyers were making decisions and then pushing her to accept them. Consequently, she would end up complying with decisions with which she felt unhappy. Two women specifically mentioned that their lawyers had a position of power over them that somewhat mirrored the power imbalance, and their powerlessness, within their abusive relationship. Women in other research have also complained that lawyers assume too much control, do not provide enough information for women to make their own decisions, and/or have cut them out of the decision-making process by coming to a solution with the other party's lawyer (Morris, 1999; New Zealand Law Commission, 1997b; Seuffert, 1996). Involvement in the decision-making process is likely to give women a greater sense of control over the process, and to ensure they are more satisfied with the decisions made.

Several women in the present research commented that lawyers were too expensive, particularly if their ex-partners unnecessarily prolonged legal involvement. Partner persistence also meant that legal aid grants were sometimes depleted before matters were resolved. Sometimes legal aid was not offered or applications were not followed through, which meant these women were deterred from applying for orders or received bills they could not afford. One woman's lawyer failed to explain that a large proportion of his work was not covered by legal aid, and hence, she received a bill she did not expect and could not afford. The perceived and actual financial cost associated with using lawyers has been raised in previous research (Morris, 1999; New Zealand Law Commission, 1997b, 1997c). The expense of using lawyers means women are deterred from involving lawyers, or are not able to continue until a good outcome is reached (Morris, 1999; New Zealand Law Commission, 1997c). As mentioned by women in the present research, financial stress also increases women's emotional distress.

It seemed evident that some lawyers had poor interpersonal skills. Other research has found lawyers' poor communication skills to be one of the most frequent complaints by women (Morris, 1999), at a crisis time where good interpersonal skills are rated as very important (New Zealand Law Commission, 1997c). In the present research, one woman specifically mentioned that one of her lawyers did not listen to her; that she did not feel heard. Several women described their lawyers as being unwilling or unable to cope with the emotional element that comes with domestic violence work. These lawyers lacked understanding and empathy, and sometimes dismissed the woman concerned as being over-emotional or over-reactive. The processes used by some lawyers were also described as cold and apathetic. For example, when collecting information for their affidavits, lawyers were interested in only the legalities and facts of the situation, and expected women to be able to separate emotion from such information. Similar to other research (New Zealand Law Commission, 1997b), women in the present research resented having their emotions treated as irrelevant and quite separate from their deeply personal problems.

As mentioned above, some women felt their lawyers dismissed them as "over-emotional" and/or over-reactive. These women were told that they should not panic, that they were too emotional, or that they should go to their counsellor. It was as if their emotional state meant that they were not rational, or able to accurately determine the 'reality' of their situation. These women resisted being treated as "over-emotional women". They did not want to have their experiences disregarded because of assumptions made about women. Instead, they wanted the dignity and respect that is normally afforded to a "person" or "human being". They also felt that their highly emotional state was very reasonable considering their circumstances. Not only had they endured abuse and violence that had been directed towards them, they were currently in danger, were often trying to protect their children, and usually facing additional stress because of the legal system. Previous research (Morris, 1999) has also shown that women do not think

lawyers (or judges) respond well to women who are emotional or distressed about their circumstances.

It seems that some lawyers do not respond well to women who stand up to their partners, perhaps because it is not considered congruent with how abused women behave. For example, when one of the women was assertive to her husband about the laundering of their children's clothes after access visits, her lawyer told her that she and her partner were playing power games. Whilst her lawyer was willing to bend over backwards to accommodate her ex-partner, she was told she was too emotional when she got upset herself. This same lawyer did not respond well when this woman challenged her about her own behaviour. Lawyers need to recognise that whilst some women avoid confrontation with their (ex-)partners because of the threat of abuse and violence, some women defend their rights and assert themselves within and/or after their abusive relationship. Similarly, some abused women are more than able to provide feedback to their lawyers when their service is unsatisfactory.

As is evident from the women's stories, some women described their lawyers very negatively. One woman described her first two lawyers as "dreadful and hopeless". Neither lawyer was sympathetic or encouraging, and both seemed more interested in her ex-partner's rights to his children, not the children's personal safety and wellbeing. Another woman said her lawyer treated her very badly. This lawyer had poor communications skills, was moody and unpredictable, was disinterested in her case, and lacked understanding and empathy. Whilst preparing her affidavit, she made derogatory, inappropriate, and exasperated remarks, and sometimes acted bored. She did not acknowledge the seriousness of her situation, and consistently told her that she was over-reacting, that there was nothing to worry about. Sometimes, her lawyer did not believe her and treated her with suspicion. Sometimes, she supported or defended her ex-partner's actions. When her ex-partner threw a tantrum, she would appease him. Indeed, she expected this woman to bend over backwards to accommodate her ex-partner. She was treated like the person in the wrong. She did not feel that this lawyer treated her ex-partner's violence and abuse towards her children seriously. She also felt very uncomfortable with the level of communication between her lawyer and her ex-partner's lawyer. Sometimes her lawyer breached confidentiality by passing on confidential information to her ex-partner's lawyer, who would then tell her ex-partner. This woman also felt that the relationship between herself and her lawyer sometimes mirrored that between herself and her (ex-)partner. Such stories by women about their lawyers are disheartening to say the least. They raise the issue of whether some lawyers adequately represent their (women) clients. One also wonders whether lawyers' views of what constitutes a just outcome sometimes take precedence over the intentions of the Domestic Violence Act and the best possible outcome for their (women) clients.

Some women did make positive comments about their lawyers. Overall, women appreciated lawyers who had a good understanding of domestic violence, treated their situation seriously, had concern for their safety, and had their children's interests and welfare at heart. They also appreciated it when lawyers listened to them, believed them, and validated their experiences of abuse and of their (ex-)partner. Empathy, understanding, support, and encouragement were characteristics that were valued. Women also appreciated lawyers who were informative, dealt with things promptly, kept them well informed, included them in decision-making, and did not rush them. Some women commented that their lawyers were good at writing letters. Past research by Seuffert (1996) has also found that women appreciate (or would appreciate) lawyers who understand domestic violence, listen to them, provide emotional support, give clear explanations of the legal process, and involve them in decision-making.

As mentioned above, women had good experiences with lawyers who had empathy and understanding. Indeed, this seems an important part of women's satisfaction or dissatisfaction with their lawyers. However, women realise that some lawyers are not skilled at dealing with emotion, and lawyers do not always consider this their responsibility. To improve their experience with the legal system, particularly with lawyers, some women suggested the need for empathic advocates. It was envisaged that these advocates could support women through the legal system, and offer emotional support, because lawyers seem unwilling or unable to do this. These advocates could provide information, assist with the process, and make sure that proper procedure was being followed. One woman suggested that having an advocate to assist with writing affidavits would mean that women would not have to separate out emotion from fact.

Problems with their ex-partners lawyers and Counsel for Child

Women had four main complaints about their ex-partners' lawyers. First, two women were upset that their ex-partner's lawyer were unprofessional and breached ethics by contacting them at their home instead of contacting their lawyer. Second, one woman was particularly displeased that her ex-partner's lawyer obstructed legal processes. More specifically, he repeatedly stalled the hearing for the non-molestation order, and would not respond to communication from her lawyer. She strongly believed that behaviour like this should not be tolerated. Such practice prolongs stress for women, increases costs, and may result in some women giving up. Third, some women mentioned that they were upset that their ex-partner's lawyer absolved their ex-partner of responsibility for his violence. Women felt similarly upset if their ex-partner's lawyer treated them as the guilty party or accused them of lying or being vindictive. Women obviously (and not surprisingly) want the legal system to hold perpetrators and not victims accountable for violence. Finally, some women found their ex-partner's adversarial approach within the Family Court and District Court very unpleasant. Cross-examination during District Court trials was particularly difficult. Their ex-partner's lawyers lied and twisted things, minimised the seriousness of the violence, removed responsibility for the violence from the ex-partner, and blamed and accused them of lying instead. Other research (New Zealand Law Commission,

1997c) has also found that women feel the Family Court still adopts an aggressive, adversarial approach.

Some women mentioned that their ex-partner's lawyer had been less threatening or less aggressive than they had expected during Family Court proceedings. Their expectation that they would be threatening or aggressive suggests that many women fear or angst about how their ex-partner's lawyer will treat them regardless of how they are treated. This would deter some women from initiating legal involvement or from continuing with some legal processes. Indeed, one woman participant felt so intimidated by her ex-partner's lawyer's adversarial approach that she decided not to follow through with finalising her non-molestation order. Women and children's safety may be endangered as a result.

Two women expressed some dissatisfaction about their children's lawyers. One woman found it frustrating that her children's lawyer outlined what her ex-partner needed to be doing, not what he was doing. There was an attitude that "all he needs is a little bit of help and encouragement." This made the situation seem hopeless, particularly when her ex-partner would not change his behaviour or do what he was meant to be doing. The other woman complained that her son's lawyer was over-concerned with her ex-partner's rights but less interested in her son's (his client's) rights and welfare. Before the mediation conference, this lawyer took her aside, "hounded" her about access, and "pounded" her about her ex-partner's rights. She believes he is a strong advocate of the importance of fathers in the life of children, especially young boys. Such behaviour by Counsel for Child seems to conflict with their role to represent children and their welfare and wishes. Women who are relying on Counsel for Child for the safety and protection of their children will obviously feel distressed when their children's welfare is not their children's lawyers primary concern, or when their ex-partner's inappropriate parenting is ignored. Children may consequently be placed at risk.

Women's experiences of judges

The majority of comments made by women about judges concerned Family Court judges. These comments suggest that women had varied experiences of how Family Court judges had treated them during protection order hearings and mediation conferences.

Some women made positive remarks about the Family Court judges that they had encountered. One woman was pleased that a judge processed her protection order so quickly. She was also pleased that when her ex-partner moved into a house at the entrance to the culdersac in which she lived, a judge extended the conditions of her protection order so that he could not come within 800 metres of her. This woman felt that judges treated her situation seriously. Another woman found a judge quite good during a mediation conference over access. He facilitated discussion about different possibilities, and allowed a support woman to be present. She was pleased that having the same judge at both the mediation conference and defended hearing

provided continuity. Another woman found that a judge was very good during custody proceedings; he also affirmed her opinion of her ex-partner. From this, it is evident, once again, that women feel much more satisfied with legal personnel when their situation is treated seriously, when their safety and protection is considered, when they are supported, and when their experience of violence and of their (ex-)partner is validated. Facilitation of discussion in mediation conferences is also likely to make women feel that they are part of the decision-making process as opposed to decisions being beyond their control.

Other women did not experience Family Court judges so positively. Some women mentioned that their judges were patronising and/or rude. Some women also felt that judges did not treat domestic violence, particularly psychological abuse, very seriously. For example, one woman found that the judge lacked understanding about psychological abuse and the imbalance of power between an abusive man and his partner. His comments did not fit her experience of being in abusive relationship in the slightest. Whilst her ex-partner dominated and controlled her through intimidation, abuse, and threats of violence, the judge commented that both she and her ex-partner attempted to control each other. He dismissed her experiences of psychological abuse, made chummy comments to her ex-partner, and believed her ex-partner's lies without question. Although the judge granted the protection order, he mentioned that it was largely necessary because of how she perceived the situation. At the end of this very stressful hearing, he unexpectedly announced that they would utilise the remaining time for a mediation conference to organise interim access. During this time, he would not listen to her, minimised his behaviour, blamed her, made inappropriate comments, and supported her ex-partner. He had little regard for their son's protection and safety. Throughout both the protection order hearing and the mediation conference, the judge was intimidating, condescending, and patronising. Other research (Busch, 1994; Busch et al., 1993; Morris, 1999; New Zealand Law Commission, 1997d; Seuffert, 1996) has also indicated that certain judges lack knowledge about the dynamics of domestic violence, minimise and trivialise the violence, and blame women for it. Women who encounter such judges are likely to feel great dissatisfaction with the process because their experience of psychological abuse is not being validated. Their likelihood of being granted protection orders could also be reduced, as could the likelihood of their ex-partner being granted only supervised access.

Some other women had similar perceptions of judges during access proceedings in the Family Court. For example, some women mentioned that the judge favoured their ex-partner by being very supportive of him, but not of them. One woman mentioned that whilst the judge would not listen to her, nor allow her to submit letters from the crèche and school that supported her concerns about her son's wellbeing, he was very supportive of her ex-partner, and treated him as the victim. Another woman found the judge very accommodating when her ex-partner was speaking but quite rude when she was speaking. For example, he suggested to her ex-partner days that might be suitable for the midweek access that she was opposing. When she spoke, he

said nothing in reply. Indeed, at one time, he gave her the “evil eye” as if she was causing the problems and being difficult. Because the judge seemed to be favouring her ex-partner, she doubted justice could be done, and feared she would lose her children altogether. The other woman specifically mentioned that some judges have preconceived ideas about women that detrimentally affect the process and protection of children. In particular, she felt that some judges consider women to be “nasty, vindictive, whingers”, who have more rights than men with regard to children.

Some women mentioned that judges rushed them or that there was insufficient time to outline their concerns. One of these woman was told at a mediation conference over access that she and her ex-partner could only have five minutes each to state their main point. She found this unfair when she had followed advice and prepared well. Being rushed no doubt exacerbates the stress experienced by persons in court proceedings, particularly when women are dealing with issues which have very important implications for them and their children. It would also lead women to feel that the legal system does not take them or such issues very seriously; they are ‘just another number’.

Some women also expressed disappointment that the judge did not send their ex-partner to a Living Without Violence programme. Women probably interpret this as an indicator of the legal system not taking domestic violence very seriously or giving perpetrators consequences for their violence.

It was very disheartening to hear that some Family Court judges are not taking psychological abuse very seriously, even after the introduction of the Domestic Violence Act 1995. It raises the question whether (at least some) judges fully appreciate the dynamics and serious nature of psychological abuse. This would be exceedingly unsatisfactory to women who experience psychological abuse, particularly when the abuse is minimised, their (ex-)partner is not held accountable for it, and they are blamed instead. It would also be remarkably unsatisfactory when women's concerns for children's safety during access are not treated with the seriousness they deserve (discussed further below). It was also disheartening to hear that some Family Court judges are intimidating, patronising, condescending, and rude to women. Women will likely feel that justice is being averted when judges treat them badly but are supportive or chummy towards her ex-partner. Women also get frustrated when judges believe their ex-partner's lies at face value, particularly when their own account is being called into question. Women in Seuffert's (1996) research also felt concerned that whilst they themselves were not being believed for telling the truth, their partners were being believed when they were lying.

Fewer comments were made about District Court judges. Some women mentioned that they did not feel judges in the District Court treated domestic violence seriously. One woman commented that this attitude towards domestic violence filters down to the police and effects

their attitude. One woman mentioned that the judge was an untouchable, unapproachable, older male, who sat up on top on his high chair, in his courtroom. The formality of the District Court probably augments recognition of the distinctly powerful position that judges hold.

Problems with the legal system response more generally

Women shared many experiences of the legal response that were not specific to the legal personnel mentioned above. Rather their comments were about the legal system more generally or about other legal personnel (e.g., the police) and the law (e.g., protection orders).

It has been mentioned above that a number of women found some lawyers and judges did not treat domestic violence, particularly psychological abuse, very seriously. In addition to comments of this kind, one woman commented that the legal system treats domestic violence as a lower status crime. It does not afford the same level of empathy and understanding that it directs towards other crimes. It would seem, therefore, that whilst domestic violence is now recognised as a crime by the legal system, some women feel that it is treated as a lesser crime, in which victims are not so deserving of empathy.

As alluded to above, some women thought there was a lack of emphasis on children's safety. Consideration for children's safety was particularly distressing for women who were legally trying to increase the safety and protection of their children through supervised access. Women who wanted their partners to have restricted access to their children consistently mentioned that this was so their children would be protected from harm or potential harm from violence and irresponsible parenting. If their ex-partners were normal and responsible, they would love their children to have a conventional relationship with their father. However, it seems from the women's stories that the legal system did not regard them as protective or concerned for their children. Instead, women were positioned as vindictive, or were concerned that they would be positioned as vindictive, for insisting on the need for supervised access or for wanting other legal interventions that might affect their ex-partner. Women were also deemed forceful, controlling, domineering, and obstructive for pursuing protection of their children. They encountered strong resistance by the legal system and were generally unsuccessful in achieving the outcome they desired for their children. Indeed, whilst society usually considers women responsible for protecting their children, and blames them when they do not, the present research highlights the persecution women face when they attempt to do this. This paradox has also been raised by Eriksson and Hester (2001) within an English and Swedish context. The present research also suggests that the legal system upholds and sustains misogynistic perceptions of women, especially in this context.

Women thought that children's safety was not emphasised in other ways too. As mentioned above, some women commented that though their ex-partners did not adhere to access arrangements or did not parent responsibly, the legal system protects them and enables them to

continue such behaviour. This is because there is a tendency to excuse their behaviour, or to outline what their ex-partner needs to be doing, not what he actually is doing. Furthermore, there are no consequences for not adhering to access arrangements or parenting responsibly. This makes the situation seem hopeless, particularly when an ex-partner does not change his behaviour or do what he is meant to be doing. One woman was very upset that when she tried to redefine and then limit her ex-partners' access to their son to increase her son's safety, he was treated as the victim and granted more and more access under the rationale that their son needed to spend more time with his father. In this way, the court's decision benefited her ex-partner, not her son. In the end, this woman was afraid to go back to court in case she lost more ground over access, or lost custody of her son altogether. Another woman feels that there is an expectation that supervised access is only a temporary phase, which will then progress, sometimes over-hastily, to unsupervised access. If persons lacking parenting skills have not learnt responsible parenting skills in this time, children could be at risk in unsupervised care. Finally, one woman was very dissatisfied that important decisions regarding access were made on the basis of one meeting between Counsel for Child and those concerned. In particular, she knew the meeting which was observed between her ex-partner and their son would not be representative of the actual situation, and would not indicate problems or safety concerns that were present.

Several women complained that some police did not regard their situation seriously when their (ex-)partner was violent and/or breached their protection order, and/or that the courts provided few, negligible, or no consequences when such offences did reach the court. Some women found that the legal system consistently failed to do this. Providing little or no consequences means that women and children are not protected, and (ex-)partners are not deterred from further violence, abuse, or stalking. It also makes women feel that the legal system does not treat partner violence very seriously. One woman mentioned that when the legal system does not provide consequences for domestic violence, women are not encouraged to take violence against them seriously or to live violence-free lives. Two women also complained that each assault charge was viewed in isolation as opposed to taking into account their partners' history of violence.

Some women mentioned that they found the court waiting rooms very unsatisfactory. Being in such close proximity to their aggressor compromised women's safety. It also increased stress and discomfort for women. One woman was surprised when the judge at her mediation conference asked the lawyers to accompany him for a short meeting, and left her and her ex-partner alone together in the courtroom. Some cited the murder at the Palmerston North Court as evidence of the danger generated by court waiting room facilities. Women said that there needed to be separate waiting rooms available.

The legal system was also alluded to as a male-entrenched system. Some women were concerned that their female lawyers would be oppressed by such a system. Another woman worried whether her experiences of abuse could be adequately understood when the legal personnel in the courtroom were predominantly male. A significant amount of research (see Chapter 2) supports the notion that the legal system in New Zealand is gender biased.

Also illustrative of gender bias, is the legal division of matrimonial property. Women that raised the issue of matrimonial property described how they (and their children) were left in a financially disadvantaged and precarious position because the law gave insufficient attention to the costs women incur when they are the custodial parent. Juxtaposed to this, women described their ex-partners as living very comfortably. Additionally, some women mentioned that their ex-partners paid minimum child support, even when they were doing well financially. As suggested by the women, the law needs to ensure that women and children are left in a financially secure position, or are not disadvantaged, after the settlement of property. Furthermore, more attention needs to be directed at non-custodial parents who pay insufficient child support.

Three women were also disgruntled that the legal system could force them to live in the same district as their ex-partner so that he could have convenient contact with the children. Dissatisfaction was exacerbated because these women felt at risk and wanted to move with their children to increase their safety. Women will likely feel upset that their ex-partner is still able to control them (when they have attempted to free themselves of this), and that their safety is of lesser value than the perceived necessity for (violent) men to have convenient contact with their children.

In addition to this, some women talked of the existence of an old boys' network within the legal system. They felt that complaints were not, or would not, be treated seriously; that the legal system protected their own. This meant that women were deterred from raising or following through with complaints against different legal personnel. Some also feared the consequences should they raise or follow through with complaints. For example, some women feared that they might lose their children as punishment. Previous research (Morris, 1999) has also reported that women are of the opinion that the legal profession looks after its own in disciplinary processes. Consequently, women might feel they have no course of redress when wronged by certain legal personnel.

One woman used some interesting analogies to describe the legal system. She likened the legal system to a game of chess. The lawyer who makes the best argument wins as opposed to justice being done. She also described it as a game of which she did not know the rules; whilst she was desperately trying to work them out, the legal system was taking advantage of this, running around her scoring goals. This metaphor really conveys her perceived lack of control in legal processes. Her other analogy was particularly sombre: being involved with the legal

system was like being raped and beaten up. Just like a rape, she lost all confidence; she had no control and was powerless. This woman felt punished by the legal system for trying to get out of the abusive relationship. She also felt that her partner used the legal system to further his abuse of her.

Several women used a battle metaphor in relation to the legal system. One woman spoke of losing the battle with the legal system. Another said her experience in a District Court hearing was like being in a battle. Two other women referred to custody and/or property proceedings as battles. The battle metaphor brings with it images of fighting, adversary, winners and losers, and exhaustion.

Whilst not all women found their experience with the legal system poor, it would seem that some women in the present research found their treatment by the legal system comparable to the abuse that they suffered from their partners. Some women in Busch et al.'s (1993) study also described their experience of the legal system in this way. As mentioned in Chapter 3, this has been referred to as a double-victimisation (L. Radford, 1987; Seuffert, 1996; Williams & Holmes, 1981).

Concluding comments

Whilst previous research has explored women's satisfaction with aspects of the New Zealand legal system, generally, and in relation to domestic violence, there has been very little research that has represented individual (abused) women's experiences in detail². As mentioned at the beginning of this chapter, narrative representation has proved a useful way to present women's experiences of being involved with the legal system. It gives women voice, and recognises women's tellings of their experience as legitimate contributions to knowledge about how well the legal system serves their needs. This methodology also represents women's experiences more coherently than quantitative and qualitative research that has used much larger samples. By reading women's stories, we learn of their experience of partner violence and their involvement or use of many facets of the legal system in relation to each other. By providing so much detail, and her own words, each woman's experience is specified as a particular lived experience as opposed to the facelessness of statistics or the rupture of thematics. That is, narrative representation embeds particular moments within the women's stories rather than isolating them. Reading stories of individual women's movement through life episodes is also useful because it raises awareness and understanding, and it evokes emotion and impacts the reader (Polkinghorne, 1995).

As illustrated in the individual stories and in the section above, women had both positive and negative experiences with the legal system and legal personnel. Whilst we can not estimate the

² Busch et al., (1993) represents several women's experiences of the legal system but these are no longer than a couple of pages each.

proportion of women who have similar experiences of the legal system based on the experiences of ten women, it can be argued that if one or more of these women experienced legal personnel and processes in particular ways, other women in New Zealand also do (Willig, 2001).

Also related to the issue of generalisability, is the relationship of the findings above to the period of time that women were involved the legal system. All women participating in the research involved the legal system in the 1990's, or around the time of the new millennium. Hence, the issues raised are specific to this time. It is also important to point out that some of the women participants had involved the legal system before the introduction of the Domestic Violence Act 1995, some had involved it after, and some had involved it over both periods. Because no comparison was made of women experiences based on when they involved or became involved with the legal system, no authoritative statements can be made about whether this Act has improved women's satisfaction of the legal response to domestic violence. However, the problems faced by women cannot be explained away by saying that things would be better now. One of the women with the worst experiences of the legal system used it after the introduction of this Act. The four women still having difficulties with their ex-partners abuse/harassment of them and/or with access arrangements have all clearly stated that the legal system continues to be exceedingly unsatisfactory and unjust. Both of the women still attempting to arrange safer access arrangements through legal means have been labelled negatively by multiple personnel. These women feel they have the option of putting up with very unsatisfactory circumstances for their children or of facing discrimination for continuing their legal quest.

Many of the issues raised by women participating in this research are not new. Indeed, it was surprising that such a small sample of women could bring up so many of the concerns previously mentioned by New Zealand research with comparatively large samples of women. This would tend to suggest that findings from this research and from previous research support each other. From a feminist perspective, it means such findings may be taken seriously and less able to undermined. It also highlights the ongoing significance of such issues for women.

As highlighted above, women's satisfaction or dissatisfaction with legal personnel depended on several things: their understanding of domestic violence and psychological abuse; whether they treated their situation seriously, had concern for their safety, and had their children's interests and welfare at heart; whether they listened to, believed, and validated their experience of abuse and of their (ex-)partner; and whether they were empathic, supportive, and encouraging. Women were also appreciative of lawyers who were informative, dealt with things promptly, kept them well informed, included them in decision-making, and did not rush them. These findings accentuate the need to educate legal personnel about the gravity of psychological abuse and domestic violence against women and the ongoing problems caused by (ex-)partners after they separate and/or involve the legal system. Lawyers and judges also need to understand that

many women are very concerned about their children's safety and welfare, and their wish for supervised access is motivated by this factor not by revenge. Lawyers and judges also need to realise that women will likely feel much distress as a consequence of abuse and safety issues, and sometimes because of legal involvement. Furthermore, their emotional state is very reasonable; they should not be treated as 'over-emotional women' or as 'irrational' because of this. Nor should they be dismissed as human beings because of their status as women. Because in this crisis time, women's emotions are not easily able to be separated from the facts that lawyers require, lawyers need to be able to respond to the emotional component of this type of work. Alternatively, the legal system needs to fund advocates to assist with this process.

It is important to re-emphasise that the issues discussed above are based on my readings and interpretation of the women participants' stories and the interview process. Indeed, one can probably conceptualise this chapter as an additional level of representation (Riessman, 1993) to those discussed in Chapter 5, or at least an extension of the fourth level of representation, 'analysing experience'. In pulling together some of the features of women's experience, the distance from the individual women's 'actual' experiences is increased further. I cannot capture or provide direct access to women's lived experiences of partner violence and/or their legal involvement. Attaching meaning to their experience inevitably involves interpretation, and this is neither neutral nor objective. Furthermore, women were limited in what they could share during their interview. Really, they provided just a 'snapshot' of their experience with the legal system. This came particularly evident when I rang the women to organise their readings of the final draft of their story. Whilst speaking to them, I realised that they had shared just a portion of their experience with the legal system, and a portion of the problems they encountered. Hence, though my discussion in this chapter provides some coherence to the women's experiences, it is incomplete, partial, and selective.

Part 3

Discourse analysis of lawyers'
talk about domestic violence
and the legal response

WHAT IS DOMESTIC VIOLENCE?

DISCURSIVE CONSTRUCTION OF THE ENTITY 'DOMESTIC VIOLENCE'

In this chapter, I illustrate and discuss four discourses that lawyers drew on during the interviews to talk about domestic violence as *something* with specific characteristics. These discourses construct domestic violence as existing on a hierarchical scale of domestic (*hierarchical scale of domestic violence*), as being open to interpretation (*domestic violence as subjective*), and as being morally unacceptable (*domestic violence as unacceptable*). Another construction of domestic violence, labelled *domestic violence as a one-off incident*, was used to distinguish never-to-be-repeated incidents of domestic violence from ongoing violence and abuse within a relationship. Discourses used to explain why and how domestic violence occurs are discussed in Chapter 10.

Hierarchical scale of domestic violence

In constructing domestic violence as an entity, lawyers often utilised the common and legal demarcations of physical, sexual, and psychological abuse. This violence and abuse (and behaviours that fell outside this), was constructed as existing on a *hierarchical scale of domestic violence*. Some abuse and violence was constructed as “borderline”; some was constructed as being on the “lower end” of a continuum of abusive behaviour seriousness; and some was deemed “serious” or “real” violence. ‘Borderline’ was used when lawyers questioned whether certain behaviours ‘actually’ constituted ‘domestic violence’. ‘Borderline’ behaviours can hence be considered as just making, or not quite making, the lower end of the hierarchical scale of domestic violence. As can be seen in the excerpts below, some of the talk about ‘borderline violence’ was followed with a comment about how lawyers need to sign a certificate that indicates they believe the order is justified.

Fiona: “I had, there’s been one that was a **really kind of borderline**, um, recently... And there’s a couple of incidents there that make it, it just clearly goes into, it’s kind of one of those things in your head that says, ‘I’m not sure, just be careful.’ Because we have to certify that we actually believe there’s grounds.”

Sarah: “In the particular case, I thought there was enough of that argument, you know, the argument, you know, calling names and things like that to warrant [a protection order]. But, um, mmm, some, I mean **very borderline, very very borderline**.”

Sarah: "So, that's, **that kind of borderline case** is really difficult in how you advise clients. Because you sort of want to do as much as you can to try and help them, but on the other hand you have to, um, I mean, we have to sign certificates saying that, um, you know, we consider the order is justified and everything else. And that's a difficulty which we have when it's **very borderline.**"

Juxtaposed to 'borderline' violence was talk about 'clear' violence, or as 'black and white' violence.

Fiona: "Well, they seem to fall into quite clear patterns really, I think. Obviously **when they've been hit, is, is, is, um, yeah, it's quite clear that there is domestic violence.**"

Fiona: "But there are **clear** cases too... They're **clearly** violent, they're clearly unacceptable, and they clearly need something done immediately on them."

Fiona: "And I think the grounds of domestic violence orders are either absolutely one hundred percent **clear**. And the moment there's any physical violence and, and any incidents of, yeah, threats, yeah, physical violence, threats to kill, and **clear** intimidation, it normally stands out. Yeah, quite **clearly**, yeah."

Richard: "Sometimes if it's, it's **black and white violence**... well, you know, physical, physical violence, then they, I guess they often would take responsibility."

As mentioned above, some violence and abuse was constructed as being on the "lower end" of a continuum of abusive behaviour seriousness. Lawyers used words like "lower level", "low key", "very minimal", "minor", "flimsy", "piddly", and "bottom end of the scale". For example:

Michael: "One hesitates to say that any domestic violence isn't serious but they were at the **lower end of the scale.**"

Sarah: "I definitely think that, um, **on the lower scale of things**, that, that, you know, [the Police] could enforce it more... Because quite often it's the **lower level**, and it will build up and build up."

Helen: "It also, probably more **the lower level domestic violence**..."

Michelle: "Because many men, many men, and I'm not saying that they shouldn't be getting orders because that's not what I'm saying, but, um, if it's been of **a low**

level situational type, um, if I call it violence. Um, I'm sort of um saying that in inverted commas {laugh}."

As seen above in Michael and Michelle's excerpts, lawyers sometimes reflect on a *feminist* discourse, which resists minimisation of any type of domestic violence. They use disclaimers to manage the tension between the two contradicting constructions of violence: "One hesitates to say that any domestic violence isn't serious but..." and, "I'm not saying that they shouldn't be getting orders because that's not what I'm saying, but..."

Lawyers' examples of "lower end" violence covered many behaviours, including harassment after a relationship ends, psychological abuse (discussed further below), and some types of physical violence. It is rather disturbing to consider what some lawyers deem 'not serious'. Here are some lawyers' examples of "lower end" violence, and violence that is "not that extreme".

Alison: "I'm just trying to think what happened with one of my clients. I'm not quite sure how she is at moment, she still might die, she's still unconscious and stuff. But she was hit over the head with something. But that's unusual and that's just out of the ordinary."

Rachael: "So that's one of the more extreme cases?"

Alison: "Yeah. But it's almost like it's not an extreme case. So, it was like, she wasn't, ***I wasn't that scared for her on a scale of one to ten, you know. He hadn't hit her that much. I suppose he tried to strangle her. But it wasn't that extreme.***"

Alison: "Just trying to think of the violence itself. I suppose most of it's pretty low key violence, meaning that most people don't use weapons. Yeah, um, so it's usually punching and kicking and hitting. Um, occasionally they might use something, but generally that's not the case."

Richard: "In that case I've been talking about, what he'd done was, I think, they were in bed. An argument had started, he grabbed, grabbed her from behind and held her over the mouth for a while. And I think at worst, she experienced some difficulty to breathe, for a just, for a little while. Just, you know, a few seconds, I think. And came out of it with a bit of a sore neck, I think. Um, so that, I think that's probably right down the bottom end of the scale... Yeah, um, so yes, so that's right down the bottom end of the scale."

Interestingly, in the excerpt above, Richard uses language that assists in the construction of his client's actions as "right down the bottom end of the scale". For examples, he says that "at worst" she experienced some difficulty with breathing (i.e., she may have experienced even less

than this). Furthermore this difficulty breathing was only for “a few seconds”. Additionally, she was left with “a bit” of a sore neck (as opposed to “a sore neck”).

As mentioned earlier in this section, lawyers classified some violence as deserving the label “serious” and consequently “blatant”, “clear”, “real”, or “genuine”, or violence¹. For example:

Michael: “But the cases that I’ve been involved in where there have been protection orders applied for because the women has been missing teeth or the women has shown up at my office with two black eyes, the one’s where we’re talking about what is in anybody’s language **real and serious violence**, have usually involved, um, Maori men.”

Rachael: “Do you find that many clients do remain in the relationship or return into the relationship?”

Fiona: “Some, I’d say the majority no. Yeah. Of **serious incidents**, the majority is no. Yeah, where there’s your threats to kill, or where there’s children involved, and your, your **blatant** physical violence.”

Lawyers typically equated real and serious violence with physical violence that resulted in serious injuries, whilst psychological abuse (along with some other physical behaviours) was usually directly or indirectly equated with the borderline or lower end of the scale. For example, in the next excerpt, Andrew says “lesser types of abuse” are caught since the introduction of the Domestic Violence Act because it also covers psychological abuse.

Andrew: “I think the pre DV level of violence was probably higher. The DV Act I think catches a lot because of the **psychological**... I think because the grounds for an order are so much wider, you know, probably **lesser types of abuse would be caught now**. It’s easier to get an order, put it that way, pre DV.”

Similarly, in the next excerpt, Andrew equates “borderline” with “psychological abuse stuff”.

Andrew: “Because I feel that, well, some of the women use the protection order as a weapon. I mean I’m not saying they don’t need it, some of them are a bit **borderline**...”

Rachael: “You said some can be a bit borderline. What sort of cases do you find a bit borderline?”

¹ Quite differently, lawyers also used the terminology “real” and “genuine” violence when they were talking about whether or not violence had actually occurred. This is discussed further in Chapter 11 in the section that exemplifies *protection orders as weapons*. Although it is different it still has the same effect: it minimises some women’s experiences of abuse.

Andrew: "Um, oh, just the **psychological abuse stuff**. Perception of the applicant is always a sort of quite a subjective thing really. I mean, some of them are just so cut and dried, but then again, some of them, there's, say, provocation from the woman, and, which has perhaps contributed to it. And I know that's not a factor that the court can take into account."

In the next excerpt, Sarah equates "lower level" violence to psychological abuse by saying that most of the scenarios she sees are "lower level" violence, that is, not physical violence, but one or two incidents with psychological abuse.

Sarah: "So, there are quite a few of those that sort of **lower level**, I guess that's what you can say. Um, that, the physical, the physical violence, where it's continual physical violence on a regular basis, I, it's not that common that I deal with that. And there are some, but yeah, but it's probably more that it's been one or two incidences with **psychological violence**."

In this last example, Michael talks of a scenario typical of psychological abuse, and then mentions that this "falls short" of what is stereotypically known as "real domestic violence". Along with other comments, he positions psychological abuse as not being "what people think of when they think of domestic violence" and certainly not "what they would advertise on TV as domestic violence".

Michael: "The person who says, 'He raised his voice at me on many occasions, and he criticised me for the way I'd spent money, and sometimes he would insult me in front of his friends, and I just feel that I need to be protected from him because who knows what he might do,' is likely to get an order, okay. Um, that's a cynical view, and I'm not sure it's entirely bad, but a lot of applications are made for reasons that **fall short of that stereotype of real domestic violence** right at the heart of what the Act is about. If you were to sit down with a thousand applications over at the court house, you would probably find that a good number of them don't involve what people think of when they think of domestic violence, and certainly doesn't show what they would advertise on TV as domestic violence. And many of those people get orders, okay. I don't know whether that's necessarily a good thing. I'm not in a position to judge. I don't know if the law has a right to be involved in that. In some situations, I wonder about the applications being made at all."

Other examples where psychological abuse is subtly constructed as less serious than physical violence are included below.

Sarah: "To grant them an occupation and furniture order, **there needs to be sort of more to it than just psychological**. I mean that's what they're saying. The test needs to be higher."

William: "There's a sort of heating of emotions and some abuse. But not, **not even physical abuse, just verbal abuse**. Like that one there. Um, then I don't really think that's enough to, um, found an order."

Whilst lawyers often constructed psychological abuse as less serious than physical abuse, a few lawyers constructed psychological abuse as serious as, or more serious than, physical abuse. In this way, they resisted the predominant construction of the hierarchy of violence, and had constructions of the seriousness of psychological abuse that were more closely aligned with women's experiences of psychological abuse.

Sarah: "I mean, you know, in the very few cases in which there has been severe violence, they've said, you know, 'It wasn't that he hit me. That didn't matter. **It was the psychological abuse, you know, that, that was the, the worst thing was the taunting, the, that kind of stuff**.' **That's what they found the hardest was the psychological abuse, you know**. They said, 'I could put up with him beating me every day but I just couldn't handle the psychological abuse.' So, that was quite interesting."

Rachael: "So, it was something that you became aware of?"

Sarah: "Yeah, yeah, it was. It's much, yeah, it was interesting. I mean, to me, I guess I think, you know, being hit would be a lot worse. But, you know, they said the psychological abuse was worse because they felt like they were playing with their mind. And it's just. So, that's definitely something which I've learnt... **I mean psychological abuse is very destructive. Very, very destructive**, you know. Put downs, 'You're useless. You're ugly. You're, yeah, you're fat.' You now, all those kinds of things. It's, you know, if you're told that every day you'll start to believe it."

Sarah: "Quite often what, **psychological abuse that can be the worst type of abuse**. And you know there's people who feel, um, totally, you know, bottom of the heap because this other person who's putting them down, controlling them, and it's awful."

Julia: "**Psychological abuse, I, in my experience is far more sinister. Far easier to hide, but just as damaging**."

Caroline: "I think the court is more accepting now that [psychological abuse] is a problem. And **it's more subtle than the physical violence, often, and more damaging**."

A couple of lawyers explained that psychological abuse was more serious because it takes longer to heal, and because it is harder to prove.

Rosemary: "And it is recognised by psychologists and other experts that psychological and emotional abuse is worse than physical because physical heals fairly quickly. I mean, it only takes maybe a week to get rid of the bruises, and it takes maybe a few weeks for the broken arm, a broken nose to repair. And yes, it does hurt and it is painful. It doesn't get rid of the emotional part, but it's an immediate thing. While with the emotional and psychological abuse, it is really hard to prove. I mean how do you prove that you are being manipulative, that you are manipulating me."

Rosemary: "I'd like them to get it through their head that psychological damage, and manipulation, and all that, is far more harmful than a black eye. And I don't believe that people should have black eyes, but, you know what I'm saying, I hope you do. But you see with physical violence you see it, it's bruises, or broken bones, or cuts, or. Not always, but a lot of the time there is."

Rachael: "And like you said, there's proof?"

Rosemary: "Yeah. But, I mean, how would, how do you think the police would treat me if I go to the police station and say that my husband is psychologically abusing me. It's not a crime."

William: "But, I, I mean, I think psychological abuse is just as bad in some cases as physical abuse. So, it's, it's, ah, it's in the same category... I mean, yeah, I think people can be more hurtful with their tongues than they can on. I mean, a whack across the ear hole might, um, hurt for a little while, but, um, but a tongue lashing and some very harsh comments might last for years."

Whilst these lawyers resisted constructions of psychological abuse that minimise psychological abuse, some lawyers did not consistently construct psychological abuse as more serious than physical abuse. As is evident from the excerpts above, Sarah and William constructed psychological abuse as both less serious and more serious than physical abuse. Indeed, it seems that although lawyers might utilise a discourse that constructs psychological abuse as serious when this is the focus of their talk, lawyers utilise the more prevalent construction of psychological abuse being less serious when they are conversing about other matters.

Interestingly, talk about sexual abuse within relationships was noticeably absent from almost all of the lawyers' transcripts.

In conclusion, the *hierarchical scale of domestic violence* typically constructs psychological abuse and some other violent behaviours as not being 'real' or 'serious' violence. Such constructions of violence and abuse are unlikely to match the experiences of many women. The invisibility of sexual abuse by male partners in lawyers' talk is also noteworthy. Such invisibility could further silence women by offering no names to attach to their experiences with abusive heterosexual partners. These constructions of domestic violence are also likely to discourage some women from utilising the legal system, and to limit the availability of effective legal protection to women experiencing particular kinds of partner abuse.

Domestic violence as a one-off incident

Several lawyers distinguished 'one-off' incidents of domestic violence from ongoing violence and abuse within a relationship. Such 'one-off' violence was uncharacteristic of the relationship and the male partner, and unlikely to be repeated again. Indeed, the words 'one-off' characterise a history where there has been only one occurrence of violence, and a future where there will be no occurrence of violence.

In that 'one-off' violence was constructed as less serious, it was often used to downplay the respondent's behaviour, to point out that there was no ongoing need for protection, and to highlight the harshness of the legal response to him. For example, Victoria, talks of the unnecessary restrictions placed on one of her male client's access to his children due to a 'one-off' incident of violence. Furthermore, this 'one-off' incident, though inappropriate, was a consequence of finding his wife with someone else.

Victoria: "He lost his temper one day, totally inappropriately, but had found her with someone else and bopped her out. A **one-off**... I mean, I'm not justifying that, but you come back to June Johnson's, um, study, is it June Johnson's study, that said, you know, that basically, twenty two to twenty four percent of, um, domestic violence, is a **one-off incident** at the time of the breakdown of the relationship, I mean, it's a **one-off**, go away. And I mean, I think, that seems to me to fit in to that category of **one-off**."

She repeats this again later in the interview, when she is talking about protection orders based on psychological abuse having effects that are too restrictive on men.

Victoria: "If you take that research of June Johnson's, that twenty one percent of them are **one-off** occasions and will never happen again..."

The last example of the *domestic violence as a one-off incident* discourse is also interesting. Whilst Helen talks here of her client's 'one-off' violence, she later mentions he was subject to a protection order several months after this for another incident of violence. So, even though she

knows he has been violent on more than one occasion at the time of the interview, she still chooses to refer to this former incident of violence as a 'one-off' incident. She further downplays this incident of violence by questioning whether it even occurred as his partner described (i.e., she utilises the *domestic violence as subjective* discourse, which is discussed in the next section).

Helen: "Um, through by way of an example, an altercation that he said involved... her coming at him and losing her balance and falling into a piece of furniture... It came back with her saying, 'He'd pushed me into a piece of furniture.' And this was several months ago in a **one-off** incident."

In summary, *domestic violence as a one-off incident* constructs domestic violence as less serious, and different to ongoing violence and abuse within a relationship. It implies that there is no ongoing need for protection. Because of this, respondents of protection orders are positioned as hard done by, particularly if they are restricted to supervised access (this is discussed further in Chapter 12). It is also remarkable, that in almost all references to this discourse, including the excerpts above, lawyers refer to 'one-off' violence as being a one-off 'situation', 'incident', 'argument', or 'occasion'. The word 'violence' is consistently missing. This assists to construct this type of violence as less serious. It also minimises the effects (e.g., fear of future violence) that one incident of physical violence can have on women, and the ongoing psychological abuse that can often accompany one physical incident.

Domestic violence as subjective

Several lawyers talked of domestic violence being subjective. Because domestic violence was constructed as being dependent on one's perception of it, different women could experience a similar event differently, or the perpetrator and victim could have different versions of the same event. Within this discourse, the versions of events by the perpetrator and the victim were sometimes referred to as "two sides to the story".

The *domestic violence as subjective* discourse is illustrated in the excerpt below from Elizabeth's interview transcript. She points out that the perception of the victim is important in determining the seriousness of violence. She then talks about how the perceived seriousness of an event might vary for different women, because they might experience the same event in different ways.

Elizabeth: "I think it's all **subjective**. And it's how, **it's not so much how serious the violence is, but it's how the applicant perceives it**. And it's all sort of **subjective**. And, I mean, **one applicant might like being smacked in the nose**, I don't know, but **another might, you know, think it's the worse thing on earth**."

Despite placing value on women's perceptions of violence seriousness, two critical points can be raised about this excerpt. First, in constructing two very different subjective experiences of being 'smacked in the nose', Elizabeth positions one applicant as enjoying domestic violence. This perpetuates a masochistic construction of women victims that is unhelpful to challenging male partner violence. Nor does it match what women say about their experiences of partner violence. Second, whilst Elizabeth argues that the perception of the victim is important in determining the seriousness of violence, she compares it with the 'actual' seriousness of the violence, supposedly a more objective judgement of how serious the violence 'really' is.

Other lawyers also constructed domestic violence as subjective and determined by someone's perceptions of it.

Christopher: "It will quite often happen, and people will quite often, they'll, they'll give incidents which have happened. And, um, the guy will say, you know, 'I know that's not right, it's, you know, it was like this.' **So, there's different versions of events.**"

Stephen: "It seems to me, it can become extraordinarily complex. Because even, even where there are arguments where there seems to be an equality of power, the fact that, just the fact that the bloke, for example, might be, might be the only one with an income, or, or have a whole series of important powers within the family, might make it, **might make his behaviour from the perception of, of his partner psychologically abusive**, because, because she feels, you know, beholden to him that she, that he has the power of this that and the other thing."

The *domestic violence as subjective* discourse was particularly used in relation to psychological abuse. With physical violence, there was less room for interpretation. For example:

Richard: "Um, sometimes if it's, it's black and white violence, well, you know, physical, physical violence, then [the respondents of an order], I guess, they often would take responsibility. But **if it's been, um, psychological domestic violence, then each party's almost bound to have their own interpretation of what's happened**, you know. And the respondent would sometimes be thinking, 'Nothing, nothing has happened that has been wrong. Oh sure, I called, sure I called around after the pub, um, at 11 o'clock when I wasn't invited but that was just to try to, you know, to sort out the relationship, you know.' Whereas from her point of view, the applicants point of view, 'This maniac's come knocking at my window at 11 o'clock at night.' Two completely different versions or interpretations. So they're are not going to be held accountable in their eyes for something which they don't think is domestic violence."

Richard: "I have learnt this from all areas of the law, and not just this, that each party can have vastly different interpretations of what's happened. And that can apply to a civil debt or domestic violence, you know. And that's, um, in terms of a lot of types of domestic violence covered by this Act, that, um, difference in interpretation is a, is a major factor, I'm sure of it you know... Yep, so I think that's my only decent understanding of some types of domestic violence, is that it's, if it, **if it's not a, um, tangible physical assault, um, but other types, it's open to, to vastly different interpretations.** And I don't think any parties to blame for having a different interpretation, you know. Not many people have an unbiased view of events."

As mentioned above, because women and men's versions of events were often different, lawyers talked of there being "two sides to every story". For example:

Elizabeth: "I mean, I know, I'm sure there are **two sides to every story.**"

Alison: "Because there are always **two sides to every story.**"

Sarah: "I just cover it in their affidavits as fully as I possibly can, including **both sides of the stories.** We have to do that."

Richard: "I've told respondents to keep a notebook record of contact the applicant has made with them, because there's often **two sides to the story.**"

Whilst the *domestic violence as subjective* discourse can be used to bolster women's perceptions of violence seriousness (as evident in the first excerpt in this section), it can also be used to perpetuate caution, because someone's (normally women's) side of a story might be fabricated. In the excerpt below, Alison talks of this possibility. She also talks of the need to "walk that balance" because if all applicant's stories are believed, some people might misuse the system.

Alison: "Because there are always two sides to every story, you know what I mean. **Because otherwise people could just make up things,** yeah. Because you've got to walk that balance, because if you have something that always goes in favour of the applicant, you're going to end up with people just using the system."

The *domestic violence as subjective* discourse can also be utilised to undermine women's (and men's) experiences because their perception of events is constructed as 'wrong'.

Richard: "The only, the only other, um, examples would really be that, just the classic situation of one party having a really different interpretation of events to another

party. And we are all entitled to our own interpretation of events... Just really, um, **people really caught up in their own perceptions. And, um, I think quite genuinely feeling a need to make an application, um, and sometimes backing off once, once, once the dust has settled.**"

As evident in the excerpt above, Richard insinuates that applicants sometimes get so "caught up" in their perception of events at the time of making an application (although they "genuinely" feel this at the time), that they come to a more realistic view once the "dust has settled".

Fiona also constructs people as wrongly perceiving there to be domestic violence when there is not.

Fiona: "That's once again into that problem area of people, that no matter what believe there's been domestic violence. **And believe that, um, whether, whether there has been or not.**"

Women's versions of events were frequently constructed by lawyers as being wrong or fabricated, particularly when the lawyer was talking about defending a male respondent, or when lawyers were talking about protection orders restricting men's rights, and/or being used as weapons by vindictive women. This is discussed further in Chapter 11.

Some lawyers spoke of the need to look at people's subjective experiences of domestic violence as 'objectively' as possible. The notion of 'objectivity' being possible denies that lawyers also interpret events.

Helen: "I've actually had an applicant where I recommended she get a protection order when there had been, really, the grounds in terms of the psychological or physical abuse had not been terribly strong. But she was very, very concerned, and very scared for her safety. That, I think is, **that is where you've got to look at it, um, and try and look at it, objectively.** It is incredibly subjective."

Fiona, below, talks of lawyers being prone to their own perception of events based on their value judgements.

Rachael: "Do you get many applicants come in who are experiencing mainly psychological violence or only psychological violence?"

Fiona: "Um, yep, and they're, that's, that's, um, that can be quite problematic too. **I'm not sure how you take in your own set of values and your own views, and you've got to. And I'm always very conscious, you know, are you making a judgement in this particular one?** As I said before, some are, some go in the

area that are difficult. Yeah. **And it's really hard to know whether you actually take in a value judgement.**"

It was interesting to note how lawyers constructed the truth, or access to the truth. Sarah (below) speaks of there being some truth to everything; Richard talks of judges determining what is most likely to have happened by "slicing down the middle somewhere".

Sarah: "There seems to be some truth to everything. It's just **different perceptions** about it."

Richard: "The only, the only other, um, examples would really be that, just the classic situation of one party having a really different interpretation of events to another party. And we are all entitled to our own interpretation of events... **And obviously judges try to slice down the middle somewhere and find most likely what's happened.**"

As evident in these excerpts, Sarah's talk is more consistent with a relativist view of truth, while Richard's talk suggests that an approximation of the truth is somewhere in between two accounts.

In summary, the *domestic violence as subjective* discourse constructs domestic violence as being dependent on one's perception of it, and consequently, there can be different versions of the same event. This discourse can benefit women survivors of domestic violence when it is utilised to emphasise the importance of considering and affirming women's perceptions of the seriousness of violence, particularly in the context of deciding whether protection orders are necessary.

However, this discourse can also be detrimental to women survivors of domestic violence. It can be utilised to advocate caution because someone's (normally women's) side of a story might be fabricated. It can also be used to undermine women's accounts of their experiences on the rationale their perception is somehow wrong. In this way, the perpetrator's side of the story may be advanced, and some women may feel disbelieved. Women's need for protection may consequently be questioned.

Domestic violence as unacceptable

Lawyers frequently mentioned that domestic violence is unacceptable, wrong, and bad, that it should not be condoned. For example:

Fiona: "Domestic violence is **totally unacceptable.**"

Helen: "I think it has to be, it has to continue to remain very, very clear that violence is **completely unacceptable**."

Elizabeth: "People need to know that it's **not acceptable** to do this... When people know that it's **wrong**, um, they're more likely to say, 'Oh well, you know, I'm right, you know. I don't have to put up with this. This **isn't right**.'"

Julia: "I think that people, as the community as a whole, is beginning to recognise that, um, violence (?) of any kind is destructive and **not a good thing**."

Michael: "Domestic violence is clearly a **bad thing**, but..."

William: "I mean it's not something that I ever, um, yeah, it's something that I would **never condone**."

This construction of domestic violence was often used rhetorically by lawyers. More specifically, before or after saying something that minimised domestic violence, some lawyers made it clear that they thought domestic violence was not acceptable and/or that it should not be condoned. This assisted lawyers to manage their self-presentation in relation to an audience. That is, they preserved their own status as someone who does not minimise or condone domestic violence. Victoria does this twice, below. In the first quote, she suggests that the woman contributed towards the violence by pushing him to the limit, and psychologically abusing him first. Realising that this could be interpreted as minimising his violence, she sandwiches this between statements that "violence is not acceptable" and "don't get me wrong, it doesn't make it right". She does a similar thing in the second quote. Having suggested that the woman contributed towards the violence by having an affair with her partner's friend, she points out that she doesn't mean this makes it right.

Victoria: "At the end of the day... violence is not acceptable. But I mean, you could see where this woman would have pushed him to the limit, you know, the way she spoke to him. And, um, I mean, I would say that it would probably, she'd been psychologically violent to him. Um, but then one day he just lost it... I mean, it doesn't make it right, don't get me wrong. It doesn't make it right."

Victoria: "I mean, if you take the situation of the woman that I was telling you about, the very professional couple. Um, she was at, she ran off basically with his a great mate, and taunted him with it more to the point, for a while. And he was absolutely, completely, and utterly obsessed by it, you know... I don't mean that makes it right. But, you know, just lost the plot over the whole thing."

Thomas also uses *domestic violence as unacceptable* rhetorically. He ensures that it is clear he doesn't condone slapping and punching, even though he thinks they are examples of "limited" violence.

Thomas: "In fact, for the kind of physical violence which I've seen over the years, it is, it does take the form of limited violence in the sense that there might be some slaps, some punching. That's not to be condoned..."

Overall, *domestic violence as unacceptable* appears to be referring to moral unacceptability². Presumably, domestic violence is morally unacceptable because it violates people's individual right to be free of harm. This moral unacceptability hence relies on a wider *liberal humanistic* discourse, which positions individuals as rational entities who are both in control of their own behaviour and deserving of certain rights.

² Note that within the Domestic Violence Act 1995, the statement that domestic violence is unacceptable, is more of a moral statement than a legal one (Barwick et al, 2000).

DISCOURSES THAT EXPLAIN DOMESTIC VIOLENCE

In this chapter, I exemplify several discourses used by lawyers, which explain why and how domestic violence occurs. Those discourses presented in the former part of the chapter construct domestic violence as an expression of inner tension, as involving both partners, as characterised by power and control, and as part of the social system of New Zealand. Those presented in the latter part of chapter construct domestic violence as pathological, as symptomatic of a breaking down relationship, as part of the human condition, as caused by colliding circumstances, as specific to certain social groups, as induced by alcohol and drugs, and as being learned.

Violence as an expression of inner tension

The construction of *violence as an expression of inner tension* was very prevalent amongst the lawyer participants. All referred to it at least once, and most used it frequently. Indeed, it would seem that this discourse is readily available in society more generally. Other domestic violence research has established its use (or approximations of it) by men who abuse their partners (Adams et al., 1995; O'Neill & Morgan, 2001; Towns et al., 1996), in the social science literature (O'Neill, 1998), and by facilitators and male participants in Living Without Violence education programmes (O'Neill & Morgan, 2001). Indeed, the naming of this discourse is borrowed from O'Neill (1998). For simplicity, I henceforth refer to it as the *expressive tension* discourse.

The *expressive tension* discourse constructs an inner state of emotional tension that builds up to a level that can no longer be contained within the individual. Consequently, the inner tension is released in the form of an explosion of violence. Violence (particularly physical violence) is hence constructed as a manifestation of anger, inner tension, stress, and/or personal frustration within an individual. Perpetrators constructed by this discourse have little control over this process, or their violence. Rather, they are overwhelmed by the inner tension, which erupts out of them. Several examples are included below to illustrate lawyers' use of this discourse.

Alison: "They're more like the sort of people who just sort of hit out because they're pissed off. It's like you're sitting there and they're fucked off and they just smack you. 'Cause, and they blame it on something like dinner or something, but they're just doing it because they're irritated."

In this excerpt, perpetrators are described as hitting out because they are "pissed off", "fucked off", and "irritated." That is, their irritation is expressed as physical violence. Michael similarly

describes violence as generated by inner frustration, although he also suggests that a lack of social skills might contribute (the latter is an example of the *individual deficit* discourse, which is discussed below).

Michael: "And I've acted in cases where violence has been a response generated by frustration, and perhaps by a lack of social skills."

Helen also attributes men's physical violence to stress and pressure. Interestingly, she uses the *expressive tension* discourse to distinguish between people who are violent by nature, and people who "inappropriately" express themselves under stress. She says the latter do not have the corresponding pattern of abuse that is characteristic of the former.

Helen: "You're looking at someone who has been in an extremely stressed. And, I mean, all you have to do is look at your own behaviour. And women don't tend to be violent, they don't tend to express themselves in that way. But if you look at a time when you've been under huge pressure, and look at the sort of irrational actions and behaviours you can have, and you try and somehow translate that to these people. And you think, 'Well he slapped her, look at the kind of stress he's under. This is what he's done. This is not someone who is a violent person. This is someone who expresses themselves inappropriately.'"

William also attributes abuse to the escalation of inner tension, which he refers to as a "heating of emotions". As can be seen below, other lawyers also use metaphors related to temperature; of things being done in the 'heat' of the moment, of things 'heating up', of things later 'cooling down', and of men losing their 'cool'.

William: "There's a sort of *heating* of emotions and some abuse."

Michael: "I think there are far too many people who are in the *heat* of the moment willing to give in to their baser aspects..."

Andrew: "If you separate the adults then I think that takes a lot of the *heat* out of it."

Richard: "It's just circumstances created a *heated* situation and through some sort of, um, weakness, which would otherwise be harmless, there's a problem."

Thomas: "It raises the *temperature* significantly."

Thomas: "...to lower the *temperature* basically."

William: "...a three month **cooling off** period... just to **cool off** over the time the parties are, um, trying to resolve their differences."

Elizabeth: "This guy loses his **cool** so easily."

William: "It was just somebody losing his **cool**."

As can be seen from the excerpts above, there is the notion that people normally operate in an equilibrium of 'coolness'. When stressed or pressed, the 'temperature' of the situation and/or the individual increases to the point that persons 'lose their cool' (i.e., become 'hot') in the 'heat of the moment'. Certain actions (e.g., separating the persons concerned, having a 'cooling off period') can 'take the heat out of the situation' and 'lower the temperature'. These persons then 'cool off', returning to the temperature of equilibrium. Michael, above, also suggests that in the heat of the moment, people surrender to a primitive level of human functioning, referred to as "their baser aspects".

Within the *expressive tension* discourse, there was also reference to the suddenness of the expressed tension. People exploded, erupted, and snapped.

Sarah: "They come home and the house is dirty and they'll **explode**."

William: "...which cause people to **explode**."

Sarah: "And they think that it's going to, um, **erupt** into another physical."

Richard: "And a lot of them would be devastated that they've **snapped**."

Lawyers described the inner tension build up preceding violence to be caused by several factors: life circumstances; conflict in the relationship; conflict over access to the children; provocation by women; and infidelity or the starting of new sexual relationships. With the exception of life circumstances, all of these sources of inner stress directly involve the perpetrator's partner. It could be argued that this implicitly constructs women as partly responsible for ensuing violence.

Life circumstances or social stressors that cause frustration and tension included unemployment, job dissatisfaction, poverty, and raising young children. The stress and tension generated from these outside sources was then taken out on the woman partner or other family members. For example:

Thomas: "The causes are not necessarily poverty, but they seem, more men who are violent seem to me to be poor and poorly educated and probably in unskilled jobs. Ah, ahhh, and I suspect that for men violence arises out of expressed or unexpressed frustration with their circumstances. Which might be boring jobs, no money, ahh, greater demands on them than they can meet financially or emotionally."

Alison: "Well, I would say unemployment, because I think people need to work, to have meaningful work. If they haven't got meaningful work they're frustrated and they feel bad about themselves and they take their violence out on their family members. I think lack of education, because, I just think so many people can't see any way out of the situation that they're in... I think motherhood, you know, really undervalues women, is undervalued, and women don't feel valued as mothers, so they have that whole, I think they're under a lot of stress as mothers. I think fathers are under a lot of stress. I think poverty places people under a huge amount of stress. And it's really hard, I think it's really, really hard for people to cope with very limited financial resources, and that spills over into violence in relationships ... I think, yeah, just the stress of young children is hard for people."

As will be discussed later, the notion that unemployment and poverty causes domestic violence is also part of a discourse constructing *domestic violence as a consequence of the normative social system*. The examples above can therefore be considered a co-articulation of the *expressive tension* and *domestic violence as a consequence of the normative social system* discourses.

Lawyers also spoke of conflict in the relationship generating inner tension and stress that led to violence. Arguments were said to escalate to the point they became "out of control".

Thomas: "The precipitating cause may have been one argument between the couple, which got out of control, which was freely and mutually engaged in."

Elizabeth: "And some people might have a perfectly fine relationship, and might get into, you know, a, you know, a raging argument about some thing. And suddenly everybody's snapped, and there's blood all over the furniture or whatever. Um, so, and, I mean, people argue about all sorts of things. I mean, quite often, you, 'We were arguing about money,' or, 'We're arguing about who should feed the cat, or arguing about whether we should do this for, you know, whether we should go home yet.' Or, you know, just, yeah, so, yeah."

The latter example is interesting in many ways. First, as mentioned already, the relationship is constructed as a “perfectly fine relationship”. It is not unhealthy or pathological in any way. Also, the arguments leading to the violence are very trivial in nature. They are about petty things, like who should be feeding the cat. Furthermore, she does not specify that it was the perpetrator of violence who ‘snapped’. The words, “everybody’s snapped”, imply that both parties snapped. The parties are mutually responsible for the violence. Finally, there is no description of the violence, or of a person who is harmed. Rather, there is “blood all over the furniture”. All these factors provide rhetorical impact. The latter two in particular, place some responsibility on women for the violence, and undermine their position as victims of domestic violence.

Michelle also talks of arguments leading to violence. Two examples are provided below.

Michelle: “The relationship has been breaking down, and, um, and they’re going at it. And the fighting and the arguing gets greater and greater, and the man resorts to physical violence. And, and in those occasions, often I think the woman, I’m not trying to make any excuses, but often the woman is more skilful verbally, and can, can hurt just as much with her tongue. And the man resorts to physical violence.”

Michelle: “The bulk of the cases is an argument. Both of them are arguing. It escalates. It goes on and on and on and on. It doesn’t end. Um, maybe it dies down a bit. Then it starts up again. Um, and often both of them have been drinking. Um, then it gets nasty, and, um, the man, the man whacks her across the face, or the side of the head, and pushes her, often pushes her. And then whacks her so that she’s on the ground. And then he, he kicks her or something like that. And then, and that’s about it. It’s, it’s not like the serious doing over. But the woman will end up with like, maybe some bruises, sore ribs, maybe bruised face. I mean, I’m not trying to minimise it. But that would be the bulk of the violence I see... It starts from an argument, an argument. And it goes, yeah... You can see how it came. And you can sort of see it escalating, escalating until it reaches that situation.”

As can be seen in both these examples, whilst the male partner is clearly the one described as being violent, the woman is said to contribute to the escalation of the situation. She is partly to blame for being involved in the arguing, and hurting the man with her tongue. Several of the examples relating to conflict (including Thomas, above) ascribed women some blame in this way. This is discussed further in the section below on *domestic violence as taking two to tango*.

Particularly disturbing about Michelle’s second excerpt (above), is her suggestion that the described violence is not serious (i.e., “It’s not like the serious doing over.”). She has just described horrific physical violence, where a man has whacked a woman across the face, pushed her, whacked her to the ground, and then kicked her whilst she is on the ground! If

violence resulting in bruises, sore ribs, and a bruised face does not constitute a “serious doing over”, what does? Hospitalisation? She does reflect on the possibility that this is minimising the violence through her disclaimer, “I mean, I’m not trying to minimise it”.

One lawyer mentioned that conflict arising from women exerting ‘power’ over men’s access to children can also result in violence. This conflict supposedly results in inner tension, which results in violence. She qualifies this, however, by saying that “relationship baggage” also contributes to this problem.

Michelle: “Because, not, not, not across the board, but you do get situations of a person who has custody of the children believing that custody gives them power. And therefore they can say, ‘Yes, you can, no, you can’t, it doesn’t suit me, or go away,’ or whatever. Um, and that tied in with all the baggage, the baggage of the relationship. I’m not saying it just happens because the man is valiantly defending his right to have time with the children. There’s other, there’s, there’s relationship baggage up there as well. Um, but that is quite a fruitful source of dispute which gets out of hand.”

As mentioned above, men’s inner tension could also be increased by women’s provocation, their infidelity during the relationship, and by women starting new sexual relationships after their relationship has ended. This is discussed in more depth shortly, in the section on *domestic violence as taking two to tango*.

Lawyers not only blame women by suggesting they often contribute to the escalation of inner tension, they often minimise male partner violence in the process. For example, as illustrated earlier in this section, Helen says someone who is violent in response to stress is not someone who is a violent person; rather he is someone who “expresses themselves inappropriately”. Other lawyers spoke of men “smacking” their partners or “bopping” them out.

In summary, the *expressive tension* discourse refers to inner tension within an individual (e.g., anger, frustration, stress) reaching a level that can no longer be contained. Once the threshold is reached, inner tension is released and expressed as physical violence. As found in other research (e.g., Adams et al., 1995; Towns et al., 1996), there are metaphors of tension building up, of rising temperatures, and of sudden release (snapping and exploding). Women partners are often described as contributing to this escalation of inner tension through playing a role in arguments and conflict, by provoking their partner (e.g., by pressing buttons and pushing the limits, or through infidelity and starting new sexual relationships), or by wielding power through access to children. Alternatively, life circumstances and outside stressors (e.g., job dissatisfaction, unemployment, poverty, and raising children) lead to stress and frustration, which men take out on their partners. The *expressive tension* discourse constructs the

perpetrator of violence as 'out of control' or as having little control over his actions. Because this discourse gives little agency to the perpetrator, his accountability for his violence is compromised. *Expressive tension* was also realised in excerpts that minimise violence or apportion responsibility to the victim.

Domestic violence as taking two to tango

As alluded to in the previous section, lawyers quite often utilised a discourse of mutual responsibility for domestic violence, which has commonly been referred to as a 'two to tango' notion of domestic violence (Busch, 1994; Busch et al., 1993). Indeed, Busch's research has found that New Zealand judges perpetuate "two to tango" explanations of domestic violence (Busch, 1994; Busch et al., 1993).

In the following examples, Michael specifically uses the words "two to tango".

Michael: "There are, it seems to me, cases that come through the court, and through the criminal courts, where the, '*It takes two to tango*' sort of description can be applied."

Michael: "And I think that's a fairly clear example of it taking *two to tango*."

Lawyers perpetuated *domestic violence as taking two to tango* (hereafter referred to as *two to tango*) in at least three different ways. First, they constructed women victims as provoking domestic violence. Second, they constructed both parties as abusing each other. Third, which was a more specific articulation of the second, they constructed verbal abuse as being the domain of women and physical violence as being the domain of men. In this articulation of *two to tango*, women's verbal abuse invoked men's physical violence.

As mentioned in the paragraph above, women were positioned as overtly *provoking* violence by the *two to tango* discourse. They did this by 'deliberately pressing buttons', and 'pushing limits' (as shown in the first two examples below). Alternatively, they provoked the violence through infidelity or starting a new sexual relationship once their relationship was over (the latter examples). By suggesting women have provoked the violence, they are apportioned at least some of the blame. Research has also found that violent men excuse their violence through claims of provocation (Towns, Adams, & Gavey, in press).

Michelle: "And occasionally, very occasionally, very occasionally, you get one that you actually do believe is, is, is a deliberate set up. Where for some reason the woman has wanted revenge, and *she knows which buttons to press*. And she has *deliberately pressed those buttons* to get the reaction that she did, so that she can then call the police... Or when you look at it, you know, that the woman's

contribution was almost as much as the man's. Not necessarily physically, but because they put they put in their bit and they helped the situation escalate and escalate... The men always just say, 'I lost it. Boom,' yeah, 'I just lost it.'

Victoria: "At the end of the day... violence is not acceptable. But, I mean, you could see where this woman would have *pushed him to the limit*, you know, the way she spoke to him. And, um, I mean, I would say that it would probably, she'd been psychologically violent to him. Um, but then one day he just lost it."

In the first example, "deliberately pressing buttons" relies on a mechanical metaphor. It implies that pressing certain buttons causes an automated violent response from this woman's partner. The second example gives the impression that she provoked him beyond a threshold. Once this threshold was reached, he lost control and was violent. As can be seen in these examples, talk of provocation was often co-articulated with an *expressive tension* discourse.

As mentioned above, infidelity and starting new sexual relationships after separation were said to cause a violent response by the woman's (ex-)partner. More specifically, women's sexual relationships with other men caused their (ex-)partners such upset that they lost their temper and were physically violent. Again, this draws on the *expressive tension* discourse.

Christopher: He'd been married for six years and found out that his wife had been having an affair, and was really upset, and had a confrontation with her, and, you know, smacking her a few times."

Helen: "He told me that on the day, in fact it was about two days after they'd separated, she'd sat him down. Because he'd gone 'round to see the child. Sat him down on the couch, told him about the new man and the fact that she'd slept with him the night after he'd been sleeping in the bed. He got upset, turned around and slapped her."

William: "It was one of these things where, um, she wanted to break up the relationship. She told him that she'd met someone else, was not sleeping with them, and then later acknowledged that she was sleeping with him. Um, ah, what happened? Um, and he called her a slut, 'She'd upset me that she'd lied to me.' Um, and, um, she says he punched her but he denies it...It was just somebody losing his cool under some provocation."

Victoria: "I think that he's probably suffering as much psychological abuse as she suffered when he lost his temper one day. Totally inappropriately. But he'd found her with someone else and bopped her out. A one off."

As the lawyers' comments above show, there is some implicit acceptance of violence that is preceded by infidelity (e.g., "It was *just* somebody losing his cool *under some provocation*"; "*But he'd found her with someone else* and bopped her out. *A one off.*"). As found by Leibrich et al. (1995), it is not uncommon for partner violence to be constructed as somewhat reasonable when provoked by women's infidelity. In their study, 5% of men approved of hitting a woman if she was caught in bed with another man. From a feminist perspective, this construction of violence and infidelity aligns with the notion of men rightfully possessing and controlling women's bodies (Moi, 1987; Ptacek, 1988; Robinson, 1997).

Several lawyers spoke of mutual violence, where both the woman and man were perpetrators of violence against each other. This is illustrated in the following excerpts.

Alison: "Like sometimes, you can be really annoyed with your client, to be quite honest. Like some people come in and they feel that they've been abused. And a lot of the times they have. ***But sometimes they are themselves are also being abusive to the other side.*** And they can't see it. So, those people irritate you."

Sarah: "Sometimes people who, um, have been abused can be as sad as the abusers. Because, you know, they also have, it can be a two way thing. ***They both, you know, abuse each other.*** Um, it's just a way of life for them really... It may be the lower end that the, um, abused is abusing. But, you know, it's sort of, I mean, they're both perpetuating this situation. It's not just one party, you know."

Caroline: "The only other people who I have seen, um, are the kind of volatile relationship people, who are probably ***perpetrating violence on each other.*** And you don't see that kind of psychological aspect to those, um, relationships. Yeah, yeah, it's the tit for tat sort of thing, you know. Um, where ***they're probably hitting each other in the course of an argument, or, you know, using knives on each other in the course of an argument.*** Or something like that. You know what I mean don't you?"

Thomas: "Um, I s'pose, my residual feeling is that, that at least in my practice, ***the psychological violence is usually reciprocal.*** And that's my feeling, my overwhelming feeling, that ***it is usually reciprocal.***"

Of these excerpts, Sarah is the only one who constructs the violence used by women as being less serious than men's violence. Juxtaposed to this, Caroline speaks of both parties hitting each other, or using knives, in the course of an argument, and Thomas talks of the psychological abuse being reciprocal.

Consistent with the construction of women's violence being as serious as men's violence, many lawyers talked of women "giving as good as they got". This is evident in the excerpts below. As seen in Elizabeth's excerpt, she also talks of men who are beaten and put down by their partners, presumably without any violence on their part.

Elizabeth: "I'm sure there are, you know, women who will, though they may have been, you know, psychologically, and mentally, and, um, physically abused, and they go in and get the protection order, that **they've maybe given as good as they've got sort of thing**. I mean, I'm sure there are abused men out there who get beaten and, and put down and things."

Alison: "Um, and **some of them get, we use the phrase, 'Give as good as they got**. And sometimes it's true, they do."

Thomas: "So, if there has been some historical violence in which you participated, **often given as good as you get**. 'Cause we're not talking mostly off to the pub, get pissed, come home, beat the shit out your misses day after day. We're talking about the breaking down of a relationship, mutually, in which there are, um, relationship faults, if you like. Both parties contributing to the breakdown often. We're talking about a mutual breakdown of a relationship. Ah, in that situation, where one party applies following an argument, a row, sometimes accompanied with pushing and shoving by both parties, not always disclosed..."

The words, "giving as good as they got", give the impression that a woman's violence is as serious as her male partner's violence. Such constructions resist *feminist* discourse, which positions women as the primary victims of intimate violence. As discussed in Chapter 1, much literature and research indicates that male-initiated assaults on women constitute the most serious and most frequent scenarios in relationship violence, and usually have far more serious implications (Demaris, 1992; Herzberger, 1996; Johnson & Bunge, 2001; Mooney, 2000; Pagelow, 1984). Indeed, women's violence is less likely to cause serious injuries (Saunders, 1988), and is often not taken seriously by men, who feel their partners are unable to do any serious damage (Pagelow, 1984). Hence, when lawyers position women as "giving as good as they get" they minimise the seriousness of men's violence, exacerbate the seriousness of women's violence, and undermine a large proportion of women's lived experience of men's violence.

As mentioned at the beginning of this section, some lawyers constructed verbal abuse as being a form of violence frequently used by women.

Alison: “They usually in relationships where, it’s usually the women for a start, um, who is the person who is being abused. But they still, **women still use lot’s of verbal violence.**”

William: “But I think again, that, uh, **women are probably much more able to, um, wound with their tongues.** And, um, particularly to, ah, to, to men who are not very articulate.”

Sometimes, this was extended further, so that women were positioned as being verbally violent, and men were positioned as being physically violent. As shown in Michelle’s excerpt, below, sometimes lawyers spoke of women’s verbal abuse invoking physical retaliation by men.

Thomas: “I suppose, in terms of physical violence, **I have this belief that physical violence is more the domain of men than women. I think that verbal violence is more the domain of women than men.**”

Thomas: “So, **I see physical violence as more something that men do and verbal violence as more something that women do.**”

Michelle: “The relationship has been breaking down and, um, and they’re going at it. And the fighting and the arguing gets greater and greater, and **the man resorts to physical violence** and, **and in those occasions, often, I think, the woman, I’m not trying to make any excuses, but often the woman is more skilful verbally and can, can hurt just as much with her tongue, and the man resorts to physical violence.** Um, and then the woman, of course, is able to get the protection order.”

It is interesting to note that in this context, verbal abuse is constructed as reasonably serious. For example, in Michelle and William’s excerpts above, a woman can “wound”, and “hurt just as much” with her tongue. In other contexts, however, men’s psychological abuse (which consists of verbal abuse) was often minimised by lawyers. This was discussed in the section on the *hierarchical scale of violence* discourse (Chapter 9).

In conclusion, *two to tango* positions women as provoking violence, and/or engaging in abusive behaviour themselves. Because this discourse constructs both parties as being responsible for domestic violence, *two to tango* resists the construction of male perpetrators being individually accountable for their violence.

Domestic violence as power and control

Lawyers using the *domestic violence as power and control* discourse (henceforth referred to as the *power and control* discourse) describe domestic violence, particularly psychological abuse, as being present when somebody has substantial power over their partner and controls them. That is, the abusive person exerts 'power and control' over their partner. Many lawyers directly used the words "power and control".

Rosemary: "There is the, ah, variation of a theme. But a lot of it is this whole **power and control...** the idea of **power and control.**"

Alison: "I think it's something to do with **power and control.**"

Caroline: "I think the, it's that whole **power and control** attitude."

Michael: "If you've got someone who is exercising domestic violence by way of **power and control...**"

Whilst most lawyers who used the *power and control* discourse did so within the context of abusive heterosexual relationships, Sarah extends this to abusive lesbian relationships. Her talk about violence within lesbian relationships followed a question about whether the implementation of the Domestic Violence Act 1995 had led to people applying for protection against violence within a wider range of domestic relationships.

Sarah: "I've had one within a lesbian relationship... It was fairly similar, you know, that same kind of thing. One much more dominant partner is controlling, ah, the other partner. And, um, you know, just using the same kind of things as threats, and, you know. All that kind of, or, 'If you don't do this, then,' you know. It's all that kind of stuff. It was fairly similar... It was all about **power and control**. That's the thing. A lot of it's about **power and control.**"

Lawyers also referred specifically to 'power imbalances', and 'power differentiations' between the persons in the abusive relationship. The partners do not have equal power in the relationship; one is more dominant than the other.

Richard: "I mean I can't think of too many examples of psychological abuse. I guess there's the complete **power imbalance** in the relationship. Which is, the judges, they love that phrase too. '**Power imbalance.**' Um, which is fair enough."

Rachael: "Of those that have involved psychological abuse, what sorts of, um, things does that include generally?"

Richard: "Um, well, yeah. Not going away. Um, just, ah, you know, sort of, um, intimidation and **power imbalances**... Yeah, absolute **power imbalances** basically."

Victoria: "It seems to me that psychological abuse is sort of like, probably dependent on there being an **imbalance of power** of some sort."

Helen: "Difficult for the applicant... especially if there is a **power differentiation** between the two."

Alison: "It is so much like what you learn about in the power and control wheel... Often, the, it's almost like the man dictates how things are... But it's like, for start, sexual violence. Lots of sexual violence you hear about, they [the women] don't class it as violence as such. Because they haven't actually said, 'No,' or anything like that. They have this feeling that they have to have sex with him because he wants it sort of thing... It's just one aspect of them **not being equal** in the relationship. Not being able to say, 'No.' Because I'm sure the man would be able to say, 'No,' in those relationships. So that's just a sign of **not being equal**. They're often called, 'Slut, bitch, whore, a bad mother.' That one's very common. 'Useless.' The person's often quite controlling."

As shown, near the beginning of Alison's excerpt above, she speaks of the 'power and control wheel'. Like the *power and control* discourse, this is part of a feminist analysis of domestic violence.

As shown at the end of Alison's excerpt above, lawyers also talk specifically of the abusive partner 'controlling' the other. See Sarah's quotes below, also.

Sarah: "I agree that it's very difficult to define, ah, psychological abuse... Quite often it's related to, you know, '**I'm never allowed to go out.**' Um, you know, '**I have to ask him if I can go anywhere.**' I, you know... it's to do with **control**. And that's, um, yeah, that tends to be what it's around... And it's not just yelling and screaming. It's other things as well. It's **control**... It's, you know, it's a huge amount of different things."

Sarah: "Psychological abuse, that can be the worst type of abuse. And, you know, there's people who feel, um, totally, you know, bottom of the heap, because this other person who's putting them down, **controlling** them. And it's awful."

Some lawyers used the *power and control* discourse to define a particular type of man; a man who is characterised as having stable personality traits related to being dominant or controlling. Such men were referred to as 'control freaks', 'classic bullies', and 'prize-manipulators'. To be like this is to be pathological. In this way, the *power and control* discourse is co-articulated with a *pathological* discourse, which is discussed in below.

Andrew: "He's a real **control freak**, this guy. And anyway, she went inside. He came in with a chainsaw, which was just going, the motor was on..."

Caroline: "He was also your **classic bully**, you know. If you stood up to him, he'd go away. But if he felt he could bully you, he would. And manipulative, a **prize-manipulator**, you know. And that's why he kept her under that regime for so long."

Christopher: "I mean, occasionally you'll get the complete stereotypical arsehole, you know. Your aggressive violent, **controlling prick**, you know, who just is everyone's worst nightmare. I mean, they do exist. And you have contact with them, and it's very unpleasant. I find it extremely unpleasant... I'm not going to have them come in and rant and rave and try and do the big controlling act in here."

Furthermore, some lawyers mentioned that such men are controlling because they feel insecure and inadequate. Supposedly, their controlling behaviour towards their partners makes them feel more secure and adequate, and/or avoids them confronting situations that increase feelings of insecurity and inadequacy. The two quotes below, which illustrate this, are also co-articulations of the *power and control* and *pathological* discourses.

Sarah: "You know, some people who are very insecure about themselves, and, then want to try and control this other person, and that kind of thing."

William: "I think some people are just weak minded anyway. And some people have a nasty disposition and use it as a way of control... I think, again, it's a means, it's an inadequate, it's a means of an inadequate person trying to pose some form of control over the other partner..."

Rachael: "So the main factor contributing towards psychological abuse, you think, is someone who feels inadequate, um, exerting control over someone else?"

William: "Yeah. I, I think, it must. Well, I'm sorry, that's just my thoughts on it. It's a, it's a control mechanism. But, ah, I mean, the same as physical violence, it's still an exercise of trying to pose control on somebody else."

As can be seen in many of the examples above, lawyers particularly use the *power and control* discourse of domestic violence in relation to psychological abuse. That is, power imbalances

and controlling behaviour, at least in part, characterise psychological abuse. A couple of lawyers (e.g., William above, and Michael below) more explicitly link physical violence with power and control.

Michael: "I mean, the classic domestic violence scenario is a person using violence to exercise power and control over another person. To say, to basically say, 'Well, I lay the ground rules, and if you object to them, I'm willing to resort to violence to enforce them.'"

As shall be discussed shortly, this lawyer then resists the notion that violent relationships are all characterised by 'power and control'. For now, however, it is appropriate to point out that these two quotes are most characteristic of what O'Neill (1998) labels the *violence as an instrumental power strategy* discourse (located within the social science theoretical literature on domestic violence). This discourse constructs domestic violence as "the use of force and aggression as a means to an end or as a strategy towards a higher goal beyond the immediate gratification of releasing inner forces" (O'Neill, 1998, p. 466). In these excerpts, Michael and William speak of abusers using physical violence for the primary goal of controlling their partners; physical violence is not being used to release inner tension (as in the *expressive tension* discourse).

Likewise, lawyers talk of psychological abuse being used as a means to control someone else. That is, instead of psychological abuse being characterised by power and control, psychological abuse is used to establish power and control.

Caroline: "All violent people use psychological abuse to control the victim."

Caroline: "But if you're talking about the classic, if I can call it that, violent scenario that has been built up over time, those aspects of psychological abuse are always there, and that isolation factor, in order to control the victim, is always there."

The *power and control* discourse (and O'Neill's *violence as an instrumental power strategy* discourse) positions abusive men as 'in control' of their actions and behaviour. They are rational and calculating; their behaviour is intentional. This contradicts the *expressive tension* discourse. Domestic violence (particularly psychological abuse) is not an explosive expression of inner tension; it is purposeful; it establishes and maintains an abuser's increased power and domination.

Women are constructed as oppressed and powerless within the *power and control* discourse. Attempts to establish an equal relationship with personal freedom are impossible due to their partner's manipulative tactics.

The construction of the male as a rational entity (by the *power and control* discourse and O'Neill's *violence as an instrumental power strategy* discourse) relies on a wider liberal humanist discourse (O'Neill, 1998). This liberal humanist discourse positions agents as "rational entities who are fully conscious and in control of their goal-directed behaviour" (O'Neill, 1998, p. 466). Constructing men in this way holds men responsible and accountable for violent behaviour.

As mentioned above, a couple of lawyers resisted the notion that 'power and control' was always characteristic of abusive relationships.

Michael: "I would have some reservations about accepting the line that domestic violence is always, or usually, or almost always an exercise of power and control. Um, that would be my tentative feelings."

Michael: "Domestic violence is clearly a bad thing. But the whole model of domestic violence as really controlling behaviour, I think that is the tip of the iceberg. And there are some really nasty people out there but I'm not sure that the majority of men who have orders made against them would fall easily into that category. Not saying that the orders shouldn't be made. I'm just saying that... it's a very complex human situation, where often both people are at fault, and where the inability to talk. I mean, Ruth Busch and her, it gets very feisty about two-to-tango and all of that sort of thing. Frankly I find her writings, and I've only read them quickly, basically not particularly grounded in reality, certainly not grounded in experience. It seems to me a very selective experience that she's looked at. If that's the sort of philosophy that's behind the Act then I'd be a bit worried. I think judges approach things at a far more human level than that, and they've right to do so."

Rachael: "So, you're meaning that power and control isn't really the only explanatory factor?"

Michael: "Power and control is there, but it's just, emotional immaturity is probably far more of what it's about... I think it's a far more human situation, it's, violence is part of human condition. Um, and it's less about men wanting to exercise power and control over women."

Indeed, Michael seems to prefer other explanations of domestic violence. The first quote was preceded with explanations that utilised the *expressive tension* discourse and the *pathological deficit* discourse. In Michael's second quote, his resistance to the *power and control* discourse is followed by his utilisation of the *pathological deficit* and the construction of *domestic violence as part of the human condition* (both of these discourses are discussed below). Rather interestingly, Michael also expressed substantial resistance to the *power and control* discourse, and Ruth Busch's writings, when we originally met and discussed his participation in the

research. More specifically, he was unsure whether his contribution to the research would be useful because he was sceptical towards her arguments. I explained that I was interested in lawyers' views about domestic violence and the legal response, regardless of whether they were aligned with Ruth Busch's writings; indeed, his resistance to her arguments would be interesting to hear. Although I emphasised that he should not feel obliged to participate in the research, he decided to participate not long afterwards.

There was also substantial resistance by Thomas regarding the gendered notion of 'power and control'. He strongly resisted feminist discourses of patriarchy (which he claims we hear a lot about), by denying the existence of inequality between men and women in relationships. Indeed, he claims the reverse; that many women have 'power and control' over their partner at the end of the relationship through vindictively using protection orders to gain a tactical advantage with access proceedings.

Thomas: "One of the problems I suppose that I see, is that, and this is linked to my concern about access issues. Um, I do believe that they are used by some people for tactical advantage, because it immediately gives them, um, ah, ah. I mean, we, we hear a lot about the power which men exercise over women. Ah, but I don't subscribe to that, not in my practice and experience. Ah, ah, there are very many women who exercise power and control over their partner at separation through the children."

Thomas: "It alerted me, and, and does continue to alert me to, to the possibility that violence can be a two way thing. And that the power issues are not all in the male camp, and never have been."

Thomas: "I mean life has just changed significantly. I never, I almost never meet anybody these days, unless it applies to both of them, who don't know what property they own and what their partner earns, where the money goes. Most of them, most people these days have got a job or a part time job whether they're male or female. So, in that sense, in my view, there's much more kind of, ah, equality in the relationship than there was twenty years ago... So, the arguments are mutual. They're not over, 'You won't give me any money. You won't tell me what we're doing. I don't know what's going on.' Ah, it's a much more, it seems to me anyway, a much more equal relationship where both parties are active in the community working, doing things, earning income, buying things, selling things."

Rachael: "And, you kind of alluded to earlier, that you rarely see a power imbalance within the relationship?"

Thomas: "Well, it doesn't seem to be reported to me by men or women. The power imbalance comes usually when, um, somebody gains the upper hand through

some post-separation tactic... And often, and then they can control relationships and possession of family equipment. It doesn't always work that way... There are still people out there, ah, who, men particularly, who are driven by their business and who have assets and own assets and control assets, and, ah, um, they're bastards basically. But, um, fewer I think, in my experience, than there used to be. 'Cause more couples are working and possessing and earning and that, creates a bit of, um, an economic power base to operate from."

As can be seen in the quotes above, Thomas's assertion that women and men share equal power in relationships is based almost solely on (supposed) *economic* equity between parties. Because women now have jobs, assets, and financial control, both parties are equal; a power disparity where men dominate is not possible, nor is it be achieved by men through other means. Indeed, as mentioned above, Thomas claims that if anything, women exert power and control over their partner through their children. Women's use of protection orders for tactical advantage is discussed further in Chapter 11.

In summary, the *power and control* discourse constructs domestic violence, particularly psychological abuse, as occurring when a male partner rationally and intentionally has power over his female partner and controls her. Alternatively, men use physical violence and psychological abuse to establish power and control over their partner.

This discourse emerges from feminist analyses, which claim male violence against women partners is a controlling behaviour that creates and sustains male dominance between a man and his partner, and within patriarchal society. This feminist analysis also argues that male dominance within relationships is supported by the greater social, cultural, and historical context of patriarchal institutions and sexism.

The prevalence of this discourse amongst lawyers is probably not unusual considering the prevalence of feminist influenced research, articles, and input leading to and following the Domestic Violence Act 1995. Lawyers may well have been exposed to this discourse through legal journals and writings, and through educational activities that occurred around the introduction of the Domestic Violence Act 1995. Lawyers' utilisation of the *power and control* discourse may also be a consequence of women's perpetuation of this discourse alongside their active resistance to victim blaming discourses.

Domestic violence as a consequence of the normative social system

Lawyer participants utilised a discourse that O'Neill has previously labelled *domestic violence as a consequence of the normative social system* (O'Neill, 1998). For simplicity, I will henceforth refer to this discourse as the *social system* discourse.

Unlike the *expressive tension* discourse and the *power and control* discourse, which respectively refer to domestic violence and the perpetrator as 'out of control', and 'in control', the *social system* discourse constructs domestic violence as 'beyond and outside the control' of the perpetrator. Larger societal factors that are part of the social system in New Zealand (and presumably other Western countries), but beyond the control of perpetrator, lead to the occurrence of domestic violence.

There are several specific articulations of the *social system* discourse¹. Each of these attributes responsibility for domestic violence to different aspects of the social system. One focuses on socio-economic factors, such as the poverty and unemployment that exists in our social system. Another is centred on the inherent patriarchy of our social system. Other less-used articulations of the social system discourse include the pace of life, mobility of people, and society's loss of manners and respect. Each of these specific articulations will now be illustrated and discussed, starting with the *economic social system* discourse.

Lawyers using *economic social system* spoke of socio-economic factors like poverty and unemployment providing the context for domestic violence. Such socio-economic factors are considered a problem and consequence of the social system. The first quote below, from Andrew's transcript, points directly to 'economic' and 'societal' issues. The second quote below, from Nicola, gives examples of socio-economic factors that are wrong with the system (e.g., 'poverty' and 'lack of education'). In the third quote below, Fiona exemplifies in even more detail, the contributory role that a depressed economy is meant to have on people who live in a capitalist society.

Rachael: "Have you got any views on what contributes and causes domestic violence?"

Andrew: "...And I'm sure it's kind of economic and society type stuff. Socio-economic stuff."

Nicola: "There's so much wrong with the system, where do you start. I mean, I think that poverty is a big factor, um, lack of education."

Rachael: "What sorts of reasons do you see as contributing and causing domestic violence?"

Fiona: "I think New Zealand's attitude, that, that, I think we have, I agree with the view that we have a little bit of a depressed attitude... I think we need to be creating more things, we need to be creating more jobs, our trade places need to be better. I think, the, more benefits at the bottom aren't going to do the trick. Um, I'd run the system differently of course... Their expectations of schooling and expectation in

¹ These 'specific articulations' are coherent constructions within this larger *social system* discourse.

ourselves have to, really has to rise as a country... Unemployment, money is a biggie. I think that money's huge, I really do. Life without money is a stress. And, um, there's no future once you've got no, when you can't see a future for yourself, um, you're locked into it. And I think, I do, I think it's a huge problem. Yeah, and I think that's across all cultures. And I think that, um, there's a huge, um, you know people will say, 'If you go to India and people can live on nothing, we're all a wealthy country.' And while that's acceptable, we're actually a capitalist society, which actually runs on money. And you can't expect people to survive in a society and not be part of that. So, I think that's a bit of a problem."

Sometimes lawyers using this discourse specifically co-articulated the *economic social system* discourse and *expressive tension* discourse. That is, they talked of poverty, unemployment, and other socio-economic factors leading to stress, which was then released in the form of domestic violence.

Rachael: "What, um, um, factors do you see as, um, contributing towards domestic violence occurring...?"

William: "... I think that, I think the way in which society has developed as a materialistic society, um, and with insecurity of jobs, that kind of thing. Ah, people who are not earning very much, and are sort of living from hand to mouth. It creates tensions, which, um, which, ah, create situations where domestic violence is happening."

William: "I think people having proper employment, reasonable, um, reasonable income, even benefits. I think if they're paid a living, if they have enough money coming in to live reasonably well, you know, comfortably without great worries, then a lot of the stresses are taken out of it. As long as you've got, um, a society like we have, where there are people living below the poverty line, spending a lot of money on alcohol or gambling or whatever, um, you are going to have that sort of stress, which is going to come out one way or another."

This co-articulation has also been illustrated above in the section focusing on the *expressive tension* discourse. In that section, poverty and unemployment are considered social stressors that create inner tension. This inner tension is subsequently released in the form of domestic violence.

Lawyers also spoke of the economy having psychological impacts on people. People became depressed, bored, lose hope for the future, and feel bad about themselves. Such inner feelings caused people to indulge in a range of 'problem' behaviours, including domestic violence.

Christopher: “Well, and there’s also the huge social policy type thing. You know, if you had more employment, if people had a future to look forward to, um, you know, they wouldn’t be sitting around drinking all day, and taking drugs, and being involved in crime and getting depressed, and bored, and beating up their wives.”

Interestingly, Christopher genders the “people” who are getting depressed as a consequence of the economic social system by talking of these people beating up their “wives”. Hence, in this excerpt, it is not women who feel hopeless and depressed as a consequence of the economic social system; they are objects of beatings.

As illustrated above and below, lawyers using this discourse predict that social policy changes would make people feel better about themselves, and hence reduce domestic violence.

Richard: “It just would be nice if New Zealand could sort its act really. And people, more people had jobs, and less.”

Rachael: “So it’s more social issues, you mean?”

Richard: “Yeah, yeah, yeah, you know. The, the country was a little more productive and people felt better about themselves, you know. Those are deep issues.”

Another specific articulation of the *social system* discourse was *patriarchal social system*. Lawyers using this discourse explained that patriarchy in the social system leads to domestic violence. Nicola states this specifically.

Rachael: “Are there particular factors that you’ve noticed are contributing towards domestic violence...?”

Nicola: “... I think the patriarchal system, yeah.”

Because of the patriarchal system, men are inculcated with unhelpful sexist attitudes (Christopher and Stephen, below), and women grow up to believe they’re second rate citizens (Caroline, below).

Christopher: “I think you’d need a quantum shift in the way New Zealand men are brought up and the attitudes they’re inculcated with.”

Stephen: “I think, you know, social attitudes, um, are really unhelpful from time to time... Male chauvinist attitudes to roles and functions within marriage. Um, I think an inability, an unpreparedness to consider what it means for women to go into the workforce, in, in terms of the changing of roles within partnerships, within marriages. That sort of thing.”

Rachael: "You were just saying things that you see as contributing to and causing."

Caroline: "Okay, yeah. Cultural factors. Obviously, people who have that expectation still within their society that it's okay. Um, I think the value we place on women has to still carry a big part. In terms of, you know, if we bring our women up to believe that they are second rate citizens, then that's always going to be the case, you know, um, that they will put up with violence that they shouldn't."

Lawyers also mentioned that patriarchal resistance to changing gender roles caused domestic violence. That is, men respond violently to women who expect to be treated equally within relationships. Infiltrated with the notion of men fulfilling a particular role, and having particular powers in relationships (through modelling in their own upbringing), men are unprepared to accept anything different.

Andrew: "It probably starts mid 70's with Germaine Greer and that sort of stuff. Where women have power, and, 'We're not chattels and chained to the bedroom,' and stuff like that. And I think it's generally just becoming aware and being made aware that you don't have to be the traditional sort of chattel chained barefoot and pregnant and stuff like that. So I think that the awareness of getting out from under the male dominance thing has been a factor."

Rachael: "That has ended up contributing towards?"

Andrew: "Probably a lot of males sticking to the traditionals. As to how Dad did it, therefore it's okay for me generally. I think that women are stronger and smarter and not the weaker sex at all, and males generally react, don't have much of a clue of what's going on emotionally in their relationship... Perhaps men model themselves on their fathers, and they're harder to change. They're the dominant, and, 'You'll do as I say.' And women have changed and said, 'Well, I don't have to. I'm a person as well, not just a bloody slave.'"

Helen: "I think they [men] are left in a position of not knowing what the hell they're meant to be doing... within wider society, but certainly within relationships as well. It's no different from a woman not knowing what her role is... A lot of men, probably now in the thirty to forty age range, grew up, they were the providers, they had a certain amount of self-esteem, control, power, because of the way they saw their fathers. Conditioning. And the way they were to, um, interact within society. But that's changed. I mean, sometimes some of these guys have women who earn more than them, and they find it hard to take. Um, they have pressures on them at work, and they come home, and then their partners are expecting them to actually contribute in the house and do more work. And this is not something that they saw their father's do. And that's hard to take too. I mean, there's all sorts of things. I mean, both men and women are left in a position where, where their roles aren't

defined. And (?) there's conflict. And I think that, I don't know what it'll take to resolve that. Whether it's education, um, whether there's just a settling down period where everyone sort of gets more familiar over the next twenty or thirty years with this society being functioning in this manner. I mean, maybe it will all settle down. But right at the moment, that, there are huge pressures on people that there haven't been in the past. And that's a contributor."

As alluded to in the latter quote, society's changing gender roles has led to confusion about who does what, and has increased pressure and conflict within relationships. As exemplified more fully in the next quote, this conflict leads to the intensification of inner tension, which is released in the form of domestic violence.

Helen: "One of the biggest factors, I think, is that roles in society have changed. There are more pressures on everyone, financially, time wise. There are far less defined roles. I believe that in the past where there have been defined roles it has been easier in couples and in relationships to coexist, because they know what they're doing. There's certain expectation and that it was they fulfilled. That has changed. Women, far more women now work and fulfil a motherhood role... Um, and the roles are not as carefully defined... I mean, there is a huge muddle, because you don't actually know where you're at, like where, where do you draw the line. What's expected, what's not? And I, and I, as a result of that, I believe that it creates a whole lot more conflict in relationships. That greater conflict has led not just to huge escalation of separation and divorce, and also, probably, more the lower level domestic violence... I guess what I'm talking about is the situation where there is a slap, there is a push. There is, you know, it's just that, that tension, the conflict, the, yeah. And it's the, the heat of the moment stuff... That's, that's one thing."

In summary, the *patriarchal social system* suggests that domestic violence is a consequence of the social system being patriarchal. More specifically, violence occurs because of men's chauvinistic attitudes, and resistance towards women's equality and changing gender roles. Regarding the latter, patriarchy (and its associated gender roles) is not necessarily condoned, but it is not clearly condemned either. Indeed, in the last excerpt, there is almost nostalgia for the time when gender roles were more clearly defined. In this time, there was less conflict over who did what; consequently there was less domestic violence.

As mentioned earlier, lawyers also described other elements of the social system that contributed towards domestic violence. Stephen and Helen spoke of the pace of life:

Stephen: "Things like, um, the, sort of pace of life, technology, and, and drugs..."

Helen: "One of the biggest factors, I think, is that roles in society have changed. There are more pressures on everyone, financially, time wise..."

Mobility of people, and an associated lack of belonging, was also described by one lawyer as contributing to the problem of domestic violence.

Stephen: "But I do really wonder whether that fact that we are such a mobile population means that we, we do things. Like, um, and I guess the Maori are on to it in an obvious way, because Maori explicitly, um, promote the importance of family and extended family. It becomes perfectly obvious that if you find that, a Maori in a town with no relatives, that, that they've moved away from what they regard culturally as their really important support system. And I think, in fact... that same dynamic is really just as important to Europeans. It's just that we don't acknowledge it. And, yeah, if we stayed closer to our social circles, our connections and so on, and so forth, life would be easier to cope with."

Rachael: "Mmm. So you think, ah, the mobility becomes a problem when there's a lack of support?"

Stephen: "Yeah, well, I think that, yeah. I think, I mean, there is a lack of support, a lack of belonging..."

The loss of courtesy and respect from society was also thought to contribute to domestic violence. Michelle stated that educating children in schools about courtesy and respect might be beneficial.

Michelle: "I think the schools probably can do an awful lot just to teach manners. I know it sounds really old fashioned, but. Manners, manners don't necessarily mean a lot, but it's a way of humans interacting with some sort of respect and courtesy... It's not sort of like manners, it's, um... it's respect, it's respect."

Collectively, specific articulations of the *social system* discourse move responsibility for domestic violence away from the perpetrator and towards the larger social system. Problems within the social system are outside and beyond the abuser's control. It is the social system that is accountable and needs changing. Whilst the *social system* discourse usefully demands that the larger social system needs attention too, there are dangers associated with not holding individual abusers accountable for their behaviour. For example, women victims of domestic violence are particularly powerless under this discourse.

Domestic violence as pathology

Lawyers sometimes utilised a *pathological* discourse in relation to domestic violence. This discourse has previously been identified and located within the social science literature (O'Neill, 1998).

There were five specific discourses of pathology²: one that constructed *individuals* in the relationship as being pathological or as having pathological characteristics; one that constructed individuals (particularly men) in terms of *deficit*; one that constructed the *relationship* as pathological; one that constructed *entire families* as pathological; and another that referred to a pathological *underclass of people* who were susceptible to domestic violence.

Individual pathology

This discourse constructed individuals in the relationship as being pathological or as having pathological characteristics. Men were described as “insane lunatics”, “nasty”, “mad”, “crazy”, “obsessive”, “control freaks”, “manipulative”, “jealous”, “insecure”, “weak-minded”, “inadequate”, and “complete dysfunctional degenerates”. Lawyers use of some of these pathological terms is illustrated below.

Elizabeth: “It’s scary to think this piece of paper is supposed to protect you from some ***insane lunatic***.”

William: “I think some people are just ***weak minded*** anyway, and some people have a ***nasty disposition*** and use it as a way of control. I, I, yeah, it’s not just, yeah. I think, again, it’s a means, it’s an ***inadequate***, it’s a means of an ***inadequate*** person trying to pose some form of control over the other partner.”

William: “Where things goes wrong, is where you have an ***obsessive*** client who will not get through the grieving process, who will not um let go of the partner... And others are men who, um, are ***totally obsessive*** about their former partner, and their, and the children... And that’s when you have that ***obsessive*** sort of behaviour, that’s when the domestic violence orders become very necessary.”

William: “And even if you had all the domestic violence orders in the world, you not going to prevent the ***totally obsessive lunatic*** killing of the partner.”

Andrew: “I was involved in one where this guy was really bad news. He was a stalker... ***He was quite mad, quite crazy*** about (it). ***Real obsessional sort of a guy.***”

² These ‘specific’ discourses are all part of a larger pathological discourse. They are conceptualised as specific, coherent constructions of particular objects (e.g., individuals, relationships, families, an underclass) within this larger discourse.

Caroline: “He would, and **manipulative, a prize-manipulator**, you know. And that’s why he kept her under that regime for so long... He was a **manipulative person** in any event, um, **he had that kind of personality**, he was a **bully**... I think it was quite clear that he was **inadequate within himself** and would take **his inadequacies** out on her by way of the violence.”

Sarah: “Some people who are **very insecure about themselves**, and then want to try and control this other person.”

Michelle: “There was **incredible jealousy**, a background of **huge jealousy**.”

Women were also constructed as pathological. Such women were “lacking the confidence” required to resist violence, were on the “treadmill” of repeatedly choosing abusive partners, or were participating in the “same dysfunctional behaviour” by reconciling with their partner. The excerpt below from Caroline illustrates these former two constructions.

Caroline: “I think the value we place on women has to still carry a big part in terms of, you know, if we bring our women up to believe that they are second rate citizens, then that’s always going to be the case, you know, that they will put up with violence that they shouldn’t and they wouldn’t **if they had confidence within themselves**. So, there’s all of that dynamic as well. It’s easy enough to say it’s all the men’s fault, but you know, **people have to be in a position where they will become a victim, to be a victim**, really. I mean, a one off maybe, um, you might get that. But if the person sticks up for themselves and it’s addressed and dealt with, um, then it’s not going to happen again. Whereas, **those longstanding repeat type people, they all lack the confidence within themselves** to resist it.”

As illustrated in the excerpt above, Caroline places some of the responsibility for violence on women. Women “have to be in a position” (i.e., have the pathological characteristics required) to be become a victim, particularly when they repetitively become involved with violent relationships. As illustrated at the beginning of this excerpt, this is co-articulated with a *patriarchal social system* discourse, in that it is the way women are brought up that leads to their lack of confidence.

The next excerpt from Victoria also constructs a woman who has been in more than one violent relationship as pathological, if only very subtly.

Victoria: “[She’s] on the cycle of abuse in another, in another relationship, totally psychological abuse. But **she wants to be on that treadmill**. And, you know, it’s not for me to interfere or comment.”

As seen in the excerpt above, Victoria affords the woman described some responsibility for the violence. This woman not only chooses to be involved in violent relationships, she wants to be on this “treadmill” of violent relationships – rather like a masochist. As most ‘rational’ women would not choose to be in a relationship that harms them, there is something ‘wrong’ with this woman. The notion that women choose to be with violent men relies on a *liberal humanist* discourse. It also gives the impression that violent men are distinguishable at the beginning of the relationship. There is no room for ‘violent’ men being charming or behaving ‘normally’ in the earlier phases of the relationship. Nor is there room for men becoming ‘violent’ during a particular relationship. Instead, ‘violent’ men are constructed as having a fixed and consistent identity, which is somehow recognisable³.

In the next excerpt, Thomas also constructs the woman described as pathological. She is pathological because she repeatedly chooses to reconcile with her violent partner.

Thomas: “[A protection order] doesn’t impose any obligations on the respect of [the woman’s] own behaviour. So, if they reconcile or go back to the relationship time and again, **they participate themselves in the same dysfunctional behaviour**. They participate often in creating the same bitter disputes that are ongoing. They take no responsibility for that. They are no less powerless in my view than the other party. No more or less able to control their behaviour than the party against whom they’ve got the order.”

As illustrated in the excerpt above, women are afforded as much responsibility for the violence as the perpetrator because their reconciliation leads to “creating the same bitter disputes that are ongoing”. As perpetuated by family-systems theory, both parties interact (in “dysfunctional” ways) to maintain the homeostasis of the violent relationship.

In the next excerpt, certain women (and men) are constructed as having “issues” that make them prone to getting into a violent relationship (or that cause them to become violent persons).

Elizabeth: “I mean ,I don’t know if you’re gonna be able to address all your issues that made you get into a violent relationship or be a violent person or whatever, through a few sessions of counselling which is all the court will provide really.”

³ Indeed, during the interviews several lawyers spoke of initially being surprised when clients who were perpetrators of violence had the appearance of a ‘normal’ person. Through this and other comments, lawyers utilised, reflected on, or resisted the construction of perpetrators as visually recognisable in some way.

Some people in violent relationships were described as having clinical-level pathologies, like mental disorders, psychiatric illness, and borderline personalities. For example:

Rachael: "Have you noticed there's any other factors which contribute towards violence or abuse?"

Julia: "Poverty, um, **addictions**, um, **mental disorders**. A lot of people that we deal with are sort of **borderline fringe personality disorders**, just at sort of the edges of society."

Alison: "I think maybe there's another group that has **mental illness**... I'm just sort of thinking with where you are really cautious about things because the person is **suicidal**. Where... they've actually got a **mental illness** at that time, you know. They might be **really depressed**, or there might be something that's happened."

Sarah: What else? Um, they may have a **psychiatric illness**. That's quite often another problem."

Fiona: "Yeah, um, **mental health issues** come in to it occasionally too."

Individual deficit

Some individuals, particularly men, were described in terms of deficits. For example, they did not have sufficient verbal and social skills, emotional maturity and insight, or the resources and knowledge required to behave non-violently. Their deficits meant they were less than 'normal' (i.e., pathological).

Michael: "Power and control is there, but it's just **emotional immaturity** is probably far more of what it's about. People in situations that they're not dealing with well. People letting themselves down on occasion... People who on the whole are not violent, who may do bad things, and whom afterwards may hugely regret what has happened."

Michael: "**There are a lot of people out there who aren't particularly sophisticated**, who aren't able to say, 'Well, if I'm in a relationship where the emotions for me reach a point where I feel that I am justified in acting like this in the heat of the moment, then surely this is a relationship I shouldn't be in.' **There are an awful lot of people who aren't real sophisticated out there.**"

Sarah: "Males generally react, **don't have much of a clue of what's going on emotionally in their relationship**. They're always the last to know, they're always the most wounded, and always take the longest to recover."

Alison: "You might just get this stupid guy who loses his temper and hits his partner, and he should never have done it. And **he needs to go to anger management or something and learn a few tools of dealing with other people.**"

Much of the deficit talk centred around men's verbal (in)abilities and (lack of) communication skills.

Christopher: "**I think so many men are unable to verbalise things.** And I think you'd need a quantum shift in the way New Zealand males are brought up and the attitudes they're inculcated with, you know. I mean if you get a group of typical women together, and it doesn't really matter what background they have, they'll quite often talk about their relationships or more often than not relationships and personal things and the way they're feeling about things. If you get a group of guys around, they'll more often than not talk about anything but that, you know. They'll talk about, um, you know, your standard rugby, cars, jobs, and you might have a few tits and bums chucked in there as well. But that's it. And guys don't get taught to, um, verbalise the way they feel about things. And so, you know, they can chug away as men alone, you know, pottering through life meeting the boys for a few beers on a Friday night. But the thing is **they're totally unequipped to deal with any emotional upheavals as a result...** Your partner shoots through, then suddenly, 'Oh,' you know. **They're unable to actually cope with that** because they've never actually talked about things. And been able to or learnt how to."

Rachael: "So, what sorts of things do you feel contribute and kind of cause domestic violence, I suppose, what sorts of things do you think?"

Stephen: "I, I think, yeah, it's hard to say. I mean **poor communication** I should think is probably, you know, the principle thing."

Helen: "A woman, I think, I think it would be fair to say without having anything to rely on, {both laugh}, that women faced with anger about something the other party had done would be more likely to deal with it in a different way. Go and talk to someone else, maybe to shout at him, whatever, but to deal with it in a different way. **Whereas men, I think, are less able to verbalise, less able to deal with things in the manner that women do.** And sometimes it does come out as physical violence."

As is evident in the first excerpt above, Christopher talks of men not being taught how to verbalise their feelings.

Lawyers also constructed men as 'not knowing' what is right and wrong or how they should function.

Helen: "**There are still people out there that are, um, not aware of what's right and what's wrong.** They don't, um, **they don't know what the norms are. They don't know.** No one knows what any one else's relationship is like. And **there are a lot of people that just don't know how to function,** that need to know that violence just absolutely isn't acceptable."

Stephen: "It's easier to persuade people, that are most likely to be the victim, to understand the process and how to deal with it, than it is for the people who are most likely to be the **slightly unconscious perpetrators.** I mean, I think there are blokes out there that are deliberately and eagerly beating up women, but **there are also shit loads of blokes out there that are behaving appallingly without, I think, really having any insight into the fact that that's what they're doing.**"

Nicola: "You've got to actually make some sort of gesture towards educating people. But it just must be a joke, I think, for a lot of those people who run those programmes, in terms of where the men are at. They are, just **wouldn't be able to comprehend in a zillion years that, you know, there are other ways of behaving,** that they might need to look at their behaviour."

Pathological individuals were constructed as needing treatment. They needed "major help" or counselling to "reorganise their heads" and to "sort out their baggage". Supposedly, men with 'deficits' can learn new skills. Living Without Violence programmes were a facility for this learning to occur.

Relationship pathology

Lawyers also attributed pathology to the relationship itself. Relationships were constructed as "disasters", "strange and abhorrent", "horrible", "seriously wrong", "bad", "difficult", and "volatile". For example:

Michael: "There are a couple of men in [this city] who you will see up on a fresh breach of protection order, five, six times a year. Where it's a (?) between them and their partner. And, um, the law is almost an innocent bystander between their **strange and abhorrent relationship.**"

Caroline: “The only other people who I have seen, um, are **the kind of volatile relationship people** who probably [are] perpetrating violence on each other.”

Thomas: “Their **relationship’s a disaster**. Ah, whatever brought them together has, has ended. Ah, there may be money pressures, ah, sexual relationship problems. There may be infidelity. There may be a drink or alcohol, ah, drug, drink or drugs problem. There may be a whole combination of them. There, maybe that they’ve grown in different rates in different directions. There may be dissatisfactions with a whole lot of things in their lives. Whatever drives people apart.”

Rachael: “And so, more the ending of the relationship?”

Thomas: “Yeah. Money, sex, and disappointment seem to be the leading candidates {laugh}. I don’t know what causes it, but what I see in the end is one of two people, and if I’m counsel for child, two people, where **the relationship’s gone bad** to the point where they can’t be civil to each other, or worse.”

Family pathology

Whole families were also constructed as pathological in that they had “psychological and emotional dysfunction” and “intergenerational dysfunction”.

Julia: “Having been doing this for quite a long time, you find that files link up. You find from one **intergenerational abusive family**, um, family X over here, um, they link in with family Y over here, who link in with family Z over here.”

Julia: “I’m thinking of one recent, um, case I’ve been involved in, in particular. She came from a pretty, inverted commas, ‘normal’ family, and, and got, before she knew it she was sucked into a **really deeply intergenerational dysfunctional family**.”

Fiona: “Well, I think that a lot of violence at, you know, are boys coming through **dysfunctional families**. Um, where, dysfunctional for any reason.”

The construction of families as dysfunctional was also utilised within the *domestic violence as learned behaviour* discourse (this discourse is discussed shortly). That is, families stay dysfunctional from one generation to the next because the violence (and other inappropriate behaviour) that is role-modelled by the adults is learnt, and then practised, by the children. Whilst, the construction of families as dysfunctional could be used to endorse distaste and discrimination against those labelled in this way, it can also be used to promote ‘healthy families’ through intervention.

Pathological underclass of people

A couple of lawyers constructed a pathological underclass of people for which domestic violence is a normal part of life.

Michael: "It makes me feel, as a general comment, when I see the level of violence in the community, that makes me feel very sad. That makes me feel that **there are parts of our community that are almost without hope**, um, and it and yeah it's deeply sad... **I think that there is a large group of people for whom violence is deeply ingrained and for whom it is almost part of their personal culture**, you know. You'll hear, if you go and sit in the public gallery, you'll talk about how there was a fight, and it was one on one, and that was fine until someone else got involved, and then it turned ugly."

Rachael: "You mean, you'll hear this being talked about?"

Michael: "Yeah, just talked about. **Violence in incredibly macho culture is really prevalent within a small part of our society that appears regularly before criminal courts. And domestic violence is just an expression, a particularly ugly and distasteful expression of the more general level of violence within that community.** I don't know how big it is but I can tell you it is pretty real. And, um, I wouldn't want to be a woman in that community. And I probably wouldn't want to be a man either. But I think that at some level, perhaps men have more choices. Um, what else could I say?"

Michael: "**There still are two to five to 10 percent of our community for whom violence is a way of life and an accepted way, means of self expression.**"

For this underclass of people, violence is just one of many pathological behaviours (e.g., alcohol, drugs, crime, and gambling) in which they engage.

Christopher: "You know, if you had more employment, if people had a future to look forward to, um, you know, **they wouldn't be sitting around drinking all day, and taking drugs, and being involved in crime, and getting depressed and bored, and beating up their wives.**"

In summary, lawyers utilised five specific constructions of the *domestic violence as pathology* discourse. Individuals in the relationship were constructed as having undesirable and aberrant characteristics or personas. Violent men were often constructed as having deficits. Relationships and families were also constructed as being pathological, as was an 'underclass' of people who are supposedly prone to domestic violence. This discourse probably deters some people from using or accepting domestic violence in their relationships, as many would not want to be positioned in this way. For those who are victims or perpetrators of domestic violence, this

discourse could induce shame, which might hinder women and men acknowledging abuse and seeking help.

Domestic violence as a symptom of a breaking down relationship

Whilst this discourse could be considered a specific articulation of a *pathological relationship* discourse, I decided to represent it in its own right. This is because it is a very specific and coherent articulation of this discourse, which centrally focuses on relationships ending, not necessarily on relationship pathology. It also has specific implications for the construction of risk after separation (discussed further below).

As suggested by the name of the discourse, lawyers spoke of domestic violence being a symptom of, or specific to, relationships that are breaking down or ending. The following examples illustrate this.

Rachael: "Have you noticed, in the different cases that you have worked with, um, any kind of similar threads of why the violence might be occurring, or things that are similar?"

Richard: "Um."

Rachael: "And I'm sure there are variations as well of course."

Richard: "Um, I guess, I guess one, one is just **the symptoms of a broken down relationship**, and one partner not being able to accept that... So that's one thread, is, you know, **symptoms of a broken relationship basically**, and just by, you know (out of necessity) parties aren't at the same point after a finished relationship."

Thomas: "Because quite often, **the level of violence that I see is between a couple who are usually working out the last death rows of their relationship.**"

Rachael: "What was the violence that occurred in that case, can you remember?"

William: "I think, I think, I think just as they were breaking up. **It was the stress of the actual break-up.**"

Helen: "**It's happened in the context of, often, um, immediate pre-separation tension, anxiety, stress.**"

As mentioned explicitly by William and Helen, above, the violence is a consequence of the stress and inner tension associated with the ending relationship. The *domestic violence as a symptom of a breaking down relationship* discourse is hence co-articulated with the *expressive tension* discourse.

As can be seen below, Christopher co-articulates the *domestic violence as a symptom of a breaking down relationship* with an *individual pathology* discourse. That is, he talks of the individuals being temporarily irrational and “loopy” around the time the relationship ends.

Christopher: “They leave and, um, quite often, obviously when people break up from, ah, especially long-term relationships both parties can go a bit loopy. You know, I mean, your most normal, standard, never been in trouble with the police type people are suddenly, you know. There’s, I mean, huge emotional upheaval, and people are very, very upset, and they do things they wouldn’t usually do. And so, therefore, you’ve, um, got people at, um, not sleeping, you know, night after night after night. And therefore becoming irrational. I mean, it’s a whole combination of not sleeping, not eating, um, and quite often drinking, you know. It’s a very ugly cocktail. And they start doing stupid things. And like I said, it’s more often than not, um, not violent things, or if they are violent things they’re very minor, you know, going around at two o’clock in the morning banging on the window saying, ‘I love you still,’ and that sort of thing, you know... I don’t know how to define it. It’s more people who are having big problems getting over, you know, having lived with someone for a long time, and then suddenly that person isn’t there. And they’re just going through all the normal upheavals that people go through when people break up.”

This excerpt has some interesting features. First, it talks of *both* parties going “loopy”. This is despite the fact he focuses solely on the irrational behaviour of the male abuser after this, and does not give any examples of the women behaving irrationally. Furthermore, he describes the people concerned as normal, law-abiding people prior to the end of the relationship. They are not typical ‘criminal’ types who have a history of not abiding the law. In addition to this, he resists the notion that these parties are long-term pathological by mentioning how normal it is for people to experience emotional upheaval when a relationship ends.

One implication of constructing domestic violence as a symptom of, and specific to, a relationship ending, is that there is a decreased risk of violence after separation has occurred. Indeed, during the interviews, lawyers regularly constructed domestic violence as decreasing after separation. I labelled this the *decreased risk of violence after separation* discourse. This is discussed next.

Decreased risk of domestic violence after separation

Lawyers using this discourse spoke of the risk of domestic violence being reduced or removed after the couple have ended the relationship and separated. It assumes that domestic violence is a consequence of the conflict associated with being together. Because the man and woman

were no longer together, there is no longer any potential for conflict, and hence no occurrence of domestic violence.

Helen: "It's happened in the context of, often, um, immediate pre-separation anxiety, stress. Um, and the biggest concern is that **after separation there isn't actually a risk.**"

Andrew: "The friction is between the adults, and **if you separate the adults then I think that takes a lot of the heat out of it.**"

Thomas: "If the parties are separating, ah, **the end of their living together ought to usually see a reduction in the opportunities for any, um, verbal violence, psychological violence.**"

Michelle: "I mean often even the physical violence is, I think, situational. It relates to the breakdown of the relationship. And that, I think, has to be separated out from an abusive, ongoingly physically abusive relationship. So, I think the first thing you have to do is to look at the, whether or not it's situational. **Because when the relationship goes it may be that whatever happened goes.** I would say that a huge percentage of my work it was, um, situational."

It is likely that the *decreased risk of violence after separation* discourse relies on an *expressive tension* discourse. As there is no conflict, and hence no inner tension, there is no violence.

Lawyers particularly used this discourse in relation to the non-custodial parent having access to the children. This is discussed further in the next chapter.

One lawyer also used it in relation to protection order applications. Because separated couples do not have any opportunity for tension and frustration arise, the ongoing need for protection through a protection order is not required.

Helen: "But if it's objectively and realistically viewed, and the applicant is asked in that objective manner whether they genuinely feel they need a protection. Then **maybe the protection order's not necessary in terms of getting protection. Particularly if by that stage the parties are living separately and starting to work through some of the issues.** Um."

Rachael: "So there's not that ongoing need?"

Helen: "There's not that tension, frustration. There's not the opportunity for it to happen. Um, things are starting to be dealt with through solicitors. There's lesser opportunity to even have contact, let alone that sort of high tension."

One lawyer resisted the *decreased risk after separation* discourse. Instead, he constructs the risk of violence increasing around and after the relationship ends.

Stephen: "I think it's, it's widely acknowledged that of, of all the times in a relationship ***the most dangerous time is around and immediately after its breakup***. So, there's probably a lot of cases where an order is actually either necessary or really useful for a short period of time, but is not necessary for a, a longer term."

As is evident from Stephen's excerpt, the increased risk is constructed as only being in the period immediately after the end of the relationship. Consequently, the protection order is only deemed necessary for a short period of time as opposed to the longer term. Whilst examples of 'increased risk after separation' were very sparse, this resistance possibly originates from the feminist discourse of *power and control*. Utilising the *power and control* discourse, one would construct violence as increasing after the relationship ends (particularly if the woman partner ends the relationship) because of the perpetrators increased need to control her.

Violence as a symptom of a breaking down relationship and risk of violence reduced after separation together negate the need for women's protection after separation, resulting in non-pursuance or rejection of protection orders. As discussed further in Chapter 12, they also negate the need for children to be protected through supervised access. Consequently, women whose ex-partners continue to be abusive and violent, and their children, are endangered.

Violence as part of the human condition

This discourse was not commonly used. The one or two lawyers using it spoke of violence being part of the human condition; of humans being violent by nature. In the first quote below, Michael uses this discourse and resists the *power and control* discourse described above.

Michael: "I think it's a far more human situation. It's, violence is part of the human condition. Um, and it's less about men wanting to exercise power and control over women."

In the next quote, he is speaking about whether people deserve domestic violence.

Michael: "No one deserves any violence, but violence is part of the human condition. And sometimes while you never think anyone deserved it, you may feel, 'Well, that human nature being what it is, and people being what they are, and things happening as they do, if you're going to carry on like that with the person you're involved in, then perhaps you might expect something in the nature of a physical response.' It's not a matter of saying that they deserved it, because no one does."

But just saying, 'Well, really things like this do happen, and if you're going to carry on like that, they're likely to happen to you.'

Rachael: "Mmhmm, so though perhaps someone doesn't deserve it, it's not surprising, you mean?"

Michael: "Yeah, yeah. If you take all of the family, your husbands earnings that he's received in cash, and you go and loose it at bingo, then, you don't deserve to be punished. No one would say that I hope. But if you do end up being punished then perhaps it's not a huge surprise. I don't know if that sounds really ugly. It probably should. But I think people are basically quite violent and that should be recognised."

Rachael: "You mean, all?"

Michael: "Everyone. Anger is a human response. Anger usually gives rise to physical manifestations. And, um, perhaps it's remarkable that there's as little violence as there is."

Whilst Michael claims that no one deserves domestic violence, (i.e., he utilises the *domestic violence as unacceptable* discourse), he goes on to say that sometimes domestic violence can be expected. This can partly be attributed to the notion that human beings are violent by nature. Push someone far enough (e.g., by spending all your husband's earnings on bingo), and they will 'naturally' respond violently. This is because anger is a natural human emotion that is often manifest in a physical dimension. I interpret this as a specific articulation of the *expressive tension* discourse. That is, human beings, by consequence of their design and make-up, naturally experience anger, and express this inner tension as physical violence when it reaches a certain level. This discourse, hence, relies on a larger essentialist discourse.

Of interest in the excerpt above is Michael's reference to violence as a "physical response". This use of language downplays the seriousness of the man's 'response' (i.e., violence). Ptacek (1988) similarly found that men minimised their violence by referring to it as a physical response.

In contrast to violence being a consequence of a biologically based tension release system, Richard speaks of it as a natural human reaction to the end of a relationship. That is, he implies that people naturally find it extremely difficult to accept when a relationship ends. Because this is a natural emotional response, it will continue to be a problem for centuries to come. Note that in the excerpt below, it is not possible to determine whether he means that human's will continue to be unable to accept the end of a relationship, or that human's will continue to experience domestic violence as a consequence of this. He also makes use of the *domestic violence as a symptom of a breaking down relationship* discourse.

Rachael: "Have you noticed, in the different cases that you have worked with, um, any kind of similar threads of why the violence might be occurring, or things that are similar?"

Richard: "Um."

Rachael: "And I'm sure there are variations as well of course."

Richard: "Um, I guess, I guess one, one is just the symptoms of a broken down relationship, and one partner not being able to accept that. And **that's going to be around for the next thousand years, you know. That will never change.**"

Rachael: "Mmm, where you mean like the relationship's over?"

Richard: "Yeah. And, one, one partner is hurting and wants to turn up at night and talk about it, um. I, and **I don't see how that's going to change. That's human, that's a human condition.** Um, so that's one thread, is, you know, symptoms of a broken relationship basically and just by, you know, (out of necessity), parties aren't at the same point after a finished relationship."

Domestic violence is part of the human condition constructs domestic violence as an immutable, long-term state of affairs. We can never live in a world free of domestic violence because our human composition defies this possibility. Such a discourse, even though not prevalent in this sample of lawyers, is a barrier to the notion that this is a possibility we should strive towards.

Domestic violence is part of the human condition also constructs violence as 'beyond the control' of individuals. Humans are violent by nature, not by choice. Hence, through this discourse, perpetrators of violence are held less accountable.

Violence as a consequence of colliding circumstances

Whilst this discourse was only used by one lawyer, I found it quite remarkable as an explanation of domestic violence. Remarkable, because it gives little agency to the perpetrator of domestic violence. Rather, it refers to domestic violence as being the result of colliding circumstances.

Richard: "A lot, I mean lot of them, are circumstance. And some sort of, I guess internal problem has driven them to that point where something's happened. A lot of them would be devastated that they've snapped, you know. Yeah. And, a lot of it, lot of it is circumstance, I think, and, um."

Rachael: "Mmm. What sort of circumstances?"

Richard: "Oh, you know, just personal circumstances, and different, different facts sort of colliding to mean that there's going to be a really angry incident."

Richard: "Circumstance is another one. A lot of people, um, walking down the road would never consider getting angry until circumstance collides, you know, and really creates the scene for it to happen. So, I think that's, that can be, um, um, bad luck

basically. Yeah, yeah, yeah. Um, that can be bad luck in certain circumstances, to meet on that day at that time. Then, bang, you know. And lot of, a lot of murderers in jail are, don't walk down the street wanting to kill someone. It's just circumstances created a heated situation, and through some sort of, um, weakness, which would otherwise be harmless, there's a problem, you know. And the same with domestic violence in some cases, I think."

As is illustrated in these quotes, domestic violence almost becomes a chance or random event. Circumstances collide in such a way that domestic violence occurs. Like in the analogy Andrew gives for murderers, there is no premeditation or intent of violence. It is just "bad luck". Consequently, this discourse shifts responsibility away from the perpetrator of violence. No one can be held responsible for a random collision of circumstances.

Andrew also co-articulates this *colliding circumstances* discourse with a *pathological* discourse. In the former quote, the lawyer constructs the subject as having an "internal problem". In the second quote, he speaks of the subject having some sort of "weakness" or deficit. He also draws on the *expressive tension* discourse. In the second quote, circumstances and personal weakness create "a heated situation". It is possible that the "really angry incident" referred to in the first quote, subtly alludes to the *expressive tension* discourse.

In conclusion, the *colliding circumstances* discourse affords little agency to perpetrators of domestic violence. Consequently, such men are not held accountable.

Domestic violence as specific to certain social groups

Throughout the interviews, several lawyers constructed domestic violence as being a problem specific to certain groups of people, particularly lower socio-economic groups, and Maori and Pacific Island populations.

In the excerpts below, lawyers utilise this discourse in relation to Maori and Pacific Island communities⁴.

Christopher: "***Cultural factors come in*** you know, when I was [working in a particular part of the country], ***I couldn't believe the level of violence, especially in the Island communities. It's just astounding, you know... It's just like it's endemic....*** I mean it's unreal... It's just not understandable from where we're coming from, you know. So, that's another aspect of it all. ***I don't care what the***

⁴ Note that in this section italicised, unbolded text highlights where lawyers resist *domestic violence as specific to certain social groups* by constructing domestic violence as occurring across all social groups. It also indicates text where lawyers reflect on the construction of violence as occurring across all social groups. This resistance and reflection is discussed later in the section.

prevailing correct thing to say is. **The higher your level of Island, Islanders, the higher the level of domestic violence. And also Maori, same thing.**

Michael: "Um, there are a number of, um, violent men out there who don't hesitate to use violence. And perhaps one of the disturbing things is the **cultural overlay** in that... I mean that **there are a lot of Maori men out there who seem very willing to use violence**. That may, that's an impression. Um, **but the cases that I've been involved in where there have been protection orders applied for because the women has been missing teeth or the women has shown up at my office with two black eyes, the one's where we're talking about, what is in anybody's language, real and serious violence, have usually involved, um, Maori men**. That's a generalisation, I'm not sure if it's fair. But that's my feeling for it, yeah. You've got to avoid, any try and avoid any stereotype, because if you, it's a slippery slope. But that's my impression."

In the next excerpts, lawyers deploy this discourse in relation to socio-economic status (or for this group and Maori and Pacific Island peoples).

Fiona: "Um, it happens, *it does happen across the board, and, and I see it across the board*. But **I see it more in the low socio-economic ones.**"

Christopher: "I can remember at university though, people saying, um, because *it's very politically correct to say that domestic violence occurs equally right throughout socio-economic groups*. But I don't know how people can make those, um, presumptions, when **all the statistical data that I have ever seen has always been, you know, lower socio-economic group, and within, that Maori and Pacific Island groups have hugely higher rates.**"

Fiona: "The reality is that that Maori would be over, um, there'd be far more for population wise, you'd have more Maori and **definitely more lower socio-economic**. *Although that's not always true. We've done protection orders for, um, professional people as well, so it does happen.*"

The *hierarchical scale of domestic violence* discourse was sometimes co-articulated with *domestic violence as specific to certain social groups*. According to this co-articulation, as the socio-economic status of people decreased, the frequency and severity of domestic violence increased. Similarly, Maori and Pacific Island communities were constructed as experiencing more frequent and serious domestic violence than Pakeha communities. In the next excerpt, Christopher graphically describes the relationship between socio-economic status and domestic violence: higher SES people experience psychological abuse; lower SES experience physical

violence; and the group below this (referred to as the “twilight zone of people”) have “the works”, including sexual abuse.

Christopher: “The psychological, um, ones, that is your middle class sort of thing, you know. It’s, it’s very much more, like I’ve had a number of matrimonial property cases where that that’s been alleged, you know. And it’s much more common for a, a middle class sort of, you know, the husband getting home, banging, you know, crashing, um, door shut, and cupboards shut, and yelling and screaming and telling the wife she’s a useless bitch, and this sort of stuff. So, that’s, yeah, the rare occasion or the unusual occasion where you do get more middle class people, that’s quite often alleged. **Whereas the lower you drop in socio-economic level, the higher the degree of physical violence goes... I’d say if you take, if you sort of have a middle class sort of perspective here, your high levels of allegations of psychological abuse. And the lower you go the higher, you know, the psychological abuse drops way and complaints of physical violence rises.**”

Rachael: “That’s interesting. Do, um, you get many, um, allegations of sexual abuse, or that coming up in women’s affidavits?”

Christopher: “Um, that’s, um, right at the bottom of the pit really. I mean, when you go to, I mean, obviously this is all generalisations, but the lower you go in socio-economic group. I mean, say you start off with you’re your middle class bank officer and his wife, or whatever, and you drop, sort of drop down into, um, sort of labourers and people, and, um, labouring jobs, and then unemployed people. And then below your sort of long-term unemployed, you’ve got this sort of twilight zone of people with psychological problems, bordering on schizophrenia, um, in and out of mental institutions. Um, or else, if they don’t have a mental problem, they’ve got very, very low IQ. And when they come in it’s a nightmare. But I mean, you’re talking people who don’t wash, who, who’s ability to communicate is extremely limited. Um, they’re regularly getting, they regularly have stories of sexual abuse, along with violence, along with, um, I mean the works. Um, because **the further you drop down, the more vulnerable people are to a certain extent to that sort of behaviour.** And these people, just, just, um, it’s horrific. You’ve just got no idea, you know. You’re getting into the most dysfunctional people you could ever imagine... **When you get down to that level, you’ve got every sort of abuse going every which way you could ever believe it.** So it comes all very blurred about who’s abusing who, and what’s going on.”

As is evident throughout the excerpt, this lawyer deploys the *pathological underclass* discourse for the group of people who experience abuse within the lowest socio-economic group. For example, he uses terminology like “bottom of the pit”, “twilight zone of people”, “the most

dysfunction people you could ever imagine”, as well as constructing them as having psychological problems and low intelligence.

The excerpt below illustrates *hierarchical scale of domestic violence* in relation to ethnicity. Michael also talks of ethnicity whilst utilising *hierarchical scale of domestic violence* in his excerpt at the beginning of this section.

Nicola: ***“I would say that I’ve often been more shocked by the kind of violence which has been affecting Maori women than Pakeha women. And it does seem to be more prevalent as well.*** I’m not sure what those reasons are, but definitely probably quite a high percentage of the women who come and apply for protection orders are Maori... I would say that, my conclusion is that domestic violence is maybe more endemic in Maori families than it is in Pakeha families. ***But it is not always the case at all. And I’ve definitely seen women from all kind of economic stratas...***”

A couple of lawyers constructed some places being rife with domestic violence because they have high populations of Maori and Pacific Islanders. This is illustrated below with an excerpt from Christopher.

Christopher: “I’ve got a [lawyer] friend in Porirua, who, you know, she does about fifteen [protection order applications] a week sort of thing. ***It’s like a war zone over there... I mean, like a place like Porirua which is just horrendous.*** This friend of mine is just about burnt out from working there... She said the violence is just horrendous...”

And later:

Christopher: “I mean if you went to and interviewed lawyers in like ***Hastings, and, um, Otara, and Porirua. I mean, they have massive, you know, Islander, Maori populations, and big, huge domestic violence problems.***”

Lawyers in one of the interview regions particularly utilised the *domestic violence as specific to certain social groups* discourse to explain why they felt their region did *not* have a significant domestic violence problem.

Fiona: ***“I think that [in this city] too, that we don’t deal with high levels of domestic violence... I think it, um, one of the reasons is arguably, you’ve got your, um, we don’t have the Polynesian population we don’t have the Maori population... And of course, domestic violence is across everything, however it is***

really clear that your biggest battles and that, most of your people that are coming in would be, um, are on benefits. Yeah, which clearly is, *it doesn't matter whether it's PC or not*. The practical term is that, um, that's where a lot of lot of the, it's like the custody cases are battles are when both are on benefits and unemployed. Yes which is really, really sad."

Thomas: "I'm not sure if it's just me or [this city], but ***the degree of violence, um, is, I think, probably less significant than you get elsewhere in the country***. Because I've been to, I went to one three day, two day, three day, ah, seminar on domestic violence in Wellington in the last five years, I can't remember the year. ***And the sorts of, um, abuse that were reported, um, especially I think, ah, among Maori and Island communities was, was significantly more violent and greater than what we've been exposed to here...***"

Rachael: "Have you any idea why that might be?"

Thomas: "I could guess, but I'd be guessing... ***Different community, ah, yeah. Okay, mostly a Pakeha community, a more middle class society***. There aren't the range of poverty or, um, desperation. Um, I suspect a higher level of, yeah, employment and education. And the response is different, that's my I guess... The facts leading to the violence are different... So, different community."

Lawyers gave several explanations why they thought domestic violence was specific to, or more of a problem in, certain groups. Explanations for Maori and Pacific Island domestic violence related to greater acceptability in these communities, and their lower socio-economic status.

Caroline: "Well again, different cultural issues come into play, don't they. ***And that cultural overlay of what is acceptable behaviour*** can make things very difficult."

Stephen: "***I don't know whether it's cultural or whether it's socio-economic***. I think that you can, it, it seems to me, that really often, um, with, ah, both Maori and Pakeha families, where there's, where there's violence or abuse or whatever going on, um, they're not well off and they're not well educated. ***And perhaps there is more of it in the Maori community, but that's because there is more of them that aren't particularly well off, and aren't particularly well educated.***"

An *expressive tension* discourse was often utilised to explain why domestic violence was 'more endemic' in lower socio-economic groups (this is illustrated and discussed above in relation to the *expressive tension* discourse and the *economic social system* discourse). People from a lower socio-economic were also thought to be less deterred by consequences than people from a higher socio-economic group, and to expect less from life.

Christopher: “Well, amongst those people, they’ve got so many, in the lower socio-economic group they’ve got all, of them have got money worries, they’ve quite often got poor housing, quite often got no future, no jobs, um, and not a lot of hope. You know, your average middle class person might be going through a bummer of a break up or whatever but they’ve got a job they can look forward to, a career, they’ve got a bit of money... With your bottom of the heap, got no money, quite often there’s alcohol or drug issues in there, more often than not I’d say. Um, they’re just, they’re at a dead end street basically and they’re going nowhere. And when you’re faced with an utterly depressing situation that they’re in, um, I mean it’s all contributory, you know... If ***you’ve got nothing to lose then, um, there’s nothing, not much holding you back, if there are no consequences really.***”

Thomas: “Well, ***poor people expect less of life.*** Um, poor people deal, um, let me think, let me get this right, I haven’t thought about this before. ***Poor people expect less from life, poor people are more accepting of what life dishes out, they expect less as an outcome.*** Not from me, but from the whole deal. ***So, if the relationship turns to crap, then that’s life.***”

As illustrated by the italicised, unbolded text in the previous excerpts (pp. 576-581), and by the italicised bolded text in the excerpts below, lawyers also resist the notion that domestic violence occurs *only* in certain social groups. Instead, domestic violence is constructed as occurring across all social groups, or as occurring in higher socio-economic groups too. Sometimes such constructions are only a brief aside (i.e., a reflection on this alternative construction of domestic violence) that accompanies the construction of domestic violence as occurring predominantly within certain social groups. Examples of resistance to the *domestic violence as specific to certain social groups* discourse include:

Michelle: “So, what to do about what to do about it? Um, I, um. {Pause}. I honestly don’t know. I mean, I don’t think I can even begin to answer that. I mean, I certainly, you can certainly, there are a lot of social factors that I think would help. But that certainly does, that’s, um, but that’s, ***that’s suggesting that it only occurs in the lower socio-economic groups, um, which isn’t the case.***”

William: “***I mean it goes through all, um, all aspects of, of society. It’s not just the, the low life.***”

Rosemary: “***Because domestic violence happens in rich homes too*** {laugh}. It might be harder to prove but it does happen.”

The italicised, unbolded text above also highlights where lawyers reflect and undermine the construction of domestic violence as occurring across all social groups, perpetuating instead the *domestic violence as specific to certain social groups* discourse. For example, lawyers make comments like, “It doesn’t matter whether it’s PC or not” or “I don’t care what the prevailing correct thing to say is” before they utilise the *domestic violence as specific to certain social groups* discourse. This anticipates possible criticism. That is, no one need argue with them; they already recognises it is not a ‘politically correct’ view.

In conclusion, there are several implications of the *domestic violence as specific to certain social groups* discourse. First, this discourse could be utilised positively to argue that social policy address the disparities that exist between different groups (e.g., lower socio-economic groups and higher socio-economic groups; Maori and Pakeha), which consistent with this discourse, might lead to increased likelihood of domestic violence. Similarly, it could be utilised to target resources for these communities. In light of this, it is possible that too strong a resistance to the *domestic violence as specific to certain social groups* discourse (i.e., domestic violence occurs at the same level across all groups) could result in less attention and resources being targeted to these groups.

However, a negative implication of this discourse is that it can also be used to further problematise and stigmatise lower socio-economic people, and Maori and Pacific Islander populations. This is especially likely if it is utilised in combination with discourses that blame these communities for their position in society, as opposed to, say, holding the economic social system or colonisation responsible. Interestingly, no lawyers explained domestic violence in Maori communities as being caused, even in part, by oppression of Maori associated with colonisation (i.e., a *post-colonisation* discourse of domestic violence; this explanation of Maori domestic violence has been elaborated in Chapter 1)⁵.

Another negative implication of this discourse is that women who experience violence and abuse but fall outside the groups specified by this discourse (e.g., a middle class Pakeha woman), may feel disinclined to label their experiences as ‘domestic violence’. They may also be less likely to utilise agencies and larger institutions that might assist them, or increase their protection from domestic violence.

Domestic violence as alcohol and drug induced

Almost all lawyers made reference to the contributory role that alcohol and drugs have in domestic violence (alcohol was mentioned as a cause more frequently than other drugs). Indeed, when I questioned lawyers about what factors they thought contributed towards domestic violence, alcohol was often the first, or near first response.

⁵ Although, a couple of lawyers did make comments consistent with the notion that the legal system is not sufficiently responsive or inviting to Maori women.

Rachael: "Have you got any views on what contributes and causes domestic violence?"

Andrew: "Alcohol seems to be a big factor."

Rachael: "So, what, in your understanding of domestic violence... what factors do you believe contribute, um, to domestic violence? The causes, any, for violence within close personal relationships?"

Rosemary: "Alcohol and drugs. Um, ..."

Rachael: "In your work with clients, what factors have you noticed contribute and cause, you know, contribute to abuse and violence occurring in relationships?"

Alison: "The big thing that people say is often alcohol. Um, lots of people abuse alcohol, so that's quite common that they'll be drinking at the time."

Sarah: "Why do I think it happens? Um, oh. As I was saying before, alcohol and drugs..."

Some lawyers emphasised quite how extensive the relationship was between drinking and violence.

Michelle: "In my practice, um, I would say that 75%, maybe even higher, of situations where there is domestic violence, alcohol was involved... So, we used to say, like, take away alcohol, and, um, yeah, take away alcohol, would we have this, this sort of work that we are doing. Because it came up time and time and time and time again... You would ask the woman, you know, 'Has he ever, um, even been violent towards you when he's sober?' 'No.'"

Andrew: "But specifically, I can't think of any particular thread. Alcohol, of course. And a lot of, most of, the most, no probably a lot, 60-70%, perhaps more than half anyway, have alcohol as a factor. Of course, you wouldn't be surprised at that."

William: "I mean, I still believe that alcohol probably is the main... In most of the cases that you find physical violence, it's usually when somebody's been affected by alcohol."

Some lawyers explained that some people only got violent when they were drunk. That is, their violence and abuse was specific to when they were drinking.

Elizabeth: "A lot of people, you know, are only violent when they get drunk."

Helen: "He'd only ever done it when he was drunk, and when they were together."

A good proportion of the time, lawyers did not imply that the level of drinking was pathological, or that the perpetrator was an alcohol or drug abuser. Rather, using alcohol or drugs, perhaps by ordinary people, had ended up contributing to violence. Such people were *under the influence*, or *affected* by alcohol or drugs.

However, other lawyers mentioned that the perpetrator of violence was an alcohol or drug abuser, or that the level of drinking could be considered pathological.

Thomas: "There is often significant alcohol abuse, ah, leading up to the violence."

William: "Well, I think alcohol abuse is one. Um, a lot of it is, the bottom of it is alcoholism, isn't it? I would think that alcohol abuse is one."

Rachael: "What sorts of things do you think contribute towards domestic violence, or, um, the factors that cause domestic violence, both, through your experience in working in the area, and just generally?"

Richard: "Unemployment, cannabis, alcohol. Um, in my experience, people who have, um, jobs that keep them really busy and don't fry their brains, um, don't have nearly as many problems... Probably sound like a bigot, um, but it's, it's the, it seems to me to be the, um, the, the bracket of people who aren't working and abuse substances that are lending themselves to domestic violence."

Richard: "Of four protection orders that I have gained for Maori women, um, and, three of them, um, clearly involved intoxicated spouses who had drinking problems. Although, a lot of the Pakeha ones involve alcohol issues as well."

Where domestic violence is linked to alcoholism and drug problems, lawyers utilise a *pathological* discourse of domestic violence.

Interestingly, despite the prevalence of alcohol and drugs as an explanation for domestic violence, very few lawyers gave any explanation about how alcohol and other drugs cause domestic violence. It was almost as if further justification was not required. Perhaps alcohol and drugs lower people's inhibitions and make them more likely to release inner tension. Perhaps conflict occurs between a couple whilst one or both are drinking, and this leads to violence. Only three lawyers gave something resembling an explanation. Michael said that people are more likely to "act badly" when they're drunk (perhaps because their inhibitions are lowered). Andrew said alcohol gives people "dutch courage". Victoria, below, spoke of people becoming unpredictable and irrational whilst under the influence of alcohol and some drugs.

Victoria: "I think alcohol plays a much greater role than drugs in, in terms of domestic violence, in terms of unpredictability. Say, in terms of a protection order or something, I think that you have a problem there with someone who is perpetually, you know, really off their face on things other than dope...It [dope] doesn't tend to make people totally irrational. It makes them moody, and, you know, but not totally irrational. Whereas I think some of the other drugs can make people totally irrational. Um and that's where you have that unpredictability thing that I was talking about."

In summary, whilst the explanation of alcohol and drugs contributing towards domestic violence was prevalent, this was seldom explained.

Domestic violence as learned behaviour

In contrast to the notion that violence is an innate part of us all, as is suggested in the *domestic violence as part of the human condition* discourse, lawyers constructed domestic violence as something that is learned. The *domestic violence as learned behaviour* discourse (hereafter referred to as the *learned behaviour* discourse) has previously been identified by O'Neill (1998). Most commonly, lawyers constructed domestic violence as being learned from one's family of origin and transmitted onwards through the generations in a self-perpetuating cycle.

Sarah: "***These children who are going to be growing up and learning that violence is a way of life***, that's what's really sad I think. Because that's, it's them who in the end are going to be the real sufferers. It's not necessarily Mum and Dad who have, you know, they're at a stage now where quite often it's a bit late. ***It will continue on their cycles unfortunately.***"

Sarah: "***He'd learnt the way in which, um, he, his relationship with his partner was the same as it had been in his family. It's a cycle, you know. 'Well, Mum and Dad used to hit each other, so, you know, I'm going to hit my partner.'***"

Julia: "It's ***the very well known cycle of abuse repeating itself. Um, you see it perpetrated against the grandmother, mother, daughters and sons.***"

Rachael: "So that sort of ***intergenerational?***"

Julia: "Yeah, yeah, yeah. ***Learned behaviour.***"

Rosemary: "And, and the, ***and breaking the cycle. Because the cycle hasn't been broken. 'Because my father did it, or my mother did it, and that was okay. That's how I was brought up so this is how you do things.'*** I mean, I'm not a psychologist, I don't know, I just don't know the full answers. But I think it's, it's not

poor education. ***I think it's poor role-modelling which has been intergenerational.***"

Interesting, many lawyers did not gender the violence and abuse that children had witnessed 'between their parents'. This can be seen in Sarah's reference to Mum and Dad hitting each other in the second excerpt above. It is also evident in Rosemary's excerpt above, when she speaks of the father or the mother having been the role model for violent behaviour.

Through the *learned behaviour* discourse, boys became violent men, and girls grow up to be victims in their own intimate relationships. Elizabeth and Andrew talk of this in the excerpts below.

Elizabeth: "Because I mean, they say it goes in cycles. And if you've, you know, you know, as a child if you've, you know, witnessed your mother being beaten up by your father, then ***you're more likely to either as a woman be inter, and accept a relationship where that happens. Or as a man, you know, get into a relationship where you're gonna be beating up your partner.***"

Andrew: "It's going to take a generation, I guess, to come through. It's just the effect on the kids is the thing. They just sort of accept shouting and anger and abusive, verbal abuse of women is acceptable behaviour. That's what the kids see. ***So the girls who grow into women expect that, that's okay, that's how married life is. And the boys are dominantly sort of aggressive to women.*** So you've got to sort of stop it."

Lawyers occasionally constructed perpetrators as having learnt violent behaviour from other sources. In the first excerpt below, Michelle talks of perpetrators (once children) learning violence through bullying in schools. In the second excerpt, Rosemary talks of men trying violent behaviours on their wives that they have learnt through their friends.

Michelle: "What contributes to domestic violence? I suppose you learn it from the way that your own parents acted. That's probably the major cause I would think. Oh, it's just behaviour. Um, and ***I think you learn it at school. Well, you can learn it at school, which is the bullying thing.*** I mean, I suspect that, that the school bullies are just acting out behaviour that they've seen at home. ***But then they may be teaching it to other children as well,*** um, so that it's an attitude... It's an attitude of, I'll take it classically, male against female. It's an attitude, it's an attitude towards women, a behaviour towards women. Or it might simply be, um, a way, a way that you react when you see somebody weaker than yourself. Or I mean, yeah, I think there are quite psychological reasons for it either. But ***generally learned.***"

Rosemary: "I think it's poor role-modelling, which has been intergenerational"

Rachael: "...It's more the role modelling?"

Rosemary: "Yeah, yep. I really do. Um, **sure some people say, 'Oh, my mate does this to his wife, oh, she doesn't complain. Well, maybe I'll try.'** I mean, I don't know how it works."

Lawyers also utilised a *learned behaviour* discourse when they spoke of perpetrators learning patriarchal attitudes from their fathers, which can culminate in violence. Hence, the excerpts below can be understood as a co-articulation of the *learned behaviour* discourse with a *patriarchal social system* discourse.

Helen: "I mean, a lot of men, probably now in the thirty to forty age range, grew up, they were the providers. **They had a certain amount of self-esteem, control, power because of their, the way they saw their fathers. Conditioning.** And the way they were to, um, interact within society. But that's changed. I mean, sometimes, some of these guys have women who earn more than them and they find it hard to take... They come home and then their partners are expecting them to actually contribute in the house and do more work. And **this is not something that they saw their father's do.** And that's hard to take too."

Andrew: I don't know, **perhaps men model themselves on their fathers**, and they're harder to change. They're the dominant, and, 'You'll do as I say.' And women have changed and said, 'Well, I don't have to. I'm a person as well, not just a bloody slave.'

Andrew: "I mean the chainsaw guy, he was just not too bright. And that's just how, **I'm sure he was brought up to see women as child bearers and cooks, and he was the man, and kids were seen and not heard. He was, I get the impression, just a kind of old fashioned guy,** but just really had no idea. And I guess **these other two guys that I'd acted for, that would have been their upbringing.**"

In addition to children growing up to be victims or perpetrators of domestic violence in their intimate relationships, the *learned behaviour* discourse is drawn on by some lawyers to talk of children, particularly boys, imitating their father by directing learned abuse at their mother.

Victoria: "If you've got a 10 year old boy, or a 9 year old boy, sort of, um, that's another interesting issue is, is, um, **the number of kids who start to treat their mother the way their fathers treat them.** And that's particularly as they get a bit older, particularly boys. **Bad role, role modelling really.** Really bad stuff."

Michelle: "You know, ***you just see instances of young males listening to their fathers denigration of their mother, who then in their teens continue exactly the same pattern and speak to their mother and treat their mother in exactly the same way as their father has.*** This is the, this is what they know. This is the way they treat their mother. Presumably they then go on to treat other women in their lives in similar ways."

In conclusion, the *learned behaviour* discourse constructs violence, or patriarchal attitudes that contribute to violence, as being learned from one's family of origin. This discourse can be utilised to downplay men's responsibility for violence (because they had no choice over how their parents behaved when they were children) and to position violent men as victims themselves. However, it can also be utilised to emphasise the harm caused to children who are exposed to violence within their families, and hence, to advance initiatives that "break the cycle" and reduce this harm. Whilst this discourse places less hope for change on those constructed as "deeply dysfunctional", many educational programs are based on the premise that learned violent behaviour can be unlearned.

DISCOURSES USED TO SUPPORT AND UNDERMINE ORDERS FOR PROTECTING WOMEN

During the interviews, lawyers spoke a great deal about protection orders as a legal response to domestic violence. Lawyers constructed protection orders using many discourses, several of which are illustrated and discussed in this chapter.

I first illustrate and discuss three discourses that I consider least helpful/constructive to women suffering domestic violence, partly because they construct protection orders as harming men. These include the construction of protection orders as weapons used by vindictive, manipulative women, the construction of protection orders as having overly restrictive effects on men's rights, and the construction of protection orders being enforced inconsistently and selectively by women. All divert attention away from women's suffering or need for protection, to the negative consequences protection orders have for male respondents.

I next discuss the constitution of protection orders as making things worse for protected persons. Whilst this construction has positive implications for women who will be further endangered by having a protection order, it could have negative effects on women who would benefit from a protection order.

Lawyers also constructed protection orders as offering protection and safety, as being empowering for victims of domestic violence, and as providing boundaries and a clear message to perpetrators. These three discourses are probably the most useful and positive for women. All focus on the benefits that protection orders afford women.

The remainder of the chapter examines the construction of protection orders as ineffective for victims of domestic violence. The construction of protection orders as only a piece of paper is exemplified first, along with the construction of protection orders as needing enforcement. Following this, I illustrate and discuss the co-articulation of protection orders as ineffective with particular constructions of protection order respondents. Within this section, I discuss the agency, or lack of agency, afforded to protection orders, women with protection orders, and male respondents of protection orders.

DISCOURSES THAT UNDERMINE ORDERS THAT PROTECT WOMEN

Abusing the system: Protection orders as weapons that are misused for tactical advantage

Protection orders as weapons that are misused for tactical advantage (hereafter referred to as *Protection orders as weapons*) constructs people, typically women, knowingly and tactically using protection orders contrary to their purpose. That is, instead of using protection orders for protection against a violent and abusive partner/person, as is the intention of the legislation, women are said to use them to gain an unfair advantage in custody and access proceedings (through Section 16B of the Guardianship Act). Similarly, women are said to use them to gain a tactical advantage with proceedings over the house and furniture. In this way, protection orders are thought to be misused, and the legal system is abused.

Alison: "It's just, sometimes protection orders are probably used as a way of getting custody... I just think it's a bad by-product of it, you know what I mean."

Helen: "I'm very in support of having that sort of legislation to protect women in those situations. However, I have seen the flipside in dealing with, typically respondents, with those applications in the context of custody, access. I find at times to be exceedingly frustrating. Um, I have seen it used as a weapon on many occasions in custody battles. And I find it abhorrent frankly...I find that situation where it's used as a weapon to be particularly abhorrent and not in the best interest of the children. And that's the, um, issue I have with, in my view, there are times when it is not used in a prudent manner..."

Rachael: "So they're not used primarily for protection?"

Helen: "That's right. They're used for other reasons. Either, simply to get at the other person. Ah, to make sure that they, you have, or the applicant has, their way in terms, of, 'Well, I don't want you having contact with the kids, so this is a way that I can do it.'"

William: "I'm probably not much use to you at all. I'm a little bit cynical about them... The use the people are putting them to. That, that they perceive that there is an advantage, in particularly trying to get the advantage in property, which, ah, it shouldn't be, or in, um, or in the, the custody and access dispute... It's often used as a weapon. Um, I mean there are genuine cases... But a lot of the ones that I have seen, um, have no, and, and I wouldn't have seen as many as a lot of local practitioners who are involved in a day to day basis. But I would think that, I, um, ah, that they are abused, and are perceived to give the party an advantage in negotiations."

Richard: "Believe it or not, the situation is open to misuse... The situation is open to misuse. And the misuse of the urgent application does sneak through."¹

The discourse that protection orders are misused for tactical advantage, positions women as calculating, vindictive, and manipulative. Sometimes this is implied; often, women (or other protection order 'misusers') are directly referred to in this way.

Thomas: "Very many custodial app, custodial parents, call them custodial, they haven't got any order or any agreement to custody, they have de facto control. **Depending on the extent of which they're pissed off with their partner, they will use the issue of access, um, basically as a retaliatory technique.**"

Alison: "I noticed, one thing I noticed, because I had only worked with women before I worked as a lawyer, I realised that **women can be really nasty. They can be really vindictive.** They use their children to get at their partners. I'm not saying all women do. Women aren't perfect."

Christopher: "I mean, it's a double edged sword. I mean, it's, on the one hand if Parliament wants to protect women from domestic violence, they've got to be able to go along and get those orders there and then, you know. But the flip side of that is of course, if you get someone who's particular **bitter and nasty and wants to really have a crack at someone**, it's a lovely weapon to be able to use."

Fiona: "But if you have an order against you, I mean to say, also, you run the risk of, if it is used **vindictively**, and they are at times used **vindictively**, you can be, find yourself in huge amounts of problems."

William: " That works sometimes both ways. **It may be the woman, um, that's very vindictive and very unhappy**, because she blames the partner for the breakdown of the relationship. Therefore, um, yeah, she, she'll use any way of getting back at the husband or partner, including making sort of, um, allegations of sexual assault on the children, which are untrue. You know that, that happens probably more frequently than people realise."

Such vindictive and revengeful women are said to 'fabricate' or 'exaggerate' domestic violence and abuse.

¹ This example, by Richard, was embedded within two long narratives of situations he'd been involved with where a protection order had been misused.

Elizabeth: "I mean, there probably are a proportion of, um, applicants who **exaggerate or even make stuff up**. I mean, they know the system and they're just sort of using it to maybe get the kids or get the house, or whatever, or get the furniture. And um, and so there may be a completely innocent respondent."

Richard: "Believe it or not, the situation is open to misuse. And this second person, um, made an ex-parte application on **completely fabricated** affidavit evidence. And I don't say that lightly. I know there's different perceptions about the truth and all those sorts of things, and that very few people actually lie. But she's, she's um, she clearly just, well she's ill. And she's clearly just **pulled it out of the air**."

William: "That's been my experience. That, that they've used it to try for a perceived advantage. They have **exaggerated** what has actually happened."

Helen: "I acted for a woman, who just, I guess I was gullible. And I've learnt what she told me, and I believed a protection order was essential and I went through the usual advice and did the application and got the temporary order. And it got to the point where it became very, very evident after affidavits had been done and replied, that most of what was in her affidavit, **most of what she'd told me was in fact incorrect. Um, it was very, it had been very, very easy just to destroy her credibility, and make her out to be the complete liar that she actually was.**"

Women constructed as misusers of the system fabricate and exaggerate domestic violence to the detriment of their ex-partners. Indeed, male ex-partners are positioned as the victims. They are the innocent parties who suffer as a consequence of these nasty and vengeful women. Whilst this was often implicit in the lawyers' talk, a couple of lawyers made more direct reference to men's innocence or victim status.

Elizabeth: "I mean, there probably are a proportion of, um, applicants who exaggerate or even make stuff up. I mean, they know the system and they're just sort of using it to maybe get the kids or get the house, or whatever, or get the furniture. And um, and so there may be a **completely innocent respondent**."

Elizabeth: "But there are people that just abuse the system because they, they can. They can, you know, appear to be the weak, you know, abused woman, and suddenly everything is handed to them. They get the children and they get the house and they get the furniture. And, and it turns out, and **this poor man's left with nothing. And he hasn't, and he hasn't done anything.**"

William: "Others that I know of who, um, have had orders made. **Automatically any weapons they have are confiscated or forfeited. And, um, ah, you know, I've had two or three that, that their, I mean, their main hobby of life has been pig shooting or deer shooting, or something of that nature, and that's been their sport and recreation.** And the wife has known that and has used the, the protection order as a way of sort of getting at the partner."

In this way, this discourse reverses the perpetrator and victim status of men and women. That is, men are no longer perpetrators of abuse, and women victims of abuse. Instead, men are victim to women who wield power over them and abuse them with the law.

Helen: "**I have to say, sometimes I've seen the opposite. The power is with the applicant, and they're using it as a weapon.** And that irritates me. It goes back to the same old thing. It's not always when children are involved. Sometimes it's just a weapon. **It has been, um, a difficult relationship, often I have to say with manipulation on the part of the woman. And it is just another way that they can manipulate.**"

Thomas: "**The power imbalance comes usually when, um, somebody gains the upper hand through some post-separation tactic.**"

Rachael: "Mmm. Often involving a protection order?"

Thomas: "And often, and then they can control relationships and possession of family equipment."

Thomas: "One of the problems I suppose that I see is that, and this is linked to my concern about access issues, um, I do believe that they are used by some people for tactical advantage. Because it immediately gives them, um, ah, ah. **I mean, we, we hear a lot about the power which men exercise over women. Ah, but I don't subscribe to that, not in my practice and experience. Ah, ah, there are very many women who exercise power and control over their partner at separation through the children.** Ah, it's not a popular view but these are my views."

This last excerpt is interesting, in that the lawyer comments that what he has said is not a popular view. That is, it seems he recognises that resistance to the feminist discourse that abusive men exert power and control over their women partners can be frowned upon. His comment rhetorically manages this, preserving his self-representation, and counteracting possible rebuttal. No one needs to argue with him; he already recognises it is not a popular view.

As is evident from the quotes above, and is illustrated further below, the *Protection orders as weapons* discourse, commonly refers to protection orders as “weapons”, “swords”, and “tools”. Such labels (perhaps with the exception of “tool”) are consistent with a ‘battle’ metaphor.

Rosemary: “But they can also be a **two-edged sword**.”

Andrew: “Because I feel that some of the women use the protection order as a **weapon**.”

Christopher: “I mean, **it’s a double edged sword**... It’s a **lovely weapon** to be able to use.”

Christopher: “**It’s a powerful thing**, you know. And if, if someone’s feeling very, very bitter, and especially women who have, who’s guys have gone off with other women, and they’re feeling very bitter, and very, you know. **It’s a very potent weapon**... There’s nothing else as potent as this, so, I’m sure.”

Fiona: “ I think the problem that I have with domestic violence is that, is that it has the power to be used incorrectly. And it’s really a **manipulative tool**.”

Helen: “The issue that I have with it is where it’s used as a **weapon** in custody proceedings, essentially. That’s my big bug bear.”

As mentioned in later in the chapter, one lawyer went so far as to describe protection orders as a “violent intervention” because it contravenes the rights of individuals who become respondents of protection orders.

The *Protection orders as weapons* discourse was very prevalent amongst the lawyer participants. Almost all lawyers referred to it once; some used it several times during their interview. Interestingly, though it was used frequently, many lawyers pointed out that misuse of protection orders was not a common phenomenon.

Michelle: “**And occasionally, very occasionally, very occasionally**, you get one that you actually do believe is, is, is a deliberate set up. Where for some reason the woman has wanted revenge... **Occasionally, very occasionally**, it would be very malicious, but **very occasionally**.”

Stephen: “I mean, I think that, I mean a protection order’s not going to hurt anybody by being in place. I mean, I guess there might be **very, very occasional circumstances** where somebody might use it as a, as a way to get a, um, an advantage in terms of custody or matrimonial property or something. But it’s, you

know, so rare that I don't think it's a sig, well, in my, in my experience **it's not really a significant mechanism.**"

Victoria: "**That wouldn't be a lot, you know. That would be rare.**"

Rachael: "Where they, um?"

Victoria: "It's used, deliberately used. Um, who was it who said to me the other day?... 'How many people do you reckon use these as a deliberate way to get out of the marriage or gain cust, an upper hand on custody of the kids, you know.'"

Elizabeth: "I mean, **you get the odd one**, most of them, [laugh], like I have to admit have been ones where I've been acting for the respondent, the odd one that you think, 'The woman's just made it all up, just taking advantage of the system.' ... I mean, **I don't know that there are that many.**"

Christopher: "**And I'm not saying it's a majority of cases, I mean, or even a sizable minority**, but I'm sure there is an element there, and who knows what percentage it would be."

In contrast to this, some lawyers spoke of system abuse as a reasonably common phenomenon.

Fiona: "**I think there's a lot of cases, and I think there are a lot**, where evidence is really suspect."

Rachael: "Mmhmm. Where there's misuse of?"

Fiona: "Yeah, I do. **I think it happens a lot.**"

Helen: "Those are times when I, um, believe that it's used inappropriately."

Rachael: "Mmm. Um, you've said that you've had two or three recent examples of that happening, so it does, it's not a rare thing that is misused in your experience?"

Helen: "No. **I've had more of those than I have had genuine need for protection, as it happens.** I'm sure it's coincidence. But as it happens, that's what I've ended up dealing with."

William: "But **a lot** of the ones that I have seen, um, have no, and, and I wouldn't have seen as many as a lot of local practitioners who are involved in a day to day basis. But I would think that, I, um, ah, that they are abused, and are perceived to give the party an advantage in negotiations."

Regardless of whether protection order 'misuse' is said to be infrequent or not, almost all lawyers used this discourse. Its prevalence means that suspicion is repeatedly raised about the

validity of women's claims of domestic violence, and/or women's intentions for getting a protection order.

Because this discourse raises suspicion about women's allegations of domestic violence and their intentions, a category of 'deserving' and 'undeserving' protection order applicants is created. Whilst this is mostly implicit, at least two lawyers overtly distinguished 'fabricated' allegations from those that are 'genuine'.

William: "It's often used as a weapon. Um, I mean there are ***genuine*** cases... But a lot of the ones that I have seen..."

William: "I would think that over 50% would be ***genuine*** well founded orders."

Helen: "No. I've had more of those than I have had ***genuine*** need for protection, as it happens."

Helen: "{Inaudible because tape has just been turned over}... Between allegations that may look very similar, and one application that are ***genuine***, and allegations that look basically the same on another application that are just to get at him."

Helen: "It's a different situation where there is, where there ***genuinely*** is or has been violence directed at children."

Whilst lawyer participants normally accused protection order applicants (women) of being responsible for misuse of the system, some also talked of lawyers doing this. This is illustrated in the following excerpts.

Michael: "But lawyers being lawyers, and people being people, you stretch the boundaries and say, 'Well, we've had our ups and downs, and certainly we've had a number of arguments, and blimmin heck, my kids are on the line here. We're making a custody application, and I feel like this is domestic violence.' I think that can happen."

Rachael: "And you think lawyers might also?"

Michael: "***I think sometimes lawyers do generate applications***, you know. And in a sense you have to do that, you have to ask clients about violence because they may not want to tell you about it."

William: "***If lawyers or clients are abusing the procedures*** that are available to them, then there should be awards of cost when they're unsuccessful... But I, ***I do think that in some cases lawyers are abusing the system.***"

Christopher: "***There was a practitioner here a year or two ago who, he seemed to, just as soon as a woman walked through the door, would get the old application out.*** Um, you do really have to wonder about some of them that come through."

Co-articulations with Protection orders as weapons

It is mentioned above that lawyers constituted women as vindictive liars who exaggerated or fabricated the occurrence of domestic violence in their lives for a tactical advantage with access or property proceedings. A couple of lawyers expressed caution about their own interpretation of events. They were not sure whether it was true that some of their male clients' ex-partners were abusing the system, or whether they thought this because it was their role to take their client's side. Here, they co-articulated *Protection orders as weapons* with a discourse labelled *Lawyer's obligation to represent and side with their client*. Here are three examples of this co-articulation from Elizabeth and Nicola.

Elizabeth: "I mean, there probably are a proportion of, um, applicants who exaggerate or even make stuff up. I mean, they know the system and they're just sort of using it to maybe get the kids or get the house, or whatever, or get the furniture. And um, and so there may be a completely innocent respondent. But I think that, I mean, I don't know how many that would be. I mean, I've never done a protection order for an applicant that I've thought, 'Oh my god, this is complete lies. She's, there's nothing wrong with this woman. She's perfectly fine. She's just making it all up.' But, um, I mean, ***when you're acting for the respondent, you've got to, um, you know, believe what your client says. And you've got to be on their side. So, you've got to have the mindset that whatever she says is lies.***"

Elizabeth: "I mean, you get the odd one, most of them, [laugh], like I have to admit have been ones where I've been acting for the respondent, the odd one that you think, 'The woman's just made it all up, just taking advantage of the system.' But, I mean, I guess, I don't know. I guess it's, I mean, ***I don't know whether it's more because of it's my job to believe my client*** or because you know she is making it up."

Nicola: "I do think that protection orders, um, they are quite a, they can be abused by women, or men, who apply for them. And I've definitely been of the opinion that they, in cases that I've been involved in, that that has been the case. ***But I say that with kind of a cautionary note, because it's an adversarial system, and you always take your client's case and don't necessarily, you know, you feel***

passionate about your client's case, and you can't see. I mean, I try and not be like that as much as possible, but it's, you can't avoid it."

This co-articulation mitigates the *Protection orders as weapons* discourse. Women, or at least some women, may not be 'misusing' protection orders after all. The lawyer might just be aligning with their client, who thinks this.

Lawyers also constructed *Protection orders as weapons* in co-articulation with *Protection orders as offering safety and protection* (this discourse is discussed further below). More specifically, they point out that they realise the importance of protecting people (e.g., women and children) from domestic violence through protection orders *before* saying that people can misuse protection orders for tactical advantage. This probably serves a rhetorical function, in terms of self-presentation and avoiding rebuttal. That is, by first presenting themselves as morally responsive to domestic violence, they reduce the likelihood of criticism for positioning women as manipulators of the system. Here are two examples that illustrate this co-articulation.

Helen: "***I'm very in support of having that sort of legislation to protect women in those situations. However, I have seen the flip-side*** in dealing with, typically respondents, with those applications in the context of custody, access. I find at times to be exceedingly frustrating. Um, I have seen it used as a weapon on many occasions in custody battles. And I find it abhorrent frankly."

Christopher: "I mean, it's a double edged sword. I mean, it's, ***on the one hand if Parliament wants to protect women from domestic violence, they've got to be able to go along and get those orders there and then, you know. But the flip-side of that*** is of course, if you get someone who's particular bitter and nasty and wants to really have a crack at someone it's a lovely weapon to be able to use."

Other co-articulations serve to downplay the domestic violence and abuse associated with the misused protection order. Lawyers describe the domestic violence as an argument, as mutually engaged in, as a one-off incident, or as borderline. As shown below, these co-articulated discourses, serve to bolster lawyers' claims that women abuse the system through protection orders.

Thomas: "Ah, and the result of that is in fact, that the precipitating cause may have been ***one argument between the couple*** which got out of control, ***which was freely and mutually engaged in***. But which one party is able to manipulate to obtain occupation of a house and disrupt access, or disrupt the relationship between their children and the non-custodial parent."

Andrew: "Because I feel that some of the women use the protection order as a weapon. I'm not saying they don't need it. **Some of them are a bit borderline.** But I'm sure it has been said, not that it has really come out in evidence, but a couple of times I've heard a male client saying, 'She said she'd make sure that I'd never saw the kids again. And this is the way she's doing it.'"

Lawyers also co-articulate *Protection orders as weapons* with the notion that there are two sides to every story (*Domestic violence as subjective*). This also serves to downplay the women's experience of domestic violence. It is only her version of events, after all. The first excerpt below co-articulates these two discourses, as well as the *Two-to-tango* discourse of domestic violence.

Elizabeth: "But there are people that just abuse the system because they, they can. They can, you know, appear to be the weak, you know, abused woman, and suddenly everything is handed to them. They get the children and they get the house and they get the furniture. And, and it turns out, and this poor man's left with nothing. And, I mean, I know, I'm sure **there are two sides to every story.** And I'm sure there are, you know, women who will, though they may have been, you know, psychologically and mentally, and, um, physically abused, and, they go in and get the protection order, that they've maybe **given as good as they've got sort of thing.**"

Alison: "Because **there are always two sides to every story,** you know what I mean. Because otherwise people could just make up things, yeah. Because you've got to walk that balance. Because if you have something that always goes in favour of the applicant you're going to end up with people just using the system."

As alluded to earlier in this chapter, *Protection orders as weapons* is sometimes co-articulated with a gender reversal of the feminist discourse of *Power and control*. Lawyers using this co-articulation describe women as having power over their ex-partners through protection orders. In this way, they depict women even more negatively than with the *Protection orders as weapons* discourse alone.

Helen: "I have to say, sometimes I've seen the opposite. **The power is with the applicant,** and they're using it as a weapon. And that irritates me. It goes back to the same old thing. It's not always when children are involved. Sometimes it's just a weapon. **It has been, um, a difficult relationship, often I have to say with manipulation on the part of the woman. And it is just another way that they can manipulate.**"

Thomas: "One of the problems I suppose that I see is that, and this is linked to my concern about access issues, um, I do believe that they are used by some people for tactical advantage. Because it immediately gives them, um, ah, ah. ***I mean, we, we hear a lot about the power which men exercise over women. Ah, but I don't subscribe to that, not in my practice and experience. Ah, ah, there are very many women who exercise power and control over their partner at separation through the children.*** Ah, it's not a popular view but these are my views."

In summary, *Protection orders as weapons* refers to people (mainly vindictive, manipulative women) misusing the domestic violence legislation for purposes other than its intention. Women applicants constructed by this discourse are positioned as revengeful liars who do not deserve protection orders. Their male ex-partners are positioned as victims who suffer loss of home and furniture, or restrictions on their relationship with their children. Discourses co-articulated with *Protection orders as weapons* generally tend to downplay the seriousness of domestic violence that these women suffer or supposedly fabricate (e.g., by talking of violence as mutually engaged in, borderline, or subjective), and/or to portray women applicants as abusive (e.g., women as wielding power and control over the respondent of a protection order).

Because *Protection orders as weapons* constructs women as revengeful manipulators of protection orders and men as victims of protection orders, it is likely to make women apprehensive about using the legal system and to impact on the legal response offered to women. Women may find it particularly difficult to protect children from ongoing violence or unsafe parenting by men because their motives are questioned and suspicion is raised about their integrity.

Interestingly, whilst this discourse constructs women as *purposefully* manipulating and abusing the system to the detriment of their partner or ex-partner, many discourses of domestic violence minimise men's responsibility and ability to control their violence.

Protection orders as restricting men's rights

Lawyers constructed protection orders as having very restrictive effects on men's lives. That is, protection orders impinged on respondent's usual rights and freedoms to a relationship with their children, to own guns and hunt, and to live in chosen accommodation. Furthermore, protection orders could compel men to attend a non-violence programme, often against their will. In this construction, which focuses on the 'unsavoury' consequence for respondent's lives, lawyers position men as victims of protection orders. Attention is detracted away from women and children's need for protection and safety to the respondents' 'victim' status. Furthermore, little or no emphasis is placed on men's responsibilities (e.g., to their children, and not to be violent).

The following excerpts illustrate the use of this discourse, specifically in relation to the restrictive effects that protection orders have on things other than men's right to a relationship with their children (which is discussed shortly). In the first excerpt, Richard talks of the effect on respondents' living arrangements. In the second and third excerpts, Christopher and William speak of how protection orders impinge on respondents' rights to own guns and hunt. Richard also talks of respondents being compelled to attend a Living Without Violence course, while Christopher talks of the implications that protection orders could have for some clients' careers as police officers.

Richard: "Yeah, it's a pretty powerful weapon for a judge to, you know, a judge in Wellington, looking at an affidavit, a faxed affidavit, to make a decision **to boot someone out of their house**, sort of thing."

Christopher: "I mean they're so broad ranging, the standard conditions, you know. If he, say your husband, is in to hunting, um, and **suddenly he gets all his guns taken off him**. And he's got to attend this Living Without Violence course, which could be pretty humiliating and annoying. Um, **they're not allowed to ring you**."

William: "Because some of the, um, some of the, um, **ramifications of the orders are really quite, um, bad**. I've, I've had two policemen who I have acted for who have had threats of orders being made against them. Three really, I mean."

Rachael: "By their partners?"

William: "By their partners. Um, usually, I mean at least two of those cases the partners had left the marriage and, um, had moved in with somebody else, but had used the, threatened a domestic violence application. Well, if they got that type of order, ah, **it would put in severe jeopardy, of, the policeman's career**. Um, and, and **a lot of people, um, it could affect their careers**. Others that I know of, who, um, have had orders made, **automatically, any weapons they have are confiscated or forfeited**. And, um, ah, you know, I've had two or three that, that their, I mean their main hobby of life has been pig shooting or deer shooting or something of that nature. And that's been their sport and recreation, and the wife has known that, and has used the, the protection order as a way of sort of getting at the partner."

In each of the excerpts, it would appear the lawyers are aligning with the male respondents. Men are constituted as victims facing hardships because of the protection order. Women's hardships are unspoken.

In the last of the excerpts above, William deploys *Protection order as weapons*. That is, women are positioned as vindictively using protection orders to prevent their (ex-)partners participating

in recreational hunting of pigs and deer. There is no talk of the necessity to remove guns so that women are better protected (i.e., so their (ex-)partners do not shoot or threaten to shoot them).

The following excerpts illustrate the construction of *Protection orders as restricting men's rights*, as it relates to the interference of a father's relationship with his children. Whilst lawyers did not always refer directly to the father/child relationship as a "man's right", they suggest this when they talk about "the man's relationship with his children" being "seriously interfered with", and when they couch phrases like "the relationship between the child and the non-custodial parent" within talk about protection order implications for respondents, not children. The examples below illustrate how protection orders are constructed as impinging on men's right to a relationship with their children.

Michelle: "It has the same result. And that is, once the protection order is made ***the man's relationship with his children, in effect, is seriously interfered with***, from the very making of the order. Right, um, and, um, you know, I, I mean, I, I've always had some difficulties with whether or not people should, should apply for orders, because ***the consequence of the orders can be much greater than they ever anticipate...The man suddenly finds that he is being cut from seeing his children***, which almost inevitably happens. Even, and then, he's told, 'Well, you can have either,' the either says, 'No access,' or it says, 'Supervised at Barnardos only'. That really gets the men in many cases angry... that makes them a, very angry."

Fiona (female): "And the question is, should the person have, you know, ***supervised access?*** Um, ***it has huge implications on people's rights.***"

Richard: "And the male, ***the husband's or partner's rights, are restricted dramatically by a protection order***, you know. In terms of all of a sudden, and their relationship's probably quite reasonable with their children, ***all of a sudden they're restricted to access at Barnados once every three weeks***, or whatever."

Thomas: "The judge grants the application out of excess caution... ***The immediate affect, um, ah, if the parties are apart, um, precludes access, and interferes with the relationship between the child or children and the non-custodial parent.*** And I think that that is the consequence, which is not weighed sufficiently by the applicant, or their lawyer, or by the courts."

As can be seen above, when using this discourse, fathers are constructed as having a right to a relationship with their children, which is unjustly interfered with by the supervised access implications of a protection order. As seen in Michelle's excerpt above, and in the excerpts

below, lawyers talked about how this affects men: they are “humiliated”, “embittered”, and “angered”.

Christopher: “She got a protection order, and then all of a sudden he had this humiliating experience, to see his kids he’d go along and be supervised by a Barnados worker. I mean how utterly humiliating... So, when you get a one-off situation like that, and a protection order is in place, and they want to see their children, and they have to be supervised, it can be a hugely embittering experience. And I’ve had, I’ve got several clients who had to go through the supervised access thing... And it’s very, it can be quite, very embittering, you know. People just really find it very humiliating. Which I, you know, I can empathise with. Not that I have kids. But I can imagine how embarrassing it would be to go along, and, you know, have people watching you with your kids so you don’t beat them up or sexually molest them... I’ve had clients say to me they’d rather not see their kids than be supervised, after, you know, going along to a couple of supervised sessions. That’s how upsetting people find it.”

As seen above, a father’s (unsupervised) relationship with his children is deemed very important. Supposedly, supervised access ‘unjustly’ interferes with this relationship for the father. Some men are said to find the experience so humiliating that they prefer to do without the relationship altogether. This raises the question about how committed these men are to their children. Indeed, it seems that some men are more concerned about their right to an unrestricted relationship with their children than their parental responsibilities to their children (i.e., by maintaining a relationship with their children through supervised access).

Because of the consequence on respondent’s lives, some lawyers went so far to refer to protection orders as a “violent intervention” or “weapon”.

Thomas: “I mean the order, the order has some immediate consequences which take months and months and months to resolve. And they are sometimes accepted by the other party, but they’re usually bitterly resented because the consequences are seen, and I think, and often are, out of all proportion to the need for protection... So, if you’re going to interfere with the relationship in such a, um, ah, immediate and **violent way**, ‘cause it is a **violent intervention** which stops, it, it interrupts and stops, it may stop the parties, it, it may give one party the power to call the cops if the other party is verbally or physically violent, but it doesn’t impose any obligations on the respect of their own behaviour... But the consequences for, so, **the intervention is violent**. It becomes a tool to be used. It could become a tool to be used. And because of the suddenness and **violence of the intervention**, it actually creates significant problems which are not then dealt with for months and months and months.”

Richard: “Yeah, it’s a pretty **powerful weapon** for a judge to, you know, a judge in Wellington, looking at an affidavit, a faxed affidavit, to make a decision to boot someone out of their house, sort of thing.”

The construction of protection orders as weapons, violent interventions, and tools is consistent with the *Protection order as weapons* discourse. As mentioned above, this discourse positions women as intentionally and manipulatively using the law to harm their (ex-)partners. Within the present context, harm is done by impinging on men’s rights to hunt, have a relationship with their children, and so on. These discourses reverse the perpetrator and victim status of men and women, so that men are no longer perpetrators of abuse, and women victims of abuse. Rather, men are victims of women who wield power over them and abuse them through the law.

Because protection orders have ‘unsavoury consequences’ for respondents’ lives, some lawyers mentioned that the legal system (and lawyers) should proceed cautiously in relation to protection orders. This is evident in the first of Michelle’s excerpts in this section, and in Richard’s excerpt below.

Richard: “It’s an enormous intrusion into, into the respondent’s life, to have an order made, you know. It’s in, and although often they are justified, ***it’s such a delicate process, I think, to apply for an ex parte, you know. It’s a major step to take. And lawyers just need to be so incredibly careful, um, I think before assisting a client to do this.***”

Richard’s comment that lawyers need to be “incredibly careful” follows talk about how intrusive protection orders are in respondents’ lives. This suggests that lawyers should consider the consequences of protection orders for their clients’ ex-partner. This positions lawyers as needing to take a moral position towards men’s/perpetrators’ rights, instead of lawyers representing the best interests of their own client². If lawyers do indeed consider the impact of protection orders on their client’s ex-partner, one could anticipate lawyers deterring women from applying for protection orders, and/or women experiencing much dissatisfaction with their lawyers. Furthermore, when lawyers talk of the need to proceed cautiously due to the impact protection orders have on respondents, they minimise women and children’s experiences, their need for protection against violence, and the intention of the Domestic Violence Act 1995 to provide this.

Protection orders as restricting men’s rights is discussed further in Chapter 12. More specifically, I examine how some lawyers use this discourse, discourses of domestic violence, and other discourses to undermine children’s need for protection through supervised access.

² As mentioned earlier in this chapter, lawyer participants constructed lawyers as being obliged to represent and take the side of their clients (labelled *lawyers obligation to side with client*). When lawyer participants talk of lawyers needing to do what is morally right, they utilise *lawyers having moral obligations*.

Protection orders as inconsistently and selectively enforced by women

Lawyers sometimes talk of protection orders being selectively enforced or used inconsistently by protected women. This constructs protected women as either fickle and inconsistent, or as manipulative and ill intentioned (the latter being so when women selectively enforce protection orders to suit themselves). Women give mixed messages, confuse men, play with their heads, and invite grey areas. The male respondent is subsequently positioned as a victim of the woman's confusing or irrational behaviour. One minute they are permitted or encouraged to have contact with their partner; the next they are facing legal sanctions for doing this. Alternatively, the woman behaves inconsistently/hypocritically by expecting her (ex-)partner to comply with the order, but not doing this herself. I use four examples to illustrate this discourse. The first is from Michael's transcript.

Michael: "Often, they [the men] will be in a situation where the order is very selectively enforced. Where there's an ongoing relationship, but if there's ever an argument the women may say, 'Well look, I'd like you to leave now.' And the guy will say, 'Well hang on. You started this, I'd like to finish it.' And she'll say, 'I'll call the cops.' And before long he's in custody again. Now I have very little sympathy for him, but looked at and around, um, you know, it's a very strange situation."

As can be seen in this first example, the woman is constructed as quite unreasonable. Although she has an ongoing relationship with her partner and hence doesn't enforce the no-contact conditions of the order during these times, she selectively enforces the order whenever it suits her (e.g., whenever there is an argument). He, on the other hand, is constructed as being unfairly treated for being a reasonable person. That is, he is arrested and placed in police custody for wanting to finish an argument that his (ex-)partner started.

In the following example, the man is also constructed as a reasonable person. He did not visit his (ex-)partner on his own volition; he was invited. Furthermore, once an argument began he realised he needed to go home. Supposedly, he never had a chance to go before the police arrived.

Richard: "Well, it's sort of a double edge sword in a way. And, and I've seen, um, District Court judges, more than once, you know, they've had a guy in front of them who's said, 'Oh look, this is getting confusing. I was invited back out there for the afternoon and then before I know it, there's an argument happening about that. I, I needed, need to leave and go home. And then the police are here, and now I'm in court.' And, you know, it, it's, so the suspension by the applicant or by the protected

person of the protection order, you know, inviting the person back around, all those sorts of things, it invites a grey area... So, the judges will warn people to just, 'Look, forget even having contact with her. Just stay away mate.' [Laugh]."

It is interesting how Richard's choice of language does not bestow the male respondent with any agency in relation to the argument. That is, before the respondent knew it, an argument was happening. He was not responsible, or even partly responsible for its occurrence. Indeed, the argument almost has an agency and existence of its own, quite separate from the man described. This serves to downplay the man's responsibility for the predicament, and bolster his status as the victim of a woman who inconsistently enforces her protection order.

It is also interesting to note that there is no description of what happened after the respondent realised he needed to leave and before the police arrived on the scene. Indeed, it appears the police arrived instantaneously. Together, this and the description of the argument, convey a sense of events happening very quickly around him, without him being involved. This lawyer speaks as if this man is not responsible for what occurred, and has been unfairly punished. He is not accountable. It is unfair.

Victoria also presents the male respondent below as innocent. He is a victim for doing what his partner has been receptive to him doing in the past. Juxtaposed to this, she portrays the woman as inconsistent and moody.

Victoria: "Someone else I was talking about earlier, you know, there's a, sometimes she would let him talk to her, you know. He, he would see her and the kid down the street and sometimes she'd stop and talk to him and be nice as pie, and not a problem. And the next time he'd see her down the street, same sort of thing, he would see the kid. Well, and for some reason she was in the mood and she, he'd get home and the police would be on his door step, because she'd rung them because he'd spoken to her. And I mean, he was totally and utterly, you know, confused by that."

Similar to the excerpt from Richard's transcript, the excerpt above is vague on details about what the man did to deserve arrest. It appears he only spoke to her, something she has been agreeable to in the past. The words, 'for some reason' are particularly vague.

The last example (below) talks of women giving mixed messages and playing head-games with their (ex-)partners. Such women expect their (ex-)partners to comply to the non-contact provisions of their protection order, yet they keep initiating contact with their (ex-)partner themselves. In this way, they "have a cake and eat it too".

Alison: "And also not to play head-games with people, because sometimes they."

Rachael: "What was that sorry?"

Alison: "Not play head-games. Like some people, they want to have a cake and eat it too. They've got a protection order, but they'll still keep ringing the other side, and all those sorts of things. Because that's giving mixed messages, you know... I understand that things are really complicated and stuff... but if they're hassling you, you send a clear message that you don't want contact with them. It seems simple to me, but then again I'm sure if I was in their position I'd do the exact same thing, so."

In this excerpt, Alison constructs some women as giving mixed messages, which could confuse their ex-partners and get them into trouble. By supposedly playing "head-games", women are positioned as participating in abusive behaviour, while ex-partners are positioned as victims of this abuse. Admittedly, Alison somewhat mitigates this by suggesting she might behave the same if she was in the same situation as these women.

In summary, this discourse talks of orders being enforced selectively or inconsistently by some protected persons. This fickle or manipulative behaviour by women causes confusion and problems for the respondent, who is consequently positioned as a victim.

A DISCOURSE WITH POSITIVE AND NEGATIVE IMPLICATIONS FOR WOMEN VICTIMS OF DOMESTIC VIOLENCE

Protection orders as making things worse

Lawyers sometimes talk of protection orders, or at least certain types of protection orders (e.g., on-notice protection orders) making things worse: they elevate the respondent's anger, and they exacerbate risk and danger to the applicant or protected person.

Michelle: "There were occasions when, um, the woman made a decision after discussion, not to apply, simply because it was too dangerous to get a protection order, right. There are some situations where I believe that a woman can place her life at risk by getting the protection order. So I think you have to actually explore the consequences, and make sure that the woman knows what happens on the making of the order, and what the procedure is."

Michelle: "There is sometimes, I mean, you, you have to work on gut feeling, and talking to the person. But, there are some instances where, um, you, where I believe that applying for and getting orders put you at more risk than if you don't."

Michael: "I've talked to, not many, who could clearly apply for a protection order but who choose not to for reasons that have nothing to do with expense... I think it's more about not wanting to make things worse. Not wanting to stir things up."

Richard: "Most clients want to apply *ex parte*, without notice, 'cause they're terrified that if they applied on notice and a document was served on the respondent, they are terrified that that will just wind the respondent up even more. Which it probably would."

Many lawyers using this construction seemed concerned that protection orders can exacerbate anger in men, and further endanger women applicants. Whilst it is good that they consider women's safety, this construction has complex implications. On some occasions, caution is probably warranted, and the decision not to pursue a protection order might save a woman from further harm, even death. On other occasions, lawyers might be disinclined to apply for protection orders that women desperately need to increase their safety.

Alternatively, there is also the (unverifiable) possibility that some lawyers might be more concerned with the restrictive effects that protection orders have on a man's access to his children, not the women's safety. Many examples of this discourse specifically attributed the increased risk and danger to the protection order's restrictive effects on access.

Richard: "It's an absolute uphill battle from the, from the respondent, to, um, really move things along in terms of access. Unless they have got lots of patience, which they need. Um, and often their restriction on access will be, um, will be the fuel for further problems or breaches of the protection order as well, you know."

Sarah: "It's very difficult. The abusers find it very, very difficult not having custody or access. As I've said before, it can cause more problems. But then, you know, that shouldn't be a reason why they should be having access."

Andrew: "The protection order and the effect on access, I think that probably makes a lot of, looking at it from the man's perspective, makes a lot of men angrier."

Michelle: "And the man suddenly finds that he is being cut from seeing his children, which almost inevitably happens... The court either says, 'No access,' or it says, 'Supervised at Barnados only.' That really gets the men, in many cases, angry. I mean, if they haven't been very angry up 'til that date, that makes them very angry. And, um, I think that that's something, then, that has to be looked at."

As seen in the last excerpt (above), Michelle says that the supposed perpetrator of violence may not have been "very angry" up until the date that access precludes him from seeing his children. This could also be interpreted as implying he has not been violent up until that date, especially since anger is closely related to violence within an *Expressive tension* discourse.

Suggesting that protection orders anger men or endanger women, might be a rhetorically effective way to justify the non-pursuance of protection orders. That is, lawyers concerned with the restrictive effects that protection orders can have on men, might hide this seemingly less politically correct agenda (which is not a concern of legislation that aims to protect domestic violence victims and their children), and instead highlight the danger these orders cause women.

Regardless of whether lawyers use this discourse for this purpose, constructing *Protection orders as making things worse* is potentially a positive and negative construction of protection orders. Although it might sometimes protect women from further risk, it sometimes denies them the protection orders they need.

DISCOURSES THAT SUPPORT ORDERS THAT PROTECT WOMEN

Protection orders as offering protection and safety

Lawyers also talk of protection orders offering and providing protection, safety, and security to victims of domestic violence.

Sarah: "They make that person feel safe, you know."

Nicola: "They're about getting some safety in place."

Helen: "I'm very in support of having that sort of legislation to protect women in those situations."

William: "It's mainly for the protection of, well, the protection of women and children mainly."

Victoria: "If you're acting for a woman, you'd be saying, 'Well look. This is a wonderful protection for you.'"

Because it is the intention of the Domestic Violence Act 1995 that protection orders provide protection and safety for victims, it is perhaps not surprising that lawyers used this discourse during the interviews. It seems an important discourse for lawyers to use, seeing it perpetuates a proactive response for victims of domestic violence.

Protection orders as empowering

Lawyers also talk of protection orders being "empowering" and "emboldening" to women victims of domestic violence. Protection orders are said to validate victims' experiences and give women strength. Instead of women being downtrodden and powerless as they have been in their abusive relationship, they are "lifted up".

Michael: "One of the things that a protection order does, it can lift you up if you've been battered really badly. A protection order can say, 'This has happened to you, it's real, it's not good, and the law says you don't have to put up with this.' And for many people, many women, that is a really important message. It is emboldening and empowering."

Sarah: "I still think they are useful. I think they're very empowering for people who have been abused."

Sarah: "How important do I think legal involvement is in stopping domestic violence? I think it's very important. Especially with the protection orders, which I think, um, are, are extremely important. So, it's just giving, it's empowering."

Stephen: "I guess that maybe the Domestic Violence Act does it in its own way with applicants, in that it empowers people to say what's happening for them and to seek redress if it's not right."

It seemed that lawyers using this discourse considered the empowering effect of a protection order to be a positive thing. That is, a protection order somewhat restored the power imbalance between the victim and perpetrator of domestic violence. Instead of men having power over their (ex-)partners, women were afforded some power and strength of their own.

Victoria: "If you're acting for a woman, you'd be saying, 'Well look. This is wonderful protection for you, you.' For a change, and this is the Ruth Busch argument, for a change the woman has the control. And that's, you know, and I, I don't disagree with that, you know. That, that's where Ruth comes from. That's, what she's saying is, 'Hey listen, for once the power has moved.' Now, I mean, one would like to say there shouldn't be power anyway... But, you know, the Ruth argument for that, which is (?), in it's own is, 'For once the woman has the power.'"

This 'positive' power contrasts significantly with the 'abusive' power afforded to women and protection orders when protection orders are constructed as weapons. It seems that the former discourse considers protection orders as restoring power that has been depleted through an abusive relationship. The latter discourse constructs women's power to be greater than their (ex-)partners, and hence, harmful.

Protection orders as providing boundaries and a clear message to perpetrators

Lawyers sometimes speak of protection orders providing respondents with boundaries or a clear message that the relationship has ended and they cannot abuse and/or have contact with their (ex-)partner anymore. Where men have ignored such boundaries or messages in the past, the now-legal basis of the message (through a protection order) makes the applicant's stance clear.

Boundaries are established, and there are provisions to follow if the respondent ignores these boundaries. Men constructed by this discourse are generally transformed from boundary-less to boundary-informed and compliant.

Alison: "I mean, for me, I think it's something about **boundaries**, you know. Some people are never going to stop doing what they're doing, but then other people just need to have **boundaries** put in place. And a protection order is one way of doing that, you know. This is your way of telling them that you want no contact with them. So if they ring, call the cops, you know what I mean. If they do this, call the cops."

Alison: "I think it's really good that you can be arrested when these things happen, because it's gonna stop people who just need **boundaries**."

Nicola: "I mean, I've sometimes seen women who have like had a temporary order, they've asked for a final order, they've been to hearing, they haven't got what they wanted, you know. They're quite afraid. But then the reality is they've got those **boundaries** in place now, and there haven't been further incidents."

Michael: "Basically, he wouldn't accept her message that their relationship was over, and that led to her obtaining the order... It wasn't perhaps directly as a result of the incidents of violence, which were earlier on in the relationship."

Rachael: "You mean, because he wasn't getting a clear message that it was over, she applied for a protection order to give."

Michael: "Basically to say that she wanted some peace from him... The reason she wanted the application was just to, basically, **give him the message it was over**."

Sarah: "Sometimes, you know, they need to have that protection order so that that other person knows that they're not going to put up with this any more, and knows that, you know, they can't continually ring and harass them or whatever. And so they can't do that then."

As can be seen from the excerpts above, protection orders are constructed as usefully providing boundaries and giving the message to men that violence, abuse, harassment, and/or contact are not acceptable or permitted. Through this discourse, women are positioned as facilitating this process, as opposed to using protection orders as weapons, or using them to restrict the rights of men. Men are positioned as moving from being boundary-less to being boundary-informed and compliant. However, as mentioned by Alison, some people are never going to be stopped; boundaries are ineffective for these people. The construction of protection orders as being ineffective for some men is also evident where they are constructed as only a piece of paper. Indeed, the next three discourses look more specifically at the agency, or lack of agency, afforded to protection orders, and the parties referred to in the protection order.

PROTECTION ORDERS AS INEFFECTIVE

Quite unlike the discourses just discussed, where lawyers constructed protection orders as offering protection and safety, as being empowering, and as providing clear boundaries and messages to respondents, lawyers also constructed protection orders as ineffective. A specific construction of this discourse was *Protection orders as only a piece of paper*, where protection orders were constituted as 'only words' with little agency in and of themselves. Closely associated with *Protection orders as only a piece of paper* was the construction of *Protection orders as needing enforcement*. Through this construction, women or police were positioned as responsible for making protection orders effective. Lawyers also co-articulated *Protection orders as ineffective* with certain constructions of respondents: those who don't care about the consequences, those who are pathological, and those who have strong intentions to harm their ex-partner.

Protection orders as only a piece of paper

Lawyers spoke of protection orders being the equivalent of a piece of paper with words on it. A protection order was not a "force field"; it was not a "magic cure"; it would not "stop a bullet". In and of itself, a protection order could not protect women, or stop men being violent. It lacked the power and agency to do these things. It is interesting to note that lawyers frequently use the words, "at the end of the day", in conjunction with this discourse. That is, they constructed protection orders as somewhat ineffective, when all's said and done.

Elizabeth: "I mean, you've got this *piece of paper*. And *all it is is a piece of paper* with some words on it. I mean, it's, it's not, you know, like a force field around you that's going to, you know, prevent anything bad from happening. But, I mean, it's probably, I mean, I don't know what else we could do."

Alison: "Protection orders are, at the end of the day, *a piece of paper*. One of my clients is unconscious in hospital. So, it's not a magic cure for anything."

Michael: "But at the end of the day, *it's a piece of paper*. It doesn't stop a bullet."

Caroline: "Because one of the things about protection orders, is that the recipient, the applicant person, has to use it. And if they don't use it, *it's just a piece of paper* at the end of the day. So, there's no magic in it. And even then some respondents, you know, ignore the orders, constantly getting breached. Well, that's only good if the police follow that up and prosecute them. You know, that women that was murdered in Auckland not so long ago, um, where the police were following her home... She'd gone to the police station because the husband said he was coming

around to the house. And he had a protection order. She went to the police station and the police followed her home. They were two minutes behind her. And he'd broken into the house and stabbed her to death. Sort of stopped him, but too late, you know, because he was already there, um, you know. That's a classic example of she had the protection order and it was absolutely useless to her. And **they're only a piece of paper** at the end of the day."

As mentioned above, protection orders are constructed as ineffective against perpetrators of domestic violence through this discourse. Men are positioned as dangerous and unstoppable through the law; women are positioned as unprotected and unsafe. This is quite contradictory to the subject positions offered to men and women through several other discourses. For example, men are not constructed as victims of manipulative women (*Protection orders as weapons*); nor are men constructed as non-violent and women safe after separation (*Risk of violence is reduced after separation*). Whereas lawyers have generally used language that minimises men's violence in other discourses, here, domestic violence is constructed very seriously. Bullets are involved; women are killed.

As seen in Caroline's excerpt, women and police are constructed as responsible for protection orders being effective. This is discussed further below.

The construction of *Protection orders as only a piece of paper* was reasonably prevalent amongst the sample of lawyers interviewed. Two-thirds of lawyers used it at least once.

Protection orders need enforcement

A discourse labelled *Protection orders need enforcement*, was often (but not always) used in conjunction with *Protection orders as only a piece of paper*. In that protection orders do not have any agency or magic abilities of their own, lawyers spoke of the importance of women enforcing them. By enforcing them, and having police involvement, they become more than just a piece of paper. They now had an agent. In this way, protection orders were rendered more useful. Supposedly, enforcement resulted in respondents facing consequences for their actions; protection orders then had deterrent properties.

Caroline: "And it's the whole interesting issue about enforceability of orders too, you know. Like I said at the start, **people have got to want to use them to make them effective**. Otherwise, they're hopeless, you know, it's just a piece of paper. So, if they don't feel confident in getting help then it's a waste of time really."

Caroline: "The only thing, you know, is the age-old thing that **if people don't use the orders they don't work really**. Because it's only a piece of paper, you know. And

making both applicants and respondents work with it is really difficult, yeah, in some situations, because one or other will ignore it.”

Rachael: “Do, in your experience, do most respondents take them seriously? Or?”

Caroline: “Sometimes they take a few sharp lessons to get the message, but generally, yeah, they do. But again, **the applicant has to be willing to enforce it**, you know. I sit them down and say, ‘Look, this is only a piece of paper. **It’s not going to work if you don’t enforce it**. So, if he’s ringing up you have to ring 123 and lay a complaint, and you have to complain to the police. And if he’s turning up, don’t wait to see why he’s coming around. If you see him walking down the street heading for your driveway, that’s enough, ring the police.”

Victoria: “I mean, **that’s where it’s really important for women to actually breach**³, you know. To, **when they’ve got an order to then, um, follow through and breach and complain**... I mean, I actually give them a little lecture... I mean, I really talked to her about it, and, um, stressed. I, I tried to really stress it on them... Basically saying, this is what your protection order means, and you know, these are what you can do, **but you must follow through and you must breach** and things like that.”

Sarah: “But then, on the other side, they have no affect at all. Because that, the person who’s being abused will go back to the person the next day, the other person the next day. They will, um, allow them to despite the protection order being there to continually abuse them. And **so it all depends a lot on the applicant and what they’re going to do**... I mean, **I think it really comes down to enforcing the order as to how useful they will be** for clients. And that’s very hard sometimes, for clients who have been abused enforcing the order, because they’re standing up to that person.”

Michael: “It’s hard for them. They’ve got an order, **they have to enforce it. If they don’t enforce it, it’s meaningless**.”

It is interesting that Sarah (above) constructs protection orders’ effectiveness as being fully (or almost fully) dependent on the protected persons’ actions. Whilst it is particularly evident in this example, this discourse ignores the male perpetrator as an agent. That is, it diminishes male perpetrators’ responsibility for protection orders not working.

As noticeable in Michael and Sarah’s excerpts above, lawyers spoke of it being difficult for women to enforce protection orders. Indeed, many spoke of women not enforcing them.

³ Note that this lawyer uses the word “breach” instead of “enforce”.

Sarah: "So from my experience, I think it's pretty good. As I say, ***I think the problems are enforcing it.***"

Michael: "And then they get an order, which on the whole, ***they don't enforce.***"

Michael: "***It's the unusual case where the order is granted and enforced for ever more.***"

Elizabeth: "And I advise them that they, you know, they can just have it there and still have contact and still live with him or whatever. But, um, you know, if he does get violent, you can say, you know, 'The protection order, you have to leave now, and I'm going to call the police or whatever.' And, um, some of them say, 'Oh yeah, okay, we'll do that then.' And you never hear from them again. And you know ***they've just stuck it in the bottom drawer and forgotten about it.***"

Lawyers also spoke of the importance of police enforcing orders by following up on reported breaches. This and subsequent action taken was considered to be a deterrent to respondents.

Caroline: "One of the things about protection orders is that the recipient, the applicant person, has to use it... And even then, some respondents, you know, ignore the orders, constantly getting breached. Well, ***that's only good if the police follow that up and prosecute them.***"

Nicola: "Well, ***the police probably need to be doing more about breaches of protection orders.*** Because, I think that would be a really big thing. And, yeah. I think that would possibly make a difference, so that there were greater consequences for breaching it."

In summary, this discourse attributes the effectiveness of a protection order to their enforcement by women and police. In that protection orders don't have the agency and power to do this on their own, women and police are the agents who render them effective.

Whilst it is likely that enforcement by protected persons and police contribute to the effectiveness of protection orders, male perpetrators are insufficiently visible and accountable through this discourse. That is, their responsibility to adhere to and not violate protection orders needs to be more prominent.

Protection orders as ineffective for certain types of respondents

As mentioned above, lawyers also spoke of particular types of men/respondents whom protection orders were ineffective against. Instead of women being the agents that determined

the effectiveness of the order (as explicated in the discourse above), men were the agents that made them ineffective. These co-articulations with *Protection orders as ineffective* position men/respondents in particular ways, with varying levels of 'control' over their behaviour.

Protection orders as ineffective when respondents don't care about consequences

Lawyers spoke of protection orders being ineffective as deterrents against respondents who do not care about the consequences for breaching an order.

Such men did not care about the consequences of a protection order for a variety of reasons. Some were *past* the stage of caring. Some were in a state that rendered them unable to assess the consequences of their actions (e.g., rage, drunkenness) during that time. Others did not care about the consequences because they were not law-abiding types anyway.

Here are two examples from Victoria that construct men as being past the stage of caring.

Victoria: "But that doesn't stop, you know, someone who's just past caring, or, so, it's not going to help."

Victoria: "A protection order won't stop somebody who's reached the stage they don't give a toss, to, to use the polite term."

This construction of the respondent implies that though they may have once cared (about consequences for breaking the law), they have reached a threshold where they no longer care. Supposedly, men in this stage consider the consequences for breaching the order as no worse than the status quo. The words, 'past the stage of caring', and having 'reached the stage they don't give a toss', imply that this stage is long-term or permanent.

The construction of respondents being 'past the stage of caring' contrasts with constructions of men as being in a state that makes them less able to contemplate the consequences for their actions. States of drunkenness and rage are temporary. Furthermore, because the respondent is not able to reason during this time, he might be considered less responsible for his actions. The first quote below, is an example of a protection order not stopping people who are too drunk, too "out of it" (supposedly on drugs), or too angry to consider the consequences of their actions. The other two quotes are further examples of protection orders being ineffective when someone is in an out-of-control rage. Note, the conception of someone being "out of control" is an example of the *Expressive tension* discourse.

Victoria: "A protection order won't stop somebody... who is so enraged, or drunk, or out of it that they don't think about the consequences."

Victoria: "I mean, crimes of passion have been going on for years haven't they. I don't, orders don't stop people like that."

Rosemary: "Let's face it. A protection order is only a piece of paper that says, 'Thou shalt not.' And if somebody is violent enough, or their temper has flown out of the window, a piece of paper is not going to stop you being bopped on the head, is it?"

As mentioned above, lawyers spoke of protection orders not being effective against men who do not respect or abide by the law. Unlike people who respect the law, non-law-abiders do not care about the consequences of breaching orders because they ignore the law more generally. Men constructed in this way do not reach a stage of not caring; nor are they temporarily not caring whilst angry, drunk, or under the influence of drugs. They never care. They are a type of person who consistently chooses to ignore the law. This construction is illustrated in the excerpts below. As you will see, lawyers often compare non-law-abiders with people who do respect the law.

Rachael: "Mmm. So, do you think that protection orders are effective in, um, promoting safety?"

Elizabeth: "I think, I think it depends on the respondent actually. I think that, I mean, if the respondent is someone who's gonna look at this piece of paper and say, 'Oh my goodness. I'm not allowed to do, go anywhere near this woman. I better not,' and gonna comply with it, and, and finds the court to be, you know, some authority figure that they need to respect, then they're gonna think, 'Oh well, I'd better not breach this order.' But if they're thinking, 'Oh, you know, who cares what the court says. They can't do anything to me. I love being in jail,' or whatever, they're, they're not gonna, um, respect it. And they may, they may not care if they breach it."

Alison: "I think it all depends on the type of person, on how you view consequences. Like, I think, this is just my opinion, sort of thinking, maybe middle class people it might stop more because the consequence of being arrested and having all these things against you and having a record. But if you're like a nasty gang member guy, I mean, as if you give a shit. You've been in prison anyway, you know."

Rachael: "Coming back to protection orders. Do you find that they're quite effective for providing safety for applicants then?"

Andrew: "Oh yeah, I think they work. I mean, it's only a bit of paper after all. And it relies for its authority on people's respect for the law. And, so, some people just don't have, very few thank god, but most people, most respondents seem to obey them."

Rachael: "And to respect them?"

Andrew: "And therefore they work, so, therefore."

Rachael: "It's problematic with those that don't."

Andrew: “Respect authority anyway. They couldn’t give a toss. But it’s either sort of that attitude, which is probably a one percent attitude, or the thick one’s who can’t help themselves, like this persistent telephone caller dude.”

In summary, the construction of *Protection orders as ineffective when respondent’s don’t care about consequences* positions men as not caring about consequences, either because they are past the stage of caring, because they are not able to rationalise the consequences (due to rage or alcohol/drug use), or because they do not abide the law generally. Because protection orders are constructed as ineffective against these men, women are positioned as unprotected and vulnerable.

“Protection orders as ineffective when the respondent is pathological”

Protection orders were constructed as ineffective against perpetrators who were pathological. That is, they could not protect women against men who were obsessive stalkers or harassers, lunatics, mentally unbalanced, and/or irrational. The construction of perpetrators as pathological draws on the *Individual pathology* discourse that was discussed in Chapter 10.

Andrew, above, provides an example of the construction of protection orders as ineffective against obsessive types of people. In this excerpt he talks of his client, a “persistent telephone caller dude”, being part of a “thick” group of people who “can’t help themselves”. As illustrated below, other lawyers also spoke of protection orders being ineffective for people who harass and stalk their (ex-)partners. It is as if these people’s obsession with their (ex-)partner compels them to continue harassing, stalking, and abusing them, despite the presence of the protection order. In this way, respondents are constructed as having little agency. That is, they have little ability, or are unable, to control themselves from further offending.

Alison: “Stalkers don’t just stop because there’s a protection order. They keep going. So there are usually breaches.”

Alison: “People who are a little bit stalkery... I have two clients who have taken out a protection order against this full on stalker guy. He’s been moving around the place... But it’s like he’s, they don’t stop him, protection orders, you know. He’s just (?). I think it really does depend on the person.”

William: “Even if you had all the domestic violence orders in the world, you’re not going to prevent the totally obsessive lunatic killing his partner.”

Victoria: (woman): “But if you’ve got some lunatic who is just not going to click on. And I can think of another guy of mine, a, he’s, he’s a nice guy. He’s got a protection order against him. Couldn’t come to terms with the fact his girlfriend and mother of the child had dumped him, you know. Wouldn’t give up. It was never an issue of

violence. It was harassment. Wouldn't give up. A protection order didn't stop him. God knows how many times he breached it... Suddenly, he'd get drunk and ring up. And, you know, it would be late at night. And oh, you know, just, and half the time he couldn't remember that he'd done it. Just hopeless, hopeless. And just couldn't get it through his head that that was breaching the protection order. It doesn't matter how much you told him."

As seen in two of the excerpts above (William and Victoria's excerpts), lawyers sometimes described stalkers as "lunatics" for whom protection orders prove ineffective. Lunatics are pathological; they are irrational; there is something wrong with them. Lawyers similarly described protection orders as ineffective against men who are mentally unbalanced and irrational (even if only for a time, as in Victoria's first example below).

Victoria: "I think that you have a problem there with someone who is perpetually, you know, really off their face on things other than dope... I think some of the other drugs can make people totally irrational. Um, and that's where you have that unpredictability thing that I was talking about... That, a protection order, you know, it doesn't, it's not going to help you."

Similarly, whilst talking about circumstances where protection orders are ineffective, Victoria comments:

Victoria: "And the other one is when they're unbalanced."

According to this construction, such men are unable to behave rationally and normally.

In summary, this construction of protection orders relies on the *Individual pathology* discourse. Men are constructed as having little control over their behaviour; women are positioned as being unprotected and vulnerable from such men.

"Protection orders as ineffective when respondents have strong intentions to harm their (ex-)partner"

Juxtaposed to the lack of agency attributed to respondents through the aforementioned construction of protection orders, this construction positions respondents as having strong intentions to harm their (ex-)partner. Such men desire to harm their (ex-)partner, and they are 'in control' of any actions towards this goal. Only one lawyer constructed protection orders in this way.

William: "I mean realistically, a domestic violence order is only a piece of paper at the end of the day. It's not going to stop somebody who is seriously wanting to injure or maim somebody else."

The construction of the respondent as 'in control' of his behaviour relies on a larger *Liberal humanist* discourse. As discussed in Chapter 10, this was also characteristic of the *Power and control* discourse.

Within discourses that construct protection orders as ineffective, this construction holds respondents most accountable for breaching protection orders.

Conclusion

Lawyers constructed protection orders in diverse ways. Some constructions supported orders that protect women from domestic violence; others seriously undermined these orders.

The subject positions available for male perpetrators of violence and for women requiring protection from domestic violence were equally diverse. Women were positioned as manipulative, as vengeful, as powerful, and as perpetrators of wrongdoing. Other constructions positioned women as exposed to danger and in need of protection. Men were positioned as dangerous. They were also positioned as victims.

The utilisation of discourses that undermine the legal recourse of protection orders was concerning. In practice, lawyers could utilise such constructions to obstruct or discourage women getting the protection they need. Lawyers' utilisation of such discourses could also cause women significant dissatisfaction with legal personnel and the legal response to their situation. Indeed, a large chasm exists between the experiences of women who are subject to psychological, sexual, and/or physical violence and constructions of women as vindictive, manipulative, abusers. Not only are women's experiences of domestic violence not validated or treated seriously, some women (and their children) could remain legally unprotected from domestic violence as a consequence. Discourses that support the use of orders to protect victims of domestic violence are likely to encourage women to pursue legal protection, to increase women's satisfaction with the legal response, and to enhance women (and children's) protection from the harm of domestic violence.

SUPERVISED ACCESS: DISCOURSES USED TO SUPPORT AND UNDERMINE ORDERS PROTECTING CHILDREN

New Zealand, along with other societies, has experienced an increased focus on rights (Richardson, 1995). There has been a particular emphasis placed on children's rights (New Zealand Ministry of Justice, 2001), with legislation, policy, and practice being shaped to comply with the United Nations Convention on the Rights of the Child, which New Zealand has ratified (Doogue & Blackwell, 2000). This means that within the context of child custody and access legislation, considerable weight has been placed on children's best interests (Smith, 2000). The Domestic Violence Act 1995 and Section 16 of the Guardianship Act 1968 attempts to achieve this in situations where domestic violence is relevant.

As discussed in Chapter 3, if allegations of violence against children are substantiated in the Family Court, the violent parent is not given custody or unsupervised access unless he can satisfy the Court that the children will be safe. Violence is defined under Section 16 of the Guardianship Act 1968 as physical and sexual violence, but judges have extended this to include psychological and emotional abuse, and to situations where violence is not directed specifically at the child (Darlow, 1997). According to the Domestic Violence Act 1995, causing or allowing a child to hear or see domestic violence, or putting a child at real risk of seeing or hearing domestic violence, is equivalent to psychological abuse against a child. This means that men who are physically, sexually, or psychologically abusive to their children, or to their partner whilst children are present, may only be entitled to supervised access to these children. It is the intention of the Domestic Violence Act 1995 that these provisions should protect children from harm associated with domestic violence.

Smith (2000) mentions that supervised access balances children's right to live free of harm with a somewhat competing right: their right to a relationship with both parents. In addition to this, fathers' rights to a relationship with their children has been a considerable concern for certain groups of men within New Zealand, who feel that women experience favouritism regarding custody and access issues.

Throughout the interview transcripts, there was considerable talk about supervised access as it relates to domestic violence and protection orders. Several discourses were identified within the lawyers' transcripts as they managed the tension regarding children's and fathers' rights that

supervised access raises. In this chapter, I first illustrate and discuss discourses aligned with protecting children from the harm of domestic violence through supervised access. These include *Partner violence as harmful to child witnesses*, *Partner violence as child abuse*, and *Children as needing protection from domestic violence*. I then illustrate resistance to these discourses, and exemplify discourses that were utilised to challenge the need for protection of children through supervised access. These discourses include *Partner violence as poor parenting*, *Children as needing both parents*, *Violent partner; good father*, *Protection orders as weapons*, and *Protection orders as restricting men's rights*. Their co-articulation with other discourses to further challenge the need for supervised access is also demonstrated.

DISCOURSE THAT SUPPORT THE NEED TO PROTECT CHILDREN THROUGH SUPERVISED ACCESS

Partner violence¹ as harmful to child witnesses

Lawyers who used *Partner violence as harmful to child witnesses* spoke of the detrimental effects that parental violence and abuse had on children who witnessed or heard it. This discourse is available to lawyers through the Domestic Violence Act 1995.

Sarah: "And I mean **children are the ones who are really affected by this violence**. It's sickening to see really. And you do see it. Children that come in here... **you can tell by their behaviour that they've been affected by it**. It's, it's very sad."

Sarah: "And the sad thing is, again, are these children, you know. It's the effect which it's having on them. Because it, **it has huge effects on the kids**, okay... What about **these poor kids who are witnessing them and listening to it and whatever?**"

Victoria: "It was a very good speech actually, about the, um, **how bad it is for kids to witness the violence and all the different impacts**. I mean, I agree absolutely wholeheartedly."

Alison: "Well, if you can't treat another adult as another adult, how the hang can you, you might be fine when these kids are really little, how are you going to be able to, you know, teach these kids to grow up and be mature adults if you act like that? Not to mention **the trauma the kids go through every time they see their parent getting smacked over.**"

Some lawyers specifically referred to the *long-term* negative effects of being exposed to violence and abuse. Alison, above, talks of children not being taught skills they require in adulthood.

¹ Partner violence is used here, and in the next section, to indicate men's abuse of women partners where children witness or hear the violence. This is so that it is clear that the domestic violence is being directed from one partner to another partner, not directly from one parent to a child.

Stephen, below, talks of coming across these 'deeply troubled, products of parental dysfunction, abuse, and violence' in his youth advocacy work. Julia talks of such children being at risk of early pregnancy, criminal behaviour, and addictions. Indeed, she describes these dysfunctional effects as being a "natural" progression if no one intervenes when the children are younger.

Sarah: "I definitely try and make it clear if there's children involved, **the long term effects on the kids.**"

Stephen: "I also do youth advocacy work, and, um, a large number of children that I, um, deal with in, in that area, are the direct, um, products of parental dysfunction. Um, and often, um, they'll be, yeah, there'll be, **they'll be products of abuse or violence, or all sorts of things. And, and some of them are deeply, deeply troubled.**"

Julia: "It is, it is so stupid, because if you don't pick up these kids, and I believe, I believe you have to pick them up when they're little, you have to intervene when they're little, the damage is done. Um, if you don't pick them up when they're little, I mean **they naturally progress to Youth Justice if they're male, they get pregnant if they're female. They get in to the same addictive behaviours as their parents and they start beating up on their partners.** And I've got, I've got kids who, um, fifteen, sixteen year old Mum's, who are being very badly abused by their fifteen, sixteen year old partner, and they've got a baby. So what happens to that child? **It's just a recipe for disaster.**"

As illustrated and discussed in Chapter 10, lawyers using the *Learned behaviour* discourse suggest that one of the long-term negative effects of children being exposed to violence is their propensity to be victims or perpetrators of violence in their own intimate adult relationships. Julia utilises this discourse in her excerpt above.

Lawyers not only talked of children incurring *actual* harm, but they spoke of the *potential* harm associated with exposure to domestic violence. For example, there is a 'threat' of harm to children; children are at 'risk' of harm.

Richard: "Well, there is a **threat** to the children, in that the children are watching lots of arguments."

Richard: "Well, I mean, I, I know the way the judges, um, think through that issue. As if there is a, if you're capab, if, if you are violent towards, to, to, to the mother of your children, or the father of your children, um, then not only is there a risk to the well being of the parent, of the mother, say the mother, there's also inherently a **risk** to

the safety and well being of the children, and that, you know, not necessarily through actual physical violence, but just if you are going to start harming an important parent of a child, then you've, you've got little respect for the children as well... little respect for their well being as well. And I can follow that line of logic through pretty well."

Talk of potential harm and risk is generally used to support children's protection through supervised access, although lawyers also talk of balancing risk and potential harm with other things, such as the perpetrator being an able parent (discussed further below).

In summary, some lawyers utilised the *Partner violence as harmful to child witnesses* discourse during the interviews. This discourse is perpetuated by the Domestic Violence Act 1995. Children are positioned as being harmed, or at risk of being harm, not only by violence that is directed at them specifically, but through this discourse, by violence they witness that is not directed at them. Men are positioned as harming their children when they are violent to their partner. Whilst they can be held accountable for this, women are also positioned as harming children if they do not leave the relationship (discussed shortly). This discourse supports the protection of children through supervised access.

Partner violence as child abuse

A minority of lawyers not only talked of partner violence harming children exposed to it, but they constructed partner violence as being equivalent to (psychologically) abusing children. That is, abuse of a woman partner (or other parent) in front of children is the equivalent of abusing, or psychologically abusing, the children.

Alison: "***Like the idea of treating children who have seen violence as being abused. I think it's just brilliant, you know.***"

Andrew: "He didn't really appreciate the ***things that he was saying about her in front of the kids was abusing the kids.***"

Thomas: "So in the application, they should be required to say the children themselves have not been the subject of direct violence. Leave aside ***psychological violence which is, can be witnessing violence or arguments.***"

It is likely that lawyers have become familiar with this discourse through the Domestic Violence Act 1995 also. Section 3 of this legislation specifically states that "a person psychologically abuses a child if that person causes or allows the child to see or hear the physical, sexual, or psychological abuse of a person with whom the child has a domestic relationship" (Butterworths, 2000, p. 709). This discourse supports the protection of children through supervised access. It

also positions the perpetrator of partner violence as being a perpetrator of child abuse if he abuses his partner in front of his children.

Children as needing protection from domestic violence

In that lawyers speak of children being harmed and psychologically abused from witnessing domestic violence, it is not surprising that some talk of children requiring protection from domestic violence. Whilst *Children as needing protection from domestic violence* (hereafter called *Children as needing protection*) could easily be overlooked as constituting a discourse because of its current prevalence, this construction of children has not always been so readily available. Indeed, until recently the effect of partner violence and abuse on children has been neglected even more than the impact on women themselves (Mullender & Morley, 1994). The increasing prevalence of this discourse has likely been assisted by the increasing emphasis on children's rights, and the emphasis on the protection of children in the Domestic Violence Act 1995 and Section 16 of the Guardianship Act 1968.

Here are some examples of lawyers utilising this discourse.

Sarah: "Yeah. [The women] are protected. ***The kids are protected. And I mean, and that's really the issue at the end of the day... The kids, it's them who really need to be protected.***"

Sarah: "And I think that it's great with having the, um, the amendments to the Guardianship Act, they have under Section 16B, which means that, um, ***children are protected***, and that, um, they're not to have, ah, contact with, well, have access. The, the court cannot grant the man supervised access or custody of a child, if there's been, you know, physical or sexual violence, unless the children are considered safe in that person's care. Which I think is actually very important. Um, because then ***hopefully children are going to be protected from that.***"

Nicola: "***I do think that children need to be kept really safe from it, and protected...*** I think it's really important that we don't just put children into situations with men who have been violent towards them, that we protect them. I think ***it's totally inappropriate if we don't have things in place to protect children.***"

Michael: "It's got to be about the children in that situation. If the children are at risk physically, of course (that's the end of the matter). Um, but psychologically, if they're going to be raised in an atmosphere where violence is readily resorted to, then ***they need to be protected from that.***"

Whilst the excerpts above all refer to children being *legally* protected from domestic violence, lawyers also put an onus on parents, particularly mothers, to protect their children from harm.

Elizabeth: "This case that I was doing the kid was, he must have been about two or something, or maybe even less than that when he, he saw his, his, um, father hitting his mother, and trying to, you know, run her over and stuff. And, um, he still remembers it, even though he was so small. So I think the kids do remember it. And I mean, I think that you need, if you're going to be subjected to that sort of thing, I mean, it's, it's just not right. And I think as a, ***as a mother it's your duty not to expose your kids to that sort of carry on. And I mean, I think as a father, it's the same thing.*** So, I think that, I mean, I don't know what the right answer is, but I think from a personal point of view, I just I don't think it's, it's right that you would, I mean, ***maybe you're, you know, totally in love with this man but it's not fair on your children. I mean, I think you have to put them first. And, um, you know, if there's going to be violence you've got to get out of it, and, and make sure they're safe, and not being, you know, psychologically harmed by seeing all this horrible stuff.***"

In this excerpt, Elizabeth first talks of it being the mother's responsibility to protect children by not allowing them to be subject to violence and abuse. She immediately follows this up with a comment that it is the father's responsibility too. Interestingly, she then reverts to talking of women needing to put their children first by leaving the relationship. Whilst leaving the relationship is one way to reduce children's exposure to violence, this positions women as more responsible for protecting children, with little responsibility being placed on the perpetrator of violence. Furthermore, leaving the relationship does not necessarily mean that women and children will be free from domestic violence. As the literature states, violence and harassment often escalates around the time of separation (Hester & Radford, 1996a, 1996b; Jones, 1991; Morris, 1997; Mullender & Morley, 1994; New Zealand Ministry of Women's Affairs, 1998; Ratner, 1993).

Other lawyers also seem to place primary responsibility for protecting children from domestic violence on women. Whilst lawyers do not overtly blame the mother, they insinuate responsibility by making comments about women not being able to protect their children or consider what's best for their children.

Nicola: "I mean one thing which is quite tricky is just, with children. Because often children have been victims of domestic violence, and they've watched their mothers being abused. And, I mean there's, you know, there's Barnardo's supervised access centres, and so there's the facilities there. But to actually get women to use those services is quite hard... And so on one hand I have to be really non-judgmental,

you know, about what's happening. But then on another hand I have to take a role which is protecting children. And there's quite a strong, that's quite hard. **A lot of women don't want to, they'll just ignore it, but yeah, ignore the fact that there are safety issues for their children.**"

Nicola: "I do think that children need to be kept really safe from it and protected. **I don't think their mothers can often achieve that for them**, because even though they've got protection orders they still, you know, children are still really at risk, vulnerable situation."

Sarah: "I think they, it's also part of, you know, that battered women's syndrome, which they're so low, you know, they can't think about anything else apart from themselves, you know. They are, you know, **they're at such a point that, you know, it's, it's very difficult for them to think about anyone other than themselves**. So, it, yeah, it depends... **Most of them want the best for their kids. But it's just recognising what's best for them which is hard.**"

Very few lawyers positioned the perpetrator as responsible for protecting their children. However, Sarah, below, makes the perpetrator more visible and accountable. She says that perpetrators put themselves first by allowing violence to occur in front of the children, and in doing this, they are not protecting children from violence.

Sarah: "I definitely think that if, um, a party has been violent towards their, um, partner, it's going to have an effect, um, on the children. Especially if they don't recognise the problem, if they're allowing, ah, the violence to occur in front of the children. Um, I think that, you know, that is in itself saying that **they're putting themselves before their children, that they're not protecting their children from this.**"

In summary, *Children as needing protection* constructs children as deserving protection from the harm and abuse associated with exposure to partner violence. Lawyers spoke of the legal system protecting children, and of this being a parental responsibility too. Women were positioned as having a greater duty to protect their children from harm, and hence, men were held less accountable for protecting their children by not being violent in the first instance.

DISCOURSES THAT UNDERMINE THE NEED TO PROTECT CHILDREN THROUGH SUPERVISED ACCESS

Lawyers used several discourses that function to undermine children's need for protection through supervised access. First, some lawyers resisted the discourses discussed above. Furthermore, lawyers utilised *Partner violence as poor parenting*, *Children need both parents*, *Violent partner; good father*, *Protection orders as weapons*, and *Protection orders as restricting men's rights*. *Protection orders as weapons* and *Protection orders as restricting men's rights*

were used to undermine the motives of women seeking supervised access and protection orders, and to emphasise how supervised access supposedly violates men's rights to a relationship with their children. Their co-articulation with other discourses of domestic violence, which further challenge the need for supervised access, is also illustrated and discussed below.

Resistance to *Partner violence as child abuse* and *Partner violence as harmful to child witnesses*

Whilst uncommon, there was some resistance to *Partner violence as child abuse* and *Partner violence as harmful to child witnesses*. Instead, violence between parents was not always thought to be harmful to children, or to constitute abuse of the children. Andrew and Thomas's excerpts illustrate this resistance.

Andrew: "Because ***it's not always clear that abuse of the protected person is abuse of the kids***. And I think the standard condition that the order automatically applies to the kids, I can see the justification for it, but it's not always the case. And it will be sorted out if the orders, if the application's defended, I guess. But sometimes that can be a bit harsh."

Thomas: "And often, in my view, ***the relationship between the parent, the non-custodial parent and child, um, was not imperilled by arguments between their parents***, because the level of violence is, um, not sufficient to justify that."

It is noteworthy that Thomas seems to be talking of 'low level' or 'borderline' violence on the 'hierarchical scale of abuse'. This construction implicitly sets up a comparison with 'serious' violence. Perhaps the implications for children would be considered worse if the violence was at the 'serious' end of the scale.

In the next excerpt, Thomas resists the need for children to be protected from violence that is directed at a parent, not themselves. This modifies the criteria for when children need protection to direct abuse of children, and tends to suggest that children are not harmed from witnessing abuse.

Thomas: "***The applicant should be made to address the issue of whether in a sense the violence is directed towards them and not the children, and therefore whether the children actually require protection from the respondent, rather than the children being protected from observing violence...*** So, in the application, they should be required to say the children themselves have not been the subject of direct violence. Leave aside psychological violence, which is, can be witnessing violence or arguments. But what I'm suggesting is that there should be a requirement for applicants to put up an interim access proposal so that ***unless***

there is a serious violence issue affecting the children directly, the non-custodial parent should be in a sense guaranteed some continuing contact in the relationship with the children, and they with him. Unless the applicant justifies the suspension of that. Because quite often the level of violence that I see is between a couple who are usually working out the last death rows of their relationship and once they are separated the issues of violence lapse because they're not together. And if they are apart, then the opportunity for violence and the fact of violence is removed. There is probably no reason why the children can't go on in a good, um, relationship with their father. Now, that is subject to, to the, subject to in fact there being violence towards the children, which is a different matter. But **if there is no violence directed towards the children and it is observed as between this couple who are in the process of separating, then once they're separated, I really question whether the relationship should be disturbed.** I don't think it should be."

As evident in excerpt above, Thomas also utilises *Domestic violence as a symptom of a breaking down relationship* and *Decreased risk of domestic violence after separation* to bolster his argument that the relationship between the father and children should not be affected because of violence occurring between a couple. That is, he suggests supervised access is unnecessary because the conflict associated with the end of the relationship is over, and hence the risk to violence occurring is decreased. Together, these discourses challenge the need for children to be protected through supervised access.

Other lawyers also resisted the *Partner violence as harming child witnesses* and the *Partner violence as child abuse* discourses by questioning how much children are harmed by witnessing abuse, and hence whether they really need protection when the violence was not directed specifically at them.

Julia: "Um, I guess, one of the most difficult issues is filtering out **how much affect, either directly or indirectly, the domestic violence has on the child.** And when the new legislation came in, one of things that I was worried about was that, um, actually stopping access um where there had been no direct violence either physical or emotional against a child."

In addition to the resistance discussed above, a couple of lawyers utilised *Partner violence as harmful to child witnesses*, and *Partner violence as child abuse*, but positioned men as being not being aware of or appreciating the harm they cause to children by allowing them to witness abuse. In this way, abusers do not intend to harm their children; it is not deliberate. For example, Andrew's excerpt below, talks of an abuser who "didn't really appreciate" what he was saying

about his partner in front of the children was abusing the children. He minimises two male clients' intentions on several occasions, as shown below.

Andrew: "**He didn't really appreciate the things that he was saying about her in front of the kids was abusing the kids.**"

Andrew: "But then when the kids are involved it's always kind of difficult, isn't it. I mean, it's a parenting skill thing to think, 'I must not sort of run her down or bleat about what's happening with us in front of the kids.' And, you know, it doesn't always happen, whether it's, **I'm sure it's not deliberate. It's just not thinking.**"

Andrew: "I can think of another one where I had a male client. **It was mostly this not realising what his behaviour, what impact his behaviour had on the kids.**"

Andrew: "**[Those two men] just didn't appreciate their behaviour was gross or was harming the children.**"

Other lawyers also positioned men as being unaware of the effects their abuse has on children.

Sarah: "I definitely think that if, um, a party has been violent towards their, um, partner, it's going to have an effect, um, on the children. Especially **if they don't recognise the problem**, if they're allowing, ah, the violence to occur in front of the children."

Rosemary: "Because quite often, that, these gentlemen are still very angry, and **they don't see that it's really the kids who are getting hurt.**"

Because such men do not intend to harm their children, they are positioned as more 'innocent', and hence, less responsible and accountable for any harm. This particular construction of *Partner violence as harmful to child witnesses*, where men are positioned as unaware of the harm they cause to children, mitigates the use of this discourse to support protection of children through supervised access.

Partner violence as just poor parenting

One lawyer constructed men's abuse of their partner in front of their children as being more of a parenting issue than a domestic violence issue. Men's lack of awareness (discussed above) is because they do not have sufficient parenting skills. In this way, men are not positioned as child abusers when they abuse their partner in front of their children (as in *Partner abuse as child abuse*), but as engaging in poor parenting practice.

The excerpts below illustrate Andrew's use of this discourse. As can be seen, he utilises it in combination with the construction of men as unaware that their behaviour is harming or abusing the children. These discourses both downplay the abuser's role in harming children through exposing them to violence.

Andrew: "He didn't really appreciate the things that he was saying about her in front of the kids was abusing the kids."

Rachael: "Oh okay. He didn't recognise it as harmful?"

Andrew: No. And I don't think the Living Without Violence Programme would necessarily focus on that. ***It's more of a parenting skill issue.***"

Andrew: "Well, I think it's, yeah, ***it's this parenting skill thing***, isn't it? Whether, these last two cases that I've defended for these guys, they didn't appreciate what they were doing was harming the children. And ***that's a parenting skill issue.***"

Andrew: "But then when the kids are involved, it's always kind of difficult isn't it? I mean, ***it's a parenting skills thing*** to think, 'I must not sort of run her down or bleat about what's happening with us in front of the kids.' ... I'm sure it's not deliberate. It's just not thinking."

In summary, this infrequently used discourse positions men who abuse their partners in front of their children as having deficiencies in their parenting practice as opposed to them being child abusers. The detraction away from child abuse, and the emphasis on individual deficit (also discussed in relation to violent men having deficits that lead to their violence), positions such men more leniently.

Children as needing both parents

Whilst some lawyers resisted the construction of *Children as needing both parents* within the context of domestic violence, some lawyers deployed it when they were talking about custody and supervised access. For example, they talked of children "losing out", of children's right to a relationship with their non-custodial parent, and the role that parents, including fathers, have on identity formation. The majority of the time, however, *Children as needing both parents* was used cautiously. Lawyers usually balanced children's need to a relationship with both parents against their need to be protected from violence.

The following excerpts illustrate lawyers' use of *Children as needing both parents*. As can be seen below, Thomas and Nicola also drew on the construction of *Children as needing to be protected*.

Alison: “[The men who have abused their partners] are not that bad, and then suddenly, you know, **their kids lose out...**”

Fiona: “The long term effect, the practical effect on families, I think I see as being more problematic. I think, um, the single parent family, **the boys without fathers, um, are, is, I think it's a tragedy for a small country.** And I have a problem with that.”

Thomas: “And when I counsel for child, **I really work hard on the ability of children to maintain their relationship, which I see as their right, with their non-custodial parent,** if they want to and if there's no factors which militate against that.”

Nicola: “I think that, I think **children need to know who their parents are.** Um, I think that's really important for them. Um, **I think that they need to have contact with their parents to form an identity, and, including their fathers,** If they've been violent and abusive I do think that children need to be kept really safe from it and protected.”

In the excerpt below, Thomas also refers to *Children as needing both parents* when he speaks of children's rights to a relationship with their non-custodial parent being more important than women's fear of the non-custodial parent. As articulated below, Thomas constructs fearful women who “obstruct” the child/non-custodial parent relationship as not being the better of the two parents to have custody. In this way, he constructs obstruction of child-parent relationships as worse than being violent to a partner and inducing fear in her – that is, unless the level of previous and potential violence is bad enough.

Thomas: “My own view is that the custodial applicant's fear of the non-custodial parent has got to become irrelevant. Because **the children's right to a relationship must come before that.** If the fear is so great that they chronically obstruct the relationship, then in my view, they, that when they demonstrate they aren't providing the right, um, environment for their children, they may not be the right, they may not be the better of the two people to have custody. And that would have to be balanced against the extent to which the other party has been violent, and may continue to be violent.”

In summary, *Children as needing both parents* constructs the relationship between non-custodial parents and children as being important to the child. Because of this, violent men's contact with children is deemed an important consideration. Through this discourse, supervised access could be viewed as restricting this important relationship. Whilst this discourse was not utilised frequently, especially without reference to the *Children need to be protected* discourse, it could be used to resist supervised access.

Violent partner; good father, and its co-articulation

Several lawyers constructed men's violence towards their partners as quite distinct from their parental abilities. Men could be both violent partners and good parents. Their violence within their intimate relationship did not necessarily generalise to their relationship with their children. Not surprisingly, the *Violent partner; good father* discourse argues against the need to protect children through supervised access.

Andrew: ***"Just because an order's made doesn't necessarily mean that, um, the respondent is a bad parent."***

Thomas: ***"There can be good relationships between children and their parents which are completely independent of the bad relationships the parents have. So, that's a really a strong theme with me."***

Thomas: "And the only issue for me then as counsel for the child is if once they are apart and the opportunity to continue that diminishes whether one of them can put that behind them sufficiently to accept that ***their relationship with their former partner was a disaster, but that the children's relationship with that person may not be, and ought not be...*** It may be, may be beneficial. ***The kids may have a good relationship with the other party.***"

In the last of the excerpts above, Thomas also utilises *Decreased risk of domestic violence after separation* to downplay the need for supervised access. In the following excerpt, Julia also utilises the *Violent partner; good father* discourse with other discourses to mitigate the need for supervised access. In particular, she uses *Protection orders make things worse* and *Expressive tension* to argue against the need to protect children with supervised access. However, she also expresses some caution by saying that there is still a need to err on the side of safety for children, and that role modelling may cause children indirect harm.

Julia: "I guess one of the most difficult issues is filtering out how much affect either directly or indirectly the domestic violence has on the child. And when the new legislation came in one of things that I was worried about was that, um, actually stopping access, um, where there had been no direct violence, either physical or emotional against a child, I was concerned that they may well be counterproductive. Because, um, ***I've had not a small number of women say, you know, 'He's a pig to me but he's a good Dad.'*** Um, and, in some situations I believe depriving that kind of person of contact with their children may be enough to tip them over. And if they're volatile, and if they've got low thresholds, you know, of, um, anger control, I really I don't know. And I don't know whether there's been any follow up research done.

And, um, although you have to err on the side of safety for children, ***I think that in my experience, some people can be extremely dysfunctional partners but adequate parents, wouldn't, wouldn't harm their children directly.*** But that begs the question of role modelling.”

Alison also utilises *Violent partner; good father* with other discourses to challenge whether supervised access is really necessary. More specifically, she utilises *Domestic violence as a one-off incident*, *Expressive tension*, and *Protection orders as weapons*.

Alison: “Of course, the level of violence varies a lot. If a guy punches his partner once she can get a protection order against him. And he shouldn't have punched her and he should stay away from her, there's no doubt about that. ***But he might have been living in the same household as these kids for years and he's never touched them. A lovely Dad.*** And he's going to see them once a fortnight for an hour and half in a supervised environment. And I just don't think it's, you know, for some cases it's like very appropriate, but you know in other situations. It's just sometimes protection orders are probably used as a way of getting custody... I just feel sorry for some guys sometimes, you know. ***They've screwed up their relationships. Because they're not all bad.*** There's just such a wide range, like you might just get this stupid guy who loses his temper and hits his partner, and he should never have done it, and he needs to go to anger management or something, and learn a few tools of dealing with other people. But they're not bad blokes, you know, what I mean. They're not that bad, and then suddenly, you know, their kids lose out... ***It's amazing how many guys hit their partners and never touch the kids. It's incredible. Oh well, that's what they all say, the women say, that they don't, you know. It's amazing. I just, I would think that if they were going to lose their temper with their wife, they'd lose their temper with their kid.***”

In summary, the *Violent partner; good father* discourse constructs men's violence towards their partners as quite distinct from their parental abilities. Here, men are positioned as being violent partners, but good parents. Their status as 'good parent', hence, challenges the need to protect children through supervised access. As illustrated above, this discourse was co-articulated with several other discourses, such as *Protection orders as weapons*, *Domestic violence as a one-off incident*, *Decreased risk of domestic violence after separation*, and *Protection orders make things worse*, to further argue that supervised access is unnecessary.

Protection orders as weapons

As mentioned earlier, and illustrated in the section above, lawyers utilised *Protection orders as weapons* to undermine women's motives for seeking a protection order. This discourse has been discussed at length in Chapter 11. In brief, vindictive women are said to lie or exaggerate

about abuse so that they can use a protection order to gain an unfair advantage in custody and access proceedings. This suggests that women's primary goal is to seek revenge against their former partner, not to protect themselves or their children from domestic violence. Furthermore, because they have fabricated violence, the children are not in need of protection anyway. In these ways, the need to protect children through supervised access is undermined. Lawyers frequently used this as a method to argue against supervised access.

Protection orders as restricting men's rights, and its co-articulation with other discourses

As exemplified in Chapter 11, *Protection orders as restricting men's rights* constructs protection orders as impinging on respondent's usual rights and freedoms. Within this discourse, parents are constructed as having rights to a relationship with their children, and supervised access is constructed as violating these rights. I now examine how some lawyers used this discourse with discourses of domestic violence to undermine children's need for protection through supervised access.

First, several lawyers talked of a minimal level of violence leading up to the granting of the protection order, and juxtaposed this to the magnitude of implications that supervised access has for men. In this way, *Hierarchical scale of violence* was co-articulated with *Protection orders as restricting men's rights* to undermine the need for children to be protected through supervised access. As seen in the excerpts below, lawyers spoke of violence being of a "lower level situational type", "relatively minor", and as negligible whether the 'violence' even constituted violence.

Michelle: "Once the protection order is made the man's relationship with his children, in effect, is seriously interfered with, from the very making of the order... Because many men, many men, and I'm not saying that they shouldn't be getting orders, because that's not what I'm saying. But, um, if it's been of a **low level situational type, um, if I call it violence, um, I'm sort of, um, saying that in inverted commas** {laugh}, um, the, and, and the man suddenly finds that he is being cut from seeing his children, which almost inevitably happens.

Thomas: "The judge grants the application out of excess of caution, when **the degree of violence often, at least here, is relatively minor**. And I think that's wrong often, because the immediate affect, um, ah, if the parties are apart, um, precludes access, and interferes with the relationship between the child or children and the non-custodial parent."

Also interesting in Michelle's excerpt is her qualification that the imbalance between minimal violence and huge implications happens to "many men, many men"; men being cut from seeing

their children “inevitably happens”. This bolsters the magnitude of this problem for men. In addition to this, it is interesting to note her use of the words, “I’m not saying that they shouldn’t be getting orders, because that’s not what I’m saying”. This probably serves to deflect criticism and preserve self-presentation. Without this sentence, her comments could be interpreted to mean that women do not need protection from domestic violence. Thomas’s excerpt is also interesting in that he speaks of judges granting applications out of “excess of caution”. This gives the impression that some orders are probably not necessary. Indeed, whether protection orders were constructed as being easy or difficult to get was very much dependent on the context and the argument that lawyers were making.

Protection orders as restricting men’s rights was also co-articulated with *Domestic violence as a one-off incident*. Christopher’s excerpt, below, illustrates this. In this excerpt and the text surrounding it, he states that it is understandably a “hugely embittering” experience for respondents of protection orders to be restricted to supervised access when their violence was only a “one-off thing”.

Christopher: “But he would never harm the kids or even her. I mean, it was just a **one-off thing**. So when you get a **one-off situation** like that, and a protection order is in place, and they have to be supervised, it can be a hugely embittering experience.”

Interestingly, Christopher claims at the beginning of this quote that his client would *never* harm his partner or his children. This is inconsistent with the rest of the quote, however. He has harmed his partner at least once in the one-off incident of violence.

In the excerpt below, Thomas talks of how a ‘supposed victim’ can manipulate the occurrence of a ‘one-off’ incident (in this case referred to as an ‘argument’) to obtain occupation of a house, and to restrict her partner’s access to his children. In this way, both *Protection orders as weapons* and *Domestic violence as a one-off incident* are co-articulated.

Thomas: “Ah, and the result of that is in fact, that the precipitating cause may have been **one argument between the couple**, which got out of control, which was freely and mutually engaged in, but which one party is able to manipulate to obtain occupation of a house and disrupt access, or disrupt the relationship between their children and the non-custodial parent.”

As is evident from this excerpt, Thomas also utilises the *Two to tango* discourse (i.e., there was one argument between the couple in which the woman “freely and mutually engaged”). The protection order and supervised access are not being used for protection; rather, they are misused to disrupt the relationship between the children and their father. Furthermore, because the *Two to tango* discourse implies mutual responsibility for the violence that led to the order being granted, it infers that it is ‘unfair’ for the man alone to be ‘punished’ for this.

Several lawyers talked about the “suddenness” of men having supervised access. The use of the word “sudden” precludes anything violent occurring before women were granted an order, and suggests that supervised access is a completely unexpected, and supposedly unjustified, outcome for men. This is seen in the excerpts below.

Michelle: “And the man **suddenly** finds that he is being cut from seeing his children, which almost inevitably happens.”

Christopher: “She got a protection order, and then **all of a sudden**, he had this humiliating experience, to see his kids he’d go along to be supervised by a Bamadoes worker.”

Thomas: “And because of the **suddenness** and violence of the intervention, it actually creates significant problems which are not then deal with for months and months and months.”

Richard: “**All of a sudden**, and their relationship’s probably quite reasonable with their children, **all of a sudden**, they’re restricted to access at Bamadoes once every three weeks, or whatever.”

Similarly, Michelle trivialises the history of violence leading up to the granting of a protection order by saying that whilst some men are not angry before the protection order, they certainly are after supervised access is imposed. Seeing that many lawyers utilise an *Expressive tension* discourse of domestic violence, where anger or other inner tension leads to violence, a ‘lack of anger’ could be interpreted as meaning no violence occurred before supervised access was imposed.

Michelle: “He’s told, ‘Well, you can have either,’ the court either says, ‘No access,’ or it says, ‘supervised at Barnardos only.’ That really gets the men in many cases angry. I mean, **if they haven’t been very angry up ‘til that date**, that makes them a, very angry. And, um, I think that, that’s something that has to be, be looked at.

Finally, the excerpts below are interesting because they construct the consequence of a protection order (interference of the relationship between children and fathers because of supervised access) as being much greater than what women “ever anticipate”, and as something that is not “weighed sufficiently” by the applicant, their lawyer, or the Courts.

Michelle: “Once the protection order is made, the man’s relationship with his children, in effect, is seriously interfered with, from the making of the order... I mean, **I’ve always had some difficulties with whether or not people should, should apply**

for orders, because the consequence of the orders can be much greater than they ever anticipate.”

Thomas: “The immediate affect, um, ah, if the parties are apart, um, precludes access and interferes with the relationship between the child, or children, and the non-custodial parent. And ***I think that that is the consequence, which is not weighed sufficiently by the applicant***, or their lawyer, or by the Courts.”

The notion that applicants do not consider the consequences of applying for an order seriously contradicts the notion that women intentionally and vindictively apply for protection orders to interfere with their ex-partner's relationship with his children. Despite the contradiction, both can be used to align with men's interests, and to undermine children's need to be protected through supervised access.

In summary, *Protection orders as restricting men's rights* was utilised to mitigate the ethics of protecting children through supervised access. This discourse was co-articulated with other discourses and constructions (for example, *Hierarchical scale of violence*, *Domestic violence as a one-off incident*, *Protection orders as weapons*, and *Two to tango*) to trivialise or obscure women's experiences of hardship and violence, to emphasise the harm caused to men, to diminish men's accountability for violence, and to blame women for 'harm' associated with supervised access. As evident in section above (and the corresponding section in Chapter 11), lawyers utilising this discourse put little or no emphasis on men's responsibilities to their children. Hence, men's responsibilities to their children are silenced through this discourse.

Conclusion

Several discourses were utilised by lawyers to advance the need to protect children from domestic violence through supervised access, or to challenge this. Constructions most often utilised to promote supervised access included *Partner violence as harmful to child witnesses*, *Partner violence as child abuse*, and *Children as needing protection*. Together, these construct children as needing supervised access to protect them from the harm and psychological abuse caused through exposure to violence against women by male partners. Through these discourses, and the requirement of supervised access, children's safety is advanced, and their risk of further harm is minimised.

Several discourses were realised in arguments against supervised access in the context of domestic violence. These discourses construct partner violence as just poor parenting, children as needing both parents, violent partners as good fathers, protection orders as weapons, and protection orders as restricting men's rights. Together, these discourses can be seen to advance men's right to a relationship with their children, to diminish men's responsibility for violence that occurs in front of their children, and to minimise children's need for protection. Resistance and

modifications to discourses that advanced supervised access also mitigated men's responsibility for their violence and negated children's need for protection in all situations. Interestingly, within this conglomerate of discourses, supervised access was not considered a method of balancing children's right to a relationship with both parents with children's need for protection (Smith, 2000). Nor was it constructed as a way to enable men to have a safe relationship with their children. Rather, supervised access was constructed as a way to violate men's rights to a relationship, and children's right to a relationship with both parents.

Towards an ending

CONCLUSIONS

In this chapter, I draw some conclusions in relation to three broad areas. First, I discuss the findings of the research in relation to the two main objectives of the research. I then make some reflections about feminist poststructuralism and the chosen methodologies. Finally, I make some suggestions for future research.

Some conclusions about the findings

As periodically referred to through the thesis, the present research project had two main components. First, it explored how well the legal system serves the needs of women who experience abuse and violence from their male partners and ex-partners, and second, it explored how lawyers make sense of partner violence and the legal response to this violence.

The first phase of the research examined and represented women survivors' satisfaction with different aspects of the legal system. This included their experiences of legal personnel (e.g., judges, lawyers, police), the Family and District Court, protection orders, and child custody and access issues. As discussed in Chapter 5, narrative representation was considered a useful way to represent women participants' experiences. Ten women's individual experiences were represented through specific narratives in Chapter 7. As evident from the individual stories, women's experiences of the legal response to domestic violence varied considerably: their partners' violence and abuse varied, their legal involvement spanned differently across two periods of legislation (the Domestic Protection Act 1982 and the Domestic Violence Act 1995), and women utilised or became involved with different aspects of the legal system (e.g., police enforcement, criminal prosecution of partner in the District Court, protection-type orders, determining child access, and so on).

Overall, the present research suggests that the legal system does NOT consistently serve the needs of women who experience partner violence. Indeed, women shared many difficulties they encountered with legal personnel and with the legal system more generally. These problems have been discussed in some detail in Chapter 8, along with the factors that women appreciated and found useful. A couple of the issues raised by women are recapitulated now, so that they can be discussed alongside lawyers' discourses of domestic violence and the legal response, later in this chapter.

First, some women did not feel their experiences of domestic violence (particularly psychological abuse) were understood or treated seriously by legal personnel who were meant to be advancing their protection from, and perpetrators' retribution for, domestic violence (e.g., judges, lawyers, police). Abuse and violence that had been directed towards them was minimised and trivialised. The reasonableness of their panic and distress was not always understood. Lawyers representing their (ex-)partners further undermined their experience of domestic violence and psychological abuse, and men's responsibility for such violence, in both the Family and the District Courts. The consequences for perpetrators of partner violence were often negligible.

In addition to this, some women encountered resistance from a range of legal personnel when they attempted to protect their children through supervised access. Indeed, there seemed an emphasis on advancing the relationship between their violent (ex-)partner and children, whilst the protection of their children was subordinate. Not only did some women experience difficulties and rudeness in this area from judges, their ex-partners' lawyers, and their own lawyer on occasions, one woman experienced advancement of fathers' rights over children's rights from her son's lawyer. It seems that instead of being constructed as protective or concerned for their children, some women felt positioned as vindictive for insisting on the need for supervised access, or for wanting other legal interventions that might affect their (ex-)partner.

It also seemed evident that some lawyers had poor interpersonal skills from the women's point of view. Several women described their lawyers as being unwilling or unable to cope with the emotional element that accompanies domestic violence work. These lawyers lacked understanding and empathy, and sometimes dismissed the women concerned as being over-emotional or over-reactive. Sometimes, it was as if lawyers interpreted their emotional state to mean they were not rational or able to determine the 'reality' of their situation. Furthermore, women who stood up to their (ex-)partners (or lawyers) were treated as if they were difficult or playing power games, instead of defending their rights.

These, and other issues discussed in Chapter 8, can be considered to perpetuate oppression in women's personal relationships, and in their interaction with the legal system.

The second phase of the research explored the meaning that lawyers give to domestic violence, psychological abuse, victims and perpetrators of domestic violence, protection orders, and the legal response to domestic violence. As elaborated in Chapter 6, discourse analysis was considered an appropriate methodology to do this. Discourses utilised by lawyers to construct the entity domestic violence, and to explain domestic violence were discussed in Chapters 9 and 10, respectively. Discourses used to support or undermine orders to protect women, and supervised access to children, were discussed in Chapters 11 and 12, respectively.

In relation to the second research objective, lawyers utilised many discourses to make sense of and constitute domestic violence and the legal response to domestic violence. Some of these discourses and constructions can be viewed as consistent with holding perpetrators accountable for their violence (e.g., *domestic violence as power and control*) and with protecting women and children from domestic violence (e.g., *domestic violence as unacceptable*, *protection orders offer safety and protection*, and *partner violence as harmful to child witnesses*). These discourses are consistent with the objectives of the Domestic Violence Act 1995, and with the feminist analysis of domestic violence that has influenced the Domestic Violence Act 1995. Whilst this research did not examine lawyers' discourses before the introduction of the Domestic Violence Act 1995, one could tentatively suggest that this legislation, and the debates leading to its introduction, may be partly responsible for the circulation of discourses that advance women and children's protection from domestic violence.

Whilst lawyers utilised discourses that support protecting women and children from domestic violence, these discourses were challenged and contradicted by discourses that assist in oppressing women and marginalising their experiences of domestic violence. Such discourses minimised and detracted attention away from men's violence towards women, women's experiences of abuse and violence, and women and children's need for protection and safety. In this way, gender bias and oppression against women is maintained and perpetuated within the legal system.

Several of the discourses realised in the talk of lawyer participants minimise perpetrators' agency and responsibility for domestic violence. Particularly noteworthy is the lack of agency and control ascribed to violent men positioned by the *expressive tension* discourse and the *social system* discourse: they are either 'out of control', or violence is 'beyond their control'. Such discourses do not encourage men to be accountable for their violence. Choice over one's behaviour is also missing in discourses that construct domestic violence as *part of the human condition* or as *a consequence of colliding circumstances*. Interestingly, the *social system* discourse offers a subject position of accountability to the New Zealand government. That is, through social policy, the government is expected to address problems faced by lower socioeconomic peoples and women through the structure of our economy and through patriarchy.

Some discourses positioned women as partly responsible for domestic violence. The inner tension that results in violence through an *expressive tension* discourse was often constructed as arising in conflicts in which women were involved. Women's infidelity was one such circumstance that was constructed as almost justifiably causing tension that led to domestic violence. Women were also blamed through the *two to tango* discourse. This discourse positioned women as provoking violence (as in the example of women's infidelity), and/or

behaving violently themselves. Verbal violence was constructed as being a type of violence particularly used by women. Discourses that construct the relationship as being at fault (e.g., *pathological relationship* discourse and the construction of *domestic violence as a consequence of a breaking down relationship*) detract responsibility away from the perpetrators of violence as they are shielded by the 'relationship'.

Lawyers' also utilised discourses that minimised the seriousness of domestic violence. Of particular interest was the *hierarchical scale of domestic violence* discourse. This constructed some violent behaviours (quite often psychological abuse) as being 'borderline' or 'lower level'. Also used to minimise men's violence was the construction of *domestic violence as a one-off incident*. Such constructions of violence and abuse are unlikely to match the experiences of many women who find psychological abuse very harmful, or the 'one-off' physical attack being accompanied by psychological abuse, or other 'one-off' attacks. Minimisation of violence is contrary to the Domestic Violence Act 1995, which clearly states that "domestic violence, in all its forms, is unacceptable behaviour" (Butterworths, 2000, p. 710). Indeed, psychological abuse, one single act of physical violence, and acts that seem trivial in isolation but together form a pattern of behaviour are all considered sufficient to constitute domestic violence according to the Act.

It was interesting to note that sexual abuse and violence by male intimates was almost absent from lawyers' talk about domestic violence. This further silences women by offering no names to attach to their experiences within abusive heterosexual relationships. Discourses that minimise or silence certain kinds of domestic violence are likely to discourage women from utilising the legal system and limit the availability of effective legal protection to women experiencing particular kinds of partner abuse. In this way, the safety of women and children is compromised.

Particularly oppressive is the perpetuation of constructions of *protection orders as weapons*. This positions women as revengeful manipulators of protection orders. The motives of women applying for protection orders, or attempting to protect children from domestic violence and/or unsafe parenting, are undermined. By creating a category of women who genuinely need protection and a category of women who do not, this discourse could increase lawyers' suspicion towards clients applying for protection orders. Encouraged by male respondents' versions of events, this discourse could also invoke the vigour of lawyers who defend orders against 'manipulative' women, and who represent men in custody and access proceedings. This effect is likely enhanced because the discourse positions men as victims of protection orders. Indeed, both *protection orders as weapons* and *protection orders as restricting men's rights* elevate men's vulnerabilities over women and children's protection. In doing this, violence against women is minimised and the effects of this violence are silenced. Like the discourses discussed above, these discourses are likely to discourage women from using the legal system,

to impact on legal responses offered to women, and to affect satisfaction of women using the legal system.

Lawyers utilised a range of discourses to mitigate the need for children's protection through supervised access. Discourses that minimised the extent of the violence (*domestic violence as a one-off incident*), and men's responsibility for this violence (*two to tango* discourse), were used alongside discourses that argued against the need for ongoing protection (e.g., *domestic violence as a symptom of a breaking down relationship* and *decreased risk of violence after separation*). Lawyers also disconnected men's violence towards their partner from their ability to parent (*violent partner; good father* discourse). Alternatively, violence in front of children was constructed as poor parenting skills instead of 'violent behaviour in the presence of children' (*partner violence as just poor parenting* discourse). *Protection orders as weapons* and *protection orders as restricting men's rights* were also utilised to undermine the appropriateness of protecting children through supervised access. These discourses do not align well with the intention of the Domestic Violence Act 1995, and Section 16 of the Guardianship Act 1968, to protect children from exposure to violence. Rather, the importance of protecting children is overshadowed by the importance of the father-child relationship. Whilst the father-child relationship can be constructed as in the 'best interest of children', and hence, child-centred, one might speculate whether this construction is primarily a way to perpetuate the best interests of fathers/men. Also of interest are some of the subject positions available to men and women through discourses that negate the need to protect children through supervised access. Through *violent partner; good father*, men's violence is constructed as specific to their relationship with their partner. Outside this relationship, particularly after separation (because the risk of violence is constructed as reducing after separation), men's violence is constructed as irrelevant, and their parenting good. This means that when women attempt to protect their children through supervised access, they are positioned as unjustly interfering with the father-child relationship or as vindictively using protection orders for this end (as realised in *protection orders as weapons*). Interestingly, whilst women are constructed negatively for attempting to protect their children after the couple have separated, women are also positioned negatively when they do not protect their children from violence (particularly whilst still in the relationship). This gives women the extraordinary task of negotiating two contradictory subject positions. This contradiction, and violent men's positioning as good fathers, has also been raised by Eriksson & Hester (2001) within an English and Swedish context. Indeed, these authors highlight that because men are typically positioned as 'fathers' after separation (instead of retaining their position during the relationship as child abusers or of men who impose a risk to their children), children's safety and welfare are threatened. Furthermore, women's behaviour is constrained by positioning men in this way. Should they attempt to protect their children from a violent partner in an insistent manner, they attract negative labels, and are considered uncooperative.

It is perhaps not surprising that discourses contradicting the intentions of the Domestic Violence Act 1995 are readily available to lawyers. Some are commonsense understandings of domestic violence that have likely prevailed for some time, and that have historically been used to undermine the significance of men's violence towards women, both within and outside the legal context. Several support longstanding constructions of women as more irrational, emotional, unreasonable, manipulative, or vindictive than men. Furthermore, such discourses prevail in legal materials available to lawyers. For example, around the time that the Domestic Violence Act 1995 was introduced, an editorial in the *Butterworths Family Law Journal* warned of the potential for protection orders to be used as "another 'ultimate weapon'" in custody and access disputes (Zelas, 1995, p. 210). Similarly, a chapter on family law policy (Tapp & Taylor, 2002) that discusses the Domestic Violence Act 1995 in some detail, interprets statistics in an evaluation of Domestic Violence Act 1995 to "give some foundation for the anecdotal evidence that some applicants use 'without notice' applications as a tactic in custody and access matters" (Tapp & Taylor, 2002, p. 146). These authors also seem critical of the notion of power and control that the Act is based on. They draw attention to findings that suggest women assault men as frequently as men assault women, and say that the abuser is punished with little regard being given "to the origins of the violence and the dynamics within the particular family" (p. 138). Less recent articles draw attention to discourses that have been available to the legal profession in the past (and that may still be available). For example, in an article in the *Family Law Bulletin* about family therapy with the violent family (Davidson, 1987), men's physical abuse is described as an unacceptable type of communication within the family, which is preceded and caused by women's verbal abuse. These constructions of domestic violence and the legal response are hence perpetuated and maintained within (and beyond) the legal context. Indeed, because of the adversary involved with domestic violence prosecutions, defending protection orders, and 'battling' over custody and access, it is likely that discourses that advance women and children's protection from domestic violence will continue to be challenged by discourses that oppress women and marginalise their lived experiences of domestic violence.

At this point, it is interesting to examine some of the parallels between women's experiences of the legal system and the discourses utilised by lawyers who work with domestic violence within the context of family and criminal law.

First, it is not surprising that some women felt their experiences of domestic violence (particularly psychological abuse) were not understood when lawyers have a repertoire of discourses that minimise violence and mitigate men's responsibility for violence. Lawyers representing ex-partners can also draw on these discourses to weaken the perceived need for protection orders and/or supervised access.

Also, when we consider the repertoire of discourses that lawyers have to construct domestic violence, protection orders, and the suitability of supervised access, and the subject positions

these afford to women, men, and children, we can understand why some women participants felt that the legal system advanced the relationship between their violent (ex-)partner and children over their children's protection. Indeed, as suggested above, women participants felt they were placed in the unenviable position of being responsible for protecting their children, but not able to do this because it interfered with their (ex-)partners' rights to a relationship with the children. Women participants' frustrations in this area would support the notion that the aforementioned discourses are readily available within the legal context, and impacting on the legal system responsiveness to women and children victims of domestic violence.

When the construction of *protection orders as weapons* is so readily available to lawyers, it is not surprising that some women participants' (ex-)partners were believed over them, and they were perceived as vindictive. The disparity between the subject position afforded to women through the *protection orders as weapons*, and the experiences of women interviewed for the research was particularly evident. None of the interviewed women spoke of using the legal system to get back at their partners. Instead, women shared a desire to be protected from further abuse and violence, as well as a fervent concern for their children's safety. Any consequences men faced were not because of women's vindictiveness, but because men had been abusive and violent to their (ex-)partners. Furthermore, whilst this discourse positions women as using the law in an abusive way, some women shared quite the reverse: that their (ex-)partners utilised the legal system to continue their abuse of them.

Lawyers unwillingness or inability to cope with the emotional dimension that accompanies domestic violence can probably be understood in terms of the professional distance and emotional detachment that is expected by many professions, including the legal profession. Whilst the discursive construction of 'lawyers' requires more attention in future research, some lawyers spoke of the importance of professional distance during the interviews. Lawyers also constructed counselling as quite outside the expectation of lawyers. Interestingly, lawyers seem to conflate empathy with counselling. It is as if they could not be expected to deal with emotion as a matter of ordinary human interaction!

When lawyers (and other legal personnel) have access to discourses that advance the protection of women and children, and they translate these into practice, women are likely to feel more satisfied with the legal system response. Indeed, it is possible, that instances of women participants' satisfaction with the legal system were a consequence of such discourses. This is supported by women participants' satisfaction with the legal system when their experiences of domestic violence and psychological abuse were validated and understood, and their safety and their children's safety were treated seriously.

Reflecting on the theoretical stance and methodologies chosen

It is appropriate to make some reflexive comments about the theoretical stance and chosen methodologies.

First, feminist poststructuralism was a useful theoretical stance for the present research. For one, it rejects the prospect of absolute truth, and instead argues that there are multiple truths and realities, some that are hegemonically authorised as truth, and others that are marginalised and rejected. In light of this, feminist poststructuralism enables the deconstruction of commonsense and oppressive knowledges, and creates space for marginalised and oppressed groups and their previously excluded or subjugated knowledges (Gavey, 1989). Also useful about feminist poststructuralism is its claim that oppression is maintained, perpetuated, and resisted in socially, culturally, and historically situated discourses. These discourses offer subject positions that constrain and enable the persons that take them up or resist them.

In the present research, the chosen narrative methodology (narrative representation) recognised women's tellings of their experience (which have largely been silenced, dismissed, or overlooked) as a legitimate contribution to knowledge about women's lives, and worthy of representation. Women's voices, as represented by excerpts from their interview transcripts and my representation of what they shared during their interview, can be used to raise others' awareness and understanding. From this place, change may be initiated, women's experience with the legal system may be improved, and their safety and their children's safety increased.

Regarding the second phase of the present research, it was proposed that meaning is organised into consistent ways of speaking about domestic violence and the legal response to domestic violence (discourses). These discourses position women, children, and men in violent and abusive family relationships, and inform domestic violence intervention. Discourses utilised by lawyers (and the subject positions these discourses afford to women, men, and children) hence increase or decrease the responsiveness of the legal system to partner violence, women's satisfaction with the legal response, and oppression of women. As a methodology, discourse analysis enabled lawyers' knowledge and sense making to be deconstructed.

Throughout the research, I was aware of the tensions of working as a feminist poststructuralist researcher and adhering to appropriate thesis conventions. For example, some women's stories were longer than a conventional thesis chapter. Whilst this initially worried me, I decided that it was important to include and represent as many of the women's shared experiences as possible – even if this took many pages. Furthermore, narratively representing ten women's stories of partner violence and the legal system has significantly increased the length of this thesis. Because giving women voice was not something I wanted to compromise, I sought permission to exceed this maximum word limit. I also experienced tension with the tendency for theses to give the impression that research occurs in an exceedingly linear fashion. This is

rarely the case. For this study, research questions were not fixed at the beginning but were frequently reappraised as some directions were quashed or furthered. Similarly, the literature reviews were still in motion, and methodological approaches in development, as data was being collected.

There are also reflexive comments to make about the narrative and discursive analyses. First, in relation to the narrative representation, the split page format certainly gives greater recognition to women's voice by having it present on the same page with the researcher's version of these tellings (rather than placing it in an appendix, for example). Colleagues and friends said they appreciated this column whilst reading the stories; that it advanced women's voices as legitimate. However, because reading both columns (of ten stories) requires some endurance, it is also possible for readers to gloss over the women's words or to ignore them altogether should they wish. Whilst this split page format is appropriate for the present research (because of the audience and the objective of giving women voice), the format used to represent women's stories should always be designed with the audience in mind. Outside the academic context (and within it), women's voice could be included intermittently with the researcher's voice. Reducing the amount of text need not be conceptualised as giving women less voice. Rather, their voice might be maximised through increased reader engagement with the excerpts.

In relation to the discourse analysis, it is important to emphasise that the identified discourses are interpreted from my perspective as a feminist poststructuralist researcher. This means that I will direct criticism at discourses that are likely to oppress women, and that do not facilitate women's and children's lives to be free from violence and coercion. Another researcher, who assumes a different position, may critique the discourses using different criteria.

It is also important to re-emphasise that discourses do not exist in an interview transcript ready to be found. Rather, because discourse analysis is an interpretative process, the researcher inevitably assists in shaping and constructing the discourses during the analysis. This means that it would have been possible for another analyst to 'identify' different discourses. I, too, could have come up with alternative discourses if I widened or delimited boundaries of what seemed to constitute a particular object in a coherent and meaningful way. Indeed, sometimes it was hard to decide the boundaries of a particular discourse. For example, both *protection orders as weapons* and *protection orders as restricting men's rights* were coherent constructions of a specific object that were different from each other and from other constructions of protection orders. However, they could have been alternatively constructed as *protection orders as harmful to men/respondents*. Whilst now utilising broader criteria, this discourse still constructs protection orders in a coherent and meaningful way, which differs from other constructions of protection orders. Whilst unsettling at times, it was important to remember that like any other object, 'discourse' itself is an object that is brought into being and given a reality through language and interpretation (Parker, 1992).

On a related matter, I also became aware that naming and referring to individual discourses of domestic violence, protection orders, and so on, had the effect of reifying these discourses as objects. I hence caution the reader against objectifying the discourses in this way. In that there are multiple versions and realities, the discourses named and referred to in this thesis are partial, and open to alternative interpretations and critique.

It is also important to highlight that discourses are not 'good' or 'bad'. As discussed during the discourse analysis, utilisation of some discourses can have both positive and negative implications. For example, whilst constructions of *domestic violence as specific to certain social groups* can be utilised to stigmatise lower socioeconomic groups, and Maori and Pacific Island populations (a negative implication for these groups), it can also be used to justify resources for these communities (a positive implication). Similarly, whilst the *Social system* discourse removes men's responsibility for domestic violence, and hence, men are not held accountable for their violence (a negative implication for women), the government can be deemed responsible for addressing problems at the macro-level (a positive implication for women and others oppressed by the social system).

Furthermore, I became aware in several of the analysis chapters (e.g., the epilogue to the women's stories, the discourse analysis chapters, and even this conclusion) that it is hard to avoid writing authoritatively and convincingly about research findings although this is somewhat inconsistent with a feminist poststructuralist approach. In the end, however, I decided that writing too tentatively could be used to undermine research findings and conclusions that could be used to advance women's lives.

In that researchers who identify as feminist and/or feminist poststructuralist are politically accountable to women, this research has the intention of contributing towards improvement of women's experience with the legal system in relation to domestic violence. Whilst this has somewhat been achieved by giving women voice, and by raising awareness of the discourses that lawyers utilise through a thesis, there is still much that can be done. It is important that I raise awareness of the problems some women face when they use the legal system for domestic violence matters, and the implications of lawyers' sense-making in this area, with a larger target audience. Suitable audiences include relevant community agencies (e.g., Women's Refuge), the legal fraternity (including the New Zealand Law Society), and academia. To be effective, research findings and possible solutions need to be disseminated in a way that is accessible to specific audiences and that promotes improvements for women and children. Because several women suggested the need to have advocates for women engaging with the

legal system, it might be useful to approach the National Collective of Independent Women's Refuges to discuss the feasibility of strengthening this service for women¹.

Future research directions

Consistent with a feminist poststructuralist stance, it is important to point out that lawyer participants' utilisation of domestic violence and legal response discourses is limited to their production within a specific social context: that of a research interview. Lawyers might utilise or be informed by additional discourses, or a limited range of these discourses, in their interactions with clients, in other legal contexts, or in their personal interactions outside their workplace. Future research could examine the discourses used by lawyers in particular legal contexts, for example, within adversarial criminal trials relating to domestic violence. Such research is particularly relevant seeing that some women participants felt extremely distressed and angry with their treatment under cross-examination.

Other possibilities for future research in this area are diverse. There is much scope for representing women's stories of the legal response to domestic violence using narrative methodology. The stories of Maori, Pacific Island, Asian, immigrant, lesbian, and/or rural women who have utilised the legal system for partner violence are deserving of future attention. The sociocultural location of these women makes it likely that they will face additional difficulties with the legal system. Methodologies suitable for these populations is important. Because more time has passed since the introduction of the Domestic Violence Act 1995, it would also be possible to give greater attention to women's experiences in the period after enactment of this legislation. The narratives produced could be synthesised from interview transcripts and 'data' from other sources (e.g., diary entries, protection order judgements). The format used to represent the stories (e.g., researcher's voice, women's voice, split page format used in this thesis, researcher's voice with intermittent excerpts from women) would depend on the target audience, and the emphasis placed on women's voice, story length, and so on. Ethics permitting, it might also be informative to represent several women's experiences with the legal system as it is occurring. Whilst involvement in research using this method might not be suitable for some women, others might find the process quite empowering and supportive.

Discourse analysis could be used to examine discourses of domestic violence available to other legal personnel, and within a wide array of legal texts. For example, research that examines discourses available to police prosecutors would also be worthwhile, considering that police prosecutors determine which cases will be furthered for prosecution, and contribute to the success of prosecutions within the criminal court context. Since prosecutions rely on police

¹ Many Women's Refuges already offer advocacy with institutions like the legal system and WINZ. However, initiatives might be able to increase women's awareness and accessibility to this service. Women's Refuge would obviously need additional funding to make this possible.

reports when women victims of domestic violence are not cross-examined, future research could use these as texts for discourse analysis.

It might also be worthwhile re-attempting to engage judges in research considering their pivotal role in granting or denying protection orders, sentencing perpetrators, and arbitrating custody and access. Approval might be more likely if judges are required to talk about domestic violence, but not the legal response, within interviews. Failing this, judgements and other written texts (e.g. case law) would provide useful alternative texts to examine judicial discourses of domestic violence. Furthermore, books, chapters², and articles in legal journals that discuss and critique New Zealand policy and law in relation to domestic violence are also suitable texts for discourse analysis as these are materials with which lawyers and other legal personnel converse.

As evident in the women's stories, some women experienced much frustration when respondents challenge access that is required to protect their children. Because psychological reports (under section 29a of the Guardianship Act 1968) can influence the outcome in cases where these are prepared, research could examine the discourses utilised by court appointed psychologists. This seems particularly relevant because some women experience dissatisfaction with court appointed psychologists and their reports. This was recently raised as an issue by one of the women participants, whose attempts to keep her son safe have been regarded by the court appointed psychologist as evidence of her having "alienating parent syndrome". This same psychologist told her she needed to "put the past behind her". The participant finds this suggestion nonsensical when it is her ex-partners' history of violence and unsafe parenting that is so relevant to her son's present safety and future protection.

Discursive analyses that examine how lawyers (and others) use rhetoric to bolster the truth of their claims, or to manage self-presentation, would also be informative. The use of such rhetoric assists in the perpetuation of discourses that both benefit or disadvantage women and children.

Finally, future research needs to challenge silence around sexual violence and abuse in intimate relationships.

² For example, the chapter by Tapp and Taylor (2002) in *Family Law Policy in New Zealand*.

REFERENCES

- Abrahams, C. (1994). *The hidden victims: Children and domestic violence*. London: NCH Action for Children.
- Adams, J., & Kearns, L. (1996). *New Zealand Law Society seminar: Domestic violence legislation*. Wellington, N.Z.: New Zealand Law Society.
- Adams, P. J., Towns, A., & Gavey, N. (1995). Dominance and entitlement: The rhetoric men use to discuss their violence towards women. *Discourse & Society*, 6, 387-406.
- Aguilar, R. J., & Nightingale, N. N. (1994). The impact of specific battering experiences on the self-esteem of abused women. *Journal of Family Violence*, 9, 35-45.
- Arias, I. (1998). Complexities in family violence and the need for belongingness. In R. C. A. Klein (Ed.), *Multidisciplinary perspectives on family violence* (pp.212-219). London: Routledge.
- Arias, I., & Beach, S. R. H. (1987). Validity of self-reports of marital violence. *Journal of Family Violence*, 2, 139-149.
- Astin, M. C., Lawrence, K. J., & Foy, D. W. (1993). Posttraumatic stress disorder among battered women: Risk and resiliency factors. *Violence and Victims*, 8, 17-28.
- Auckland City Police. (2000, August 16). *Standing up to domestic violence: A guide to protection orders and the Domestic Violence Act*. Retrieved August 23, 2002, from: <http://www.aucklandcitypolice.govt.nz>
- Auckland District Law Society. (n.d.). *Administration of the law*. Retrieved September 4, 2002, from Auckland District Law Society Web site: <http://www.adls.org.nz/lawnz/judicial.html>
- Auckland District Law Society Working Party on Women in the Legal Profession. (1981). *Report of the working party on women in the legal profession*. Auckland, N.Z.: Auckland District Law Society.
- Auckland District Law Society Working Party on Women in the Legal Profession. (1989). *Women in the legal profession: The report of the second working party on women in the*

- legal profession*. Auckland, N.Z.: Public Relations Department of the Auckland District Law Society.
- Auckland Women Lawyers Association. (1987). *Submissions to the working party on the status of women in the profession*. Auckland, N.Z.: The Association.
- Australia Law Reform Commission. (1994). *Equality before the law: Justice for women*. Sydney, Australia: The Law Reform Commission.
- Avis, J. M. (1992). Where are all the family therapists? Abuse and violence within families and family therapy's response. *Journal of Marital and Family Therapy*, 18, 225-232.
- Bakan, D. (1996). Some reflections about narrative research and hurt and harm. In R. Josselson (Ed.), *Ethics and process in the narrative study of lives* (pp. 3-8). Thousand Oaks, CA: Sage Publications.
- Balzar, R., Haimona, D., Henare, M., & Matchitt, V. (1997). *Maori family violence in Aotearoa*. Wellington, N.Z.: Report for Te Puni Kokiri.
- Banister, P., Burman, E., Parker, I., Taylor, M., & Tindall, C. (1994). *Qualitative methods in psychology: A research guide*. Buckingham, England: Open University Press.
- Bar-On, D. (1996). Ethical issues in biographical interviews and analysis. In R. Josselson (Ed.), *Ethics and process in the narrative study of lives* (pp. 9-21). Thousand Oaks, CA: Sage Publications.
- Bartels, C. L. (1997). Understanding men who batter: Examination of a batterer typology and implications for treatment. *Dissertation Abstracts International*, 57 (07), 4693B.
- Barwick, H., Burns, J., & Gray, A. (1996). *Gender equity in the New Zealand judicial system: Judges' perceptions of gender issues*. Wellington, N.Z.: Judicial Working Group on Gender Equity.
- Barwick, H., Gray, A., & Macky, R. (1998). *Domestic Violence Act 1995 scoping report*. Wellington, N.Z.: New Zealand Department for Courts and the New Zealand Ministry of Justice.
- Barwick, H., Gray, A., & Macky, R. (2000). *Domestic Violence Act 1995 process evaluation*. Wellington, N.Z.: New Zealand Ministry of Justice and the New Zealand Department for Courts.

- Bashed boy near death. (2002, September 12). *Waikato Times*, ed. 2, p. 3.
- Bashed woman's recovery 'inspiring'. (2002, October 9). *The Press*, ed. 2, p. 8.
- Benard, C., & Schlaffer, E. (1992). Domestic violence in Austria: The institutional response. In E. C. Viano (Ed.), *Intimate violence: Interdisciplinary perspectives* (pp. 243-253). Washington, WA: Hemisphere Publishing Corporation.
- Bergman, B., & Brismar, B. (1991). Suicide attempts by battered wives. *Acta Psychiatrica Scandinavica*, 83, 380-384.
- Bograd, M. (1988). Feminist perspectives on wife abuse: An introduction. In K. Yllo & M. Bograd (Eds.), *Feminist perspectives on wife abuse* (pp. 11-26). Newbury Park, CA: Sage Publications.
- Bourlet, A. (1990). *Police intervention in marital violence*. London: Open University Press.
- Bowker, L. H. (1984). Coping with wife abuse: Personal and social networks. In A. Roberts (Ed.), *Battered women and their families* (pp. 168-191). New York: Springer Publishing Company.
- Bowles, G., & Duelli-Klein, R. (1983). Introduction: Theories of women's studies and the autonomy/integration debate. In G. Bowles & R. Duelli-Klein (Eds.), *Theories of women's studies* (pp. 1-26). Berkeley, CA: University of California, Women's Studies Department.
- Bradshaw, M., & Moore, P. (1995). Family violence. In *Family violence: Presumption in practice: Working with the new Domestic Violence Act: An inter-disciplinary conference to ensure that the professionals who are required to implement this legislation honour its intent: Conference, 30 June – 1 July 1995, Wellington* (pp. K1-K4). Wellington, N.Z.: New Zealand Psychological Society.
- Brown, L. M. (1998). Voice and ventriloquation in girls' development. In K. Henwood, C. Griffin, & A. Phoenix (Eds.), *Standpoints and differences: Essays in the practice of feminist psychology* (pp. 91-114). London: Sage Publications.
- Browne, A. (1987). *When battered women kill*. New York: Collier Macmillan.
- Burgess, J. (2002, September 7). 'No way accused could have escaped fire without injury'. *The Timaru Herald*, ed. 2, p. 5.

- Burman, E. (1994a). Feminist research. In P. Banister, E. Burman, I. Parker, M. Taylor, & C. Tindall (Eds.), *Qualitative methods in psychology: A research guide* (pp. 121-141). Buckingham, England: Open University Press.
- Burman, E. (1994b). Interviewing. In P. Banister, E. Burman, I. Parker, M. Taylor, & C. Tindall (Eds.), *Qualitative methods in psychology: A research guide* (pp. 49-71). Buckingham, England: Open University Press.
- Burman, E. (1995). 'What is it?' Masculinity and femininity in cultural representations of childhood. In S. Wilkinson & C. Kitzinger (Eds.), *Feminism and discourse: Psychological perspectives* (pp. 165-186). London: Sage Publications.
- Burman, E. (1998). The child, the woman and the cyborg: (Im)possibilities of feminist developmental psychology. In K. Henwood, C. Griffin, & A. Phoenix (Eds.), *Standpoints and differences: Essays in the practice of feminist psychology* (pp. 210-232). London: Sage Publications.
- Burman, E., & Parker, I. (1993). *Discourse analytic research: Repertoires and readings of texts in Action*. London: Routledge.
- Burr, V. (1995). *An introduction to social constructionism*. London: Routledge.
- Busch, R. (1994). "Don't throw bouquets at me... (Judges) will say we're in love": An analysis of New Zealand judges' attitudes towards domestic violence. In J. Stubbs (Ed.), *Women, male violence, and the law* (pp. 104-146). Sydney, Australia: Institute of Criminology.
- Busch, R., & Robertson, N. (1994). "Ain't no mountain high enough (to keep me from getting to you)": An analysis of the Hamilton Abuse Intervention Pilot Project. In J. Stubbs (Ed.), *Women, male violence, and the law* (pp. 34-63). Sydney, Australia: Institute of Criminology.
- Busch, R., Robertson, N., & Lapsley, H. (1993). Domestic violence and the justice system: A study of breaches of protection orders. *Community Mental Health in New Zealand*, 7(2), 26-44.
- Butterworths. (1999). *Butterworths Crimes Act 1961* (5th ed.). Wellington, N.Z.: Butterworths.
- Butterworths. (2000). *Butterworths family law statutes* (9th ed.). Wellington, N.Z.: LexisNexis Butterworths.

- Caesar, P. L. (1988). Exposure to violence in families-of-origin among wife-abusers and maritally violent men. *Violence and Victims*, 3, 49-63.
- Campbell, J. C. (2002). Health consequences of intimate partner violence. *The Lancet*, 359, 1331-1336.
- Campbell, J. C., Kub, J., Belknap, R. A., & Templin, T. N. (1997). Predictors of depression in battered women. *Violence Against Women*, 3, 271-293.
- Campbell, J. C., & Soeken, K. L. (1999). Forced sex and intimate partner violence: Effects on women's risk and women's health. *Violence Against Women*, 9, 1017-1035.
- Canadian Bar Association. (1993). *Touchstones for change: Equality, diversity and accountability: Report of the Canadian Bar Association Task Force on gender equality in the legal profession*. Ottawa, Canada: Canadian Bar Association.
- Cappell, C., & Heiner, R. B. (1990). The intergenerational transmission of family aggression. *Journal of Family Violence*, 5, 135-152.
- Carbonatto, H. (1994). Dilemmas in the criminalisation of spousal abuse. *Social Policy Journal of New Zealand*, 2, 21-31.
- Carr, D. (1986). *Time, narrative, and history*. Bloomington, IN: Indiana University Press.
- Cazenave, N. A., & Zahn, M. A. (1992). Women, murder, and male domination: Police reports of domestic violence in Chicago and Philadelphia. In E. C. Viano (Ed.), *Intimate violence: Interdisciplinary perspectives* (pp. 83-97). Washington, WA: Hemisphere Publishing Corporation.
- Chambers, J. (1986). Violence towards women: The pattern of injuries. In *Violence within the family II: Violence against the woman: Proceedings of a symposium held at the University of Otago Medical School, May 1986, Under the auspices of the Friends of the Otago Medical School Trust* (p. 4). Dunedin: The Friends of the Otago Medical School Trust.
- Chase, S. E. (1996). Personal vulnerability and interpretative authority in narrative research. In R. Josselson (Ed.), *Ethics and process in the narrative study of lives* (pp. 45-59). Thousand Oaks, CA: Sage Publications.
- Cherry, F. (1995). Kitty Genovese and culturally embedded theorizing. In F. Cherry (Ed.), *The stubborn particulars of social psychology* (pp. 16-29). London: Routledge.

- Chetwin, A., Knaggs, T., & Young, P. (1999). *The domestic violence legislation and child access in New Zealand*. Wellington, N.Z.: New Zealand Ministry of Justice.
- Christopheropoulos, C., Cohn, A. D., Shaw, D. S., Joyce, S., Sullivan-Hanson, J., Kraft, S. P., & Emery, R. E. (1987). Children of abused women: I. Adjustment at time of shelter residence. *Journal of Marriage and the Family*, 49, 611-619.
- Church, J. (1984). *Violence against wives: Its causes and effects: Results of the Christchurch family violence study*. Christchurch, N.Z.: Author.
- Coker, A. L., Smith, P. H., Bethea, L., King, M. R., & McKeown, R. E. (2000). Physical health consequences of physical and psychological intimate partner violence. *Archives of Family Medicine*, 9, 451-457.
- Coombes, L., & Morgan, M. (2001). Speaking from the margins: A discourse analysis of ten women's accounts of spirituality. *Australian Psychologist*, 36, 10-18.
- Crowell, N. A., & Burgess, A. W. (1996). *Understanding violence against women*. Washington DC, WA: National Academy Press.
- Cummings, E. M., & Davies, P. T. (1994). *Children and marital conflict: The impact of family dispute and resolution*. New York: Guilford Press.
- Darlow, T. (1997). *Are we still being beaten by domestic violence?: A review of the operation of the Domestic Violence Act 1995 in Wellington*. Wellington, N.Z.: Wellington Community Law Centre.
- Date, A. L. (1997). An examination of attitudes and behaviors presumed to mediate partner abuse. *Dissertation Abstracts International*, 58 (05), 2736B.
- Davidson, P. (1987). Family therapy with the violent family. *Family Law Bulletin*, 1, 99-101.
- Davies, B., & Harre, R. (1990). Positioning: The discursive production of selves. *Journal for the Theory of Social Behaviour*, 20, 43-63.
- Dead woman had more than 45 injuries. (2003, February 11). *The Evening Standard*, ed. 2, p. 3.

- Demaris, A. (1992). Male versus female initiation of aggression: The case of courtship violence. In E. C. Viano (Ed.), *Intimate violence: Interdisciplinary perspectives* (pp. 111-120). Washington, DC: Hemisphere Publishing Corporation.
- Dobash, R. E., & Dobash, R.P. (1980). *Violence against wives: A case against patriarchy*. London: Open Books.
- Dobash, R. E., & Dobash, R. P. (1988). Research as social action: The struggle for battered women. In K. Yllo & M. Bograd (Eds.), *Feminist perspectives on wife abuse* (pp. 51-74). Newbury Park, CA: Sage Publications.
- Dobash, R. E., & Dobash, R. P. (1992). *Women, violence and social change*. London: Routledge.
- Dobash, R. E., & Dobash, R. P. (2000). The politics and policies of responding to violence against women. In J. Hanmer & C. Itzin (with S. Quaid, & D. Wigglesworth) (Eds.), *Home truths about domestic violence: Feminist influences on policy and practice: A reader* (pp. 187-204). London: Routledge.
- Dobash, R. E., Dobash, R.P., & Cavanagh, K. (1985). The contact between battered women and social and medical agencies. In J. Pahl. (Ed.), *Private violence and public policy: The needs of battered women and the response of the public services* (pp. 142-165). London: Routledge & Kegal Paul.
- Doogue, J., & Blackwell, S. (2000). How do we best serve children in proceedings in the Family Court. *Butterworths Family Law Journal*, 3, 193-204.
- Driscoll, K., & McFarland, J. (1989). The impact of a feminist perspective on research methodologies: Social sciences. In W. Tomm (Ed.), *The effects of feminist approaches on research methodologies* (pp. 185-203). Waterloo, Canada: Wilfrid Laurier University Press.
- Drossman, D. A., Talley, N. J., Leserman, J., Olden, K. W., & Barreiro, M. A. (1995). Sexual and physical abuse and gastrointestinal illness. Review and recommendations. *Annals of Internal Medicine*, 123, 782-794.
- Du Bois, B. (1983). Passionate scholarship: Notes on values, knowing and method in feminist social science. In G. Bowles & R. Duelli-Klein (Eds.), *Theories of women's studies* (pp. 105-116). Berkeley, CA: University of California, Women's Studies Department.

- Duffy, M. E. (1985). A critique of research: A feminist perspective. *Health Care for Women International*, 6, 341-352.
- Dutton, D. G. (1988a). Profiling of wife assaulters: Preliminary evidence for a trimodal analysis. *Violence and Victims*, 3, 5-30.
- Dutton, D. G. (1988b). *The domestic assault of women: Psychological and criminal justice perspectives*. Boston: Allyn and Bacon.
- Dutton, D. G. (1998). *The abusive personality: Violence and control in intimate relationships*. New York: The Guilford Press.
- Easteal, P. (1993a). Homicide between sexual intimates in Australia: A preliminary report. In H. Strang & S. Gerull. *Homicide: Patterns, prevention and control. Proceedings from a conference held 12-14 May 1992*. Canberra, Australia: Australian Institute of Criminology.
- Easteal, P. (1993b). *Killing the beloved: Homicide between adult sexual intimates*. Canberra, Australia: Australian Institute of Criminology.
- Edwards, S. S. M. (1987). 'Provoking her own demise': From common assault to homicide. In J. Hanmer & M. Maynard (Eds.), *Women, violence, and social control* (pp. 152-168). London: The MacMillan Press Ltd.
- Edwards, S. S. M. (1989). *Policing 'domestic' violence: Women, the law and the state*. London: Sage Publications.
- Elliot-Eckert, E. M. (1997). Three important predictors of wife assault: Observing violence, aggressive attributional style, and low perceptions of control. *Dissertation Abstracts International*, 58 (03), 1592B.
- Ellsberg, M., Caldera, T., Herrera, A., Winkvist, A., & Kullgren, G. (1999). Domestic violence and emotional distress among Nicaraguan women: Results from a population-based study. *American Psychologist*, 54, 30-36.
- Ellsberg, M., & Heise, L. (2002). Bearing witness: Ethics in domestic violence research. *Lancet*, 359 (9317), 1599-1604.
- Elvridge, J. (1997). *The health sector and family violence: The response to male partner violence*. Wellington, N.Z.: Family Violence Advisory Committee Te Rangai Whiriwhiri Tukinotanga A Whanau, Department of Social Welfare.

- Erez, E. (2002, January 31). Domestic violence and the criminal justice system: An overview. *Online Journal of Issues in Nursing*, 7(1), manuscript 3. Retrieved September 18, 2002, from http://www.nursingworld.org/ojin/topic17/tpc17_3.htm
- Eriksson, M., & Hester, M. (2001). Violent men as good-enough fathers? A look at England and Sweden. *Violence Against Women*, 7, 779-798.
- Family Violence Prevention Co-ordinating Committee. (1988). *Attitudes to family violence: A study across cultures*. Wellington, N.Z.: Family Violence Prevention Co-ordinating Committee, Department of Social Welfare.
- Fantuzzo, J. W., & Lindquist, C. U. (1989). The effects of observing conjugal violence on children: A review and analysis of research methodology. *Journal of Family Violence*, 4, 77-94.
- Fikree, F. F., & Bhatti, L. I. (1999). Domestic violence and health of Pakistani women. *International Journal of Gynaecology & Obstetrics*, 65, 195-201.
- Fists, hands, sticks used in assault, says witness. (2003, February 15). *The Evening Standard*, ed. 2, p. 3.
- Flax, J. (1992). The end of innocence. In J. Butler & J. W. Scott (Eds.), *Feminists theorise the political* (pp. 445-463). London: Routledge.
- Flowers, R. B. (1994). *The victimization and exploitation of women and children: A study of physical, mental and sexual maltreatment in the United States*. Jefferson, NC: McFarland & Co.
- Follingstad, D. R., Hause, E. S., Rutledge, L. L., & Polek, D. S. (1993). Effects of battered women's early responses on later abuse patterns. *Victims & Violence*, 7, 109-128.
- Follingstad, D. R., Rutledge, L. L., Berg, B. J., Hause, E. S., & Polek, D. S. (1990). The role of emotional abuse in physically abusive relationships. *Journal of Family Violence*, 5, 107-120.
- Forsstrom-Cohn, B., & Rosenbaum, A. (1985). The effects of parental marital violence on young adults: An exploratory investigation. *Journal of Marriage and the Family*, 47, 467-472.

Found guilty of trying to set woman alight. (2002, September 11). *The Timaru Herald*, ed. 2, p. 2.

France, S., & Pike, J. (1997). Criminal law. In R. Cooke, T. M. Gault, P. J. Downey, H. Papadopoulos, S. Lazarus, & D. Bennet (Eds.), *The laws of New Zealand: Volume 9* (1992-2002). Wellington, N.Z.: Butterworths.

Freeman, C. R. (2000). Personality subtypes and differential treatment progress in men charged with domestic violence. *Dissertation Abstracts International*, 61 (02), 1124B.

Freeman, M. P. (1993). *Rewriting the self: History, memory, narrative*. London: Routledge.

Frieze, I. H., & Browne, A. (1989). Violence in marriage. In L. Ohlin & M. Tonry (Eds.), *Family violence* (pp163-218). Chicago: University of Chicago Press.

Gatfield, G. (1996a). *Biographies of New Zealand's High Court Judges: A statistical picture*. Auckland, N.Z.: Equity Works.

Gatfield, G. (1996b). *Early women lawyers: Careers of women admitted as barristers and solicitors in New Zealand, 1897-1959*. Auckland, N.Z.: Equity Works.

Gatfield, G. (1996c). *Without prejudice: Women in the law*. Wellington, N.Z.: Brookers Ltd.

Gatfield, G. (1996d). *Women judges in New Zealand: A survey*. Auckland, N.Z.: Equity Works.

Gatfield, G., & Gray, A. (1993). *Women lawyers in New Zealand: A survey of the legal profession*. Wellington, N.Z.: Equity Works.

Gavazzi, S. M., Julian, T. W., & McKenry, P. C. (1996). Utilization of the Brief Symptom Inventory to discriminate between violent and nonviolent male relationship partners. *Psychological Reports*, 79, 1047-1056.

Gavey, N. (1989). Feminist poststructuralism and discourse analysis: Contributions to feminist psychology. *Psychology of Women Quarterly*, 13, 459-475.

Gavey, N. (1990). *Rape and sexual coercion within heterosexual relationships: An intersection of psychological, feminist, and postmodern inquiries*. Unpublished doctoral thesis, Massey University, Palmerston North, New Zealand.

- Gazmararian, J. A., Lazorick, S., Spitz, A. M., Ballard, T. J., Saltzman, L. E., & Marks, J. S. (1996). Prevalence of violence against pregnant women. *JAMA: The Journal of the American Medical Association*, 275, 1915-1920.
- Gelles, R. J. (1974). *The violent home: A study of physical aggression between husbands and wives*. Beverly Hills, CA: Sage Publications.
- Gelles, R. J. (1988). Violence and pregnancy: Are pregnant women at greater risk of abuse? *Journal of Marriage and the Family*, 50, 841-847.
- Gelles, R. J. (1993b). Through a sociological lens: Social structure and family violence. In R. J. Gelles & D. R. Loseke (Eds.), *Current controversies on family violence* (pp. 31-46). Newbury Park, CA: Sage Publications.
- Gelles, R. J. (1993a). Family violence. In R. L. Hampton, T. P. Gullotta, G. R. Adams, E. H. Potter III, & R. P. Weissberg (Eds.), *Family violence: Prevention and treatment* (pp. 1-24). London: Sage Publications.
- Gelles, R. J., & Cornell, C. P. (1990). *Intimate violence in families*. Beverly Hills, CA: Sage Publications.
- Gelles, R. J., & Harrop, J. W. (1990). Violence, battering, and psychological distress among women. *Journal of Interpersonal Violence*, 4, 400-420.
- Gelles, R. J., & Loseke, D. R. (1993). *Current controversies on family violence*. Newbury Park, CA: Sage Publications.
- Gelles, R. J., & Straus, M. A. (1979). Determinants of violence in the family: Toward a theoretical integration. In W. Burr, R. Hill, F. Nye, & I. Reis (Eds.), *Contemporary theories about the family* (pp. 549-581). New York: Free Press.
- Gergen, K. J. (1985). The social constructionist movement in modern psychology. *American Psychologist*, 40, 266-275.
- Gergen, K. J. (1991). *The saturated self: Dilemmas of identity in contemporary life*. New York: Basic Books.
- Gergen, K. J. (1997). Social psychology as social construction: The emerging vision. In C. McGarty & S. A. Haslam (Eds.), *The message of social psychology: Perspectives on mind in society* (pp. 113-128). Cambridge, MA: Blackwell Publishers.

- Gergen, M. M. (1988a). Building a feminist methodology. *Contemporary Social Psychology*, 13, 47-53.
- Gergen, M. M. (1988b). Toward a feminist metatheory and methodology in the social sciences. In M. M. Gergen (Ed.), *Feminist thought and the structure of knowledge* (pp. 87-104). New York: New York University Press.
- Gergen, M. M. (2001). *Feminist reconstructions in psychology: Narrative, gender, and performance*. London: Sage Publications.
- Gill, R. (1995). Relativism, reflexivity and politics: Interrogating discourse analysis from a feminist perspective. In S. Wilkinson & C. Kitzinger (Eds.), *Feminism and discourse: Psychological perspectives* (pp. 165-186). London: Sage Publications.
- Gill, R. (1998). Dialogues and differences: Writing, reflexivity and the crisis of representation. In K. Henwood, C. Griffin, & A. Phoenix (Eds.), *Standpoints and differences: Essays in the practice of feminist psychology* (pp. 18-44). London: Sage Publications.
- Glover, M. (1995). *Te puna roimata: Maori women's experience of male partner violence: 7 case studies*. Auckland, N.Z.: Author.
- Golding, J. M. (1999). Intimate partner violence as a risk factor for mental disorders: A meta-analysis. *Journal of Family Violence*, 14, 99-132.
- Goldner, V. (1998). The treatment of violence and victimization in intimate relationships. *Family Process*, 37, 263-286.
- Goldstein, D., & Rosenbaum, A. (1985). An evaluation of the self-esteem of maritally violent men. *Family Relations: Journal of Applied Family & Child Studies*, 34, 425-428.
- Goodman, G. S., & Rosenberg, M. S. (1987). The child witness to family violence: Clinical and legal considerations. In D. J. Sonkin (Ed.), *Domestic violence on trial: Psychological and legal dimensions of family violence* (pp. 97-126). New York: Springer Publishing Company.
- Gordon, L. (1988). *Heroes of their own lives: The politics and history of family violence: Boston 1880-1960*. New York: Viking.

- Graham, D. (1995). Opening address to the family violence conference. In *Family violence: Presumption in practice: Working with the new Domestic Violence Act: An interdisciplinary conference to ensure that the professionals who are required to implement this legislation honour its intent: Conference, 30 June – 1 July 1995, Wellington* (pp. A1-A5). Wellington, N.Z.: New Zealand Psychological Society.
- Grant, J. (1993). *Fundamental feminism: Contesting the core concepts of feminist theory*. New York: Routledge.
- Grosz, E. (1989). *Sexual subversions: Three French feminists*. Sydney, Australia: Allen & Urwin.
- Hale, G., Zimostad, S., Duckworth, J., & Nicholas, D. (1989). Abusive partners: MMPI profiles of male batterers. *Journal of Mental Health Counseling, 10*, 214-224.
- Hamberger, L. K., & Hastings, J. E. (1986). Personality correlates of men who abuse their partners: A cross-validation study. *Journal of Family Violence, 1*, 323-341.
- Hammond-Saslow, C. I. (1997). Domestic abuse and levels of depression, self-esteem and assertiveness in battered men. *Dissertation Abstracts International, 58* (04), 2122B.
- Hanmer, J., & Saunders, S. (1984). *Well-founded fear: A community study of violence to women*. London: Hutchinson.
- Harding, S. (1986). *The science question in feminism*. Ithaca, NY: Cornell University Press.
- Harding, S. (1987a). Introduction: Is there a feminist method? In S. Harding (Ed.), *Feminism and methodology: Social science issues* (pp. 1-12). Bloomington, IN: Indiana University Press.
- Harding, S. (1987b). The method question. *Hypatia, 2*(3), 19-35.
- Hare-Mustin, R.T., & Marecek, J. (1997). Abnormal and clinical psychology: The politics of madness. In D. Fox & I. Prilleltensky (Eds.), *Critical psychology: An introduction* (pp. 104-120). London: Sage Publications.
- Harris, B. V. (1995). The law-making power of the judiciary. In P. A. Joseph (Ed.), *Essays on the constitution* (pp. 265-285). Wellington, N.Z.: Brooker's Ltd.
- Harwin, N., & Brown, J. (2000). Domestic violence and social policy: Perspectives from Women's Aid. In J. Hanmer & C. Itzin (with S. Quaid, & D. Wigglesworth) (Eds.), *Home*

- truths about domestic violence: Feminist influences on policy and practice: A reader* (pp. 205-227). London: Routledge.
- Hendricks, J. E. (1992). Domestic violence legislation in the United States: A survey of the States. In E. C. Viano (Ed.), *Intimate Violence: Interdisciplinary Perspectives* (pp. 213-226). Washington, WA: Hemisphere Publishing Corporation.
- Henriques, J., Hollway W., Urwin, C., Venn, C., & Walkerdine, V. (1984). *Changing the subject: Psychology, social regulation and subjectivity*. London: Methuen.
- Henwood, K., Griffin, C., & Phoenix, A. (1998). *Standpoints and differences: Essays in the practice of feminist psychology*. London: Sage Publications.
- Herzberger, S. D. (1996). *Violence within the family: Social psychological perspectives*. Boulder, CO: Westview Press Inc.
- Hester, M., & Radford, L. (1996a). Contradictions and compromises: The impact of the Children Act on women and children's safety. In M. Hester, L. Kelly & J. Radford (Eds.), *Women, violence and male power* (pp. 81-98). Philadelphia: Open University Press.
- Hester, M., & Radford, L. (1996b). *Domestic violence and child contact arrangements in England and Denmark*. Bristol, England: The Policy Press.
- Hilberman, E. (1980). Overview: The "wife-beaters wife" reconsidered. *American Journal of Psychiatry*, 137, 1336-1347.
- Hilton, N. Z. (1993). *Legal responses to wife assault: Current trends and evaluation*. Newbury Park, CA: Sage Publications.
- Hinchey, F. S., & Gavelek, J. R. (1982). Empathic responding in children of battered women. *Child Abuse and Neglect*, 6, 395-401.
- Hoff, L. A. (1990). *Battered women as survivors*. London: Routledge.
- Hoff, L. A. (1992). An anthropological perspective on wife battering. In C. M. Sampselle (Ed.), *Violence against women: Nursing research, education and practice issues* (pp. 17-32). New York: Hemisphere Publishing Corporation.
- Holden, G. W. (1998). Introduction: The development of research into another consequence of family violence. In G. W. Holden, R. Geffner, & E. N. Jouriles. *Children exposed to marital*

- violence: Theory, research, and applied issues* (pp. 1-18). Washington DC, WA: American Psychological Association.
- Holden, G. W., Geffner, R., & Jouriles, E. N. (1998). *Children exposed to marital violence: Theory, research, and applied issues*. Washington DC, WA: American Psychological Association.
- Holden, G. W., & Ritchie, K. L. (1991). Linking extreme marital discord, child rearing, and child behavior problems: Evidence from battered women. *Child Development*, 62, 311-327.
- Hollway, W. (1984). Gender difference and the production of subjectivity. In J. Henriques, W. Hollway, C. Urwin, C. Venn, & V. Walkerdine (Eds.), *Changing the subject: Psychology, social regulation and subjectivity* (pp. 227-263). London: Methuen.
- Hollway, W. (1989). *Subjectivity and method in psychology: Gender, meaning and science*. London: Sage Publications.
- Holtzworth-Munroe, A., & Anglin, K. (1991). The competency of responses given by maritally violent versus nonviolent men to problematic marital situations, *Violence & Victims*, 6, 257-269.
- Holtzworth-Munroe, A., & Stuart, G. L. (1994). Typologies of male batterers: Three subtypes and the differences among them. *Psychological Bulletin*, 116, 476-497.
- Home Office. (1990). *Partnership in dealing with offenders in the community*. London: HMSO.
- Home Office. (1998). *Criminal statistics, England and Wales, 1997*. London: HMSO.
- Horsfall, J. (1991). *The presence of the past: Male violence in the family*. Sydney, Australia: Allen & Urwin.
- Hotaling, G. L., & Sugarman, D. B. (1986). An analysis of risk markers in husband to wife violence: The current state of knowledge. *Violence and Victims*, 1, 101-124.
- Hughes, H. M. (1988). Psychological and behavioral correlates of family violence in child witnesses and victims. *American Journal of Orthopsychiatry*, 58, 77-90.
- Hughes, H. M., & Luke, D. A. (1998). Heterogeneity in adjustment among children of battered women. In G. W. Holden, R. Geffner, & E. N. Jouriles. *Children exposed to marital*

violence: Theory, research, and applied issues (pp. 185-221). Washington DC, WA: American Psychological Association.

Hyden, M. (1999). The world of the fearful: Battered women's narratives of leaving abusive husbands. *Feminism & Psychology*, 9, 449-469.

Jackson, M. (1988). *The Maori and the criminal justice system: He whaipanga hou - A new perspective*. Wellington, N.Z.: Policy and Research Division, Department of Justice.

Jackson, M. (1989). A Maori criminal justice system. *Race Gender Class*, 9/10, 30-41.

Jackson, M. (1990). Criminality and the exclusion of Maori. *Law Review*, 20(2), 23-34.

Jackson, M. (1991). Maori access to justice. *Race Gender Class*, 11/12, 36-41.

Jackson, M. (1998). Little has changed. *Mana: The Maori news magazine for all New Zealanders*, 23, 14-15.

Jackson, S. (1998). Telling stories: Memory, narrative and experience in feminist research and theory. In K. Henwood, C. Griffin, & A. Phoenix (Eds.), *Standpoints and differences: Essays in the practice of feminist psychology* (pp. 45-64). London: Sage Publications.

Jaffe, P. G., Wolfe, D., & Wilson, S. K. (1990). *Children of battered women*. London: Sage Publications.

Jejeebhoy, S. J. (1998). Associations between wife-beating and fetal and infant death: Impressions from a survey in rural India. *Studies in Family Planning*, 29, 300-308.

Johnson, N. (1995). Domestic violence: An overview. In P. Kingston & B. Penhale (Eds.), *Family violence and the caring professions* (pp. 101-126). Basingstoke, England: Macmillan Press Ltd.

Johnson, S. (1997). Theorising language and masculinity: A feminist perspective. In S. Johnson & U. H. Meinhof (Eds.), *Language and masculinity* (pp. 8-26). Oxford, UK: Blackwell Publishers.

Johnson, H., & Bunge, V. P. (2001). Prevalence and consequences of spousal assault in Canada. *Canadian Journal of Criminology*, 43, 27-45.

- Joint Methodist/Presbyterian Public Questions Committee. (1994). *Towards a Maori criminal justice system*. Wellington, N.Z.: The Committee.
- Jones, A. (1991). *Women who kill*. London: Victor Gollancz.
- Jones, A. (1994). *Next time, she'll be dead: Battering and how to stop it*. Boston, MA: Beacon Press.
- Josselson, R. (1996a). *Ethics and process in the narrative study of lives*. Thousand Oaks, CA: Sage Publications.
- Josselson, R. (1996b). On writing other people's lives: Self-analytic reflections of a narrative researcher. In R. Josselson (Ed.), *Ethics and process in the narrative study of lives* (pp. 60-71). Thousand Oaks, CA: Sage Publications.
- Kaufman, J., & Kigler, E. (1987). Do abused children become abusive parents? *American Journal of Orthopsychiatry*, 57, 186-192.
- Kelly, L. (1988a). How women define their experiences of violence. In K. Yllo & M. Bograd (Eds.), *Feminist perspectives on wife abuse* (pp. 114-132). Newbury Park, CA: Sage Publications.
- Kelly, L. (1988b). *Surviving sexual violence*. Cambridge: Polity Press.
- Kelly, L. (1994). The interconnectedness of domestic violence and child abuse: Challenges for research, policy and practice. In A. Mullender & R. Morley. (Eds.), *Children living with domestic violence: Putting men's abuse of women on the child care agenda* (pp. 43-56). London: Whiting & Birch Ltd.
- Kemper, S. (1984). The development of narrative skills: Explanations and entertainments. In S. A. Kuczaj II (Ed.), *Discourse development: Progress in cognitive development research* (pp. 99-124). New York: Springer-Verlag.
- Kennedy, H. (1993). *Eve was framed: Women and British justice*. London: Vintage.
- Kjervik, D. K. (1992). A legal analysis of domestic violence against women. In C. M. Sampselle (Ed.), *Violence against women: Nursing research, education and practice issues* (pp. 33-43). New York: Hemisphere Publishing Corporation.

- Koss, M. P. (1985). The hidden rape victim: Personality, attitudinal, and situational characteristics. *Psychology of Women Quarterly*, 9, 193-212.
- Koss, M. P. (1990). Violence against women: The women's mental health research agenda. *American Psychologist*, 45, 374-380.
- Koss, M. P., Goodman, L. A., Browne, A., Fitzgerald, L. F., Keita, G. P., & Russo, N. F. (1994). *No safe haven: Violence against women at home, at work, and in the community*. Washington DC, WA: American Psychological Association.
- Labov, W. (1972). *Language in the inner city: Studies in the Black English vernacular*. Oxford, UK: Basil Blackwell.
- Labov, W. (1997). Some further steps in narrative analysis. *Journal of Narrative and Life History*, 7, 395-415.
- Labov, W., & Waletzky, J. (1967). Narrative analysis. In J. Helm (Ed.), *Essays on the verbal and visual arts* (pp. 12-44). Seattle, WA: Washington Press.
- Labov, W., & Waletzky, J. (1997). Narrative analysis: Oral versions of personal experience. *Journal of Narrative & Life History*, 7, 3-38.
- Langford, D. R. (2000). Developing a safety protocol in qualitative research involving battered women. *Qualitative Health Research*, 10, 133-142.
- Lanius, M. H., & Jensen, B. L. (1987). Interpersonal problem-solving skills in battered, counselling, and control women. *Journal of Family Violence*, 2, 151-162.
- Lapsley, H. (1993). *The measurement of family violence: A critical review of the literature*. Wellington, N.Z.: Social Policy Agency.
- Lawrence, M. (1998). *Legal studies: A first book on New Zealand law* (5th ed.). Palmerston North, N.Z.: Dunmore Press Ltd.
- Lee, A. (1983). 1980 and 1981 court files. In *Rape study. Research reports: Volume 2* (pp. 1-88). Wellington, N.Z.: Department of Justice.
- Lees, S. (1995). Unreasonable doubt: The outcome of rape trials. In M. Hester, L. Kelly, & J. Radford (Eds.), *Women, violence and male power: Feminist activism, research, and practice* (pp. 99-115). Philadelphia: Open University Press.

- Lees, S. (2000). Marital rape and marital murder. In J. Hanmer & C. Itzin (with S. Quaid, & D. Wigglesworth) (Eds.), *Home truths about domestic violence: Feminist influences on policy and practice: A reader* (pp. 57-73). London: Routledge.
- Leibrich, J., Paulin, J., & Ransom, R. (1995). *Hitting home: Men speak about abuse of women partners*. Wellington, N.Z.: Department of Justice in association with AGB McNair.
- Leonard, K. E. (1999). Alcohol use and husband marital aggression among newlywed couples. In X. B. Arriaga & S. Oskamp (Eds.), *Violence in intimate relationships* (pp. 113-135). Thousand Oaks, CA: Sage Publications.
- Leserman, J., Li, Z., Drossman, D. A., & Hu, Y. J. B. (1998). Selected symptoms associated with sexual and physical abuse history among female patients with gastrointestinal disorders: The impact on subsequent health care visits. *Psychological Medicine*, 28, 417-425.
- Letourneau, E. J., Holmes, M., & Chasedunn-Roark, J. (1999). Gynecological health consequences to victims of interpersonal violence. *Women's Health Issues*, 9, 115-120.
- Linde, C. (1993). *Life stories: The creation of coherence*. New York: Oxford University Press.
- Lovering, K. M. (1995). The bleeding body: Adolescents talk about menstruation. In S. Wilkinson & C. Kitzinger (Eds.), *Feminism and discourse: Psychological perspectives* (pp. 10-31). London: Sage Publications.
- Machine switched off, beaten boy dies. (2002, September 13). *The Dominion Post*, ed. 2, p. 5.
- Mahony, P.D. (2001, December 10). *Practice note - Counsel for Child: Code of practice*. Retrieved September 4, 2002, from Department for Courts Web site: http://www.courts.govt.nz/family/c4c_code_of_practice_practice_note.html
- Man appears for murder. (2002, September 19). *Waikato Times*, ed. 2, p. 3.
- Marshall, H., Woollett, A., & Dosanjh, N. (1998). Researching marginalized standpoints: Some tensions around plural standpoints and diverse 'experiences'. In K. Henwood, C. Griffin, & A. Phoenix (Eds.), *Standpoints and differences: Essays in the practice of feminist psychology* (pp. 115-134). London: Sage Publications.

- Martin, J. (1996). Two community studies of rape prevalence. In *Rape: Ten years progress? The proceedings of an inter-disciplinary conference held in Wellington, March 27-30, 1996*. Auckland, N.Z.: Doctors for Sexual Abuse Care.
- Martin, S. E. (1996). *Doing justice, doing gender: Women in law and criminal justice occupations*. Thousand Oaks, CA: Sage Publications.
- Martin, S. M. (1999). Proving gender bias in the law and legal system. In *New Zealand law conference, Rotorua, April 6-10, 1999: Proceedings*. Hamilton, N.Z.: Waikato Bay of Plenty District Law Society.
- Marvian, S. M. (1998). The application of attachment theory in typing men who batter. *Dissertations Abstracts International*, 59 (03), 1371B.
- Matoesian, G. (1993). *Reproducing rape: Domination through talk in the courtroom*. Cambridge, UK: Polity Press.
- McCall, G., & Shields, N. (1986). Social and structural factors in family violence. In M. Lystad (Ed.), *Violence in the home: Interdisciplinary perspectives* (pp. 98-123). New York: Brunnel/Mazel.
- McCauley, J., Kern, D. E., Kolodner, K., Dill, L., Schroeder, A. F., DeChant, H. K., Ryden, J., Bass, E. B., & Derogatis, L. R. (1995). The "battering syndrome": Prevalence and clinical characteristics of domestic violence in primary care internal medicine practices. *Annals of Internal Medicine*, 123, 737-746.
- McCue, M. L. (1995). *Domestic violence: A reference handbook*. Santa Barbara, CA: ABC-CLIO.
- McDowell, L., & Pringle, R. (1992). *Defining women: Social institutions and gender divisions*. Oxford, UK: Blackwell Publishers.
- McDowell, M., & Webb, D. (1995). *The New Zealand legal system: Structures, processes and legal theory*. Wellington, N.Z.: Butterworths.
- McFarlane, J. (1992). Battering in pregnancy. In C. M. Sampselle (Ed.), *Violence against women: Nursing research, education and practice issues* (pp. 205-218). New York: Hemisphere Publishing Corporation.

- McMaster, K. (1999). The ultimate denial of equality - violence against women: An issue of (in)justice. In *New Zealand law conference, Rotorua, April 6-10, 1999: Proceedings* (pp. 55-65). Hamilton, N.Z.: Waikato Bay of Plenty District Law Society.
- McMaster, K., Maxwell, G., & Anderson, T. (2000). *Research Report: Evaluation of Community Based Violence Prevention Programs: Prepared for the Department for Corrections*. Wellington, N.Z.: Institute of Criminology, Victoria University of Wellington.
- McNeil, H., von Dadelszen, J., Gray, A., Duituturaga, E. Good, R., & Ash, R. (1988). *Attitudes to family violence: A study across cultures*. Wellington, N.Z.: Family Violence Prevention Co-ordinating Committee, Department of Social Welfare.
- Mid-Valley Women's Crisis Service. (n.d.). *Domestic violence: Information and resources for survivors and their supporters*. Retrieved September 11, 2002, from: [http://www.mvwcs.com/pdf/Domestic%20Violence%20LargePrint\(Web\).pdf](http://www.mvwcs.com/pdf/Domestic%20Violence%20LargePrint(Web).pdf)
- Mid-Valley Women's Crisis Service. (2002, May). *Myths and facts about domestic violence*. Retrieved September 12, 2002, from: <http://www.mvwcs.com/mythfact.html>
- Mies, M. (1983). Towards a methodology for feminist research. In G. Bowles & R. Duelli-Klein (Eds.), *Theories of women's studies* (pp. 117-139). Berkeley, CA: University of California, Women's Studies Department.
- Miller, C. (with Treitel, C.). (1991). *Feminist research methods: An annotated bibliography*. Westport, CT: Greenwood Press.
- Miller, M. E. (1996). Ethics and understanding through interrelationship: I and thou in dialogue. In R. Josselson (Ed.), *Ethics and process in the narrative study of lives* (pp. 129-147). Thousand Oaks, CA: Sage Publications.
- Milroy, S. (1996). Maori women and domestic violence: The methodology of research and the Maori perspective. *Waikato Law Review: Taumauri*, 4(1), 58-76.
- Mist found not guilty of murder. (2003, February 19). *The Evening Standard*, ed. 2, p. 1.
- Moi, T. (1987). Jealousy and sexual difference. In Feminist Review (Ed.), *Sexuality: A reader* (pp. 134-153). London: Virago Press Ltd.

- Mooney, J. (2000). Revealing the hidden figure of domestic violence. In J. Hanmer & C. Itzin (with S. Quaid, & D. Wigglesworth) (Eds.), *Home truths about domestic violence: Feminist influences on policy and practice: A reader* (pp. 24-43). London: Routledge.
- Morley, R., & Mullender, A. (1994). Domestic violence and children: What do we know from research? In A. Mullender & R. Morley (Eds.), *Children living with domestic violence: Putting men's abuse of women on the child care agenda* (pp. 24-42). London: Whiting & Birch Ltd.
- Morris, A. (1997). *Women's safety survey, 1996*. Wellington, N.Z.: Victimisation Survey Committee.
- Morris, J. R. (1999). *Women's access to legal services: Women's access to justice*. Wellington, N.Z.: New Zealand Law Commission.
- Mother and son fight for lives. (2002, September 11). *The Press*, ed. 2, p. 9.
- Mother tells of daughter being bashed. (2003, February 14). *The Evening Standard*, ed. 2, p. 3.
- Muhajarine, N., & D'Arcy, C. (1999). Physical abuse during pregnancy: Prevalence and risk factors. *Canadian Medical Association Journal*, 160, 1007-1011.
- Mulholland, R. D. (1999). *Introduction to the New Zealand legal system* (9th ed.). Wellington, N.Z.: Butterworths.
- Mullen, P. E., Romans-Clarkson, S. E., Walton, V. A., & Herbison, G. P. (1988). Impact of sexual and physical abuse on women's mental health. *Lancet*, 1 (8590), 841-845.
- Mullender, A. (1996). *Rethinking domestic violence: The social work and probation response*. London: Routledge.
- Mullender, A., & Morley, R. (1994). Context and content of a new agenda. In A. Mullender & R. Morley (Eds.), *Children living with domestic violence: Putting men's abuse of women on the child care agenda* (pp. 2-16). London: Whiting & Birch Ltd.
- Mum wakes from coma. (2002, October 3). *The Dominion Post*, ed. 2, p. 3.
- Murphy, C. M., & Cascardi, M. (1993). Psychological aggression and abuse in marriage. In R. L. Hampton, T. P. Gullotta, G. R. Adams, E. H. Potter III, & R. P. Weissberg (Eds.), *Family violence: Prevention and treatment* (pp. 86-112). Newbury Park, CA: Sage Publications.

- Murray, M. (1999). The storied nature of health and illness. In M. Murray & K. Chamberlain (Eds.), *Qualitative health psychology: Theories and methods* (pp. 47-63). London: Sage Publications.
- Murty, K. S., & Roebuck, J. B. (1992). An analysis of crisis calls by battered women in the city of Atlanta. In E. C. Viano (Ed.), *Intimate violence: Interdisciplinary perspectives* (pp. 61-71). Washington, WA: Hemisphere Publishing Corporation.
- Nash, M., & Read, L. (1992). How women consumers experience legal processes of family separation: Part 1. *Family Law Bulletin*, 3, 58-60.
- National Collective for Independent Women's Refuges. (2000). *Improving outcomes for women and children using Refuge services*. Wellington, N.Z.: NCIWR.
- New Zealand Crime Prevention Unit. (1994). *The New Zealand Crime Prevention Strategy: Mission statement: "To enhance community safety and security through crime prevention"*. Wellington, N.Z.: Crime Prevention Unit.
- New Zealand Department for Courts. (n.d.-a). *New Zealand High Court*. Retrieved September 4, 2002, from Department for Courts Web site: http://www.courts.govt.nz/courts/high_court.html
- New Zealand Department for Courts. (n.d.-b). *District Court of New Zealand*. Retrieved September 4, 2002, from Department for Courts Web site: http://www.courts.govt.nz/courts/district_court.html
- New Zealand Department for Courts. (2002, April 29). *Information on services available through the Family Court*. Retrieved September 4, 2002, from Department for Courts Web site: http://www.courts.govt.nz/family/family_court_overview.html
- New Zealand Department of Justice. (1993). *The Domestic Protection Act 1982: A discussion paper*. Wellington, N.Z.: New Zealand Department of Justice.
- New Zealand Judiciary. (n.d.-a). *Report of the New Zealand judiciary, 1998*. Wellington, N.Z.: High Court.
- New Zealand Judiciary. (n.d.-b). *Report of the New Zealand judiciary, 1999*. Wellington, N.Z.: High Court.

- New Zealand Judiciary. (n.d.-c). *Report of the New Zealand judiciary, 2000*. Wellington, N.Z.: High Court.
- New Zealand Law Commission. (1996a). *Women's access to justice: Information about lawyer's fees: Law Commission miscellaneous paper 3*. Wellington, N.Z.: Law Commission.
- New Zealand Law Commission. (1996b). *Women's access to justice: Women's access to legal information: Law Commission miscellaneous paper 4*. Wellington, N.Z.: Law Commission.
- New Zealand Law Commission. (1997a). *Women's access to justice: Women's access to civil legal aid: Law Commission miscellaneous paper 8*. Wellington, N.Z.: Law Commission.
- New Zealand Law Commission. (1997b). *Women's access to justice: Women's access to legal advice and representation: Law Commission miscellaneous paper 9*. Wellington, N.Z.: Law Commission.
- New Zealand Law Commission. (1997c). *Women's access to justice: Lawyer's costs in family law disputes: Law Commission miscellaneous paper 10*. Wellington, N.Z.: Law Commission.
- New Zealand Law Commission. (1997d). *Women's access to justice: The education and training of law students and lawyers: Law Commission miscellaneous paper 11*. Wellington, N.Z.: Law Commission.
- New Zealand Law Commission. (1999). *Justice: The experiences of Maori women: Te tikanga o te ture: Te matauranga o nga wahine Maori e pa ana ki tenei: Report 53*. Wellington, N.Z.: Law Commission.
- New Zealand Law Commission. (2001). *Maori custom and values in New Zealand law*. Wellington, N.Z.: Law Commission.
- New Zealand Law Society. (1997). Polls of the public and legal profession. *Lawtalk*, 14 April, 7-12.
- New Zealand Ministry of Health. (1998). *Family violence: Guidelines for health sector providers to develop practice protocols*. Wellington, N.Z.: Ministry of Health.
- New Zealand Ministry of Justice (2001, October). *Summary analysis of submissions in response to the discussion paper: Responsibilities for children: Especially when parents part: The*

- laws about guardianship, custody, and access*. Retrieved March 9, 2003, from: http://www.justice.govt.nz/pubs/reports/2001/submissions_children/index.html
- New Zealand Ministry of Women's Affairs. (1998). *Status of women in New Zealand: The combined third and fourth reports on New Zealand's progress on implementing the Convention on the Elimination of all forms of Discrimination Against Women*. Wellington, N.Z.: Ministry of Women's Affairs.
- New Zealand Police. (2001). *Annual report for the year ended 30 June 2001*. Wellington, N.Z.: New Zealand Police Association.
- New Zealand Victims Task Force. (1992). *Protection from family violence: A study of protection orders under the Domestic Protection Act 1982 (Abridged)/Commissioned by the Victims Task Force and prepared for public release from an original report by Ruth Busch, Neville Robertson and Hilary Lapsley*. Wellington, N.Z.: Victims Task Force.
- Nichols, M. P., & Schwartz, R. C. (2000). *Family therapy: Concepts and methods*. Boston: Allyn and Bacon.
- Nicholson, L. J. (1990). *Feminism/postmodernism*. New York: Routledge.
- Nicolson, P. (2001). *Postnatal depression: Facing the paradox of loss, happiness and motherhood*. New York: Wiley.
- Nielsen, J. M. (1990). Introduction. In J. M. Nielsen (Ed.), *Feminist research methods: Exemplary readings in the social sciences* (pp. 1-37). Boulder, CO: Westview Press.
- O'Leary, K. D. (1993). Through a psychological lens: Personality traits, personality disorders, and levels of violence. In R. J. Gelles & D. R. Loseke (Eds.), *Current controversies on family violence* (pp. 7-30). Newbury Park, CA: Sage Publications.
- O'Leary, K. D. (1999). Psychological abuse: A variable deserving critical attention in domestic violence. *Violence & Victims*, 14, 3-23.
- Oleksy, P. (2001, December 20). *Are you in an abusive relationship?* Retrieved September 10, 2002, from: <http://www.acsu.buffalo.edu/~pjoleksy/womenadv.htm>
- O'Neill, D. (1998). A post-structuralist review of the theoretical literature surrounding wife abuse. *Violence Against Women*, 4, 457-490.

- O'Neill, D., & Morgan, M. (2001). Pragmatic post-structuralism (I): Participant observation and discourse in evaluating violence intervention. *Journal of Community & Applied Social Psychology, 11*, 263-275.
- Oxley, P. (1983). Results of questionnaire to the judiciary and lawyers. In *Rape study: Research reports: Volume 2* (pp. 1-57). Wellington, N.Z.: Department of Justice.
- Pagelow, M. D. (1984). The "battered husband syndrome": Social problem or much ado about little? In N. Johnson (Ed.), *Marital Violence* (pp. 172-195). London: Routledge & Kegan Paul.
- Pahl, J. (1985). *Private violence and public policy: The needs of battered women and the response of public services*. London: Routledge and Kegan Paul.
- Painter, K. (1991). *Wife, rape, marriage and the law*. Manchester, U.K.: University of Manchester.
- Parker, I. (1992). *Discourse dynamics: Critical analysis for social and individual psychology*. London: Routledge.
- Parker, I. (1994). Discourse analysis. In P. Banister, E. Burman, I. Parker, M. Taylor, & C. Tindall (Eds.), *Qualitative methods in psychology: A research guide* (pp. 92-107). Buckingham, England: Open University Press.
- Parliament Select Committee Section. (1999). Submissions to the Justice and Law Reform Committee on the Domestic Violence Bill 1995. Wellington, N.Z.: Parliament Select Committee Section.
- Peled, E., Jaffe, P. G., & Edleson, J. L. (1995). Introduction. In E. Peled, P. G. Jaffe, & J. L. Edleson (Eds.), *Ending the cycle of violence: Community responses to children of battered women* (pp. 3-9). London: Sage Publications.
- Pence, E., & Paymar, M. (1993). *Education groups for men who batter: The Duluth model*. New York: Springer Publishing Company.
- Petterson, J. (1983). *Submissions on the rape study: An analysis*. Wellington, N.Z.: Department of Justice.
- Piercy, F. P., Sprenkle, D. H., Wetchler, J. L., & Associates. (1996). *Family therapy sourcebook*. New York: Guilford Press.

- Pizzey, E. (1974). *Scream quietly or the neighbours will hear*. London: Penguin Books.
- Plate thrower admits charges. (2002, September 11). *The Nelson Mail*, p. 24.
- Pocock, T. M. (1994). *The forgotten victims of wife abuse: A comparative analysis of children of battered women and a representative population subsample*. Unpublished doctoral dissertation, Auckland University, Auckland, New Zealand.
- Polk, K. (1994). *When men kill: Scenarios of masculine violence*. Cambridge, U.K.: University of Cambridge.
- Polkinghorne, D. E. (1988). *Narrative knowing and the human sciences*. Albany, NY: State University of New York Press.
- Polkinghorne, D. E. (1995). Narrative configuration in qualitative analysis. *International Journal of Qualitative studies in Education*, 8, 12-28.
- Potter, J., & Wetherell, M. (1987). *Discourse and social psychology: Beyond attitudes and behaviour*. London: Sage Publications.
- Pouwhare, T. (1999). *Maori women and work: The effects of family violence on Maori women's employment opportunities*. Wellington, N.Z.: NCIWR.
- Pratt, J. (1994). Crime, deviance, and punishment. In P. Spoonley, D. Pearson, & I Shirley (Eds.), *New Zealand society: A sociological introduction* (2nd ed., pp. 213-236). Palmerston North, N.Z.: Dunmore Press.
- Price, J. (1996). Snakes in the swamp: Ethical issues in qualitative research. In R. Josselson (Ed.), *Ethics and process in the narrative study of lives*. (pp. 207-215). Thousand Oaks, CA: Sage Publications.
- Project Waitangi. (1989). *A summary produced by Project Waitangi of Moana Jackson's report: The Maori and the criminal justice system: He whaipanga hou – A new perspective*. Wellington, N.Z.: Project Waitangi.
- Ptacek, J. (1988). Why do men batter their wives? In K. Yllo & M. Bograd (Eds.), *Feminist perspectives on wife abuse* (pp. 133-157). Newbury Park, CA: Sage Publications.
- Radford, J. (1987). Policing male violence - policing women. In J. Hanmer & M. Maynard (Eds.), *Women, violence and social control* (pp. 30-45). London: MacMillan Press Ltd.

- Radford, J., & Stanko, E. A. (1996). Violence against women and children: The contradictions of crime control under patriarchy. In M. Hester, L. Kelly, & J. Radford (Eds.), *Women, violence and male power: Feminist activism, research, and practice* (pp. 65-80). Philadelphia: Open University Press.
- Radford, L. (1987). Legalising woman abuse. In J. Hanmer & M. Maynard (Eds.), *Women, violence, and social control* (pp. 135-151). London: The MacMillan Press Ltd.
- Ratner, P. A. (1993). The incidence of wife abuse and mental health status in abused wives in Edmonton, Alberta. *Canadian Journal of Public Health, 84*, 246-249.
- Reinharz, S. (with Davidman, L.). (1992). *Feminist methods in social research*. New York: Oxford University Press.
- Rich, A. (1979). *On lies, secrets, and silence: Selected prose, 1966-1978*. New York: Norton.
- Richardson, I. (1995). Rights jurisprudence – justice for all. In P. A. Joseph (Ed.), *Essays on constitution* (pp. 61-83). Wellington, N.Z.: Brookers Ltd.
- Riessman, C. K. (1993). *Narrative analysis*. Newbury Park, CA: Sage Publications.
- Robertson, N., & Busch, R. (1997). Seen but not heard? How battered women and their children fare under the Guardianship Amendment Act 1995. *Butterworths Family Law Journal, 2*, 177-188.
- Robinson, V. (1997). My baby just cares for me: Feminism, heterosexuality and non-monogamy. *Journal of Gender Studies, 6*, 143-157.
- Rogers, S. R., Stenner, P., Gleeson, K., & Rogers, W. S. (1995). *Towards a critical social psychology*. Cambridge, Polity Press.
- Romkens, R., & Mastenbroek, S. (1998). Budding happiness: The relational dynamics of the abuse of girls and young women by their boyfriends. In R. C. A. Klein (Ed.), *Multidisciplinary perspectives on family violence* (pp. 58-75). London: Routledge.
- Rosenbaum, A., & O'Leary, K. D. (1981a). Children: The unintended victims of marital violence. *American Journal of Orthopsychiatry, 51*, 692-699.
- Rosenbaum, A., & O'Leary, K. D. (1981b). Marital violence: Characteristics of abusive couples. *Journal of Consulting and Clinical Psychology, 49*, 63-71.

- Rounsaville, B. J. (1978). Theories in marital violence: Evidence from a study of battered women. *Victimology: An International Journal*, 3, 11-21.
- Russell, D. E. H. (1982). *Rape in marriage*. New York: MacMillan Press Ltd.
- Russell, D. E. H. (1983). The incidence and prevalence of interfamilial and extrafamilial sexual abuse of female children. *Child Abuse and Neglect*, 7, 133-146.
- Russell, D. E. H. (1990). *Rape in marriage*. Indianapolis, IN: Indiana University Press.
- Sampsel, C. M. (1992). *Violence against women: Nursing research, education and practice issues*. New York: Hemisphere Publishing Corporation.
- Sampsel, C. M., Bernhard, L., Kerr, R. B., Opie, N., Perley, M. J., & Pitzer, M. (1992). Violence against women: The scope and significance of the problem. In C. M. Sampsel (Ed.), *Violence against women: Nursing research, education and practice issues* (pp. 3-16). New York: Hemisphere Publishing Corporation.
- Sarachild, K. (1978). *Feminist revolution: Redstockings of the Women's Liberation Movement*. New York: Random House.
- Sarbin, T. R. (1986). *Narrative psychology: The storied nature of human conduct*. New York: Praeger.
- Sargisson, H. (1982). *Women in the legal profession: A discussion of their changing profile*. Unpublished honours thesis, University of Auckland, Auckland, New Zealand.
- Sarup, M. (1993). *An introductory guide to post-structuralism and postmodernism* (2nd ed.). New York: Harvester Wheatsheaf.
- Saunders, D. G. (1988). Wife abuse, husband abuse, or mutual combat? A feminist perspective on the empirical findings. In K. Yllo & M. Bograd (Eds.), *Feminist perspectives on wife abuse* (pp. 90-113). Newbury Park, CA: Sage Publications.
- Saunders, D. G. (1992). A typology of men who batter: Three types derived from cluster analysis. *American Journal of Orthopsychiatry*, 62, 264-275.
- Schei, B., & Bakketeig, L. S. (1989). Gynaecological impact of sexual and physical abuse by spouse. A study of a random sample of Norwegian women. *British Journal of Obstetrics and Gynaecology*, 96, 1379-1383.

- Seu, I. B. (1998). Shameful women: Accounts of withdrawal and silence. In K. Henwood, C. Griffin, & A. Phoenix (Eds.), *Standpoints and differences: Essays in the practice of feminist psychology* (pp. 135-155). London: Sage Publications.
- Seuffert, N. (1994). Lawyering and domestic violence: A feminist integration of experiences, theories and practices. In J. Stubbs (Ed.), *Women, male violence and the law* (pp. 79-103). Sydney, Australia: Institute of Criminology.
- Seuffert, N. (1996). Lawyering for women survivors of domestic violence. *Waikato Law Review*, 4(1), 1-57.
- Shapiro, R. J. (1984). Therapy with violent families. In S. Saunders, A. M. Anderston, & C. A. Hart (Eds.), *Violent individuals and families: A handbook for practitioners* (pp. 112-136). Springfield, IL: Thomas.
- Shirley, I., Dupuis, A., Tie, W., Davidson, C., Kiro, C., Mulitalo, T., & Bartley, A. (1998). *Dealing with crime: A crime profile commissioned by the Auckland City Council for safer Auckland city*. Albany, N.Z.: Crime Profile Research Team, Massey University.
- Simester, A. P., & Brookbanks, W. J. (1998). *Principles of criminal law*. Wellington, NZ: Brooker's Ltd.
- Smith, D. E. (1988). *The everyday world as problematic: A feminist sociology*. Milton Keynes, England: Open University Press.
- Smith, D. E. (1997). Comment on Hekman's "Truth and method: Feminist standpoint theory revisited". *Signs*, 22, 392-398.
- Smith, L. (2000). To see or not to see? Psychological perspectives on custody and access issues with children and their parents who have been violent. *Butterworths Family Law Journal*, 3, 161-172.
- Smith, L. J. F. (1989a). *Concerns about rape*. London: HMSO.
- Smith, L. J. F. (1989b). *Domestic violence: An overview of the literature*. London: HMSO.
- Smith, M. D. (1987). The incidence and prevalence of woman abuse in Toronto. *Violence and Victims*, 2, 173-187.

- Sonkin, D. J., Martin, D., & Walker, A. (1985). *The male batterer: A treatment approach*. New York: Springer Publishing Company.
- Spier, P. (2001). *Conviction and sentencing of offenders in New Zealand: 1991 to 2000*. Wellington, N.Z.: New Zealand Ministry of Justice.
- Spiller, P., Finn, J., & Boast, R. (2001). *A New Zealand legal history* (2nd ed.). Wellington, N.Z.: Brookers Ltd.
- Stace, M. (1983). Rape complaints and the police. In *Rape study. Research reports: Volume 2* (pp. 1-71). Wellington, N.Z.: Department of Justice.
- Stanko, E. A. (1987). Typical violence, normal precaution: Men, women and interpersonal violence in England, Wales, Scotland and the USA. In J. Hanmer & M. Maynard (Eds.), *Women, violence, and social control* (pp. 122-134). London: MacMillan Press Ltd.
- Stanko, E. A. (1988). Fear of crime and the myth of the safe home: A feminist critique of criminology. In K. Yllo & M. Bograd (Eds.), *Feminist perspectives on wife abuse* (pp. 75-88). Newbury Park, CA: Sage Publications.
- Stanley, L., & Wise, S. (1990). Method, methodology and epistemology in feminist research processes. In L. Stanley (Ed.), *Feminist praxis: Research, theory and epistemology in feminist sociology* (pp. 20-60). London: Routledge.
- Stanley, L., & Wise, S. (1993). *Breaking out again: Feminist ontology and epistemology*. London: Routledge.
- Stark, E., & Flitcraft, A. (1984). Woman-battering, child abuse and social heredity: What is the relationship? In N. Johnson (Ed.), *Marital violence* (pp. 147-171). London: Routledge & Kegan Paul.
- Stark, E., & Flitcraft, A. (1988). Women and children at risk: A feminist perspective on child abuse. *International Journal of Health Services*, 18, 97-118.
- Stark, E., & Flitcraft, A. (1996). *Women at risk: Domestic violence and women's health*. London: Sage Publications.
- Statistics New Zealand. (1998). *1996 census of population and dwellings: Incomes*. Wellington, N.Z.: Statistics New Zealand.

- Statistics New Zealand. (2001). *New Zealand standard classification of occupations*. Wellington, N.Z.: Statistics New Zealand.
- Stefano, C. D. (1990). Dilemmas of difference: Feminism, modernity, and postmodernism. In L. J. Nicholson (Ed.), *Feminism/postmodernism* (pp. 63-82). New York: Routledge.
- Stewart, D. F., & Cecutti, A. (1993). Physical abuse in pregnancy. *Canadian Medical Association Journal*, 149, 1257-1263.
- Stith, S. M., Rosen, K. H., Middleton, K. A., Busch, A. L., Lundeberg, K., & Carlton, R. P. (2000). The intergenerational transmission of spouse abuse: A meta-analysis. *Journal of Marriage & the Family*, 62, 640-654.
- Stone, J., Barrington, R., & Bevan, C. (1983). The victim study. In *Rape study. Research reports: Volume 2* (pp. 1-215). Wellington, N.Z.: Department of Justice.
- Straus, M. A., Gelles, R. J., & Steinmetz, S. K. (1980). *Behind closed doors: Violence in the American family*. Garden City, N.Y.: Anchor Press/Doubleday.
- Sugarman, D., & Hotaling, G. (1989). Violent men in intimate relationships: An analysis of risk markers. *Journal of Applied Social Psychology*, 19, 1034-1048.
- Sutherland, C., Bybee, D., & Sullivan, C. (1998). The long-term effects of battering on women's health. *Women's Health (Hillsdale, N.J.)*, 4, 41-70.
- Tahoe Women's Services (n.d.). *Definitions: What are domestic violence and sexual assault?* Retrieved September 10, 2002, from: <http://www.tahoewomenservices.com/html/definitions.pdf>
- Tapp, P., & Taylor, N. (2002). Protecting the family. In M. Henaghan & B. Atkin (Eds.), *Family law policy in New Zealand* (pp. 75-148). Wellington, N.Z.: LexisNexis Butterworths.
- Teen mum's partner committed for trial. (2002, September 11). *The Evening Standard*, ed. 2, p. 1.
- Thornton, M. (1996). *Dissonance and distrust: Women in the legal profession*. Melbourne, Australia: Oxford University Press.

- Thorpe, G., & Swift, D. (1996). *Beyond violence: Women working with women: A manual for facilitation of women's education programmes*. Nelson, N.Z.: Nelson Violence Intervention Project.
- Timaru District Court. (2002a, September 6). *The Timaru Herald*, ed. 2, p. 2.
- Timaru District Court. (2002b, September 10). *The Timaru Herald*, ed. 2, p. 12.
- Tindall, C. (1994). Issues of evaluation. In P. Banister, E. Burman, I. Parker, M. Taylor, & C. Tindall (Eds.), *Qualitative methods in psychology: A research guide* (pp. 142-159). Buckingham, England: Open University Press.
- Tong, R. P. (1998). *Feminist thought: A more comprehensive introduction* (2nd ed.). Boulder, CO: Westview Press.
- Toolan, M. J. (1988). *Narrative: A critical linguistic introduction*. London: Routledge.
- Towns, A., Adams, P., & Gavey, N. (1996). "All of a sudden my fists came from nowhere": Do men mean to hit their female partners? A paper prepared for the Discourses on Violence workshop of the Sociolinguistics Symposium 11, University of Wales, Cardiff, Wales, September 1996.
- Towns, A., Adams, P., & Gavey, N. (in press). Silencing talk of men's violence towards women. In L. Thiesmeyer (Ed.), *Discourse and silencing: Representation and the language of displacement*. Amsterdam, The Netherlands: John Benjamins.
- Tried to set woman alight. (2002, September 4). *The Timaru Herald*, ed. 2, p. 2.
- Triggs, S. J. (1997). *Interpreting trends in recorded crime in New Zealand*. Wellington, N.Z.: New Zealand Ministry of Justice.
- Trimble, D. (2000). *Counselling programs for men who are violent in relationships: Questions and answers for practitioners in the health, social services and criminal justice systems*. Ottawa, Canada: National Clearinghouse on Family Violence.
- Tuana, N., & Tong, R. (1995). *Feminism and philosophy: Essential readings in theory, reinterpretation, and application*. Boulder, CO: Westview Press.
- United Nations Children's Fund. (2000). Domestic violence against women and girls. *Innocenti Digest*, 6, 1-22.

- Ussher, J. M. (1999). Feminist approaches to qualitative health research. In M. Murray & K. Chamberlain (Eds.), *Qualitative health psychology: Theories and methods* (pp. 98-114). London: Sage Publications.
- van Dijk, T. A. (1993). *Elite discourse and racism*. Newbury Park, CA: Sage Publications.
- Vanhoozer, K. J. (1991). Philosophical antecedents to Ricoeur's Time and Narrative. In D. Wood (Ed.), *On Paul Ricoeur: Narrative and interpretation* (pp. 34-54). London: Routledge.
- van Mens-Verhulst, J. (1998). Beyond innocence: Feminist mental health care and the postmodernist perspective. In K. Henwood, C. Griffin, & A. Phoenix (Eds.), *Standpoints and differences: Essays in the practice of feminist psychology* (pp. 191-209). London: Sage Publications.
- Walker, L. E. (1979). *The battered woman*. New York: Harper & Row.
- Walker, L. E. (1984). *The battered woman syndrome*. New York: Springer Publishing Company.
- Walker, L. E., & Browne, A. (1985). Gender and victimization by intimates. *Journal of Personality*, 53, 179-195.
- Webb, D., Atkin, B., Caldwell, J., Adams, J., Henaghan, M., Clarkson, D., & Treadwell, P. (2001). *Family law in New Zealand* (10th ed.). Wellington, N.Z.: Butterworths.
- Weedon, C. (1987). *Feminist practice & poststructuralist theory*. Oxford, UK: Blackwell Publishers.
- Welch, P. (2001, 14 February). *Feminist theory, consciousness raising and political action*. Retrieved 22 September, 2002 from: <http://pers-www.wlv.ac.uk/~le1810/ftcrpa.htm>
- Wellington District Law Society. (1983). *Full report: Women in the profession*. Wellington, N.Z.: Wellington District Law Society.
- Wellington Independent Rape Crisis Centre. (1997). *Information about rape and sexual abuse of women for students*. Wellington, N.Z.: Wellington Independent Rape Crisis Centre.
- Westra, B., & Martin, H. P. (1981). Children of battered women. *Maternal Child Nursing Journal*, 10, 41-54.

- Wetherell, M., & Edley, N. (1998). Gender practices: Steps in the analysis of men and masculinities. In K. Henwood, C. Griffin, & A. Phoenix (Eds.), *Standpoints and differences: Essays in the practice of feminist psychology* (pp. 156-173). London: Sage Publications.
- Wetschanow, K. (1999). "The personal is political" – Are daytime talk shows feminist? In *A decade of transformation, IWM Junior Visiting Fellows Conferences, Volume 8, Vienna*. Retrieved February 29, 2003, from <http://www.iwm.at/publ-jvc/jc-08-10.pdf>
- Widdershoven, G. A. M. (1993). The story of life: Hermeneutic perspectives on the relationship between narrative and life history. In R. Josselson & A. Liebrich (Eds.), *The narrative study of lives* (pp. 1-20). Newbury Park, CA: Sage Publications.
- Widom, C. S. (1989). *The intergenerational transmission of violence*. New York: Harry Frank Guggenheim Foundation.
- Wilkinson, S. (1997). Feminist psychology. In D. Fox & I. Prilleltensky (Eds.), *Critical psychology: An introduction* (pp. 247-264). London: Sage Publications.
- Wilkinson, S., & Kitzinger, C. (1995). Introduction. In S. Wilkinson & C. Kitzinger (Eds.), *Feminism and discourse: Psychological perspectives* (pp. 1-9). London: Sage Publications.
- Williams, J., & Holmes, K. (1981). *The second assault: Rape and public attitudes*. Westport, CT: Greenwood Press.
- Willig, C. (2001). *Introducing qualitative research in psychology: Adventures in theory and method*. Buckingham, PA: Open University Press.
- Willott, S. (1998). An outsider within: A feminist doing research with men. In K. Henwood, C. Griffin, & A. Phoenix (Eds.), *Standpoints and differences: Essays in the practice of feminist psychology* (pp. 174-190). London: Sage Publications.
- Wilson, M., & Daly, M. (1993). Spousal homicide risk and estrangement. *Violence and Victims*, 8, 3-15.
- Wilson, M., Daly, M., & Wright, C. (1993). Uxoricide in Canada: Demographic risk patterns. *Canadian Journal of Criminology*, 35, 263-291.

- Wilson, M. A. (1993). An introduction and an overview. In *Challenging law and legal processes: The development of a feminist legal analysis. New Zealand Law Society Seminar, August 1993* (pp. 1-17). Wellington, N.Z.: New Zealand Law Society.
- Wilson, M. A. (1999). Facing the millennium: A few thoughts on women in the legal profession. In *New Zealand law conference, Rotorua, April 6-10, 1999: Proceedings* (pp. 19-26). Hamilton, N.Z.: Waikato Bay of Plenty District Law Society.
- Wilson, T. (1997). *Why doesn't she leave? Facts and myths about domestic violence*. Retrieved September 15, 2002, from: <http://www.feminista.com/v1n4/twilson.html>
- Wingood, G. M., & DiClemente, R. J. (1997). The effects of an abusive primary partner on the condom use and sexual negotiation practices of African-American women. *American Journal of Public Health, 87*, 1016-1018.
- W.I.S.E. (1998, January 6). *Domestic violence information manual: Myths about domestic violence*. Retrieved September 15, 2002, from: <http://www.wise.infoxchange.net.au/DVIM/DVMyths.htm>
- Woman drugged for sex, court told. (2002, September 11). *The Evening Standard*, ed. 2, p. 3.
- Woman out of coma. (2003, October 3). *The Press*, ed. 2, p. 3.
- Woman recovers. (2002, October 9). *The Dominion Post*, ed. 2, p. 3.
- Women's Coalition Against Family Violence. (1994). *Blood on whose hands? The killing of women and children in domestic homicides*. Brunswick, Australia: The Coalition.
- Woods, C. (1999). The socio-economic position of women in Aotearoa New Zealand. In *New Zealand law conference, Rotorua, April 6-10, 1999: Proceedings* (pp. 27-40). Hamilton, N.Z.: Waikato Bay of Plenty District Law Society.
- Wooffitt, R. (1992). *Telling tales of the unexpected: The organization of factual discourse*. Savage, MD: Barnes & Noble Books
- Woolgar, S. (1996). Psychology, qualitative methods and the ideas of science. In J. T. E. Richardson (Ed.), *Handbook of qualitative research methods for psychology and the social sciences* (pp. 11-24). Leicester, UK: BPS Books.

-
- Yllo, K. A. (1993). Through a feminist lens: Gender, power and violence. In R. J. Gelles & D. R. Loseke (Eds.), *Current controversies on family violence* (pp. 47-62). Newbury Park, CA: Sage Publications.
- Yllo, K., & Bograd, M. (Eds.). (1988). *Feminist perspectives on wife abuse*. Newbury Park, CA: Sage Publications.
- Young, W. (1983). *Rape study: A discussion of law and practice: Volume 1*. Wellington, N.Z.: New Zealand Department of Justice and the Institute of Criminology.
- Young, W., Morris, A., Cameron, N., & Haslett, S. (1997). *New Zealand national survey of crime victims, 1996*. Wellington, N.Z.: Victimisation Survey Committee.
- Zelas, K. (1995). Editorial: Child protection or another "ultimate weapon"? *Butterworths Family Law Journal*, 1, 210.

Appendices

- Have you ever experienced psychological, sexual, physical, and/or any other type of abuse from a male or female partner?
- Have you ever involved a lawyer as a result of this experience, or have the courts ever been involved (e.g., regarding protection orders, assault charge against partner, custody issues in which violence has featured, etc.)?
- My name is Rachael Pond and I am doing research about women's experiences of their lawyers and the court system (or their choice not to involve lawyers and the court). I would love to speak to you if you are interested. I consider your experiences to be important and valuable, especially in terms of improving the service provided by the legal system.
- If you are interested, please read the information sheet attached. This explains (a little more formally!) what the research is about and what you would do if you took part. It also explains what you can expect from the researcher.
- If you have any questions about the research or are interested in participating, please leave a message for me with Anne (350 5799 extn 2041) and I will return your call. Alternatively, you can return the form attached.
- It is also important to inform you that I am an advocate for Palmerston North Women's Refuge and a facilitator of Manawatu Women's Learning Group. Note that this does not put you under any obligation to take part in this research.

Thank you,

Rachael Pond



Legal Discourses on Domestic Violence INFORMATION SHEET

What is this study about?

The aim of this study is to explore judges and lawyers understanding of domestic violence and how this might impact upon women that experience or have experienced abuse/violence within their intimate relationships. Before I interview judges and lawyers I would like to hear about your experiences within the legal setting that are related to abuse/violence by your ex/partner. This might include your experience of: your lawyer or your ex/partner's lawyer; application for protection orders; your ex/partner breaching protection orders; your ex/partner being charged or avoiding charges related to abusing you; the court process or anything that has happened within the court (either within the Family or District Court); custody issues where domestic violence has featured; judges; your actual experience of abuse/violence; or any other experience you feel is relevant to the legal setting. It is not necessary that you have had experience of all these things. The information you provide will be valuable because it will shed light on the experience of women before I interview judges and lawyers. You are also most welcome to ask me to address specific issues in my research. As a result of this research I hope that feedback might become available to lawyers and judges so that their practice might be more empowering to women survivors of domestic violence. I also hope that changes to legal practice might help enable women to live free from violence and abuse within their intimate relationships.

The research is being done by Rachael Pond as a thesis for her doctorate under the supervision of Dr. Mandy Morgan and Dr. Christine Stephens in the School of Psychology at Massey University. Rachael is also an advocate for Palmerston North Women's Refuge and a facilitator of Manawatu Women's Learning Group.

What would I have to do?

If you agree to take part, you will be interviewed by me (Rachael) at a location agreed upon by us both. The interview is expected to take between 1 and 1½ hours. If you wish, you are most welcome to have a support person with you, for example, an advocate from Women's Refuge, Te Roopu Whakaruruhau (the Maori Women's Refuge), or a friend. During the interview I will ask you some general questions and you will be invited to talk about your experiences of the legal system in relation to domestic violence. With your permission, the interview will be audiotaped so that it can be recorded and transcribed. I will do the transcription myself so that

no other person has access to information you might give me. All audiotapes will be stored securely until the research is completed, and then they will be destroyed.

What can I expect from the researcher?

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

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

Should any personal issues arise during the research or as a consequence of the research you will be offered full support through Women's Refuge and/or Te Roopu Whakaruruhau.

If you are interested in taking part, please let me know. We will then arrange an interview at a time suitable to us both. Also, please feel free to ring me if you have any further questions. You can leave a message with Anne on (06) 350 5799, extn 2041, and I will return your call. You can contact my chief supervisor (Mandy Morgan) on (06) 350 5799 extn 2063 if required.

Thank you.

Rachael Pond.



Legal Discourses on Domestic Violence
CONSENT FORM

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

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

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

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

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

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

Signed: _____

Name: _____

Date: _____

PLEASE CIRCLE

I **agree / disagree** that my transcript from the interview can be used by the researcher.

I **would like / would not like** to have a support person at the interview (e.g., advocate from Women's Refuge / Te Roopu Whakaruruhau, or a friend).

Are you a barrister/solicitor who does any of the following...?

- given legal advice to women who have experienced abuse/violence by their partners/ex-partners
- been involved with protection order applications for clients
- represented respondents who are defending protection orders
- been involved with custody cases that have involved partner abuse/violence
- represented persons charged with assault against a partner/ex-partner
- done any other work related to domestic violence

My name is Rachael Pond (School of Psychology, Massey University, Palmerston North) and I am doing research which aims to explore lawyers experiences of work related to domestic violence, and their views and opinions of issues pertaining to domestic violence.

I am wishing to speak to lawyers like yourself, who have done work in this area. If you are interested, this would involve a 1 to 1½ hour interview (at a date, time, and venue suitable to you). The interview is reasonably informal.

[I am planning on being in Nelson from 20 April - 7 May, and if suitable, would like to conduct interviews during this time].

If you are interested in being involved in the research or finding out more, please fill in the sheet attached and return it in the free-post envelope. Alternatively, you can leave a message for me with Anne (06) 350 5799, extn 2041, and I will return your call.

Thanks for taking the time to read this.

Rachael Pond

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