

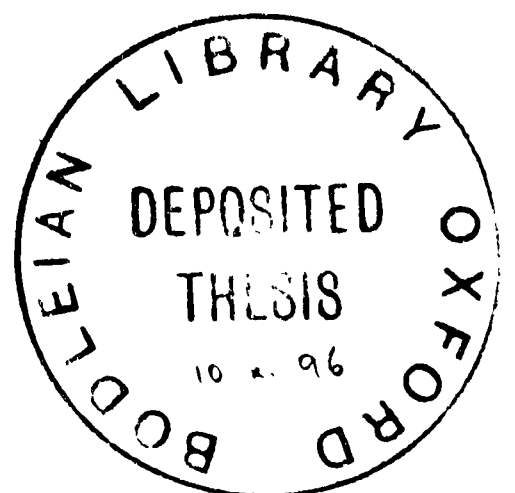
***Responding to Domestic Violence:
The Roles of Police,
Prosecutors and Victims***

**A thesis submitted to the
Board of the Faculty of Social Studies
in partial fulfilment
of the requirements for the
degree of Doctor of Philosophy
in the University of Oxford**

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Hilary 1996



ACKNOWLEDGEMENTS

All research projects rely on numerous people for advice and support. This thesis is no exception. First I would like to thank the Economic and Social Research Council who funded my D.Phil, having already funded my M.Sc. I am indebted to Chief Constable Charles Pollard and Chief Superintendents David Lindley, Ralph Perry, and Caroline Nichol for permission to conduct the research in two of the busiest divisions within the Thames Valley Police Service.

Many other people, including the control room operators, administrative support staff, shift Inspectors, and station duty officers, assisted my fieldwork and ensured that the time spent in the station was both productive and enjoyable. However, the greatest debt is to the 219 police officers interviewed in Oxford and Cowley, in particular WPC Dean and PC Hunter who, despite the science of random sampling, were each interviewed nine times and still managed to show enthusiasm! The cooperation and, more importantly, the honesty of all officers meant that this central part of the fieldwork was productive and enjoyable. Special thanks must go to Party five in Cowley and Party four in Central Milton Keynes who tolerated my observing them on patrol duty with good humour. My understanding of operational policing and ‘cop-culture’ in particular would not have been complete without the many hours spent in patrol cars and the canteen. More recently continued communication with the domestic violence officers WPC Bovingdon-Cox, PC Hatton and WPC Lorenzo has kept me informed about recent developments.

Constables Purnell, Goodings and Barefield and Inspectors Pratt and Wooloff facilitated what

I originally anticipated to be the most problematic stage of the fieldwork: the interviews with victims of domestic violence. This part of the research was made all the more rewarding by the professionalism of these officers, and their sympathetic and tactful behaviour towards both the victims and their families. Sincere thanks go to the domestic violence victims who welcomed me into their homes and talked openly about their most private and traumatic experiences. Their courage and honesty was not only a source of inspiration, but was fundamental to my understanding of the role of police and prosecutors.

The Aylesbury and Abingdon branches of the Crown Prosecution Service kindly agreed to my examining case files and interviewing prosecutors. I would like to thank all prosecutors, in particular Tessa Lister, for sharing information and interesting stories with me. The staff of the statutory and voluntary agencies of Oxford and Milton Keynes also cooperated with this research. Joanna Fenstermacher, Irene Manasseh and Dot Garratt were especially valuable sources of information. I owe a particular debt of gratitude to the residents and workers of the refuges who welcomed me into their homes and trusted me with their experiences.

During the last three years I have been fortunate in being able to draw on the experience and support of my colleagues and friends at the Centre for Criminological Research where office space and administrative support has been generously provided for me. In particular I would like to thank Ros Burnett for her comments, advice and friendship over the past four years. Anja Spindler, and Graca Cordovil have provided statistical and computing advice and Jane Creaton, Kimmet Edgar, Kate Joyce, Ian O'Donnell and Heather Hamill gave continued support and helped me to keep things in perspective. Sylvia Littlejohns and Sarah Frost were

valuable sources of assistance throughout the project. Andrew Sanders has commented on earlier drafts of most of the chapters in this thesis and has helped me to refine my ideas. I have been inspired by both his work and by his enthusiasm, and I am glad that our friendship has survived my criticisms of *The Case for the Prosecution*!

Whilst conducting fieldwork can be, and certainly was for me, a stimulating experience, writing a thesis can be an intellectually lonely endeavour. That I managed to enjoy this stage is a tribute to the unfailing support of my supervisor, Dr Roger Hood. The fieldwork might not have been possible without his influence and the good reputation of the Centre to recommend me. The analysis would have been less rigorous without his meticulous attention to detail. And the quality of the writing would certainly have been poorer if not for his patience in reading and commenting on the tortuous early versions of all chapters. Operating an 'open-door policy', he was available for consultation and advice at all times and I am extremely grateful to him for his attention.

Finally I would like to apologise to my husband for the many Friday and Saturday nights I spent in the back of a police car whilst he sat at home worrying about my safety. I am grateful to his good humoured tolerance of my unsociability during the numerous weekends and evenings I sat at my computer.

ABSTRACT

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D.Phil thesis

Hilary term 1996

Responding to Domestic Violence: The Roles of Police, Prosecutors and Victims.

This thesis aimed to understand the factors which shape the police and CPS response to domestic violence in the light of recent policy changes which recommended arrest in such cases. The decisions made by victims, police and prosecutors were charted in over one thousand three hundred reported cases of domestic violence in the Thames Valley during a seven month period in 1993. A random sample of 387 of these incidents were examined in detail. The study sought to understand the needs, desires and expectations of victims and how their choices impacted on the decisions made by police and prosecutors.

Having evaluated feminist theories, the thesis argues that police and prosecutors do not randomly exercise their discretion nor can their response be explained by reference to cultural or individual prejudices. Rather, their decisions are best understood in terms of a set of informal 'working rules' developed by police and prosecutors for dealing with these complex and difficult cases. It is shown that whilst evidence of an offence was highly correlated with decisions regarding arrest and prosecution, evidence did not determine police

action nor did its absence preclude such action. Rather, evidence facilitated police action where the working rules pointed towards an arrest.

One of the strongest working rules related to the willingness of the victim to support a prosecution or not. The majority of victims did not want their partners or ex-partners to be prosecuted even when they had requested that the police arrest the perpetrators. Police and prosecutors believe the criminal justice system to be an extremely clumsy tool in dealing with domestic disputes. They therefore did not pursue independent evidence when victims withdrew their statements and they consequently discontinued these cases or did not initiate prosecution in the first place.

Previous research has started from the premise that withdrawal of complaints by victims and the discontinuance of cases represents some kind of failure on the part of the agencies involved and that this would be remedied if the police arrested and prosecuted wherever possible. Implicit in this approach is the assumption that the criminal justice system as it presently operates is capable of responding effectively to the needs of victims of domestic violence. This thesis throws some doubt on the validity of these assumptions.

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CHAPTER 1

Changing Attitudes Towards Domestic Violence: from Private Problem to Public Policy

Prior to the early 1970s violence against women in the home was generally considered to be a private matter and, excepting cases of very serious injury, the couple were left alone to solve their conflict. The law was considered to be the last resort in the management of wife abuse, and arrest was only used occasionally as a temporary means of maintaining order. Today the divide between public and private violence is less distinct and violence between intimates has become a more salient public policy issue than ever before. Increased public intervention within the private sphere has been legitimated by new legislation, new police powers and changing attitudes towards state intervention which has blurred the public/private dichotomy.¹ Domestic violence is now, in theory, recognised as crime proper and the fact that it typically occurs in the home is not allowed to deflect from its status as a criminal offence.

¹This change has, in part, been facilitated by increased State intervention in the home resulting from growing concern over child abuse.

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This chapter will indicate both how and why domestic violence has been transformed from being viewed as a private matter to a subject attracting considerable public, police and governmental concern. It will discuss, first, the social factors which influenced research into domestic violence; second, the type of research conducted;² and, third, how this research, in turn, influenced policy and procedure concerning the police response to domestic violence. In doing so, it will introduce the pertinent issues relating to criticisms of the police response, as identified by victims, voluntary bodies and various studies, and the explanations articulated by previous researchers for what they argued were ‘failings’ in the criminal justice response to domestic violence. These issues provide the thematic background to the research conducted for this thesis, the aims of which will be specified in chapter two.

1.1 The influences behind early research into the police response to domestic violence

During the 1970s, in both the United Kingdom and the United States of America, the feminist movement put the issue of men’s violence against women in the home on the

²This chapter will not provide a detailed review of the literature. Studies will be referred to only in as far as they provide examples of the *types* of research conducted on this topic. The following chapters will draw upon the literature reviewed for this thesis in order to make points of comparison or contrast, to provide examples of different ways of exploring the subject and to show how the police response has changed over the past decades.

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public agenda. In doing so it created the environment for a plethora of studies on domestic violence. Indeed, the growth of literature in this area has been such that Kelly alleged that there had been a "knowledge explosion" (1988:43).

1.1.1 Raising awareness

The women's movement, the 'second wave' of feminism, flourished in the late 1960s and early 1970s facilitated by a recent phase of economic growth, a social democratic government and the extension of welfare provision (Haste, 1992). During this period women found themselves to be more financially secure, with greater opportunities and enjoying a higher standard of living. From this improved position they were able to address numerous issues including waged work and the economy, domestic work and the family, and safety in public places. The issue of women's lack of safety in the home was a logical extension of the latter two concerns (Dobash and Dobash, 1992).

Issues concerned with the 'politics of the body' were on the feminist agenda during this period, including rape, child sexual abuse, abortion and health care relating to birth and reproduction. Campaigns centred around these issues concentrated on the infraction of women's bodies as the site of oppression. Women, it was argued, were oppressed either by individual men, partners in the case of domestic violence, or by institutions, for example, the criminal justice system which failed to protect them from such violations.

Influenced by Marxist philosophy, feminists saw women as weighted down by

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illusions and myths and a general state of false consciousness regarding their relationships with individual men and with the state, itself considered to be a patriarchal institution. They set about trying to challenge this lack of awareness of women's oppression. Political consciousness raising in general, and politicising the concerns of victims of domestic violence in particular, motivated feminist academics to consider the causes, consequences and solutions to violence in the family. Victims of domestic violence were encouraged to articulate their experiences from a political perspective. Naming the discontent was the first step in recognising that personal relationships lay at the core of the problem of women's political rights. The women's movement meant that the personal must become political.

1.1.2 From awareness to action

In the United Kingdom the beginning of the social movement dealing with violence against women had been unspectacular until small numbers of women, many of whom had been abused themselves, joined together to provide safe houses for battered women. Inspired by pioneering work in North America and Canada, the battered women's movement not only brought the issue of domestic violence to public attention, but also organized a pragmatic response to the needs of such women, a response based on a wider philosophy of feminist inspired change.³

³In Britain the refuge movement owes much to the efforts of Erin Pizzey and the other women who opened Chiswick Women's Aid (Pizzey, 1974). Beginning in an unexpected manner, as a campaign to protest against the elimination of free school milk, it is now the country's most famous refuge.

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Soon refuge provision grew from local groups to national organization and by 1974 a Women's Aid Federation (WAFE) was established with 27 groups all over the country. Their message was that domestic violence should no longer be considered an unfortunate event in a bad marriage and women were assured that with help they could change their situation. Influenced by the dynamism and enterprise of the shelter movement, women began to develop outreach initiatives including support groups, help-lines, legal advocacy services and community education programmes. These early activists also campaigned for state responses to the problem of domestic violence: most notably they wanted funding for new refuges; access to housing and benefits for women who were forced to flee violent marriages; and improvements in the policing of, and the law concerning, domestic violence.

At the same time the Women's Movement had raised the issue of sexual violence against women (the first Rape Crisis Centre was established in 1976). Pressure groups, in particular Women Against Rape (WAR), began to speak out against marital rape (Hall *et al.*, 1981) - an issue considered by the 1984 Criminal Law Revision Committee (CLRC). They argued against the 'marital rape exemption' which had stood unchallenged from the seventeenth century.⁴

⁴Direct links between physical and sexual abuse were made by writers such as Frieze (1983), whose research revealed that one third of those women reporting domestic violence had been raped by their partners, and by Bowker (1983), who argued that sexual perversion and rape were important components of the violence inflicted on women by their husbands. More recent research has suggested that approximately fourteen percent of women have been raped by their husbands or partners (Russell, 1990; Painter, 1991).

1.1.3 Government response

The first developments in public policy concerning domestic violence began in 1975 with the Parliamentary Select Committee hearings on *Violence in Marriage*. Prior to the mid 1970s, police officers had been advised against arresting men who were violent to their partners, and in 1975 the Association of Chief Police Officers, giving evidence to the Committee denied the extent or severity of the problem of domestic violence and the need for any change in their service. They argued that in dealing with 'domestics' it was important to maintain the unity of the spouses.

Despite sympathy for police reluctance to intervene because of victims withdrawing charges and traditional ideas about domestic privacy [para. 43], the Report recommended that the police keep statistics and that Chief Constables should review their policies for dealing with domestic violence. It reported that the police should treat assaults in the home as seriously as they do assaults in other places and should be ready to arrest the assailant on the spot where there is evidence of an injury [para. 44]. However, whilst there were resultant changes in the civil law, the police response stayed the same, reinforcing the idea that domestic violence was predominantly a matter for the civil courts. Nevertheless it was a major achievement for the women's movement that the government had reacted to pressure and made the decision to establish a Committee to take evidence and make recommendations for action. It was the first time that the police had been questioned about their role, and hence it established the foundation for future inquiry and criticism.

Following the Report, Parliament passed legislation aimed at helping women who are abused by partners and helping the police to improve their service to these victims: The Domestic Violence and Matrimonial Court Act 1976, the Housing (Homeless Persons) Act 1977, the Domestic Violence and Magistrates Act 1978, and the Matrimonial Homes Act 1983, provided for the eviction of violent men, their arrest for a breach of an injunction and the rehousing of battered women. Much research has since been directed towards assessing the effectiveness of this spate of legislation, with researchers attempting to establish which statutory agencies were failing to give an adequate service to victims.

In 1977, for example, the government commissioned research on provisions for battered women (Binney *et al.*, 1981). This study was carried out against a backdrop of the recently enacted legislation - the Housing (Homeless Persons) Act - meant to assist women to obtain permanent accommodation, the Parliamentary Select Committee (1975) recommendations of refuge provision for a minimum of one family place per 10,000 of the population,⁵ and an established commitment to eradicating homelessness (Dobash and Dobash, 1992). It was the first of many projects aimed at evaluating whether the intentions of the government, with regard to assisting battered wives, were being realised.

⁵This figure has never come anywhere near being met (see Binney *et al.*, 1981).

1.1.4 The impetus for academic interest

The feminist movement, voicing the concerns of women and demanding social change, and the response of the legislators and policy makers, provided an incentive for sociologists to investigate the issue of violence in the home. Indeed, since the 1970s within sociology there has been a growing sociological literature on the position of women in society and the development of a specifically feminist research methodology (Stanley and Wise, 1983). Feminist academics were encouraged to research areas outside of established 'mainstream' topics and from perspectives other than established 'mainstream' theory. The path was, thereby, cleared for the development of feminist theories of domestic violence and for empirical studies of its character, prevalence, incidence and for assessments of the response of the criminal justice system.

Sociology in the 1980s was sceptical, challenging traditional theories and assumptions regarding the family. Previously, sociologists had regarded marriage largely as a vehicle for self-actualization, personal growth and self-expression (Berger and Kellner, 1964:5). Their attitudes towards marriage reflected the ideas of the functionalist sociology of the early 1960s which served to promote, rather than challenge or deconstruct the dominant ideological and cultural norms of the time. Feminist writers attacked this consensus, treating the 'social construction of marriage' as a gendered phenomenon and showing the importance of explaining domestic relations within a context of women's economic position.

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The increase in the attention sociologists paid to domestic violence was marked by two very different publications, one by William Goode (1971) and the other by Erin Pizzey (1974). Goode's theoretical discussion of violence within families as a socially legitimated power resource, used primarily against women and children, opened up the issue to empirical investigation and laid the foundations for the use of systems theory in much of the American literature that followed. Pizzey's work was the first to use the term 'battering' to describe the violence of men against their wives. She demonstrated the extent and seriousness of domestic violence whilst also discussing the range of factors which prevented many women from leaving abusive relationships. Pizzey, the emergent figurehead of the Chiswick refuge, brought together academics and activists in a debate about how society, especially its statutory and voluntary agencies, should respond to both the aggressors and the victims in domestic assaults. Indeed, Pizzey can take much of the credit for provoking feminist research into domestic violence. It was she who placed issues such as rape within marriage, physical violence against wives and children and child sexual abuse firmly on the public and political agenda. She identified these issues as social problems and by proffering controversial ideas about the causes and solutions she drew academics into the debate.

The public/private dichotomy, which until the late 1970s had remained fairly rigid, had been challenged by feminists who questioned the role of the State in the intervention of family violence. Issues about what should be public and what should remain private, the nature of the family and the integrity of the individual, split the

women's movement into liberal and radical camps.

1.2 The type of research conducted

A vast literature emerged during the 1970s and 1980s on all aspects of domestic violence. This section will consider only those studies which focused on the police and criminal justice responses.

1.2.1 Feminist research

Researchers, describing the response of the police to incidents of domestic violence, have examined the role of the dispatcher or radio controller (Faragher, 1985); the influence of operational police officers who first attend the scene and who must decide whether or not to arrest a suspect (Dobash and Dobash, 1980); and the role of the custody officer who must decide whether or not to charge the suspect (Edwards, 1989). Some studies have analyzed police records and/or carried out observations of police behaviour (Faragher, 1985; Oppenlander, 1982; Edwards, 1986), whilst others have gathered data from interviews with, and questionnaires completed by, female victims of domestic violence (Binney et al., 1981; Bowker, 1983; Brown, 1984; Pahl, 1982, 1985). Dobash and Dobash (1979) combined both methods in their study in Scotland.

The research carried out during the 1970s and 1980s showed that few perpetrators of

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domestic violence were prosecuted, or even arrested with an offence of violence against the person (see, Pagelow, 1981; Bowker 1982; and Binney *et al.*, 1981). For example, Pagelow discovered that more than half of the 350 battered wives she interviewed who had asked the police to arrest their partners reported that the police had failed to make an arrest. It was argued that even when all the conditions were met for the police to make an arrest, this was rarely done (Edwards, 1986). Even in cases where women were keen to pursue a prosecution the police, it was argued, were not (Dobash and Dobash, 1979). Most of these studies suggested that victims were very dissatisfied with the police (Binney *et al.*, 1981; London Strategic Policy Unit, 1986).

Research also indicated that when suspects were charged it was often with a crime of lesser seriousness than would appear to be justified by the facts (Edwards, 1986). The practice of moving the classification of the offence from 'assault occasioning Actual Bodily Harm' (ABH) (s. 47 of the Offences Against the Person Act, [OAPA] 1861), a crime which typically requires police action and public prosecution, down to 'common assault' (s. 42 OAPA, 1861), which is usually dealt with through a private summons, has been referred to as 'criming down' (Edwards, 1986). Chatterton (1981) observed that station incident book entries which stated that a domestic dispute had arisen and the parties had been advised to seek a civil remedy often hid quite serious assaults on wives.

Concern about the police implementing the law rather less in cases of domestic

violence than in other incidents of interpersonal violence found expression in the writings of Faragher (1981), Pahl (1985) and Edwards (1986). Whilst Faragher suggested that the police did not see domestic violence as 'real' policework, Pahl and Edwards argued that police cultural notions, informed by misogyny, create a distinction between 'deserving' and 'non-deserving' victims. The implication was that victims of domestic violence invariably fell into the latter category, provoking little sympathy and assistance from police officers.

1.2.2 General policing research

More recently, there has been a range of literature which has explored the dynamics of policing in general and has specifically addressed the police response to domestic violence.⁶ Indeed many such theorists used the example of domestic violence in order to explore organisational theory or informal police culture (see, for example, Kemp *et al.*, 1992; Sanders, 1988). Other writers have considered the police response to domestic violence in order to explore the question of what the core function of policing should be, particularly the issue of whether the police should be service providers or law enforcers (Reiner, 1985).

The first empirical study of the police in Britain was conducted by Michael Banton (1964) whose aim was to explore sociological theory, rather than expose bad practice. Banton's observational study showed that the police role, rather than being entirely

⁶See Reiner (1994) for a thorough review.

focused on law enforcement, is largely to do with peace-keeping tasks and informal social control.⁷ It opened up the police as potential subjects of investigation and, as such, prepared the ground for critical study. Much of the following empirical work was motivated by a recognition that police practice often deviated from legal standards and from a desire to close the gap between the 'law in books' and the 'law in action' (McBarnet, 1983; McConville *et al.*, 1991; Kemp *et al.*, 1992). Sociological research during the 1960s examined the structuring of police deviation from due process values by focusing on the role, organisation, culture, personality, and socialisation of the police (Reiner, 1994).

The literature showed that the police typically under-enforced the law by exercising their discretion not to arrest (see Chatterton, 1983; Holdaway, 1977, 1979; Manning, 1977; Reiner, 1978). This exercise of discretion has largely been explained by reference to informal police culture and the police working personality (see Skolnick, 1966; Reiner, 1992). Feminist academics seized on these findings relating to the discretion exercised by rank and file officers to explain the low arrest rates in cases of domestic violence. Their arguments about the police valuing social control and the protection of lives and property over attending to 'social problems' such as marital discord have had much in common with the 'mainstream' work of cultural theorists like Bayley and Bittner (1983). Hence, whilst feminist academics aimed to set new agendas and challenge the consensus of mainstream sociology and criminology, they

⁷This was further supported by Punch (1979) and Shapland and Vagg (1988).

learnt much from both the empirical methods and sociological theories adopted in the general policing literature.

1.3 The influence of research on policy and procedure

Feminist writers had discovered, through empirical work, that the police were reluctant to intervene in most cases of domestic violence and expressed anger at the apparent refusal of all practitioners in the criminal justice system to take violence against wives seriously. This anger was channelled into campaigns to 'educate' those in government and positions of power responsible for the criminal and civil law and for directing policy. These campaigns were fairly successful, with the past decade witnessing some radical changes in the societal approach to all forms of violence against women as well as to the role of the state as a regulator of behaviours within the family. The feminist inspired research (most notably the work of Edwards) along with the pressure from women's advocates in general, and organisations such as the Women's Aid Federation in particular, encouraged the government towards a reconsideration of its stance on all forms of violence against women in the home.

1.3.1 The changing law on marital rape.

In 1984 the Criminal Law Revision Committee [CLRC] concluded that there could be no rape within marriage, except where cohabitation had ceased and the couple were living apart [paras. 2.55 and 2.85]. However, six years later the Law

Commission published a Working Paper on *Rape Within Marriage* in which the problems identified by the CLRC were addressed and the general issues opened for debate. The Commission found numerous grounds for arguing against the CLRC Report and concluded that "the present marital immunity in rape should be abolished in all cases" (Law Commission, 1990, para. 5.2). The House of Lords took it on themselves to do just this in 1991 (R-v-R 1991 3 WLR 767).

1.3.2 Policy changes on domestic violence

In the mid-1980s the Women's National Commission was instrumental in encouraging the government to consider the response of the various criminal justice agencies to crimes of sexual violence against women (Smith, 1989). Deliberations over this issue culminated in the Home Office Circular of 1986 [69/1986] which whilst primarily being concerned with the police handling of rape, recommended that procedures used to help victims of sexual assault should also apply to domestic violence victims. It reminded officers of the new powers provided by the Police and Criminal Evidence Act 1984 (PACE) and recommended that they advise victims on how to contact support organisations and local authority agencies.⁸ It was suggested that such advice should be offered in private and might helpfully be contained in a leaflet which could be given to the victim (Home Office, 1986: 3). However, this Circular did not direct

⁸These new powers relate to officers powers of entry to premises for the purpose of arrest [s. 17 (1) (b)], and for the purpose of saving life or limb or preventing serious damage to property [s. 17 (1) (e)]; and to officers powers of arrest regarding persons suspected of committing, or being about to commit, an arrestable offence [s. 24], and to prevent physical injury to another or to protect a child or other vulnerable person [s. 25].

Chief Constables to develop new policies. It was, as Freeman (1987) has argued, a somewhat tame response. Yet, despite its conciliatory approach, some police forces did respond positively.

A number of forces issued orders concerning domestic violence.⁹ For example, the Metropolitan Police issued a force order in 1987 which encouraged the use of arrest, and recommended, amongst other things, that officers involve other agencies in seeking solutions and initiatives to this form of violence. In response to the recommendations in this order a special programme to initiate a multi-agency approach to tackling the problem of domestic violence was set up at Tottenham (Horley, 1988).

The Home Office Circular of 1990 [60/1990] showed a strong commitment to an effective response to all aspects of physical, sexual and emotional abuse in the home. It stated that complaints of domestic violence should be recorded and investigated in the same way as crimes committed by strangers, advised forces to keep accurate statistical records of all reports of domestic violence to enable officers to be able quickly to retrieve relevant information, and recommended that there should be some

⁹Although feminists had been campaigning vigorously since the 1970s, it has been suggested that the rapid change of response by the police was not a direct response to feminist pressure, but part of a broader strategy to re-establish police credibility in inner city areas where uprising and police abuses had, by the early 1980s, led to open hostility with local communities. By setting themselves up as protectors of vulnerable women, the police attempted to recapture public confidence, and ultimately to re-assert surveillance and control in these areas (Morley and Mullender, 1992).

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sort of positive action to investigate all such calls (Home Office, 1990a, paras. 12 and 13). Research, again in particular that carried out in London by Edwards, had exposed the problems of 'no-criming', attempting to conciliate, and interviewing victims in front of their assailants [para. 14]. The Circular warned officers against such practices, recommending that they should take a more interventionist approach and consider arrest and detention in all cases [para. 16]. In addition it advised them to adopt a more sympathetic and understanding attitude towards victims, providing them with information about help in the community [para. 8]. Forces were also encouraged to set up dedicated units of appointed officers to deal specifically with domestic violence cases and to liaise with other agencies working in the field [para. 10].

There appears to be widespread agreement that the Circular provided the encouragement and advice necessary for the police to develop sensitive and effective responses to domestic violence (Home Affairs Committee, 1993a, para. 14). Indeed by July 1991, all forces in England and Wales had formulated policy statements on domestic violence (Home Office Memorandum to Home Affairs Committee, 1993b: 2). However, a recent Home Office study has found that the translation of these policies into practice has been varied and sometimes very limited (Grace, 1995). The Merseyside Police Service has distributed a leaflet, established a Domestic Violence Unit, and produced a self-assessed learning package for police officers on the question of domestic violence. However, some forces have been reluctant to develop such initiatives. Nevertheless, they have all issued policy statements showing that they are

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committed to improving their responses to domestic violence, being, in particular, more interventionist regarding both services to victims and the processing of offenders.

Even a brief perusal of the 60/1990 Circular indicates that the Home Office was influenced by Edwards' research, but smaller localised empirical studies have also had an impact on specific police areas. Research by Hanmer and Saunders, for example, played a key role in providing the Chief Constable of West Yorkshire Police with sufficient data to be able to engage in a more pro-active policing of violent men in that area (Hanmer and Saunders, 1984, 1987, 1991; Hanmer, 1990). Indeed, research appears to be a necessary antecedent to changes in policy with many different police forces now undertaking their own monitoring as well as commissioning external research reports.

Improvements in the police response have also been encouraged over the last few years by numerous high level discussions on domestic violence. In 1992, the National Association of Victim Support Schemes delivered their report on domestic violence which was the result of deliberations of a national inter-agency working party (Victim Support, 1992). Also in 1992, the Law Commission published a detailed report on civil law as it relates to domestic violence, as part of a wider review of family law. And just a year later, the Home Affairs Committee (1993a) published their report on domestic violence. These reports ensured that domestic violence was kept on the political and public agenda and promoted the development

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of innovative developments aimed at improving the criminal justice system and the services available to victims from both the statutory and voluntary agencies.

Implicit in the feminists' demands for policy changes was a belief that such reforms would bring about substantial improvements for victims of domestic violence through changes in operational policing. As Edwards argued, prior to the 60/1990 Circular:

A policy directive on marital violence would certainly create the appropriate climate for the desperately needed changes in policing on the front line (1989: 86).

She continues to reinforce this view by insisting that:

Policing in the absence of policy ... facilitates the making of individual judgements, often based on erroneous stereotypes (1989: 87).

The data presented in the following chapters will throw some light on the issue of the impact of policy on practice.

This chapter has examined those factors which influenced academic interest in the subject of domestic violence. It has looked, in particular, at the consciousness raising and collective action of the women's movement and at the early attempts of the government to encourage all statutory agencies, especially the police, to recognise domestic violence not only as a prevalent social problem, but, more importantly, as a crime. A brief review of the types of studies conducted and the issues they raised was provided and connections made between the findings of such research and subsequent developments in police policy and procedure.

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The following chapter will set out the aims and the theoretical perspective of the research on which this thesis is based. It will explain the objectives concerning the extent to which policy changes have resulted in operational changes and explore those factors which may limit the degree of change, often in spite of the best intentions of policy makers and operational police officers. *Chapter three* describes the methodological approach of the research.

The following four chapters chart the progress (from initial reporting through to the conviction of offenders) of 1318 domestic violence incidents reported to the Thames Valley areas of Oxford and Milton Keynes during a seven month period in 1993. *Chapter four* looks at the first stage of this process - the reporting of incidents to the police control rooms. Interviews with control room personnel are drawn on, as are recorded details of all calls reporting domestic violence, in an attempt to measure the extent to which policy changes affect the management of these calls. It is also aimed to assess the impact of choices made by control room operators on the decision making practices of patrol officers.

Chapters five and six discuss the response of patrol officers to 387 incidents (a random sample of the 1318 reported incidents) drawing on data from interviews with officers and victims and a patrol observation diary. The complex issue of police discretion is explored in the light of officers' decisions about their role vis-a-viz. the disputants and the negotiation of a peaceful and effective solution. The role of evidential versus 'working' rules is examined in relation to the decision to arrest and,

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in *chapter seven*, the decision to prosecute (using data from interviews with police officers and crown prosecutors).

Interviews with victims are drawn on in *chapter eight* in order to explore what women wanted from the police when they called them into their homes. *Chapter nine* examines the effectiveness of police and other statutory and voluntary agencies' attempts to provide victims with advice and information and with practical and emotional support.

Chapter ten concludes the thesis by looking at the changes in the police response since the fieldwork for this thesis was conducted. It examines critically the present trend towards responding in victims' interests rather than according to their wishes.

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Aims and Theoretical Perspective

The main aim of this thesis is to examine the factors which shape the disposal of cases of 'domestic violence'. It seeks to understand how the police construct 'cases' for prosecution from some incidents whilst deciding to take no further action in others: in other words, to examine the processes by which some acts are defined as criminal (as violence, property or public order offences) whilst others are not assigned such labels. In examining the process of reporting and the police communication with complainants and suspects, as well as the response of Crown prosecutors, it was hoped to discover why so many cases do not result in an arrest or prosecution. From an understanding of the police role at present, and of victims' perceptions of the benefits or otherwise to be gained from supporting a criminal prosecution, the thesis aims to consider the role of the victim in the response of the police and the Crown Prosecution Service (CPS).

In order to achieve these aims a local study of policing 'domestic violence' in the Thames Valley areas of Oxford and Milton Keynes was carried out. For the purpose of this research, it was necessary to establish a clear definition of the forms of behaviour which would be the subject of inquiry.

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The terms 'domestic violence', 'family violence', 'interpersonal violence', 'wife abuse', 'spousal abuse', 'violence between intimates' and 'wife battering' are but some of the labels scattered about the literature on violence between partners or ex-partners, and they are invariably used synonymously. Whilst some studies have offered a working definition of what 'domestic violence' means in the context of the empirical work carried out, very few researchers have considered how their definition corresponds with the types of incidents the police are expected to respond to.

Most labels have also attracted some criticism. The name 'battered wives', for example, has been rejected for excluding violence between couples who are cohabiting but not legally married and for excluding violence between separated or divorced couples. It has also been suggested that it focuses on women as victims, rather than on men as perpetrators. The term 'domestic violence' has been criticised on the ground that it does not specify that it is mainly women who are victims. Nevertheless, this study has adopted this term because, unlike most of the other more specific labels, it is used by the police, and, as this thesis is interested in the police response, a shared understanding of concepts was vital in order to avoid misunderstanding.

The most contentious label used in this study is 'victim'. Feminists in the early 1980s started to erase the term 'victim' from their vocabulary and to replace it with 'survivors' (Kelly, 1988). They preferred to emphasise women's strategies for

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coping, resisting and surviving all forms of violence and rejected the passivity implicit in the word victim. I considered using the more neutral label of 'complainant' when discussing the response of police and prosecutors. However, one of the main focuses of the chapters dealing with the police and the CPS is the reluctance of many victims to make a complaint, or to proceed with a complaint, and so the term complainant could be misleading. I decided on 'victims' rather than 'survivors' as the latter word is somewhat of a euphemism. Also, part of the study involved speaking to women soon after they had been involved in an incident of domestic violence it was thought that the word 'survivor' was rather presumptuous. There were also four women who, as victims of murder, literally did not survive the assaults against them.

In order to decide on a definition of domestic violence which did not exclude certain behaviours, or certain women, a thorough review of the literature was conducted. It became clear that there were various forms of 'abuse' that women defined as violence and, more pertinently, from which they sought police protection (see, for example, Dobash and Dobash, 1980). Similarly, it was evident that violence continued, and indeed sometimes became more severe, between separated or divorced couples.¹⁰ Hence, for the purpose of this research domestic violence was defined as:

The physical, sexual and emotional abuse of women by male partners or ex-partners.

¹⁰Figures for England and Wales in 1986 and 1987 show that, in approximately 30 per cent of incidents where men killed women spouses, the couple were separated (cited in Edwards, 1989: 200).

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This definition is gender specific as the research was concerned only with violence against women by men and not vice versa, as all studies point to this as the most prevalent form of reported interpersonal violence. It is also specific to heterosexual relationships, excluding violence between other family members. It is not intended to deny the existence of other forms of intimate-relationship violence, all of which are worthy of serious attention in their own right. To have attempted to cover them all would have been unrealistic and would have compromised the purpose of this study.

The remainder of this chapter will discuss the theoretical perspectives which have informed both the questions posed by the research and the way in which the data has been analyzed. Firstly, however, the timing of the study will be discussed.

2.1 The timing of the study

Chapter one showed that during the past decade domestic violence has become a more salient public policy issue than ever before. It is clear that the State has re-assessed its role in tackling all forms of domestic violence. What is also apparent is that the police forces of England and Wales have responded to Home Office pressure by changing their policies. What is not clear, however, is whether changes in policy, along with evolving public perceptions, have led to changes in practice. When the work reported in this thesis began in 1992 there were no published empirical data showing the extent to which operational police officers were putting policy and legal

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changes into practice, and with what effect. Published studies of domestic violence based on fieldwork completed before the 60/1990 Circular was issued, and the resultant police initiatives put into effect, reported that the police assigned low priority to domestic violence calls. They argued that the police rarely responded to these disputes and that they seldom made arrests or used other criminal sanctions even when the violence used would have justified such action. Indeed, this literature showed that women who made contact with the police were invariably left dissatisfied or, worse, further traumatised by inappropriate or uninformed responses.

Prior to the fieldwork conducted for the study reported in this thesis, the most recent research was carried out by Edwards (1989), between 1984 and 1985, in two Metropolitan police stations. Although Edwards included a replication study of recording practices conducted in 1988, she did not interview officers again. Hence she was not able to assess the attitudes of officers in the late 1980s or examine changes in those attitudes through the 1980s. And, of course, there could be no assessment of police attitudes or practice following the Circular. Even so, Edwards has recently argued, citing Roger Graef's *Talking Blues* (1990), that the organisational intransigence and individual attitudes of the police conspire to perpetuate the deeply ingrained belief that attending 'domestics' and dealing with rape between intimates are family problems and not the proper function of the police (Edwards, 1995: 145).

Clearly, up-to-date research was necessary in order to assess the police response since

the Circular¹¹ and to determine whether or not the criticisms of Graef and Edwards still hold true. Thus, the research conducted for this thesis responds to the need to examine and to seek to understand the factors which shape current police practices and procedures in the light of the determination of the police to give a higher priority to domestic violence. Hence, it will try to understand the impact of the Circular in so far as this is possible, bearing in mind the various social and ideological changes which have taken place since the end of the 1980s.

2.2 Exploring the various theoretical perspectives

In explaining what they considered to be the differential treatment of domestic and non-domestic violence, feminist critics have explored cultural theories, focusing specifically on the literature of police socialization and exploring the concepts of police misogyny, sexist attitudes and the 'deserving' or 'undeserving' victim (Pahl, 1985; Dobash and Dobash, 1980). These theories have been propounded at the expense of exploring other competing explanations. Indeed, their argument that police 'inadequacies' in this area are due to their lack of sympathy for such victims has been so persuasive that it has achieved the status of 'a fact'. Feminist studies have taken a gendered perspective which has largely ignored structural and

¹¹In 1991 the Thames Valley Police Service adopted a policy of 'positive intervention' in response to the 60/1990 Circular, incorporating most of its recommendations.

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interactionist explanations of police inaction at the scene of domestic disputes, invariably dismissing, as mere excuses, officers' legal or organisational reasons for failing to arrest suspects. On the other hand, studies of policing which have incorporated an element of structuralism (for example, McConville *et al.*, 1991; Kemp *et al.*, 1992) have included only a small number of cases of domestic violence within a larger sample of other offences. This may be because domestic violence has been somewhat marginalised from 'mainstream' research on the police and regarded as a feminist issue: an issue which it is only 'correct' to approach from a gendered perspective.

This study will attempt to show that there are other more helpful ways of understanding police action or inaction in domestic disputes. It aims to redress the balance of some feminist studies which have, by concentrating on the influence of occupational sub-culture and individual officer attitudes, underestimated the importance of legal and organisational factors and, most importantly, the role of the victim. It is argued that the victim has a crucial role in the response of both police and prosecutors to domestic violence.

Moving away from simple 'police blaming', this research aimed to understand the context within which police have to make difficult decisions. It looked on those structural and organizational factors which constrain the choice of decisions open to police officers. Such constraints include, of course: what the victim wishes to achieve by calling the police, the availability of alternative solutions, and perceptions

of the likelihood that an arrest would lead to the establishment of evidence which the CPS would regard as sufficiently strong to justify prosecution. And, most importantly, it looked at the influence of informal 'working rules'.¹²

In trying to understand the decisions made by police, prosecutors and victims, the author has drawn on two core sociological theories, one which emphasises the influence of social structures and the other emphasising the power of agency. As far as the scientific status of sociology is concerned, there was, during the 1960s, quite a clear divide between the Naturalists (Positivists) and the Anti-Naturalists (Interpretive sociologists). Positivists began with an assumption that society - its institutions and relationships - exists as a pre-constituted thing.¹³ The role of the positivist was to employ scientific methodology to discover, in a value-free way, the facts about this pre-constituted thing.¹⁴

¹²Smith and Gray (Policy Studies Institute (PSI), 1983) first adopted the term 'working rules' to describe a set of informal working rules developed by policing on the ground which structure police discretion and so determine much police behaviour. Such working rules might be police solidarity; general suspiciousness; workload; information received; the victim involved; and the pressure to achieve 'good arrests' without compromising the due process of law.

¹³Emile Durkheim, following in the tradition laid down by Comte (who believed that the study of humanity was very much like the study of any other naturally occurring phenomenon), believed that sociology could and should model itself on the natural sciences.

¹⁴The claim of value-freedom is an important part of the positivists' claim to scientific status. One of Popper's four principles is that sociologists should carry out accurate and objective (value-free) research. Similarly, Weberians believe that they too can claim scientific status by being value-free. This, they argue, can be achieved by using the 'ideal-type' method developed by Weber. For a good critique of the positivist and Weberian claim to value-freedom see Gouldner (1973).

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Interpretive sociologists are not driven by the quest for one 'truth' just as they are not so keen to secure scientific status. They do not treat information as an unproblematic entity, but recognise that it is often based on fallible interpretations and, hence, is often ambiguous. Therefore, interpretive sociologists attempt to understand the social processes which actors go through in order to arrive at an understanding of action or behaviour. This micro-sociological approach has its roots in the Weberian social action approach and it was popularised in the nineteen sixties, in the field of the sociology of deviance, by the theories of symbolic interactionism offered by Becker (1963) and Lemert (1967). These theorists argue that, to understand how the criminal justice system operates, it is necessary to try to understand the viewpoint of the significant 'actors'. In the example of the criminal justice response to domestic violence the main 'actors' are the police, Crown prosecutors, the suspects and the victims.

Interpretive sociology is concerned with the way in which social meanings and definitions are generated within social situations and social processes: in how people create, sustain and change their view of social reality. It also attempts to understand the ways in which individuals and members of certain groups act on the basis of such meanings and interpretations. These theorists argue that in any social context a negotiated social reality will soon emerge as participants reach some consensus about what is going on and how each actor fits into the situation.¹⁵

¹⁵This type of symbolic interactionism has its roots in the social philosophy of George Herbert Mead (1934) whose work led to the development of certain concepts

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Many sociologists, because of the limitations of the different theoretical perspectives, are reluctant to sit firmly in one camp or the other. This study rejects the totally structural approach of positivism and the totally action based approach of interpretive sociology. Instead, there is a recognition that whilst the social structure influences how people act, this power is not total: people are active - they think and can, to a greater or lesser extent, manipulate and attach meaning to their environment.

This study has drawn upon the two seemingly different perspectives of interactionism and structuralism, an approach which might be called 'theoretical triangulation'. Theoretical triangulation, the use of different theoretical approaches within one study, encourages the formulation of a wide range of propositions and it allows for the greatest use of any data collected, as each type of data can be used to test different propositions and to answer different questions.

In explaining how elements of different theoretical approaches will inform this thesis three main questions will be considered. Firstly, to what extent can changes in policy impact on the response of operational patrol officers? Secondly, what is the role of the police? And, finally, what factors determine the police response?

which remain central to interactionist theory today.

2.2.1 The impact of policy

Beginning from the normative stance that the police response to domestic violence was not punitive enough, feminist critics have argued that it could be explained by the very wide discretion that police officers have when responding to calls from citizens (McLeod, 1983). Indeed, Edwards (1989) has argued that maximum police discretion is the reason why, in most cases, perpetrators of domestic violence have not been arrested. Feminist critics have tended to assume that changes in operational rules, brought about by policy reform, would result in less discretion and hence in more arrests. In other words they believed that police actions could be directed, and even controlled, by procedural rules aimed to encourage enforcement of the criminal law.¹⁶

Feminists were not alone in moving in a reform based direction. During the 1970s and 1980s many academics believed that, regardless of organisational factors, if the laws and rules are clear and precise the police will directly enforce them. In other words, they believed that policy changes could reform policing on the ground (Brittan, 1985). Such opinions resulted in attempts, in many areas of policing, to structure police discretion through criminal procedure. In the area of domestic violence this has gone further in America than in England and Wales. Following the research by Sherman (1992), many States have now adopted mandatory arrest policies

¹⁶Carol Smart (1995) has been a vehement critic of this reformist approach to feminism and the law.

for domestic violence.¹⁷

This thesis will question the assumption that policy reform significantly changes police practice. Drawing on the work of Baldwin and Kinsey (1982) and Brogden *et al.*, (1988) it will be suggested that policy, training and even laws cannot fundamentally alter the way in which rank and file police carry out their duties.

The most common explanation for the failure of policy to determine action is grounded in cultural theory. Cultural theorists have argued that legal rules and police policies cannot impact on discretion because of the occupational sub-culture of patrol officers (Bittner, 1970). Jefferson and Grimshaw (1984) asserted that whilst discretion leaves a vacuum, the police culture fills the gap and structures the choices made, leaving little room for the influence of policies. McConville *et al.*, (1991) similarly argue that legal reform cannot alter significantly the police culture which they see as determining police actions. Taking the best of interactionist and structuralist theories, they assessed the impact of the Police and Criminal Evidence Act 1984 (PACE), and argued that "where legal rules cut across well-established cultural norms of actors to whom they are addressed, they are unlikely to have instrumental effect" (McConville *et al.*, 1991: 200).

Whilst one of the aims of this thesis is to show that policy cannot have a significant

¹⁷For a discussion of mandatory arrest policies see chapter ten.

impact on police actions at the scene of domestic disputes, it is intended to look beyond 'cop-culture' in order to explain this. The occupational sub-culture of operational officers will be considered, but only in so far as it influences organisational goals and 'working rules' which, in turn, affect police interactions with citizens, whether suspects or victims. This thesis will go further, however, in suggesting that the choices made by all parties in a dispute, in particular the victims, are strong determinants of police decisions and are not, in themselves, totally guided by 'cop-culture'.

2.2.2 The role of the police

The belief that policing can be controlled by laws and policies is based on an underlying assumption that policing is mainly about crime fighting and that this is achieved by the enforcement of the law (Reiner, 1992). When Edwards referred to the public/private dichotomy she argued that officers were eager to make arrests in public disputes, whilst seldom arresting men who are violent to their partners in private. This implies that the police spend most of their time enforcing the law rigorously, except at domestic disputes where they ignore the law and attempt only to keep the peace. However, not only do most academics, especially cultural theorists, start from the axiom that policing is highly discretionary, they also assert that most of it is *not* about law enforcement:

The policeman on patrol is primarily a 'peace officer' rather than a 'law officer'. Relatively little of his time is spent enforcing the law in the sense of arresting offenders; far more is spent 'keeping the peace' by supervising the beat and responding to requests for assistance. (Banton, 1964: 127 cited in Reiner, 1992: 139).

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The police role, they argue, is about service provision and order maintenance not usually achieved by law enforcement (Ericson, 1982; Bittner, 1970). Most of the time the police do not make arrests. In forwarding the public/private dichotomy, feminists, such as Edwards, may have focused on the studies which show the resentment of a large proportion of 'rank and file' officers concerning the amount of time spent on their service role, which they believe detracts them from 'real' police work (Skolnick, 1966; Holdaway, 1977). Reiss, for example, through interviewing patrol officers, came up with an oft-cited quotation which feminist critics have taken on board as summing up the attitude of police called to domestic disputes:

Every time you begin to do some real police work you get stuck with this stuff. I guess 90 per cent of all police work is bullshit (Reiss, 1971: 42).¹⁸

Such academics see the police role as divided into two categories: law enforcement and keeping the peace. It has been argued that when police intervene in domestic situations they are often performing peace-keeping functions, a role inclined towards reconciliation rather than prosecution (Johnson, 1985). Oppenlander (1982) believes that victims do not want the police to act as 'counsellors', but to enforce the criminal law.

By arguing that the police see the family as a private domain and do not think that they should become involved in 'social work' or 'counselling', these writers have separated social service from law enforcement roles. This thesis will attempt to

¹⁸See also Smith and Gray (PSI) (1983) and Southgate (1986).

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show, as Reiner has argued, that the law enforcement/service debate rests on a false dichotomy. Reiner sees the two roles as interdependent and as deriving from "a more fundamental mandate of first-aid order maintenance" (Reiner, 1992: 141). In other words, in a conflict situation an officer might use law enforcement to achieve order whilst in a consensus situation, where there is no conflict about desired outcomes between civilian and police participants in an interaction, a service role is performed because there is no need for legal powers to maintain the order. The decision about whether or not to enforce the law is rarely preordained by the initial call to the police or the type of dispute. It is, rather, arrived at through a process of negotiation between the significant actors. An effective police officer will not need to exercise his legitimate use of force to achieve the desired resolution. His authority is typically secured because civilians know he can use coercion if he considers it necessary (Chatterton, 1983). Thus, law enforcement is a *means* to achieving social order and the furtherance of officers' own 'cultural' interests, not an end in itself (Ericson, 1982). Hence, Reiner (1992) argues, most work is neither law enforcement or social service, but is 'order maintenance' - the settlement of conflicts by means other than formal law enforcement. In such situations the law is not ignored, it is used as a resource. This thesis will attempt to show that the police use the law as a resource when they want to achieve goals established by their own working rules and by other significant actors, most typically the victim.

2.2.3 What determines the police response?

In emphasising officers' powers and opportunities for exercising discretion in incidents of domestic violence, feminist commentators have largely ignored the constraints that the criminal law can impose and the role of the victim in negotiating a resolution to a dispute. This thesis will argue that having discretionary powers does not mean that individual constables have the absolute freedom to act as they want. Officers do not exercise discretion in a random or pattern-less way.

Within the interactionist framework there are different and competing social constructions of any specific social phenomenon. These are not static constructions but are constantly evolving and are open to other social forces and dynamics. Police officers who find themselves as actors in complex domestic situations must try to decipher what has happened and what response the various actors expect, or indeed will accept, from them. In order to do this they do not blindly follow the criminal law or force policy, but, rather, interpret the information provided for them and try to make sense of it.¹⁹ To understand this process of information gathering and decision making the author has drawn on the work of McConville et al., (1991) and Kemp et al., (1992).

McConville et al., put forward the most convincing argument about "the process by

¹⁹Herbert Blumer (1969) has shown that the meanings of actions are not necessarily given, but have to be interpreted by those that either witness them or are told about them.

which a case is constructed, from the moment the subject becomes an object of police suspicion" (1991: 12). Whilst criminal justice purports to deal with facts and truths, these critics talk about a *process* in which knowledge "has to be worked out, constructed, rationalised, negotiated" from the arrival at an incident through the process of police investigation to trial and judgement (McConville et al., 1991; Sanders et al., 1989: 139).

Kemp et al., (1992) have explored the idea of the police response to domestic disputes as a process of negotiation. They examined the process whereby police officers handle incidents subject to the wider constraints on policing, in particular the interplay between legal rules, organisational rules, policy and occupational culture. It is an aim of this thesis to discover how officers attending domestic disputes defined the situations and the disputants actions; how these definitions, in turn, shaped their actions at the scene; and how officers negotiated solutions by interaction with the suspect and, in particular, the alleged victim within the constraints and parameters of the criminal law and organisation factors. It will be argued that cultural, structural and interaction effects all influence police decision making.

By concentrating on small-scale interactions, classic interactionist accounts of policing have placed too much emphasis on the sub-culture of policing to the neglect of wider social forces and the role of power (Cain, 1973; Rubenstein, 1973; Punch, 1979; Holdaway, 1983). In particular, they have underplayed the significance of legal rules in shaping police work. McBarnet (1981) was influential in introducing the role of

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the law into discussions of policing. She argued that the actions of police officers (and, by extension, prosecutors and courts) were generally consistent with the law rather than contrary to it, and that it was therefore at least arguable that the law helps to shape actual behaviour. This thesis will show that the criminal law is, to some extent a constraint on police behaviour and that it also acts as a resource used by the police to maintain order and solve problems. It will argue that neither the substantive law nor the occupational sub-culture of constables alone can account for the outcome of a given policing incident (Jefferson and Grimshaw, 1984).

Even pure interactionist accounts do not suggest that human behaviour is infinitely variable across similar situations depending upon who the actors are. Any one police officer, for example, will behave similarly in response to many different incidents of domestic violence, and different officers will respond to similar situations in similar ways. Whilst there is a process of negotiation with the disputants and a response to the particular dynamics of the situation there are certain routines and scripts which ensure some continuity.²⁰ These routines, which, to some extent, structure officers' discretion, can be explained by reference to working rules developed by policing on the ground. By analysing officers' own accounts of their actions and decisions this study attempts to discover the working rules which routinely inform their decisions; their links with legal rules and official guidelines; and the extent to which working rules prevail over legal rules.

²⁰Erving Goffman's (1959, 1963) research into self-presentation has informed this understanding of some continuity between different situations.

Having described the broad aims and theoretical perspective of the thesis, this chapter will conclude by specifying the objectives of the research upon which the thesis is based.

2.3 Specific objectives of the study

The research had five main objectives:

- (1) To understand the patterns of arrest, charge and prosecution in relation to incidents of domestic violence.
- (2) To understand the needs, desires and expectations of victims of domestic violence. In particular, the relative infrequency of demands for arrest and prosecution needs to be explained.
- (3) To evaluate the broader role of the police, CPS, and voluntary agencies in respect of domestic violence. The focus will be on:
 - whether the victims' expectations have been met;
 - how far a legalistic approach to individual incidents (which is the traditional response of the police to crime) is capable of effectively responding to an on-going social phenomenon;
 - the effectiveness of inter-agency cooperation.
- (4) To evaluate feminist explanations of the police response to domestic violence and to consider alternative explanations.
- (5) To consider the normative question of what the role of the police should be in relation to domestic violence.

Chapter three will describe the methodological approach adopted in order to achieve these aims.

CHAPTER 3

The Methodological Approach

As was stated in chapter two, the main aim of the research reported in this thesis was to understand the factors which shape the disposal of cases of domestic violence. It was decided that theoretical triangulation would best satisfy this and the various other aims. The division between the theoretical schools of positivism and interactionism has, traditionally, been reflected in the methods of research favoured by the two schools. Even when the two perspectives used the same research methods they used them with different objectives in mind: positivists towards a scientific discovery of facts; and interactionists towards interpreting interactions between people. Whilst theory (as well as practical constraints) inevitably influences the choice of methods, the methods adopted, in turn, have implications for the conceptualisation of social problems and for the explanations of behaviour and social actions which are investigated. As it was intended to unite different theoretical approaches and satisfy a range of aims, an eclectic approach to methods was deemed to be necessary.

Hence, I chose not to restrict myself to using *either* positivist *or* interpretive methods, but to adopt a pragmatic approach to data collection.²¹ It was decided to use any appropriate method in as accurate a way as possible: to unite holistic analysis, which is characteristic of the positivists, and atomistic analysis, characteristic of the interpretive sociologies. This pragmatic approach resulted in the use of triangulation techniques; both 'methodological triangulation' and 'data triangulation'.

There are two forms of 'methodological triangulation'; 'within-method' and 'cross-method'. The former involves the use of differing strategies within a broad research method. In this study the use of semi-structured interviews with officers which generated quantitative²² data and qualitative²³ descriptions fits the 'within-method' type. 'Cross-method' triangulation refers to the procedure of using different types of methods to study the same phenomenon. Interviews with police officers and victims, observation of officers on duty, and the examination of official records were all used to understand (amongst other things) the police response to incidents of domestic violence.

²¹Some early interactionists exhibited such pragmatism, using "scientific" methods of research without claiming scientific status. They used their research to illustrate the way in which people actively participated in interaction and how their behaviour was effected by the interaction. See, for example, Hargreaves (1967) who used a mixture of participant observation, school records, and questionnaires.

²²A quantitative approach typically involves an attempt to isolate variables which explain given phenomenon.

²³Qualitative analysis is "a non-mathematical analytic procedure that results in findings derived from data gathered by a variety of means" (Strauss and Corbin, 1990: 18).

The use of different types or sources of data within one study is known as 'data triangulation' (see Denzin, 1970). This study generated data sets on police officers, prosecutors, victims and various statutory and voluntary agencies in order to consider what the role of the criminal justice system should be in relation to victims of domestic violence. Triangulation not only allows for examination of the various facets of a given social situation, but also improves methodological validity. Whilst each discrete data set provides a unique perspective and therefore can be considered in isolation from the others, it is only when they are considered together, as complementary parts of a whole, with interconnected elements or features, that the overall perspective can be appreciated fully, and a broader, more complex, theoretical framework can be developed.

This chapter will describe how this integrated approach, which balanced the strengths and weaknesses of various methods, facilitated the realisation of the multifarious areas of inquiry detailed in the previous chapter. In particular, it allowed me to chart the incidence, and follow the progress, of all calls relating to domestic violence which were recorded by the police during a seven month period in 1993. To guide the reader through the creation of each data set, the chapter is structured according to the progress of cases reported to the police (as shown by a flow chart of the attrition of the incidents in Appendix 1, figure 1²⁴).²⁵ *Stage one* charts the incidents reported

²⁴Figures 2 & 3, in Appendix 1, show how the data are split between Oxford and Milton Keynes.

and the Control Room (responsible for the dispatch of patrol officers) response; *stage two*, the decisions regarding arrest; and *stage three*, the decisions regarding prosecution. Before discussing each stage, the preliminary stage of the fieldwork, when access to the subject matter was secured, will be described.

3.1 Gaining access: dealing with the ‘gatekeepers’

Negotiating access was not a one-off exercise at the start of the empirical enquiry, it was an on-going process. There were officials at the top of the police organisational hierarchy and tiers of ‘gatekeepers’ throughout the structure with whom it was necessary to negotiate. Some facilitated access to the subjects and some were the subjects themselves.

It was decided to seek the cooperation of the Thames Valley Police Service. A letter and research proposal was sent to the Chief Constable and a meeting was subsequently set up with the Superintendent responsible for the Family Protection Units. Although the proposal explained that the aim was to evaluate feminist theories, the Superintendent wanted an assurance that this would not be ‘yet another feminist police-bashing exercise’. She also insisted on the permission of

²⁵This chart does not include information on sentencing decisions. These data are included in the more detailed charts of cases which resulted in an arrest (see Appendix 2).

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another main ‘gatekeeper’, namely the CPS, before the police would agree to grant access to files after a decision to prosecute had been made. Permission was secured to examine such data and to interview prosecutors at a meeting with the chief prosecutor for the region.

Two areas within the Thames Valley were chosen for the study. The Oxford division (comprising the two areas of Oxford City and Cowley) was chosen as a fieldwork area and for the ‘pilot study’. The main purpose of the pilot study, which was conducted for four weeks, was to clarify the concepts to be used in the research and to evaluate the interview questionnaire and the method for ‘tracking’ cases. It also created the opportunity to talk to officers and become familiar with the organisational procedures and relevant laws pertaining to domestic disputes.²⁶ Reading, Slough and Milton Keynes were all considered for the second area. Like Oxford, these urban areas made fairly high demands on police resources. Milton Keynes (comprising the areas of central Milton Keynes, Bletchley, Newport Pagnall and Wolverton) was selected for two reasons: firstly, the Chief Superintendent expressed a keen interest in the research²⁷, and, secondly, it provided a point of comparison as it had in place a domestic violence initiative not adopted by other Thames Valley Police divisions

²⁶There was a dynamic to the fieldwork and the interviews. In the early interviews my inexperience and incomplete knowledge of legal rules and practice meant that the interviews were not as productive as later on, when experience allowed for more interaction.

²⁷She was constantly in contact with the local Women’s Aid refuge and other voluntary organisations involved with victims of domestic violence in efforts to improve the police response.

(thus facilitating the assessment of the effectiveness of the directive). Milton Keynes had established a 'follow-up system' of written communication with domestic violence victims in cases where the police had attended a dispute but no-one had been arrested. Officers were expected to complete pro-formas, briefly describing incidents and the parties involved, and submit them for scrutiny by an Inspector. In appropriate cases, letters (with information leaflets enclosed) were sent to victims offering further assistance or information.²⁸

It was expected that differences would be found in the response of officers in these two areas. Hence throughout the analysis of the data gathered comparisons were made. Rather than Milton Keynes officers arresting more suspects, as might have been anticipated, officers in Oxford arrested suspects in 20 per cent of the incidents attended, four percentage points higher than the 16 per cent of suspects arrested in Milton Keynes (see figures 2 and 3, Appendix 1). However, arrested suspects were more likely to be charged in Milton Keynes than in Oxford and nearly twice as many of the suspects arrested in Milton Keynes were successfully prosecuted as those arrested in Oxford.

Although the attrition rates differ, officers followed the same working and evidential rules in making their decisions. All of the cross-tabulations between predictive

²⁸In May 1992 an Area Memorandum had reminded officers of the importance of completing pro-formas so as to ensure accurate and thorough records and to facilitate 'follow up' correspondence (Thames Valley Police, 1992).

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variables and the decision to arrest presented in chapters five and six were measured separately by each area but no differences were found. Whilst suspects were more likely to be prosecuted in Milton Keynes, the variance could be explained by differences in the seriousness of cases, the victims' willingness to make statements and the suspects' behaviour towards the police, rather than in the attitudes of officers. In other words, it was the incidents themselves and not the officers which differed. Hence it was found that the Milton Keynes initiative had little or no effect on the police response to domestic violence as far as their decisions to arrest and prosecute were concerned. Having said that the Milton Keynes initiative did impress the victims who were more inclined to feel that the officers cared about them (see chapters eight and nine).

At meetings with the Oxford and Milton Keynes Area Commanders permission was secured to interview officers in each area and to have access to all recorded information on cases of domestic violence. A short article was written for the service newsletter, distributed to all police personnel, describing the aims of the research and informing officers that they might be approached and asked to take part in an interview. It was stated that the research had the support of the Chief Constable, that their co-operation would be appreciated but anybody could decline an invitation to be interviewed.

3.2 Stage one: reported incidents and the control room response.

It is quite unusual for officers on patrol to encounter a crime, let alone a domestic incident, while it is occurring (Ackroyd *et al.*, 1992). The majority of incidents which officers respond to are a direct result of members of the public calling the control room. A telephone call to the police, whether made via the '999' emergency system or direct to local stations, will almost inevitably reach a telephone operator working in the control room.

Some callers want to pass on messages, or inquire about local services, and some only need advice which can be given over the telephone without an officer visiting them in person. When the police are contacted in relation to a crime (whether it has occurred, is occurring, or is anticipated) the telephone operator records brief details about the incident and passes this information to a radio operator (sometimes also called the dispatcher) also located in the control room.²⁹ The radio operator interprets information received and decides whether police action is required, and, if so, whether the response should be immediate or routine (in due course). He³⁰ is responsible for assigning incidents to a 'unit', that is, dispatching a patrol car or an

²⁹Telephone and radio operators can be either police officers or civilian staff - the control room is staffed by both.

³⁰ Throughout this thesis the male pronoun is employed when references are made to police personnel (including control room operators, patrol officers and administrative staff) as well as to prosecutors, although many of the interviewees were female. This allows for a clear distinction between the 'service providers' and the 'service users', that is the victims of domestic violence.

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area beat officer to the scene of the incident. Communicating with officers through either car or personal radios, the radio operator will give the officers as much information about the location of the incident, the parties involved, and the caller as is possible.³¹

Before the advent of information technology, details were recorded on paper and passed manually between operators. The responding officer, on return to the station, would then complete the information on the message pad, providing details of how the case was dealt with. In the Thames Valley information is now entered into a computer package devised specifically for the management of calls into the control room and transferred via the computer network. This computerised command and control system (known as CoCo) is an electronic means of creating, storing and providing information. It provides a 'data bank' of information on each incident recorded. An 'incident log' (a computer record), detailing all communications in the control room, is created for every call requiring a police response and for some of the calls which are resolved on the telephone. When a caller is connected to an operator an information 'page' is created on the operator's computer screen. This 'page' requires him to interpret the information gleaned from the caller and to document relevant details about the caller and the incident. The computer package dictates how the information is formatted and classified. The date and time of the

³¹In emergencies, when urgent 'resourcing' is necessary, the telephone operator transfers brief details, as 'partial incidents,' so that the radio operator can dispatch a patrol car, and then continues to interrogate the caller.

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call is automatically recorded, and a unique reference number and the operator's personal identification number are automatically assigned to each incident. Other details include the caller's name and address; the name of any persons identified as being involved in the incident; and the location of the incident.

When the incident has been dealt with by a patrol officer, even if it is referred to a specialist police department, the 'live' incident log is closed. The radio operators type a concluding comment, such as 'advice given - NFA (no further action)' or 'person arrested'. A closing classification will also be recorded: for example, 'crime - violence against the person' or 'disorder - domestic dispute'. These incident logs are held on CoCo for approximately a month and then retained on magnetic tapes for a further year, after which only paper records are kept.

This computerised information management system facilitated the easy retrieval of data on all reports of domestic violence. Previous studies (see, for example, Edwards, 1989) had relied on message pad entries which were fallible, as evidence suggests that officers recorded information only about incidents where some sort of positive action, usually an arrest, had taken place. The system also enabled me to peruse (from terminals in a number of different locations) reports on all incidents within the Thames Valley Police area, and to gather information on the whereabouts of any officer at any time so that I was able to plan interviews.

Access to this valuable, indeed indispensable, source of information was secured by

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the co-operation of staff in the computer support section at Thames Valley Police headquarters. I was trained in the use of the command and control computer, and allocated a computer terminal for seven months. Data recorded on the computer was scrutinized every 24 or 48 hours, an exercise which took between 40 minutes and an hour. It was not useful to ask the computer simply to select all of the "domestic disputes", because this category included landlord/tenant and neighbourhood disputes as well as sibling or parent-child disputes, all of which were outside the remit of this study. Hence, the details of all disputes were read in order to select those involving 'domestic violence'.³² However, some incidents of domestic violence, where the caller had not known that the incident involved partners or ex-partners, were subsumed within other classifications, such as 'burglary in progress', 'crime: violence against the person', and 'criminal damage'. Thus, these other classifications were also searched in order to identify as many of the reported disputes as possible. It is believed that by conducting such a thorough search all of the domestic disputes were identified.³³

During the seven month period, from February 1 to August 31, 1993, there were 1,318 calls relating to domestic violence recorded on the command and control system in Oxford and Milton Keynes. Ninety six per cent (1,269) of these requests for

³²See chapter two for an explanation of the definition of domestic violence employed in this thesis.

³³Of the 1318 incidents, 104 had no reference to domestic disorder or dispute in either the opening or closing classification and so would not have been identified without this more thorough searching.

assistance were responded to by a patrol officer attending the alleged dispute (see figure 1, Appendix 1). Essential details for all of these incidents, such as the unique reference number, the grade of response (routine or immediate), the opening and closing classifications,³⁴ the date of the incident, and the result were taken from the incident log and recorded on an SPSS database.

At any one time there are a number of calls which do not result in an officer being dispatched to the scene, but are resolved on the telephone. In a proportion of these cases (this cannot be accurately estimated) the operator chooses to create an incident log.³⁵ Forty nine (four per cent) of all calls during the fieldwork period (13 in Oxford and 36 in Milton Keynes) were recorded as 'telephone resolutions', but, of course, the computer did not contain data on how many incidents were resolved on the telephone without being recorded. To discover the real rate of unrecorded 'telephone resolutions' would have necessitated a long time spent observing operators' practice with the knowledge that my presence might encourage an increase in the dispatch of officers and the creation of incident logs for calls which would not normally be recorded. Hence, it was resolved to ask operators how often, and why, they chose not to dispatch officers, and why they sometimes failed to record such

³⁴The category assigned to each incident when the dispute is initially reported and that assigned after the patrol officers have attended and reported back to the radio operator.

³⁵Operators are supposed to record *all* calls on the computer (see chapter four).

calls.³⁶ Other areas of interest regarding the categorising of incidents and the provision of relevant information to both patrol officers and callers were also investigated through these interviews.

3.2.1 Interviewing control room operators

As with all stages of the empirical study, access to subjects, as well as to recorded data, had to be negotiated. Requests to control room Inspectors to interview operators for approximately 15 minutes was met with genuine gratification that someone was interested in understanding the difficult tasks they perform, but also with some concern that operators would not be able to find time within their busy shifts to participate. It was necessary to make a few visits to control rooms in order to complete all of the interviews, but, once operators had the opportunity to move away from their posts most relished this legitimate break from their duties.

Interviews were sought with control room staff from all four shifts in both Milton Keynes and Oxford.³⁷ In total, 55 interviews were completed: 18 with civilian staff

³⁶Whilst it is recognised that this approach provides information only on the operators' perceptions of their behaviour and not on their actual behaviour, it was felt that the data would be fairly accurate. Operators, like all other interviewees, were promised anonymity and they seemed keen to 'tell it like it is' believing they had valid reasons for their occasional deviations from the 'rule book'.

³⁷The staff working on the first day of interviews with each shift were asked to participate and any of those who could not be interviewed on that day, due to time pressures, were interviewed on another day. Members of each shift not working on

and 12 with police officers in Oxford, 15 with civilians and 10 with police officers in Milton Keynes. Hence 25 of the 33 Milton Keynes operators and 30 of the 32 Oxford operators were interviewed.³⁸ Semi-structured interviews were considered appropriate for a number of reasons: first, the research issues were not clear cut; secondly, there had been little previous research in this area and hence this was largely an exploratory study; and thirdly, it was thought that the replies to the questions might be complex and discursive.

3.3 Stage two: decisions regarding arrest

Officers' decisions regarding arrest were examined from three different perspectives: that of the officers; the victims; and my own, as an observer.

3.3.1 Interviewing patrol officers

It was decided to interview patrol officers about their actual response to specific incidents of domestic violence because it was thought that the approach previously used by other researchers (of interviewing officers about their *general* response) can

the starting day of their shift's interviews, due to sickness, rest days or annual leave, were not pursued.

³⁸Only one operator refused to be interviewed.

yield limited information and a sometimes distorted picture.³⁹ Thus, officers were interviewed about a sample of the 1,269 incidents identified on the command and control computer. The cases identified from each computer search were categorised into two groups (those incidents where the suspect had been arrested and those where there had been no arrest). A stratified random sample of three of every four 'arrest incidents' and one of every five 'non-arrest' incidents was selected after each computer search and the responding officer interviewed as soon as possible.⁴⁰ Hence, officers were interviewed about 168 incidents where there had been an arrest and 219 incidents where no one had been arrested (the interview schedules for both 'arrest' and 'non-arrest' interviews are printed in Appendix 3). Whilst it was not possible to ensure that the sample included an equal proportion of incidents from each of the geographical areas, a comparison of figures 6 and 7 (see Appendix 4) shows that the distribution of all of the incidents across the areas was almost identical to the distribution of the interview incidents.⁴¹

³⁹This was proven to be the case. In chapter five this methodological approach is compared with that adopted by Edwards (1989), showing that interviews about general attitudes provide little more than a superficial understanding of 'cop-culture' and fail to reveal the factors which influence decision making at the scene of incidents.

⁴⁰Officers were spoken to as soon as possible after the incident to decrease the chance them forgetting details.

⁴¹There is a slight discrepancy in the Oxford data because the pilot study, carried out in February, whilst charting the disposal of incidents in both of the police areas, included interviewing officers in a sample of the Oxford incidents only.

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The name and 'party'⁴² of each responding officer was ascertained with the co-operation of the 'duty officers', from his identification number (which was recorded on the computer incident log). The duty officers were also able to provide information on the availability of officers. The briefing room during the 'change over' (the end of one shift and the beginning of the next) provided the best opportunity for speaking to officers. Officers were identified (by their identification numbers worn on their epaulettes) and approached directly. In some cases officers were located via CoCo and requested, by the radio operators, to return to the station for an interview at a specified time.

Before interviews could be conducted, it was necessary, in the early stages of the fieldwork, to talk to patrol Sergeants and Inspectors to explain the purpose of the research and assure them that their officers would not be away from their duties for long. The officers themselves also had to be persuaded to spare a little of their time. Whilst senior police personnel recognised the benefits to be gained from giving full access to academic researchers and showing themselves to be accountable to the public, it was thought that the 'rank and file' officers might not consider that they would benefit from talking to a researcher, especially one who was asking difficult questions. However, the majority were keen to co-operate and were generous with their time. A few officers, on first being approached, seemed nervous and stated that they did not have the time to be interviewed, but when approached again, a short time

⁴²A 'party' is a team of officers (approximately 20 officers) who work on the same shift as each other at any one time and have the same direct line management.

later, all agreed to take part. Hence, the study boasts a 100 per cent success rate.⁴³

The main aim of these interviews was to compare the features of those cases which resulted in arrest and prosecution with those in which a decision was taken not to proceed with the invocation of the criminal law. Thus, biographical details of officers (gender, age, marital status, length of service and rank), the specific characteristics of the dispute, the officer's perceptions of the victim and suspect and any action taken, were recorded to determine which variables effected the decision making process and, therefore, the outcome of the dispute.

During the pilot study the interview questionnaires largely consisted of open-ended questions. Analysis of the data collected proved that it was possible to pre-code the majority of the questions, leaving space for more detailed comments. The format was also altered to accommodate questions not previously thought relevant and to omit questions which had not provoked interesting responses.⁴⁴ These changes facilitated statistical analysis whilst preserving rich qualitative data. Information was coded and entered on to a relational database management system (Alpha 4). Quantitative data was then, at a later stage, exported into an SPSS database in order to perform

⁴³Occasionally an officer was called away to respond to an incident during an interview, but in all cases any outstanding questions were completed at a later date.

⁴⁴These were not substantial changes and, so, the data gathered during this four week period was used in the final analysis.

descriptive and analytical statistics, including logistic regression analysis. Qualitative analysis of the data was conducted to evaluate feminist explanations for the police response and to locate alternative explanations which could be tested by quantitative analysis. Quotations were chosen from the interview schedules to support the data and to illustrate the diversity of replies among, and inconsistencies between, respondents.

In any interview, accuracy and reliability can be lost if an interviewee becomes annoyed at not being able to give, or expand on, his or her views. This frustration was avoided by allowing all interviewees to answer any question as fully as they considered appropriate. Most of what the interviewees said was recorded even when it was not relevant to the study and would later be discarded. In this sense, each interviewee was given the freedom to tell his 'story' as he believed it had happened. Pre-coded directive questions can lead to a loss of accuracy because the answers might reflect the biases and world view of the researcher rather than that of the interviewee. This problem was minimised because the coding scheme grew out of the responses to open questions in the pilot study. Of course, it is not possible to be free of the effects of interviewer - interviewee interaction. Any interview is a piece of social interaction. Parties have certain expectations about each other's attitudes which can affect their responses. However, methodological triangulation can go some way towards improving the reliability of the data.

Attempts were made to assess the reliability of the information gathered from officers who normally attended disputes in pairs. Usually only the officer who had reported

back to the control room was interviewed, but, on some occasions, when his story was not clear, his partner was questioned. In such cases their stories proved to be highly consistent. Police records (crime complaint forms, witness statements and, where applicable, suspect statements) were perused in those incidents which had resulted in an arrest, and for those cases which had been prosecuted *all* recorded information was examined.

Of course, the printed information pertaining to each case, including witness statements, had been 'constructed' by the officers in charge of the case and so it could be argued that these were not independent checks on the reliability of the interview data.⁴⁵ And it was certainly the case that there was no totally reliable way to test the accuracy or truthfulness of the officer's version of incidents where there had been no police action. As police failure to arrest in these cases has attracted the most adverse criticism from feminist commentators it was decided that the officer's 'stories', whether verbal or written accounts, required some substantiation. Towards this end I attempted to interview a sample of victims, whilst further validation was provided by patrol observation.

3.3.2 Interviewing victims

Most researchers who have wanted to understand the victim's viewpoint have taken their samples from Women's Refuges, which, it could be argued, do not contain a

⁴⁵See McConville *et al.*, (1991) for a discussion of case construction relating to suspect statements, and Maguire and Norris (1992) regarding witness statements.

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representative population of victims of domestic violence. Refuges are quite politicised environments which tended to be run according to feminist philosophies and, therefore, might have encouraged scepticism about the criminal justice system in general and a low regard for the police in particular.⁴⁶ Also, there are some women, those with relatively high independent incomes for example, who might not choose to move into a refuge. Whilst women in refuges were spoken to (see below), a broader cross-section of the victim population was included in this study because the victims were drawn from incidents about which the police had been interviewed.⁴⁷

The sample of victims comprised all whom the police had dealt with during August 1993 where the officer had been interviewed.⁴⁸ These victims were not contacted by telephone or letter to ask if they would be willing to be interviewed as it was thought that this would result in a poor response rate. It was decided that a 'cold call' method, unannounced visits to their home, would secure the best result. In order to improve the chance of gaining access into victims' homes, and for reasons

⁴⁶It is probable that this has begun to change as the police have made efforts to improve their response to victims of domestic violence.

⁴⁷Of course, this is not ^{an in-}fallible sample as there are, research suggests, many women who choose not to report to the police. However, as this thesis is concerned with the criminal justice response to domestic violence this method of sampling was considered to be most appropriate.

⁴⁸ Originally this work was intended only for Milton Keynes, but it was so successful that it was decided to attempt the same in Oxford.

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of personal safety, it was agreed that I would be accompanied by a police officer.⁴⁹ The officers were not in uniform and 'unmarked' cars were used so as to cause as little anxiety to victims as possible. This method secured a fairly good response rate: in Oxford 17 interviews out of a possible 22 were successfully completed, and in Milton Keynes 22 out of a possible 27. Hence, 39 of the 49 victims who were dealt with in August, and about whom officers were interviewed, were spoken to.⁵⁰

The accompanying officers were asked not to become involved in the interviews and to be as discreet as possible. This was to avoid influencing the victims and preventing them from making adverse criticisms against the police. It was thought that if the male partner was at home he might be antagonistic or dissuade the victim from being truthful. Hence, a separate interview schedule was devised for these occasions. Men were told that the research was intended to examine public perceptions of the police handling of disputes. This ploy enabled me to speak to the victim alone, whilst the officer took the man into another room and conducted an interview with him. Whilst originally intended as distractions, these interviews provided some valuable data. When the partners were not at home the officers were helpful in entertaining inquisitive or demanding children or pets, leaving the victim

⁴⁹Senior officers were both co-operative and enthusiastic about the plan to interview victims.

⁵⁰Some victims were not at home (during repeated visits), some had temporarily or permanently changed address and two declined to be interviewed. One of these two women was afraid of provoking another dispute with her husband and the other was feeling unwell and did not wish to be visited on another day.

free to concentrate on the interview.⁵¹

Some officers suggested that women would not want to speak about something as painful as domestic violence and that the majority of 'these types of women' would not be sufficiently enthusiastic about the potential benefits to other women of such research. This was not the case. The majority of the women were keen to co-operate once the purpose of the interview had been explained. Victims were informed that it was an independent project which, whilst having the full support of the police, was not *for* the police. They were asked to be totally honest in giving their opinions about the police and there is no reason to believe that they were not.

The purpose of the interviews with victims, apart from validating the officers' accounts, was to assess how the victims felt the police had responded to their call for assistance. Most studies which have reported high levels of victim dissatisfaction with the police response to domestic violence have failed to ask the victims what they actually wanted the police to do and therefore provided no measure of police 'failure'. In this study an attempt was made to measure the victims' expectations of the police response as well as satisfaction levels. In addition, victims were asked about their reasons for wanting or not wanting their partners arrested and prosecuted.

A less formal interviewing style was adopted for talking to victims to that used for

⁵¹I am indebted to the patience and tolerance of these officers during what were, at times, difficult circumstances.

officers or prosecutors. I was careful to chose the right time to ask another question, to know when to listen and to know when an encouraging or sympathetic response was appropriate.⁵² Oakley (1981) took the view that formal, survey-type interviewing was unsuited to the production of good sociological work on women. Whilst I agree with this in respect of interviewing women about the police response to their experiences of domestic violence, I would not argue along gender lines. Rather, it is about avoiding the abuse of power that an 'outsider' necessarily has over an interviewee from whom she wants to gather intimate, personal and sometimes painful information. Therefore, the preference should be in favour of less-structured research which avoids creating a hierarchical relationship between interviewer and interviewee. The quest for objectivity which characterised the other interviews was purposely abandoned here. I aimed to ask all the questions covered by the interview schedule, and indeed this was always accomplished, but if the victim wanted to talk in more detail than was necessary for the research I listened to her for as long as she wanted. These interviews were extremely hard work, being both emotionally demanding and time consuming. Many hours were spent drinking cups of tea, trying to ignore over-enthusiastic children or pets, and listening to distressed but brave women tell their stories.

Some researchers have reported that interviewees wanted to 'place' them as women

⁵²The interview schedules contained predominantly open-ended questions. When victims did not provide sufficient detail in their replies the flow of their monologue was not interrupted but, instead, 'reflecting back' questions were used later in the interview to allow for further probing of an area of interest.

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with whom they could share experiences (Oakley, 1981). This seemed to be the case in this research. One victim refused to let us into her home, explaining that she was too busy to talk. Her style of communication was such that I was encouraged to return alone the following day. The woman, who then agreed to be interviewed, explained that she had not wanted to talk about the dispute in front of a man: "I don't trust men, I don't want to talk to them". It was not only being a woman, but being a married woman, that made me seem sympathetic. A number of the victims, having established my marital status, seemed happy to discuss their own relationships.

Interviewees sometimes ask questions of the researcher. Traditional ideas about interviewing which emphasise objectivity suggest that researchers should not offer advice or information which might jeopardise the reliability of the data being sought. In interviews with police officers, and during patrol observation, I was sometimes asked what I thought something meant or what I thought the officers should have done. I tried to avoid giving direct answers which might impact on the information being provided by the officer. However, in interviewing women about their experiences such distancing is not possible or desirable. Women sometimes asked about the research or for information pertaining to their victimisation. I willingly supplied them with such details. However, at other times, they asked personal questions about what they should do. In such instances I reminded them that I was a student, unqualified to give such advice, and gave details of the agencies who could offer help.

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Since completing the interviews I have been asked about the ethics of interviewing women on such a sensitive topic. It has been suggested that the interviews, by bringing up painful experiences, might have further damaged the interviewee. The ethics of social research on women's lives is a thorny issue, deserving more attention than can be paid to it in one chapter covering various different methods. However, within this project there was only one interview, lasting over two hours, which seemed to cause the interviewee much distress and, therefore, provoked contemplation on the potential for harming research volunteers. However, at the end of the interview she thanked me for giving her the opportunity to discuss things she had never before talked to anyone about, saying that she felt 'better' for having confided in someone. As with all other interviewees, she was informed about the available sources of advice and assistance. The majority of the women, at the end of the interview, said that they had enjoyed having someone to talk to.

3.3.3 Patrol observation.

Observation of police officers whilst attending domestic disputes was considered necessary because it was thought that certain types of behaviour or ways of interacting might be so taken for granted by the police that they would be unaware of them and, therefore, not mention them. Observation field notes provided supplementary data that qualified and helped to interpret the findings obtained through interviews which were, necessarily, retrospective reports of the interviewees' own behaviour. By enabling me to record behaviour as it occurred, it filled the gap that detachment or distortions in recall may have created, and allowed for comparisons

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to be made between what officers said they did and what they actually did.

Securing permission to 'shadow' patrol officers on duty was easy. Officers of all ranks were enthusiastic and co-operated readily. They knew what I wanted to observe and the disputants, and any other member of the public whose homes were entered, were told briefly of my identity and purpose in being there. Hence, professional ethics were not compromised. Patrol observation was carried out over 106 hours: 40 hours in central Milton Keynes and 66 in Cowley. Most of this work was carried out during the late shifts, and in particular on Fridays, Saturdays or Sundays.⁵³

The work involved going out in a patrol car with one or two officers, for the duration of a shift, and 'shadowing' them responding to incidents, and conducting informal interviews (asking questions of the officers in order to make sense of what was happening). Field notes were not taken whilst on patrol, as this would have created a distance between me and the officers. Occasionally, short visits back to the station provided valuable time to make brief notes, but detailed notes were written after the shift was over.

⁵³Four separate Sundays were worked as it is during Sunday afternoons that the police are called most often to domestic disputes. Similarly, there are more than an average number of domestic disputes during Friday and Saturday nights, after the public houses have closed. Mostly late shifts were chosen. In Oxford the late shift started at 3pm and finished at 11pm and in Milton Keynes it was from 2pm until 10pm. Two night shifts were chosen (from 11pm until 7am the following day) as well as one day shift (from 7am until 5pm).

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Ethnography, with its roots in social anthropology, derives from a desire to understand the everyday meanings and definitions of group members and from a reluctance to impose on the 'actors' the concepts and meanings of the academics carrying out the research. Information on the culture, values and belief systems of members of specific organisations are thus revealed.⁵⁴ From observing patrol officers, I was able to interpret their organisational culture. It was aimed to observe how disputants reacted to the presence of the police; what goals, other than the 'official' goals, the participants seemed to be pursuing; whether the goals of the various participants were compatible or antagonistic; what were the different behaviours; and what were the qualities and the effects of the behaviour.

Observational work, and interviews, necessitate a balance between professional objectivity and the establishment of rapport which will result in co-operation. It was decided that it would be appropriate to remain with one group of officers in each of the two areas and not attempt to observe all of the different 'parties', in order to minimise the 'observer effect' whilst maximising affinity. I soon became familiar with the officers working for these 'teams' and they accepted me as 'part of the team', frequently joking and sharing gossip about other officers.⁵⁵ Seeing me

⁵⁴Holdaway's (1983) study of British police and Punch's (1979) study of officers in Amsterdam are good examples of participant observation.

⁵⁵ Occasionally they told jokes or made comments which were sexist or racist. However, these occasions were few and far between. As someone trying to blend into the environment and not alienate myself from the officers, I had consciously to repress my natural instinct to confront the attitudes which lay behind the banter.

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temporarily as a member of the group, none of the officers expressed any resentment at my presence. Having completed a substantial number of interviews prior to commencing patrol observation work, I was fairly familiar with the organisation, the legal as well as the working rules and, probably most importantly, the argot. This knowledge expedited acceptance.

Participant observers, who progress by a 'discovery-based approach', become, necessarily, immersed in the 'field' (Burgess, 1984). That is, the observer attempts to empathise with the actors in the social situation and to understand how they are interpreting the actions and behaviours of significant others. Aware of the knowledge to be acquired by becoming immersed in the field, I was, nonetheless, keen to maintain some distance from the police - disputants interaction so as to have minimal effect on the dynamics of the situation. Sometimes this was difficult because, as a woman within a still male dominated environment, female disputants invariably tried to include me in dialogue. They maintained eye contact with me whilst 'telling their story' or directed their questions towards me. This was, not surprisingly, most conspicuous, when the officers were both male. In addition, whilst sharing meals in the police canteen, and joining in their conversations about the incidents, officers would often ask me to assess their response. Whilst careful not to be judgmental, which might have effected their behaviour for the rest of that shift, I did, at least casually, discuss the incidents, the disputants and the officers' response.

Irving, in a report for the Royal Commission on Criminal Procedure, claimed that he

became so accepted by a group of CID officers that his presence had no effect on their behaviour (cited in Smith and Gray (PSI), 1983). The first time that a researcher joins a subject group she or he is bound to have some impact on the dynamics of that group, or, if observing just one actor there will almost certainly be some 'observer effect' on the behaviour of that individual. However, once the observer has spent even a short amount of time with the observed that effect appears to be minimal. As Smith and Gray (PSI) note: "The longer the observer is with (the police officers), the more the officers tend to settle back into their usual pattern of activity" (1983: 302).

Hence, 106 hours of patrol observation was considered sufficient to establish rapport and to better understand the interactions between police and disputants whilst minimising the personal consequences of observation work. This type of fieldwork invariably means working unsociable hours, as well as exposing oneself to unusual and, at times, intimidating situations. There is also the problem of over-involvement in the group being studied, of becoming more of a participant and less of an observer. Several researchers have discussed this problem. James Patrick (1973), who carried out a participant observation study of a Glasgow gang of youths, found that he got too close to the gang. This resulted in him missing things about the gang that an outside observer might have seen. He was also concerned that his presence might have altered the behaviour of the gang, although he did not see any evidence of this. Similarly, William Foote Whyte (1943) found that whilst he had begun as a non-participant observer, as he became accepted into the community he almost became a

‘non-observant participant’.

Punch also experienced the problem of over-identifying too readily with the police officers he was observing. He explained that "...the patrol group is a cohesive social unit and the policeman's world is full of seductive interest so that it is all too easy to 'go native' (1979: 16). Thus, observation work should be stopped when the researcher becomes too closely aligned with the subjects under study, reducing his or her ability to look beyond their immediate explanations for behaviour or actions. I realised that I had spent sufficient time observing officers when I looked forward to speeding and weaving through traffic with the police car 'blues and twos'⁵⁶ going; felt disappointed when arriving at yet another activated burglar alarm which had been set off by a cat or an electrical fault; and empathised too readily with officers who missed the excitement of a violent pub brawl because they were held up at a neighbourhood dispute over dustbins!

3.4 Stage three: decision regarding prosecution.

Having examined the officers' decisions regarding arrest, I intended to try to understand the factors which best predicted the next stage: a criminal charge being laid. Of the 224 men arrested for various offences connected with domestic violence,

⁵⁶The flashing blue light and the 'two-tone' siren.

61 (27%) were charged (although not necessarily with the offence for which they were arrested). It was originally decided that, in those cases where a suspect was charged with a different offence than the one for which he was arrested or where the charge was subsequently changed, the custody officer would be interviewed to establish the reasons for any changes. This was the only aim not achieved because, during the pilot study, it was found that the responses offered by custody officers did not warrant the time spent trying to interview them.⁵⁷ Thus, it was aimed to understand the decisions made by custody officers through qualitative and quantitative analysis of the officer and victim interview data as well as the patrol observation notes. In addition to this, official police records were examined.

In order to inspect custody records for those cases where a suspect was arrested the co-operation of the custody officers was necessary. Both Oxford and Milton Keynes custody areas were nearly always busy, with patrol officers, suspects, and solicitors demanding their attention. This invariably meant spending a great deal of time waiting for a quiet moment when custody officers could trace the relevant forms or locate details of a suspect on the custody computer.⁵⁸ This provided opportunities to observe interactions between different officers and between officers and suspects.

⁵⁷For an explanation of why the interviews with custody officers proved to be unproductive see chapter seven.

⁵⁸These computers were introduced into the custody suites in April 1993, over two months into the fieldwork and experienced some teething problems in the early months. Therefore, paper records were usually referred to for accurate information.

Sixty two per cent (38) of the 61 charged suspects were prosecuted (although not necessarily with the offence for which they were originally charged) and in all of these cases the suspect was convicted.⁵⁹ Access to information about prosecutions and court results was facilitated by the Administration Support Unit (ASU), the department responsible for communication with the courts. Meetings were set up with the managers of the ASUs covering both police areas and their co-operation was secured. Again, various databases (interviews and official records) were drawn on in order to distinguish the characteristics of charged incidents which were successfully prosecuted from those that did not result in a prosecution. However, the main source of information was the CPS.

3.4.1 Interviews with the Crown Prosecution Service

Semi-structured interviews were carried out with prosecutors in relation to 25 cases which were dropped or where different charges from the ones initially preferred were pressed at the prosecution stage.⁶⁰ Prosecutors were asked to explain decisions not to proceed or to agree to a reduced charge; to evaluate the response of the officer in charge; and to comment on police handling of, and the criminal justice system's response to, domestic violence cases in general. Prosecutors, like police officers, were enthusiastic about the research and keen to take part, talking frankly and fully

⁵⁹The sentences imposed by the courts are shown by the flow charts of arrested suspects (see Appendix 2, figures 4 and 5).

⁶⁰There were 27 such cases in total but the CPS could not locate the files for the remaining two.

and giving me access to relevant files.

3.5 The broader role of the police and community.

There was a need to evaluate the broader role of the police and the community in responding to domestic violence. I aimed to consider, in particular, at how far the legalistic approach to individual incidents is capable of effectively responding to ongoing abuse within the home, and how effective the various statutory and voluntary agencies who come into contact with victims of domestic violence are. In order to satisfy these aims two additional databases were created to supplement the data already gathered. These were constructed from interviews with Area Beat officers (ABOs) and a survey of statutory and voluntary agencies.

3.5.1 Interviews with Area Beat Officers

A critical gap between victims' expectations and officers' responses regarding the communication of advice and information was identified from the interviews with and observation of patrol officers, and from conversations with victims. Victims wanted more 'quality' time spent in informing them of their legal options and advising them about other statutory and voluntary agencies who could offer assistance. Officers either would not or could not (because of resource constraints) spend sufficient time with victims in dispensing this service. A number of them commented that the area beat officers had more time to spare and, as they were not under the same

organisational pressures as patrol officers, they should be more pro-active in helping victims of domestic violence. In addition, a few patrol officers were overtly critical of ABOs, commenting that they wasted their time and did not become sufficiently involved in the lives of the families on their 'patch'.

Therefore, it was decided to investigate how ABOs spent their time, what contacts they had with families in their areas who had a history of domestic disputes, and whether or not they felt that they could be of more help to the victims of domestic violence. An attempt was made to contact all of the ABOs in Cowley and central Milton Keynes.⁶¹ As they spent so little time in the station, and some said that they were too busy to be interviewed, only 23, out of a possible 40, ABOs were interviewed. As these interviews were exploratory, the format was informal, using only open-ended questions. The ABOs who agreed to be interviewed were pleased to have the opportunity to discuss their work and their ideas for improving the police response to victims.

3.5.2 Survey of statutory and voluntary agencies.

A survey of the statutory and voluntary agencies in Oxford and Milton Keynes was conducted to see how well these agencies provided for victims of domestic violence. A questionnaire was distributed to 23 agencies. It invited comment on various aspects of their work and their relationship with the police and other relevant

⁶¹It was not intended to try to interview the ABOs in all of the geographical areas covered by the study.

organisations. Different methods of distribution were used in the two areas, which may explain the different response rates. In Oxford I handed out 12 questionnaires at the end of a meeting of Oxfordshire Multi-Agency Forum on Domestic Violence, of which I am member. All of the representatives returned completed questionnaires within a fairly short period of time. The agencies in Milton Keynes were contacted by post and after a much longer period of time, and a few reminders, nine of the 11 targeted agencies replied.⁶² The agencies which contributed to this research were Victim Support, Women's Aid, Citizens Advice Bureau, Probation Service, local council housing departments, borough councils, local voluntary information services, advice and 'drop-in' centres, Rape Crisis, Samaritans and Relate. The survey was a descriptive, fact-finding exercise.⁶³ Surveys enable the cheap production of primary data in a short period of time. However, the data they produce is fairly superficial.

In addition to this survey, a more detailed examination of the Women's Aid refuges in the two areas was undertaken in order to understand better the problems faced by the women running the refuges and the women who were resident. A day was spent in each of the refuges in Milton Keynes and Oxford talking, at length, to the staff and residents. It was not considered appropriate, or even necessary for the research, to

⁶²The Milton Keynes branches of Relate and the Samaritans did not wish to participate in the research, although both were sent repeated reminders and further information on the project.

⁶³As with the other databases, a consistent coding procedure was adopted in order to analyze the findings.

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conduct structured interviews with any of these women. An impression of how the refuges function, and how staff and residents interact was all that was required. In one refuge I was introduced to a group of residents. I explained the nature of the research and invited the women to talk, either privately or in a group setting, about their experiences of the police, the refuge or any other agency from whom they had received help. A few women left the room, making excuses that related to work or family commitments, but nine remained and a very lively group conversation ensued. We spoke for over two hours and the stories told, many of which it was decided would not be reported, brought forth a gamut of emotional responses from the women, ranging from anger to tears to laughter. In the other refuge there were fewer residents present during my visit but there was still the opportunity to speak with some of the women and a long conversation with a permanent member of staff was extremely informative. The data from these conversations is necessarily extremely raw and the opinions prejudiced by the women's own experiences and their present environment. It is for these reasons that no attempt is made to generalise about abused women, but their comments provide some support for other aspects of the study.

Having set out the sociological and political background to this thesis, its aims and methods, the following chapters report on the findings of the empirical work conducted and the theoretical explanation of police decisions in dealing with domestic violence which have emerged from this work. This will begin, in the next chapter, with the response of the control room to calls for help.

CHAPTER 4

The Control Room: the first stage in the decision making process?

The control room is the critical point at which public demands can be met by available police resources. Control room operators deal with all incidents, emergency or otherwise, reported over the telephone. Hence, it has been argued that this is the first stage in the police decision making process and that operators, like patrol officers, have the opportunity to exercise discretion in the disposal of cases [Goldstein, 1960]. This thesis is primarily concerned with identifying the factors which impact on the decisions regarding the arrest and prosecution of domestic violence perpetrators. Thus, it is important to examine the responses of control room operators to see if they influence the decisions taken by officers at the scene of domestic disputes.

Commentators who believe that the control room does play a significant role in the response of patrol officers tend to advocate one of three explanations. The first explanation focuses on operators' ability to exercise discretion by 'filtering' out

reported incidents (most notably incidents of domestic violence), and choosing not to dispatch patrol officers. This discretion is said to be structured by cultural prejudices about offences and/or offenders and/or callers (see Ekblom and Heal, 1985; Faragher, 1985, in the United Kingdom, and Sumrall *et al.*, 1981 [cited in Edwards, 1989]; La Fave, 1969; Parnas, 1971, in the United States). The second explanation emphasises the ability of control room operators to define situations for patrol officers in advance of their arrival at the scene. Hence, operators are considered to play an integral role in the 'case construction' process. Whilst McConville *et al.*, recognise that patrol officers, at the scene, seek, elicit and construct facts (by questions and observation), as part of the initial construction process, they argue that they do so from a perspective already partly 'constructed' by the information received from the control room (1991: 34). Thirdly, Pepinski explains how operators, aided by technology, exert powerful control over the actions of patrol officers (1975, 1976, cited in Ericson, 1982). The patrol officer is seen as an automaton who is routinely responsive to, and made responsible through, the dispatcher who closely follows the rule book and force policies.

These writers all agree that operators' decisions are consequential for the patrol officer, and, therefore, for the individuals who make the calls (or about whom the calls are made). However, their explanations were put forward prior to the establishment of a computer-aided dispatch system⁶⁴ (aimed at assisting the police

⁶⁴Discussed in chapter three.

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in managerial control over the allocation of resources) and new force policies on domestic violence (introduced after the 60/1990 Home Office Circular⁶⁵). Also many had conducted their empirical work in North America. It is now appropriate to re-consider the role of the control room in the United Kingdom in the light of these recent national changes.

Examining the various stages at which choices are made in the control room, and looking, in particular, at the 'mediation' between callers and patrol officers, this chapter will assess whether operators influence the decisions made by patrol officers at the scene. Hence, the choices regarding the dispatch of patrol officers, the categorisation of disputes, and the provision of information to patrol officers will be examined. In order to achieve these aims, two sources of information will be drawn on: first, data gathered from computer records of all domestic disputes over the seven month period of the fieldwork (including incidents resolved on the telephone); secondly, data from interviews with operators; and, thirdly, data from interviews with patrol officers.⁶⁶

⁶⁵Discussed in chapter one.

⁶⁶See chapter three for a discussion of these methods.

4.1 Choosing to dispatch a patrol officer

Despite the enormous amount of research which has been carried out since the 1970s, it is still impossible to make an accurate assessment of the prevalence of domestic violence and of the extent to which it is reported to the police. This is partly to do with the limitations of surveys and partly to do with the lack of consistency in the recording of domestic disputes.⁶⁷ Nevertheless, most writers agree that domestic violence is massively under-reported.⁶⁸ Some victimisation studies have found that somewhere between a mere two to 15 per cent of abused wives have reported their partners to the police (Dobash and Dobash, 1980; Bowker, 1983). Whilst the figure seems to vary according to the sample population studied,⁶⁹ it is always relatively low.⁷⁰ In recent years there has been an increase in the number of reports of domestic violence to the police,⁷¹ in part due to a greater police willingness to

⁶⁷ There are, for example, no separate figures in the annual *Criminal Statistics* for domestic violence.

⁶⁸ See Morley and Mullender (1994) for a recent review of the extent of under-reporting.

⁶⁹ Research based on women in refuges, for example, has, not surprisingly, disclosed the highest rates of reporting: Pahl (1985) found that 71 per cent of women who had used a refuge had reported the violence to the police.

⁷⁰ The American data are rather more optimistic (Buzawa and Buzawa, 1990), with one study suggesting that a third of women reported their victimisation to the police (Kuhl, 1982).

⁷¹ In 1985 the Metropolitan Police Force recorded 770 cases of domestic violence, whilst by 1991 this figure had increased 11 fold to 8,510.

record assaults on 'domestic' victims (Mayhew et al., 1993).⁷² However, there are still many women who choose not to report their victimisation to the police or, indeed, to anyone.⁷³

Critics (see above) have maintained that there is a further high attrition rate within the control room once the decision to report has been made: that dispatchers have screened or diverted domestic assault cases (a practice that has been referred to as "cuffing") or have otherwise accorded them a lower priority than other non-domestic assault incidents. Research carried out in Canada estimated that for victims of domestic violence there was only about a 50 per cent chance of getting help other than advice from the dispatcher (Dutton, 1977). Manning has claimed that historically family violence calls have been categorized as low-priority misdemeanours deserving little police interest, and that call-screening is still common, even with computer-aided dispatch systems. He argued that 25 years of improvement in information technology had done little to alter the quality of police response to reported incidents (Manning, 1992). However, Edwards' (1986) study found that

⁷²Hood and Sparks noted this over two decades ago, arguing that a greater readiness to report violent crimes could well reflect an increased sensitivity to anti-social behaviour rather than a rise in violence *per se* (1970: 43).

⁷³Non-reporting is not only a feature of domestic violence cases, it is a feature of all crimes. Many victims of all forms of violent assault choose not to report to the police (Shapland et al., 1985; Cretney and Davis, 1995). Indeed, the 1992 British Crime Survey (Home Office, 1993) found that only 48 per cent of woundings and 26 per cent of common assaults were reported (Mayhew et al., 1993: 15). Surveys suggest that victims are even less likely to report violent conduct committed on them by intimates (Shapland et al., 1985: 48; Mayhew et al., 1993: 96).

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"cuffing" was rare, although not unknown.

Since the majority of these studies were published, the Home Office (Circular 60/1990) has advised that all 'domestic' calls should result in the dispatch of a police officer at some stage:

The first priority for police officers answering such calls is to find out whether immediate police help is required, or whether there is no imminent danger of an assault. Even if immediate help is not sought, the call must be recorded and *there should always be some sort of positive action* to investigate the case - for instance, an interview with the victim to establish in more detail what prompted her call and whether it was part of a history of violence [para. 12](my emphasis).

Thames Valley Police incorporated this recommendation to control room operators in its force policy on domestic violence. Hence, evidence of "cuffing" in the Thames Valley would be contrary to force policy. It would also, more importantly, be a clear manifestation of officers using their discretionary powers. However, little evidence of this practice was found. Records of reported incidents suggest that there were very few calls which did not result in a visit by a patrol officer. As mentioned in the previous chapter, there were only 49 reports of domestic violence which were resolved on the telephone during the seven month fieldwork period - a mere four per cent of all calls - and in the majority of these cases a visit from a patrol officer was clearly unnecessary.

Almost half of these 49 calls reported incidents which were over before the caller contacted the police (none were particularly serious). Other calls reported threats made over the telephone by ex-partners and disputes which had ended whilst the

caller was talking to the operator (invariably the aggressor had left because the police had been called). Most of the callers did not request police attendance but were keen for their complaint to be recorded in case of further disputes and some requested information on other sources of help. The majority of these calls were from the alleged victim (in all of the incidents reported where the caller was a relative or friend of the alleged victim the dispute was over). When asked why, in general, they chose not to dispatch an officer to a domestic disputes, the operators gave the same reasons as had clearly been applied in these cases.

Whilst the computer records suggested that operators rarely chose not to dispatch a patrol officer to domestic disputes, it was necessary to establish whether they resolved some incidents on the telephone for which they did not make records. Hence, operators were asked how frequently they chose not to dispatch an officer. Two thirds said that they rarely, or never, did this, whilst a third said that they sometimes did, but that in such cases they would ask the local area beat officer to follow up the incident.⁷⁴ Only two admitted to frequently "cuffing" complaints of domestic violence. Over half of the civilian operators said that they did not feel qualified to judge the necessity of a response and so were particularly cautious. They dispatched officers even when they thought that it probably was not necessary. As one said:

I'd always dispatch an officer because there's a fine line between

⁷⁴It was thought that there would be a difference in the rates of non-dispatch between the two Thames Valley Police areas due to the domestic violence initiative in place in Milton Keynes (see chapter three). However, the data showed little difference in the practices of Milton Keynes and Oxford control rooms.

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arguments going into violence and people losing control.

Eklom and Heal call this the unofficial 'just in case' rule: the need for all police personnel to 'cover their back' against any likely complaint.

The majority of operators claimed that if they considered that it was unnecessary to dispatch an officer they would make sure that the caller had sufficient advice and understood that they would not be seeing an officer, and, furthermore, that they agreed with this decision, before terminating the call. They explained that they would rarely make a unilateral decision not to dispatch an officer:

Providing the caller is satisfied with the advice given - it's an informal contract with the caller. We send an officer if they're insistent.

The consensus seemed to be that "If they (the callers) want attendance they'll get attendance".

The demands of the callers and fear of repercussions meant that operators rarely chose not to dispatch an officer. Additionally, the computer system and the high demands on operators' time seemed to encourage dispatch. With each call a 'page' appears on the operators terminal requesting information the purpose of which is to facilitate the process of dispatching an officer. With constant demands on limited resources⁷⁵ the operators did not appear to have the time to make decisions about the allocation of resources, and, consequently, they seemed to be almost automatically

⁷⁵Periods of time spent retrieving information in the control rooms of Oxford and Milton Keynes served as opportunities for occasional observation work, and confirmed the operators' opinions that the control room is usually very busy.

electing to dispatch. Therefore, as far as the choice to dispatch an officer was concerned, it appeared that operators rarely exercised discretion.

4.2 The grade of dispatch

The command and control system was originally established in the mid 1970s to ensure that calls from the public were being met with as quick a response as was possible. There were two main reasons for the assumed need for rapid response. First, it was thought necessary to satisfy the public's increasing demand for swift police action and, secondly, it was believed that it would improve the arrest and conviction rates by ensuring that officers arrived at incidents quickly enough to apprehend offenders. The police laid down a minimum response time for all calls, irrespective of the nature of the call, leaving control room staff without discretion (Waddington, 1993).

This way of allocating resources soon proved to be unpopular with the public⁷⁶ who, whilst appreciating the rapid response to their calls, wanted more officers visible in their community, to provide an illusion of a safety and order (Waddington 1993).

The police were similarly disappointed with the rapid response system. Command

⁷⁶Research conducted in Kansas City, America showed that citizens were willing to accept longer response times if they were given realistic expectations of when the officers would arrive (Kelling *et al.*, 1974).

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and control was creating 'fire brigade' policing without securing a substantially higher number of arrests (Holdaway, 1977). It was decided that, whilst the police still needed an immediate response to emergencies, they could defer many calls without any adverse effect. Hence, the need to set priorities was recognised. It has been argued that the change-over to the graded response system⁷⁷ returned the powers of discretion to control room staff, by allowing operators to decide which incident 'deserved' an urgent response and which could be deferred or dealt with routinely (Waddington, 1993). However, the Thames Valley Police study found that operators did not exercise their discretion in an arbitrary way, but followed a consistent pattern. When asked to identify the features of calls reporting domestic disputes which would persuade them to assign an immediate, rather than a routine, response, most mentioned objective criteria such as actual, or a threat of, violence, background noise, children present or the aggressor being present. They all responded to the same 'facts', rather than individually interpreting the information and making decisions in any real sense.

Of the 1,269 Thames Valley incidents attended by patrol officers, 48 per cent were assigned a routine response and 52 per cent an immediate response.⁷⁸ If the grade of dispatch impacts on the patrol officer's response we might expect that it would

⁷⁷This system is now in place in all police forces in England and Wales, with calls being assigned an immediate or a routine response according to specific criteria.

⁷⁸These findings match exactly those of Waddington's research on the graded response of *all* calls over a three week period in a control room in Reading (also in the Thames Valley).

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have some effect on the decision to arrest. Hence, calls responded to immediately would be more likely to result in an arrest. A rapid response, as chapter eight argues, is what many victims of domestic violence expect from the police and yet it seemed to have no impact on the decision to arrest: 18 per cent of those incidents which were assigned an immediate response resulted in an arrest which is identical to the overall rate of arrest.⁷⁹ There are two possible explanations for this. First, the factors which influenced a patrol officer were to be found at the scene of the incident (see chapters five and six) and were strong enough to outweigh any preconceptions (whether formed by the grade of response assigned or by information provided) which the officer might have brought with him to the incident. Secondly, the patrol officer might take little notice of the grade assigned.

Ericson has argued that patrol officers have techniques and devices to circumvent the control of the dispatcher (1982). They alter the dispatcher's priorities and instructions by delaying their responses, not responding at all, or responding even when not called to do so and not informing the dispatcher about their actions (Ericson, 1982; Manning, 1977).⁸⁰ Manning (1979, 1980) believes that this is because patrol officers base immediacy more on the context of the call than on the official priority system. Ericson similarly contends that:

⁷⁹The linkage between response time and its assumed outputs has been fairly well undermined by various other studies (see, for example, Manning 1988).

⁸⁰A patrol officer observed during the Thames Valley Police study responded to two calls which he had not been dispatched to.

... variable responses mirror the *contextual* nature of patrol officers' judgments, as well as their level of desire for an exciting drive and for the work that awaits them at the encounter (1982: 95).

Oppenlander, who compared response times to domestic violence incidents with those for non-domestic violence, holding constant other variables, found that police officers took longer to reach the scene of domestic assaults. Interviews with these officers revealed that they delayed their response in the hope that the 'problems' would be sorted out before they arrived on the scene (1982). Similarly, 54 per cent of the officers Edward's interviewed believed that a "cooling off" period was helpful when dealing with domestic disputes (1986). In neither of these studies was it the decision of the dispatcher to delay the response, indeed the response was delayed in spite of the dispatcher.

It seems that, contrary to Pepinski's theory, the actions of patrol officers were not dictated by control room operators and, furthermore, when patrol officers responded to incidents as instructed by operators this cannot be shown to have had any impact on the outcome of the police-citizen encounter.

4.3 The categorisation of disputes

Research has suggested that the information given by a caller, which is coded within organisational categories and passed on to patrol officers, is crucial for understanding

their response. For example, Parnas (1967) found that the information given to the dispatcher, interacting with his or her attitudes, determined the categorisation assigned to domestic incidents. This, he argued, determines both the speed of the officer's response and the officer's attitudes towards the parties involved before he even reaches the incident. It will be argued below that the way in which information is recorded, the categories assigned to incidents for example, has little impact on the response of patrol officers.

Of the 1,269 Thames Valley incidents which officers responded to, 80 per cent were initially categorised on CoCo as 'Miscellaneous'; eight per cent were categorised as 'General' and 12 per cent as 'Crime'.⁸¹ Those incidents categorised as a crime were slightly more likely to result in an arrest than those assigned another classification (27 per cent of those labelled as a crime resulted in an arrest, which is nine percentage points higher than the overall rate of arrest). However this was not the case with the second, more specific, opening category,⁸² which operators argued was far more pertinent, because it informed the officers about the nature of the incident. The majority of incidents were labelled as 'domestic disputes' but approximately a quarter of them were given other labels, such as 'assault', 'criminal damage' or 'indecent assault', suggesting that a criminal offence had been committed. It might be thought

⁸¹Initial classifications are recorded prior to the dispatch of an officer and are based only on the information received from the caller.

⁸²All incident records require operators to categorise the incident first in general terms, and then to apply a second more specific label.

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that those labelled as domestic disputes would be less likely to result in an arrest. This was not so. Nineteen per cent of incidents labelled as domestic disputes resulted in an arrest, which is one percentage point higher than the overall rate of arrest. Clearly there was no correlation between the categories assigned and the outcome of the police response.

As with the grade of dispatch, the officers made decisions according to criteria discovered at the incident, and not according to information provided prior to their arrival at the incident. Also, officers soon learnt not to be too influenced by information provided by the control room as it was sometimes highly unreliable. Officers often mentioned that the categories assigned to incidents did not accurately describe the incident which they had attended. Indeed, sometimes they complained that the classification bore no resemblance to the incident they arrived at. This complaint was supported by the recorded data (for example, some domestic disputes had been initially classified as burglaries).

As it was not always clear why a specific incident had been assigned a particular label, operators were asked how they would classify a call from a woman who alleged that she had been assaulted by her partner. Less than half of the operators agreed on a classification, as the following table shows.

Table 1.

Opening Classifications Suggested for One Simple Scenario

CLASSIFICATION	NUMBER	%
Crime: Assault/Other	26	47
Disorder: Domestic Dispute	16	29
Disorder: Violent Domestic	4	7
Miscellaneous: Disorder	2	4
Miscellaneous: Domestic Dispute	1	2
Miscellaneous: Disorder/Disturbance/Dispute	1	2
Missing	5	9
TOTAL	55	100

Clearly the labels assigned are variable.⁸³ The range of responses suggests confusion and a lack of an understood and applied policy.⁸⁴ The responses are also inconsistent with what the operators do in practice, as only 12 per cent of calls were initially classified as crimes although the majority of them involved similar complaints to the example given to interviewees. A few operators seemed to think that the categories

⁸³Ericson (1982) found this to be the case with most offences.

⁸⁴The Thames Valley policy did not cover the categorisation of incidents.

are inter-changeable. As on explained:

I'd classify it 'Disorder: Domestic Dispute' to convey to the radio operator what the situation is - there's nothing between a 'Disorder: Domestic Dispute' and a 'Crime: Assault/Other'.

Use of the categories 'Disorder: Domestic Dispute' and 'Disorder/Disturbance/Dispute' seemed to be random and interchangeable. The data suggested that two apparently very similar reports might result in the assignation of either of these two categories. Hence, it was decided to ask the operators what they considered to be the difference between the two classifications. The question provoked much confusion with eight very different explanations being offered. In addition, one in 10 of the operators said there was no difference between the categories and 14 per cent admitted that they did not know what the difference was. Many operators argued that it was not the categories used, but the descriptions of the incidents which informed officers:

It doesn't matter what we categorise them as - the main concern is to brief the officer attending - the categories are not important.

This did, indeed, appear to be the case, as operators often gave a brief description of the incident and told patrol officers "It's a domestic", without relaying the precise classification.

More often than not, at this initial stage the operator is reliant on brief, and often ambiguous or incoherent, messages from callers and he is not able to offer the patrol officer a reliable classification. Patrol officers knew this and so they were not

sufficiently confident in the information provided by operators to allow it to influence their approach to the dispute.

4.4 The provision of information

Operators have access to intelligence on suspects (information on bail, firearms, previous offences, injunctions etc.) and are supposed to provide patrol officers with any details which might be relevant to an incident. Consequently, they are in a position to influence officers' responses by 'constructing' suspects before officers reach the scene. However, operators in the Thames Valley did not, on the whole, provide patrol officers with enough information to influence their decisions. This was not only the opinion of the patrol officers, but also of the operators themselves. One operator, critical of his civilian colleagues, said:

Some just say 'domestic' and unless an officer asks for more information they just pass it on.

Many patrol officers complained that they either received insufficient information prior to arriving at the dispute or - although rather less frequently - they received inaccurate or misleading information. For example, one WPC responded to a call from a woman whose estranged husband had forced an entry into her home whilst she was out and damaged items of her property. The officer had been told, by the operator, only that this was a domestic dispute, with no other details being provided. She was then informed, by the woman, that the perpetrator was in breach of an ouster

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injunction, but she was provided with no other details about the history of the incident. Therefore, having advised the woman, she took no further action. It was not until I interviewed the WPC that she learnt that the previous day this man had held his wife hostage in her home and threatened her. Officers from another shift had used shields and dogs to force an entry into the home and taken the suspect before the court for breaching the injunction. The judge had warned him that if he went back to his wife's home he would be imprisoned. In this case accurate information provided by the control room might have resulted in a very different disposal.

There are essentially two ways in which operators could provide patrol officers with accurate and thorough information on domestic incidents. First, they could attempt to obtain clear and concise details from callers and, secondly, they could check available information on the names or addresses of disputants.

Ekblom and Heal's study of control room operators' interactions with the public concluded that on many occasions much more information could have been obtained from the caller - possibly avoiding the necessity of dispatching a mobile patrol at all.⁸⁵ And because operators hung up too soon, typically with the "we'll send someone round straight away" message, they had little information to give to patrol officers on the way to the dispute. These authors argued, that if operators took

⁸⁵On a few occasions officers, in the Thames Valley study, argued that the control room sometimes dispatched them to incidents which should have been dealt with over the phone.

greater care over eliciting more information there would be less ambiguity and a closer correlation between public needs and police deployments (1982). However, 80 per cent of Thames Valley operators said that the callers were invariably unable or reluctant to co-operate in the process of gathering information. Either they were incoherent, or they had little knowledge of the dispute, or some purposely gave false accounts of the dispute:

It's not always easy to get information from the caller - they just want an officer dispatched and don't want to answer questions.

A fifth of the operators referred, more specifically, to aborted calls:

They worry if you're talking that you're not dispatching someone. They often hang up once they know (that an officer has been dispatched).

It seems that callers want to know first that someone is being dispatched and once they are secure in this information they can see little benefit in remaining on the telephone.

The researcher had the opportunity to listen to a sample of taped conversations between members of the public and operators.⁸⁶ The recordings highlighted the problems of getting accurate intelligible information from callers. The poor audio quality of some telephone conversations meant that sometimes callers and operators

⁸⁶In Milton Keynes the researcher randomly chose magnetic tapes from three different dates and identified the recorded domestic disputes. All communications pertinent to these disputes were listened to, allowing for a better understanding of the interactions between callers, operators, and patrol officers, and providing a test for the reliability of the operators' assertions.

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could not hear each other. Radio 'black-spots' occasionally caused operators to lose communication with patrol officers. However, more importantly, excited or hysterical callers tended to talk very quickly and sometimes offered irrelevant information at the expense of necessary details. One caller whispered a rather cryptic message, in an attempt to avoid her partner discovering her communication with the police. Another caller was a neighbour who could hear the dispute but could not see anything, whilst a young child, calling the police about a dispute between his parents, was uniquely difficult to interrogate for pertinent information. As Ekblom and Heal noted:

A straightforward and articulate exchange of messages between the police radio controller and members of the public seeking assistance is the exception rather than the rule. (1982: 15)

Shapland and Vagg similarly commented that "during the brief period of conversation on the telephone between ... (operators and callers) confusion is rife." (1988: 39).

Manning argued that because calls made by the public are typically so complex and imprecise they need to be interpreted and rendered intelligible in order that an appropriate response be chosen. In other words, operators must exercise their discretion in a similar way to patrol officers at the scene. However, the opportunities for exercising discretion are kept in check by organisational factors, such as limited resources and the need to respond quickly in cases where there is little or uncertain information (Waddington, 1993:167). Almost three quarters of the Thames Valley operators blamed high demand and inadequate human resources for their failure to pass on sufficient information to patrol officers:

If you're busy and undermanned the quality of your questioning will

decrease.

Another explained:

There's a limit to how much time you can spend on each job. Patrol officers sometimes want information which is impossible to get.

Many others talked about the pressure to answer the phones quickly in order to avoid creating a backlog. Sixty per cent of operators suggested that the technology could not cope with the demands of the patrol officers. They explained that air-time was precious and could not be taken up with irrelevant or superfluous information. Some operators also expressed concern about passing detailed confidential information to officers over the air because of the illegal use of scanners by members of the public. Clearly, as Waddington (1993) and Manning (1982) have acknowledged, information is not an unambiguous collection of facts which can be relayed unproblematically from caller to operator and then on to patrol officer:

Prescribing that operators should inquire at greater length about the circumstances from callers is to commit... an error, for it implicitly relies upon the belief that more information could be obtained if greater care were taken. (Waddington, 1993: 164)

Even if operators cannot decipher clear, intelligible information from callers, they can check their own records if they have the name of a victim or an offender, or the address of the disputants. However, almost half of the operators interviewed admitted that they rarely did this. Approximately a quarter said that they checked the available information sometimes, but only a quarter said that they made frequent checks.⁸⁷

The 60/1990 circular recommended that:

⁸⁷Civilians were more likely to check information as were operators in Milton Keynes.

Records should be kept in a manner which permits easy information retrieval so that officers dispatched to an incident can readily establish whether there have been previous reports on the household, their frequency and the nature of previous threats or violence. Officers should also find out whether any court orders or injunctions are in force in respect of members of the household. Where a power of arrest is attached, the order or injunction is likely to be lodged with the police, so the information should be readily available. Chief officers should make arrangements with clerks to the justices to provide details of injunctions or court orders not carrying powers of arrest. [para. 13]

Unfortunately, control rooms are not the libraries of complete and comprehensive data that the Home Office and the patrol officers would like them to be. Information technology systems in Thames Valley were not developed according to a formulated plan. Different systems were introduced in a largely *ad hoc* fashion, at various stages dependent on bursts of funding and other resources. Hence, some effective systems are hindered because of their incompatibility with the other, older and poorer systems.⁸⁸ Many Thames Valley operators and officers pointed out that the technology was inadequate for intelligence gathering. They considered that CoCo was inefficient as an information provider, and that the domestic violence register was never up to date and hence unreliable. Similarly, copies of injunctions were either missing or out of date. However, the point of contention for many officers was the inability to access the local intelligence computer. Sixty two per cent of the operators interviewed mentioned the need for a local intelligence computer terminal in the

⁸⁸A recent Home Office study found that 33 of 42 police forces in England and Wales felt that they had an adequate system for recording and monitoring incidents of domestic violence (Grace, 1995). However the researchers found little evidence of any systematic recording or monitoring of domestic violence cases. Only a quarter of operational officers said that they were consistently able to check police records for any previous history of assaults before attending a domestic violence incident.

control room. One operator explained:

If we had an LIO (local intelligence) terminal we'd all use it. We've been told that we can't have one because it would cost too much.⁸⁹

Of course, the provision of accurate, up-to-date information on domestic disputes is partly reliant on patrol officers relaying relevant details to operators after they have left the scene of an incident and the operators, in turn, recording and classifying that information precisely. Accurate information can only be collected if operators always create records of 'telephone resolutions'. However, whilst three quarters of the operators admitted that they *should* record details when officers are not dispatched, (for the benefit of local intelligence in case the dispute re-erupted) only a third of the operators claimed that they always created computer records of all incidents and a few said that they rarely created a record if they were not going to dispatch an officer.⁹⁰

Even when they do record all incidents, inconsistent classification practices can render the retrieval of data problematic. As Bottomley and Coleman (1981) have argued, the latitude allowed the police in deciding whether and under what category incidents are recorded is such as to undermine the validity of statistics of recorded crime. An

⁸⁹Neither of the control rooms examined in this study had a terminal connected to this computer and so whenever they wanted to check this data they needed to go physically to another part of the police station (to the main terminal) or call through to headquarters (something which could only be done within office hours). The civilian operators are not trained to use the computer and therefore do not have passwords and even some police officers, who are not yet trained, do not have passwords.

⁹⁰As with the data on non-dispatch rates, there was little difference between the two stations studied over how frequently operators created an incident log for a 'cuffed' call, or between civilians and police operators.

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effect of the variable processing of primary data is the unreliable nature of any intelligence the police, whether it be operators or 'managers', gather from the tertiary data collected by CoCo. In other words, intelligence on any offence or offender may not be easy to obtain and may be distorted by inaccuracies.

After officers have attended an incident and reported the result back to the control room, the operator records a closing classification. Thirty two per cent of the Thames Valley incidents were categorised as 'Miscellaneous'; 57 per cent as 'Disorder'; and 11 per cent as 'Crime'. Over half were given a second classification of 'domestic dispute', with just over a quarter classified as 'other'. However there were various other classifications: sexual offences, violence against the person, criminal damage, assault/other, and breach of the peace, amongst others. These classifications are based on the patrol officer's 'story'. If his story is partial it might result in an inaccurate categorisation. It appeared that there were inconsistencies in the categories chosen and so, as with the opening classifications, operators were given an hypothetical case to 'close'. They were asked which classification they would record for an incident where a woman had been assaulted by her partner but, for whatever reason, the officers in charge were not taking criminal action. Most took some time before giving their answer, and some expressed uncertainty about which category was 'the right one' (indeed 11 per cent of them admitted to being unsure about what many of the classifications meant). However, the majority, as table 2 shows, chose 'domestic dispute', a category which clearly negates the criminal element involved in the incident.

Table 2.

Closing Categories Suggested for One Simple Scenario

CATEGORY CHOSEN	NUMBER	%
Disorder: Domestic Dispute	28	51
Miscellaneous: Other	12	22
Disorder: Dispute: Domestic Violence	10	18
Crime: Violence Against the Person	3	5
Crime: Assault/Other	1	2
Missing	1	2
TOTAL	55	100

The Home Office tried to address the problematic nature of the official statistics on domestic violence:

All complaints of domestic violence by victims or witnesses should be properly recorded in the same way as similar incidents involving strangers. The seriousness of an incident should not be downgraded because it takes place in a domestic context and no incident should be 'no-crimed' unless the police conclude, after investigation, that the report was inaccurate or false. [60/1990 Circular, para. 13]

This recommendation, adopted by Thames Valley Police, suggests that if a woman reports an assault by her partner it should be recorded as a crime against the person, in other words as an assault. As table 2 shows, not only were operators inconsistent in their decisions regarding the hypothetical case, but they also ignored, or were unfamiliar with, the force policy. Indeed some operators argued that the force policy insisted that they categorised incidents of domestic violence as 'domestic disputes'.

The Home Office also recommended that:

Where there are computerised command and control systems they should specifically log reports of domestic violence so that they can be monitored by supervisory officers and an accurate statistical record kept [60/1990 Circular, para. 13].⁹¹

In April 1993, in response to this advice, Thames Valley Police included a closing category of 'Domestic Violence' on the command and control computer. This was an optional category to be used as a further distinction after 'Disorder: Domestic Dispute', to indicate that the dispute involved violence. From April until August 31 the new category was used only once. Only 60 per cent of the operators knew about the category, and the majority of these said that they did not use it because they were too busy or they forgot. Almost a third said that no one had explained when they should use the category or who would benefit from this additional information. Some argued that the categories are unimportant and that what they write in the open text space is crucial. In fact, as far as the response of the patrol officers is concerned, most of the information recorded on CoCo is insignificant. Message pads used to become part of the case files when an arrest was made. This is no longer the case with incident logs (except in rare circumstances) and so the way that the operators interpret and record information received has no long term implications.

⁹¹This is not contradictory. It does not mean that the closing classification needs to be 'domestic dispute', as opposed to 'crime'. Rather it means that some sort of other category needs to be entered in order to distinguish crimes arising from an incident of domestic violence from other 'non-domestic' offences. There had been so such attempt to include such an option on the command and control system.

4.5 Operators as administrators

The control room is clearly an integral part of communication between the public and the police. Control room staff provide an information thoroughfare between anxious or agitated callers and often similarly agitated patrol officers. However, the choices made by operators cannot really be said to mark the start of the criminal justice process.

Operators are administrators. They 'manage' calls rather than make decisions, and, as such, their response has little effect on the outcome of cases. They try to impose order on multifarious calls which can involve the interpretation of information and adherence to policies and directives. However, this only affects how quickly the police get to the incident which does not seem to impact on police decisions in domestic disputes. This is partly, as discussed above, because there is usually little or no information provided, and that which is provided is either vague or inaccurate.

As Ericson argued,

... dispatch messages are usually imprecise enough to allow the officer interpretive latitude (1982: 95).

In other words, they:

... need to do their own contextual analysis beyond what they are told
... (1982: 97).

One Thames Valley operator acknowledged that this is what *should* happen, as background information on the disputants might adversely effect the operational response:

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It could be detrimental. It could stop officers responding according to criteria of that specific incident. Repeaters [men who repeatedly abuse the same partner or ex-partner] might not get the best response.

Clearly the Thames Valley study provides no support for either of the three explanations of the impact of the control room discussed in the introduction to this chapter. However, this is not to say that these explanations were not appropriate in their time. Since then the control room has become 'routinised' and operators have, to a large extent, lost their discretionary powers because of four organisational factors: first, the introduction of the computer-aided dispatch system; secondly, a sharp rise in demand for police services (preventing operators spending sufficient time on each call to collect information which might influence the patrol officers); thirdly, the partial civilianisation of the control room⁹² (civilians in Thames Valley Police were even less inclined to exercise discretion); and finally, the introduction of a force policy on domestic violence.

When patrol officers arrived at the scene of a dispute, as will be shown in the following two chapters, they negotiated with disputants and any other significant persons in order to define the situation and make decisions about how to proceed. They have legitimate authority to decide what has happened, even if this contradicts what the caller originally complained about (and therefore contradicts the message relayed by the control room). Just as the victim (in cases where she is the caller) is

⁹²The control rooms at Oxford and Milton Keynes are staffed by both police officers and civilians who essentially do the same work, although the supervisory roles are held by police officers only.

largely in control of the provision of information to operators and, consequently, the dispatch of an officer, so, it will be shown, she is largely responsible for the decisions made by patrol officers at the scene.

CHAPTER 5

Exploring Explanations of the Police Response to Domestic Violence

When the police are called to a dispute between partners or ex-partners they try to decide on the best course of action to achieve the quickest and most effective resolution to the conflict. The dispute may or may not have involved violence or damage to property, the conflict may appear to have subsided or may be occurring as the officers arrive, the complainant⁹³ may be 'requesting' that the officers arrest her partner, or she may be uninterested in, or opposed to, police action. Accordingly, the police can use their legal powers to arrest one of the disputants, they can attempt to mediate, or they can decide that it is not a police matter and leave. Research has shown that the typical response in the mid 1980s was to leave without arresting anyone. Indeed, the most rigorous study conducted during this period found only a two per cent arrest rate for incidents of domestic violence (Edwards, 1986).

⁹³As discussed in chapter two, women involved in domestic disputes will be referred to as complainants in the chapters dealing with the response of the police and prosecutors. This includes women who did not themselves call the police and those who refused to make formal complaints (statements) about the alleged disputes.

Since Edwards conducted her research Home Office has insisted on "the need to treat domestic violence as seriously as other forms of violence" (Circular 60/1990, para. 11), and stated that "the arrest and detention of the alleged assailant should ... always be considered." (para. 16 (d)). The Thames Valley study, conducted three years after these policy recommendations, found that 18 per cent of domestic violence perpetrators were arrested.⁹⁴ This suggests that there has been a fairly dramatic rise in the rate of arrest. However, this rise is not as high as might be expected considering the Thames Valley Police Service policy, which, incorporating the Home Office recommendations of the 60/1990 Circular, advised officers to arrest perpetrators where there is evidence of an offence (see the discussion of force policies below).

This chapter will consider the various attempts to understand the relatively low arrest rates in cases of domestic violence by examining the cultural and structural explanations of police decision making.

5.1 Understanding the impact of 'cop culture' on police decisions

The sub-culture of any organization is the particular configuration of norms, values, beliefs and ways of behaving that characterize the manner in which groups and

⁹⁴See figure 1, Appendix 1.

individuals collaborate within organizations (Jary and Jary, 1991). As far as the police organization is concerned the term 'cop culture' refers to the way officers view their social world (i.e. the nature of their work, their relationships with other officers and their interactions with the public). This culture relates to the language, ideology, rituals and myths of the organisation. In a sense, 'cop culture' is a response to the pressures and conflicts which officers routinely face whilst on patrol, and, to a lesser extent, within the station.

The idea of 'cop culture' was first discussed by Michael Banton (1964) and Jerome Skolnick (1966). Skolnick, offering an account of the police "working personality", argued that certain problems inherently associated with the nature of policing generated a shared subculture among the police rank and file which facilitated the resolution of these difficulties. Banton identified the themes of police suspiciousness, internal solidarity, social isolation and conservatism as being characteristic of this "working personality". Since then most studies of 'cop culture' have referred to these themes and, more recently, to racism, sexism and homophobia (Smith and Gray (PSI), 1983).

The impact of the informal culture of rank and file officers is the explanation of police working practices most commonly put forward by those who have carried out research on the police (Reiner, 1994). Indeed, Reiner (1992) has argued that the police culture shapes much of what happens on the streets. The law, he claims, does not determine practical policing because it leaves huge gaps to be filled by discretion

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and so the culture influences who will be stopped, arrested and charged. Over the last decade or so, there certainly have been examples of police responses to certain communities which owe more to the cultural prejudices of officers, both senior and junior, than to the criminal law. In 1980, for example, the "suspected persons" provision of the 1824 Vagrancy Act was used in a discriminatory way to stop and search young, typically male, Afro-Caribbeans in the streets of Brixton and other south London areas with a reputation for street robberies ("muggings") and illicit drug taking (Willis, 1983; Smith and Gray (PSI), 1983). We need to ask whether a police sub-culture, which appears to increase the likelihood of coercive police action directed against ethnic minorities, decreases the probability of perpetrators of domestic violence being arrested.

According to some critics, domestic disputes were seen, within traditional 'cop culture', as messy, unproductive, and as not being 'real police work' (Reiner, 1978; Young, 1991). Over two decades ago Rubinstein (1973) argued that domestic disputes belong to the class of 'bullshit calls' which American police officers talk their way out of as soon as they can. More than ten years later commentators were still arguing that officers considered 'domestic calls' to be 'rubbish' (Southgate, 1986).

As sociological interest in 'cop culture' emerged, along with it came an understanding of police discretion. During the 1960s the writings of Goldstein (1960), Ferraro (1989a) Piliavin and Briar (1964), Skolnick (1966) and Packer (1968) explored how

discretionary powers enabled officers to behave according to cultural attitudes rather than according to the rule book. The majority of commentators on policing (Packer in particular) focused their concern on how often, and indeed how much, rank and file officers deviated from the 'due process' model. The tendency, they argued, was to eschew 'due process' principles in favour of 'crime control' measures (see Sanders and Young, 1994). In other words they are concerned that officers too often used their discretionary powers to treat some citizens differently than others and to control certain suspect populations whilst paying little attention to others (for example, victims of racial attacks).

Most feminist commentators, writing during the 1970s and 1980s, expressed concern that officers too readily exercised their discretion against using crime control measures by refusing to intervene in the majority of domestic violence cases (Edwards, 1989). Edwards considered that the use of discretion equated with discrimination when officers enforced 'cooling off' periods on victims and repeatedly asked them if they really wished to go to court, in an attempt to discourage them from demanding positive action. Accordingly, she suggested that the police should not have such wide discretionary powers.

In describing the response of the police to incidents of domestic violence, feminist authors argued from the normative stance that this response was inadequate. From this standpoint they have sought, through empirical research, to demonstrate and

explain this inadequacy.⁹⁵ In doing so, they rarely forwarded explanations which were grounded in a structural socio-legal analysis of policing wife abuse. Instead, they preferred to explore police attitudes and culture, leaving aside the question of how far the police force as an organisation, and the criminal law under which it operates, can act as constraints on operational policing. These writers have also, in the main, failed to appreciate the role of the complainant in the police decision making process, assuming that the wishes of complainants and police officers are always in conflict.

Writers who have analyzed domestic violence from a feminist perspective have tended to suggest that 'cop culture' is the main influence on how the police respond to domestic violence. They argued that machismo, sexism and an emphasis on crime-fighting were important traits of the culture, with the result that crimes against women in the domestic context were not taken seriously (Young, 1991; Heidensohn, 1992). It was claimed that police attitudes and the organisational structure of policing created a set of cultural norms, beliefs and attitudes which determined not only how police thought about domestic disputes, but, more importantly, how they responded to them. In other words, the 'cop culture' defined domestic disputes as trivial in general, and referred to them as such. This led the police to treat them as trivial

⁹⁵Most feminist empirical work aimed at investigating how police deal with cases of domestic violence has been based on interviews with police officers (see Edwards, 1986, 1989; Homant and Kennedy, 1985). In addition, interviews with victims have provided another way of assessing police performance (see Pahl, 1982, 1985; Binney *et al.*, 1981).

occurrences when dealing with actual incidents.

Cultural theorists have, in the past, argued that officers make judgements based upon their inherent assumptions regarding "proper victim conduct" and that these judgements can lead them to disregard violence against certain women (Manning, 1978; Skolnick, 1966). Drawing on this work, feminist authors have implied that discretionary powers leave a vacuum within which the attitudes of individual officers influence their response to domestic disputes. Hence decision making can be determined by officers' whims, stereotypes and cultural attitudes regarding 'serious' or 'proper' police work and 'rubbish' calls (see Dobash and Dobash, 1980; Davies, 1982; Fine, 1981). It has been argued that these attitudes, often described as 'masculinist' and guided by notions of patriarchy, persuade them to value family unity at the expense of protecting women against violence in their home:

The patriarchal attitudes of both police officers and the overall police organization ... inevitably influence the exercise of discretion and shape what police 'police' and how ... violence in the home is accorded a low priority because it happens behind closed doors, has a low visibility, occurs within a sphere traditionally considered to be private and is perpetrated against women by male partners. (Edwards, 1989: 31)

Feminist writers have claimed that officers share cultural assumptions about women in general, and wives and mothers in particular, according to which some women are negatively stereotyped. It has been argued that when this occurs such women are unlikely to benefit fully from the protection of the law. The onus was said to be on the female victims who had to demonstrate that they did not 'deserve' to be attacked,

(Dobash and Dobash, 1980; Chatterton, 1983; Smith and Gray (PSI), 1983; Stanko, 1985). Hence, the question of whether to arrest and prosecute only arose in domestic disputes when the investigating officer deemed the victim to be both deserving and significantly injured (Sanders, 1988).

Some feminist commentators have suggested that the inappropriate or ineffective approach of many officers towards domestic violence derived from individual officers' experiences of familial relations or from the masculinist ethos of their particular force. Hence, it was thought that the police made fewer arrests in cases where the victims were married and living with the offenders because they deferred to the sanctity of the family (Dobash and Dobash, 1980; Martin, 1976; Worden and Pollitz, 1984). Although it has also been suggested that the relationship was considered important for evidential reasons. That is, that when officers perceived a commitment to a relationship they thought that the woman would be less likely to support a prosecution (Black, 1976). The influence of gendered attitudes was thought to have been proven by the research finding that female officers were more likely to be understanding, sympathetic and helpful in their provision of information about legal rights and shelter, (see, for example, Homant and Kennedy, 1985) although the extent of this gender difference has been questioned by some other authors (see Radford, 1989; Stanko, 1989).

In order to summarise the ‘cop culture’ explanation’ of the police response to domestic violence, a model has been constructed.

Figure 1

‘Cop Culture Explanation’ of the Police Response to Domestic Violence

NO ARREST	EXPLANATORY VARIABLE	ARREST
Co-habiting	Marital Status of Disputants	Not Co-habiting
Male	Gender of Officer	Female
Victim Provocation	Victim Blaming	Victim not Implicated
Negative Comment	Officer's Opinion of Victim	No Negative Comment

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All of the factors presented in the model have been located within the feminist critique of 'cop culture'. In order to examine the extent to which the occupational sub-culture of Thames Valley officers impacted on their decision making processes in incidents of domestic violence, qualitative analysis of the interview and patrol observation data, and the general policing literature have been drawn on. It will be argued that whilst 'cop culture' does affect all areas of policing, its impact is not as directly prejudicial as has been suggested by some researchers. Rather, it influences the 'working rules' adopted by officers and, consequently, the negotiation process at the scene of the dispute.⁹⁶ This negotiation process will be discussed in detail in chapter six. The purpose of this chapter is to explore the factors which inform the creation and adoption of working rules for dealing with domestic disputes. Within this context, 'cop culture' will be understood as an intervening variable through which most influential factors such as officer's attitudes, police organisation, the powers available under the criminal law and force policies, are shaped as they structure the 'law in action'. First, however, the nature of 'cop culture' in the 1990s needs to be considered, because it is different from the culture described by Banton, which has been the basis of feminist criticism over the last two decades.

⁹⁶For a description of the meaning of the term 'working rules' see chapter two.

5.1.1 The evolving character of 'cop culture'.

In the last decade a liberal, progressive element within the police force has developed whose existence challenges the old scriptures of 'cop culture'. Interviews with police managers (ranging from Sergeants to Superintendents) for a recent Home Office study revealed that the culture, as far as attitudes towards domestic violence was concerned, had changed (Grace, 1995). The majority of officers felt that changes in the police culture had made it easier to take domestic violence seriously - by arresting offenders more often and by getting involved in cases rather than just giving advice at the scene or attempting reconciliation - without being ridiculed by their colleagues. They believed that younger officers, who were not so set in their ways, might find it easier to take the new guidelines into account (Grace, 1995).

It is not clear whether police officers in the past displayed similar traits, such as conservatism and authoritarianism, because those who joined the police service had these personality traits, or whether these were learned attitudes, imparted through training and socialisation.⁹⁷ Assuming that they were at least partly the result of socialisation, it is possible to argue that, whilst new probationers are socialised into the culture by spending time 'shadowing' older, more experienced officers, they are not passive recipients of a 'stock culture'. 'cop culture' is not static because it is necessarily related to changes in the criminal and civil law; to evolving force policies and training; to changes in the wider socio-political and economic climate from which

⁹⁷See Reiner (1992: 125-128) for a discussion of the research which addresses this question.

officers are recruited which permeate every aspect of an officer's working life. It is important to note that Skolnick's (1966) thesis on the 'working personality' refers to the impact of the demands of police work. As that work changes, so will the culture change. In addition, if we allow that specific types of people decide to be police officers, we can argue that 'cop culture' must be affected by the changing socio-demographic characteristics of recruits to the force. In summary, 'cop culture' is part of the wider political, institutional and cultural system within which values and interests are constantly evolving.

The social make-up of recruits to the police force, now, significantly, known as the police 'service', have changed over the past two decades. More graduates enter the service than used to be the case, and the overall educational level of recruits has improved (Smithers *et al.*, 1989). In addition to this, more and more of those who did not enter the service with educational qualifications are seeking to correct this by completing first degrees, Masters degrees and even PhDs, mostly achieved through part-time study. There are a growing number of University courses specifically created to meet this increasing demand.⁹⁸ This change in the type of recruit owes much to the improved salaries awarded to officers of every rank. In 1979 a new index-linked pay award recommended by the Edmund-Davies Committee was implemented, raising the pay for probationary officers by approximately 40 per cent (Rose, 1996). It was during this time, and not unrelated to the rise in remuneration,

⁹⁸For example, the part-time degree in police studies offered by Portsmouth University.

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that the average age of new recruits began to rise. Older officers brought with them experience from industry, social service careers, and a range of other professions. These recruits were not impressionable blank pages upon which the prevailing culture could be imprinted. Their experience and ideologies made them more resistant to the old style culture and, in turn, influenced established colleagues.

In the late 1980s racism, homophobia and sexism began to be challenged within the service. Each year there is an increase in the proportion of female recruits, and women police officers are more ready to make a stand against sexism, inspired, in part, by widely reported cases brought against the service, such as the allegation made by the ex-Assistant Chief Constable Alison Halford. There now exists a Gay and Lesbian Police Association and a Black Police Association, and most large forces, in particular the Metropolitan, regularly launch recruitment drives aimed at ethnic minorities. Whilst such initiatives might not penetrate to the core of cultural prejudice, indeed a recent Home Office (1996) report suggests that there is still some bullying and racist and sexist jokes within police ranks, it would be foolish to believe that they have had no effect at all.

Rank and file officers, as well as senior management, have, in the past, been widely regarded as conservative in both their attitudes and approach to the public, as well as being Conservative in their political affiliation. Drawing on informal interviews with Metropolitan police officers, David Rose (1996) has claimed that this is changing. These officers told him that they would no longer vote for a Tory government which

they believed to be too arrogant to recognise the links between social deprivation and crime and who expect the police to tidy up the mess created by their social and economic policies. In addition to this, some officers had started to question authority.

As one constable with twenty years service explained:

The rich are getting richer and the poor are getting poorer. And you see these so-called leaders of society, breaking the law and getting away with it. Major launched Back-to-Basics and then half his own people turned out to be over the side.⁹⁹ The very fabric of society is in extreme danger. It goes all the way to the top: in fact, it starts at the top (Rose, 1996: 95).

Rose suggests that during the 1980s, at the height of the Thatcher-Lawson "economic miracle", senior Metropolitan Police officers were vehement in their questioning and criticism of Government policies which they believed were creating a divided society and a rising tide of crime.

Clearly, the organisational sub-culture of the police is in a state of evolution and, for this reason, any claims made in the 1970s or 1980s regarding the influence of 'cop culture' on the police response to domestic violence should now be treated with a degree of caution. However, it will also be argued below that, whilst previous researchers might have correctly identified and described the 'cop culture' prevalent at the time of the studies, they were wrong to assume that sub-cultural norms, values and beliefs translate simply into action.

⁹⁹"Over the side" is common police slang for committing adultery.

5.1.2 The effect of 'cop culture' on police behaviour: a qualitative assessment

There seems to be some confusion in the literature on 'cop-culture' as to just what is being described. In order to understand the extent of the influence of sub-cultural norms and values on operational policing, it is helpful to consider what is meant by the terminology adopted. Whilst 'cop culture' is the term used by academics, journalists and senior police officers prefer the name 'canteen culture', a term generally accepted to refer to the same set of norms and values. These terms should not, however, be used synonymously, as canteen culture is but one element of 'cop culture'. 'Canteen culture' refers to the ways in which officers communicate with each other, interactions which are characterised by expressions of solidarity and cohesiveness. It is directed internally to meet the demands of operational policing and thus reflects divisions between the police and the public, in particular, suspects, and divisions between the various ranks within the service. Its name is appropriate because expressions of sub-cultural biases and prejudices are more likely to be seen and heard in the police canteen than on the streets. Officers, when surrounded by their colleagues in the station, use cultural themes to communicate with each other and establish a shared identity (Smith and Gray (PSI), 1983). They discuss incidents they have dealt with using language entrenched in cultural myths, prejudices and stereotypes. Thames Valley officers, for example, often talked about the dangerousness of attending domestic disputes. In particular, the 'problem' of trying to help women involved in domestic disputes who 'turn on' them, 'ganging up' on them with their partners and threatening or assaulting them. Many officers insisted that this happened all the time and yet few had personal experience of it. In this

study there was only one example in 387 incidents of a 'hostile' woman and in this case neither of the officers had sustained any injuries (although the uniform of one of them was covered in gravy!). Some writers have referred to this 'canteen culture' and, rather than seeing it as a small part of a wider 'cop-culture', have assumed that it *is* 'cop-culture' and that, as such, it translates directly into action. 'Canteen culture' allows officers to articulate their fears, and vent their frustrations and anger, but it does not necessarily *cause* them to behave in a certain way when dealing with members of the public.

As discussed in chapter three, interviews with patrol officers were based on a semi-structured questionnaire. However each interview was preceded by a general opening comment which informed the interviewee that he would be asked about domestic disputes.¹⁰⁰ This statement was followed by a pause to give the interviewee time to offer an initial reaction, which was frequently quite negative. Many officers looked slightly exasperated at the mention of domestic disputes, commenting that "domestics are so much trouble", or that they hate going to them because they are so "grieffy", or that they did not have the time or the inclination to deal effectively with them. They gave the impression that the police role simply was to enter the homes of disputants and arrest suspects if they were provided with indisputable evidence of a criminal offence having taken place, and leave if there were not, without either listening to or advising the disputants. But when asked a general open-ended question

¹⁰⁰Some officers were interviewed more than once over the fieldwork period. This introductory question was only used for the first interviews.

about the dispute - "So, tell me what happened here?" - their replies seemed to contradict their initial response. Despite a negative initial comment being made in 98 of the 387 interviews (43 of the 168 arrest incidents and 54 of the 219 non-arrest incidents), their actual response was usually quite different. In the majority of cases they proved that they *had* listened carefully to the disputants 'story' (they could often recall, in some detail, the situation which had immediately precipitated the dispute, as well as how the disputants had behaved whilst they were at the scene). The initial comments were indicators of how domestic disputes are still, to some extent, trivialised by officers within canteen culture discourse, whilst the response to the questions about what officers actually did in practice illustrate the divide between cultural attitudes and behaviour. The following interview extracts illustrate this.

Initial comment:

I don't enjoy being a social worker when I'm out there doing a busy shift. We haven't time to try and find out what's gone wrong in these people's lives. We just have to go in and nick sonny or leave them to it. These people expect you to listen while they slag each other off and then you're supposed to be able to sort out their lives. I don't see why I should try and understand their marital problems when I've got enough of my own.

The reference to dissatisfaction with social service type of work is typical of the language of the canteen. However this officer *did* spend time listening to a woman's story and was fairly sympathetic. He continued:

(Response to first question)

We have made previous visits to this address regarding domestic disputes. Her husband had been arrested on a previous occasion for ABH but she had withdrawn at a later date. The neighbours were at the house. She complained that he had pushed her round the kitchen, and had thrown a milk bottle at her. They had only been married for a year. She's at the end of her tether. He drinks, doesn't have a job or help round the house. He just slob around. He's very possessive. He drinks a lot and spends her money. He's been intimidating towards her and her two children.

Another officer implied that he usually spent very little time trying to help disputants:

Initial comment:

Domestics! Most of the time I go in, split them up and tell them to just calm down. They're always blaming each other these couples. Most of the time there's no offence so we can't bring anyone in. I guess most of the time we just tell them to shut it, nicely of course, and get out.

He then went on to discuss the following incident at which he had spent considerable time.

(Response to first question):

A child had called us to say that his father had cut his mother with a knife. The man was still in the house when we arrived. We were waiting for support to bring knife vests when the man came out calm. I spoke to him and the WPC I was with spoke to the wife. The family basically had lots of problems. He had a drink problem. He had seen doctors in the past and attended an alcohol clinic. He had managed to give it up until recently when he lost his job and started drinking again. The boy is not his own child and they often argue and the mother always takes the boy's side. That afternoon he had argued with the boy about the choice of television programmes and the mother had said that the boy can always choose what he wants as a priority. The man started behaving aggressively to the boy and the mother stepped in to defend him. She said that there was no knife involved and that the child had got mixed up. They were still angry at each other and I spent quite a bit of time mediating between them.

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The following extract highlights officers' concerns about their ineptitude in dealing with domestic disputes:

Initial comment:

We shouldn't have to go to domestics. We're not the right people. We're not properly trained to help these people. O.K, we should be there if sonny's kicking off and she's in any real danger, but most of the time it's just squabbling, and I, for one, don't have the time to listen to people old enough to be my parents bickering all night.

He then illustrated that he had, in fact, tried to deal properly with the dispute in question.

Response to first question:

I spent a long time listening to both of the parties and offering advice. She is a Filipino, aged about 40. He is English, he's white, aged about 50. She was bought by him - she is a Filipino bride. They have been married and in this country for about 11 years. There are real cultural differences between them. Their marriage is falling apart. We have attended disputes between them before. She talks about 'serving' him and says he does not respect her. Both work together and she has accused him of having an affair with a woman at work. He denies this. They have money problems and problems with their sexual relationship. She's got a bad back and feels that that is why he is having an affair. They keep their money separate and argue over what each are spending money on. She has been to marriage guidance a few times and he is considering going with her. On this occasion they had argued and each had thrown things at each other. Neither had been hit - but a few possessions had been smashed. There were no injuries. She had phoned us because she wanted someone to talk to, someone to act as a mediator. I spent almost an hour discussing their relationship with them.

There were, of course, some interviewees who spoke initially in a very sympathetic way. Some officers even admitted to enjoying the challenge of a domestic incident, seeing it as a chance for them to employ their communicative skills and try to help

the women and prevent further suffering. On the other hand, there were a few officers who did spend little time with the disputants and who offered no advice and showed no sympathy or compassion. However, they were a small minority.

Some studies have not attempted to ascertain the police reasons for action, talking only to victims in refuges, for example, (see Binney et al., 1981). However, some researchers who have conducted interviews with officers have adopted the methodological tactic of discounting the reasons given by officers for their action, in order to 'discover' the 'real' reasons for their behaviour, which have been based on their own interpretations and victims' accounts of police responses - take, for example, the discussion on the 'myth' of victim unreliability in chapter six (for a discussion of this methodological tactic see Giddens, 1979). Edwards, whilst arguably providing one of the most sophisticated feminist accounts of the police response to domestic violence, was perhaps too ready to dismiss officers' legal and *prima facie* reasons for exercising discretion, insisting instead on the stronger influence of moral judgements regarding blame and family ideology (Edwards, 1989: 102). Such critics have chosen to marginalise or disregard police explanations for action, seeing them as unreliable whilst, at the same time, insisting that so called "malestream academics" listen to the voices of the victims who have been neglected, or rendered invisible, by the criminal justice system. Just as it is not acceptable to ignore victim perceptions, it is unacceptable to discount officers' reasons for action *a priori*.

Edwards asked officers how they felt about the expectations on their performance, how they felt they actually responded, and how they felt they should respond. From these interviews she reported negative attitudes:

Most patrol or beat officers held negative attitudes towards (domestic incidents). Some said that police officers should not be involved in what was essentially, 'a waste of time'! ... Their own privately held attitudes reflected feelings of reluctance, frustration, ambiguity and disdain for 'service' work. (Edwards, 1989: 101).

However, she did not attempt to discover if officers' behaviour at domestic disputes was as unsympathetic as their attitudes suggested. The more optimistic findings of the research in the Thames Valley reflect not only the changes in policy described above, but also the different methods employed. The excerpts from the Thames Valley study (reported above), suggest that the type of interview conducted by Edwards did not produce an accurate picture of how officers responded when faced with the practical task of dealing with a dispute. Indeed the officers' comments, when interviewed by Edwards, were similar to the stock responses made by officers at the beginning of the Thames Valley study interviews. Edwards understood the canteen culture and assumed that this translated directly into police action. The Thames Valley study suggests that this is not the case. An American study of the police response to domestic violence similarly found that, whilst attitudes about appropriate male and female behaviour and their own family situations can predict significant variance in an officers' response to victims of domestic violence, they have little impact on the decision to arrest (Stith, 1990).

Research on policing in general has similarly uncovered discrepancies between what

officers say and what they do. Smith and Gray (PSI) (1983) found that police attitudes relating to race were not necessarily consistent with their behaviour towards black people. They reported that racist language and racial prejudice were prominent and pervasive and that many officers, whether seen individually or in groups, were preoccupied with ethnic differences. However,

... on accompanying these officers as they went about their work [they] found that their relations with black and brown people were often relaxed or friendly and that the degree of tension between them was much less than might have been expected ... from their own conversation ... The rhetoric of abuse of black people ... did not carry through into action... (1985: 388).

The authors argued that the norms of the working groups encouraged racist language and comment¹⁰¹ but this did not mean that the officers would act in a racist way when dealing with members of ethnic minority groups during their working day, as other factors such as "the structure of rewards and constraints within which police officers operate...(1985: 389)" impact upon police behaviour.¹⁰² Thus, the relationship between what people say and what they do is not a direct, straightforward one. As Smith and Gray (PSI) assert:

Police officers themselves often draw the distinction between words and behaviour and claim that they won't let their views about black

¹⁰¹Smith and Gray (PSI) (1983) also found evidence to suggest that some officers who were basically sympathetic towards black people came to adopt racist language in order to conform to the expectations of the group, which were set by a minority of active racists.

¹⁰²Obviously, there are exceptions to this rule. The 'race riots' across England in the early 1980s (mentioned above) and the recent disturbances in Brixton [December 17, 1995] provide evidence that there are some underlying tensions between the police service and certain sections of the ethnic community.

people affect the way they treat them. (1983: 403)¹⁰³

... although the thing cannot definitely be proved, we are fairly confident that there is no widespread tendency for black or Asian people to be given greatly inferior treatment by the police. (1983: 404)

The social psychology literature provides further support for the contention that attitudes do not necessarily translate into behaviour, indeed that action and attitudes are often inconsistent (Raven and Rubin, 1983; Ajzen and Fishbein, 1980; Kashima *et al.*, 1992).

5.1.3 The effect of 'cop culture' on police behaviour: a quantitative assessment

In order to test some of the assumptions of the 'cop culture' explanation of police action quantitative analysis of the 387 domestic incidents dealt with in the Thames Valley study was carried out. An attempt was made to gauge the influence of the gender of the officers attending the disputes, the marital status of the disputants, and the attitudes of the officers towards the victims on the decision to arrest. These were the only 'cultural' factors which could be measured quantitatively. As tables 1 to 4 show, none of these four variables were found to be correlated with the decision to arrest when two-way cross-tabulations were carried out (none of them reached the 0.05 level of probability).

¹⁰³The authors qualify these points with a number of observations about differential treatment of ethnic minority groups by officers.

Table 1

WPC Present at Scene:¹⁰⁴
Number and Percentage Arrested.

WPC present	No Arrest	Arrest	Total
No WPC	153 (58%)	109 (42%)	262
WPC present	66 (53%)	59 (47%)	125
Total	219	168	387

$X^2 = 1.079$ ($p < 0.29$)¹⁰⁵

Of those incidents where a WPC was present almost half resulted in an arrest and just over half did not. This differs little to the proportion of the incidents where a suspect was arrested and where there was no WPC present. Hence suspects were only slightly more likely to be arrested when a WPC was present than when both officers were male.

¹⁰⁴One or both of the responding officers was female.

¹⁰⁵When there is only 1 degree of freedom (as is the case with all two-way cross-tabulations) the probability test should be significant at the five per cent level at least, and, preferably, at the one per cent level (which would be a chi-square figure of 6.635). The chi-square for this table would only have a 30 per cent probability.

Table 2

Disputant's Cohabiting:¹⁰⁶
Number and Percentage Arrested.

Cohabiting	No Arrest	Arrest	Total
Not Cohabiting	87 (55%)	72 (45%)	159
Cohabiting	132 (58%)	96 (42%)	228
Total	219	168	387

$X^2 = .385$ ($p < 0.53$)

Of those incidents where the disputants were cohabiting 42 per cent were arrested which is only marginally fewer than those cases where the disputants were not cohabiting.

Table 3

Officer Made a Negative Comment¹⁰⁷:
Number and Percentage Arrested.

Negative Comment	No Arrest	Arrest	Total
No Negative Comment	205 (56%)	160 (44%)	365
Negative Comment ¹⁰⁸	14 (64%)	8 (36%)	22
Total	219	168	387

$X^2 = .471$ ($p < 0.49$)

¹⁰⁶This included both those couples who were cohabiting and those who were legally married. The couples who were separated or divorced were labelled 'not cohabiting'. Originally, categorical variables were created but these were later aggregated as some cells contained too few cases.

¹⁰⁷The officer made a negative, judgemental comment about the victim.

¹⁰⁸The officer made no negative or judgemental comments about the complainant.

Table 3 shows that officers were only slightly less likely to arrest in those cases where they made a negative comment about the victim than in those cases where no such comment was made (as the numbers are so small the percentages are not very meaningful).

Table 4

Officer Suggested that the Victim had Provoked the Dispute:¹⁰⁹
Number and Percentage Arrested.

Provoked	No Arrest	Arrest	Total
No comment re:provocation ¹¹⁰	205 (57%)	154 (43%)	359
Comment re: provocation	14 (50%)	14 (50%)	28
Total	219	168	387

$X^2 = .533 (p < 0.46)^{111}$

Table 4 shows that officers were only slightly more likely to arrest when they thought

¹⁰⁹The officer considered that the victim had provoked the dispute. The variables ‘negative comment’ and ‘provoked’ were derived from a content analysis of the interview data. This information was coded only when officers had volunteered it when asked what had happened in each incident (see Appendix 3).

¹¹⁰The officer did not blame the victim, in any way, for provoking the dispute.

¹¹¹An American study reached similar conclusions. Waaland and Keeley (1985) found that victim antagonism and victim drinking influenced police judgements of responsibility, but judgements of responsibility did not influence police decisions to arrest. These decisions, whilst based on hypothetical scenarios and therefore to be treated with some caution, showed that the arrest choice was most strongly influenced by victim injuries, the assailant’s behaviour and his assaultive history. The data reported here are derived from real situations and support Waaland and Keeley’s finding that there is not necessarily a causal link between judgemental attitudes and behaviour.

that the victim had provoked the dispute than when they had no such thoughts.

These four variables taken independently were not significantly correlated with the decision to arrest. However, it was decided to see whether, when combined with other variables, any of these variables could partially explain the decision to arrest. Hence the variables were tested by logistic regression analysis. Logistic regression analysis is a multivariate technique used to predict whether an event will or will not occur and to identify the variables useful in making the prediction. In this case the event was the arrest of the male disputant. The independent variables are usually chosen according to their chi-square scores when cross-tabulated with the dependent variable.¹¹² Hence, as tables 1 to 4 show, none of the cultural variables would normally be used in a logistic regression analysis. However they were included to see if they contributed to the power of the model to predict arrest.¹¹³ In the event, all of the 'cultural' variables were excluded from the equation during logistic regression, as will be shown by the final model presented in chapter six.¹¹⁴

¹¹²They are included in the analysis if they are significant at a five per cent level and preferably at a one per cent level. This means that there is less than five per cent, or less than one per cent, chance of two variables being correlated by chance. In other words, a 95 or 99 per cent probability that one variable is correlated with another.

¹¹³Backward stepwise regression using the Wald statistic.

¹¹⁴'Cohabiting' was excluded with a score of .3851 (.53 significance); 'WPC present' was excluded at 1.0791 (.29 significance); 'negative comment' was excluded at .4716 (.49 significance) and 'provoked' was excluded at .5335 (.46 significance). The significance tests are based on the Wald statistic.

So far there have been two arguments regarding 'cop culture'. First, it has been suggested that the occupational sub-culture of policing has changed over the last two decades. This could not have been proven by the Thames Valley study alone, however other studies (discussed above) provide substantial evidence of an evolving culture. Secondly, it has been argued that officers' attitudes and prejudices do not necessarily determine their actions. The quantitative analysis of the 387 cases about which officers were interviewed supported the conclusions arrived at through qualitative analysis of the Thames Valley data. On this evidence it does not appear that the organisational sub-culture directly determines the outcome of police-citizen encounters in domestic disputes. Hence it is necessary to explore other factors which impact on the working rules which determine police action. The relative importance of force policy and training, police organisation, and the criminal law will now be discussed.

5.2 Understanding the impact of force policy and training on police decisions.

During the 1980s feminist inspired research was based on the premise that the police had an informal 'policy' of avoiding arrest so as to disrupt the family as little as possible as well as formal force policies which advised officers to attempt to reconcile

disputants before considering criminal action against perpetrators. Many feminist writers argued that one of the most efficient means of addressing the 'problem' of low arrest rates was to introduce policies and training which challenge stereotypes and prejudices, reduce police discretion, and provide a formal structure for promoting good practice. The police service, as an organisation, has a substantial amount of discretion under the law and attempts to structure this discretion by issuing force policies.

It is difficult, of course, to measure the extent to which force policies prior to 1990 directed officers away from arresting wife batterers. However, the fact that the police rhetoric concerning their response has changed so dramatically since the 1980s shows that at least the senior officers want to improve, and be seen to be improving, their response. As Radford and Stanko note:

... in 1984 Sir Kenneth Newman attempted to shed police responsibility for what he considered to be "rubbish" work, or non-police matters, namely domestic violence and stray dogs are two such examples. By 1990 police forces compete with each other to find the most creative policy to deal with domestic violence. (1991: 192)

The sorts of actions recommended in the 60/1990 Circular clearly constitute a major change in the policing of domestic violence from that described by the research conducted during the 1980s (see, for example, Edwards, 1989; Hanmer and Saunders, 1987). The Circular recommends that the police should develop their practice and policy to take a more interventionist approach: record and investigate domestic violence offences in the same way as other crimes; effectively liaise with relevant

statutory and voluntary agencies; and set up dedicated units to deal with domestic violence or to appoint liaison officers with a particular responsibility for this offence. As will be discussed in chapter nine, during the period of the fieldwork for this study there was little police liaison with other agencies and there were no dedicated domestic violence units. However, there had been some efforts towards taking a more interventionist approach, especially in Milton Keynes where a domestic violence initiative was under way.¹¹⁵

In May, 1992, the Milton Keynes Police area issued a memorandum which stated that "... a fresh look is required to deal with domestic violence..." (Thames Valley Police, 1992: para. 4(a)). To that end a number of procedures were recommended by the Area Management Team. In addition, officers were told that if there is evidence of an injury "... the perpetrator should be arrested." (ibid, para. 4(d) (original emphasis)). Officers were also instructed to reduce "... the current high instances of offenders being released 'Refused Charge'" (ibid, para. 4(e)). Perhaps the most innovative of the recommendations was that offenders arrested for a breach of the peace: "... should be kept in custody until the next available court." (ibid, para. 4(f)). Although, as is shown in chapter seven, such suspects were rarely put before the court.

Critics of the police response to domestic violence thought that a change in force

¹¹⁵See chapter three for a discussion of this initiative.

policy on domestic violence would limit discretionary powers and by thus limiting the potential influence of 'cop culture', result in more arrests. In theory, force policies provide guidance to officers and attempt to ensure that they are fully aware of their force's priorities, the response that is expected of them in assisting victims and dealing with suspects and the powers which are available to them. Grace (1995) has examined how far the recommendations of the 60/1990 Circular were reflected in current police policy and practice. Several of the managers and operational officers she interviewed commented that having a set policy had made dealing with domestic violence more straightforward than in the past when they had been unsure how to police it.

Successful change is, of course, not achieved simply by the adoption of a policy, but by a continuing process of implementation and assessment.¹¹⁶ The success of any policy will depend on the training of those entrusted with its implementation and enforcement. Until the early 1990s police training on domestic violence was minimal and, in so far as it occurred, it endorsed the view that the police should be careful about intervening and should encourage civil, rather than criminal, solutions (Bourlet, 1990). In light of the Home Office Circular 60/1990, the Thames Valley Police Service implemented area policies on domestic violence and improved its training of

¹¹⁶Grace (1995) found that a third of operational officers (Constables and Sergeants) had not heard of this Circular at all and a third of those who had some knowledge of the Circular were unclear about what it had said. In addition, over half said that they had not received any new guidelines on domestic violence. This was despite their managers' confidence that the guidance had been successfully disseminated.

new recruits. One new training schedule emphasised the social service, rather than the law enforcement role of the police:

The streets are not a battlefield with the enemy on every corner, they are populated by people who are prey to an ever-increasing number of social ills. The only agency available to assist 24 hours a day, 7 days a week, is the police. This 'social work' aspect of your role takes up the major part of your working day; it is equally as important as fighting crime and, if neglected, can result in the disaffection of whole communities.¹¹⁷

Thames Valley officers were, at the time of the research, taught about effective communication; the 'social' aspects of policing; community and race relations; supporting victims; and many other social skills considered necessary for the effective handling of domestic disputes. They were provided with vignettes of domestic disputes and their responses discussed in group sessions, and were taught about threats and emotional and sexual abuse as well as physical attacks. The various social and economic factors which prevent women from leaving abusive relationships were presented with the intention of improving officers' empathy with victims. The training attempted to break down common myths and stereotypes about domestic violence. Not only was the initial training given to all new recruits quite thorough, but seven months into their two-year probation period, just before they embarked on independent patrol, they had to attend further sessions on 'domestic abuse'.

However, Grace (1995) found that there was little on-going training on domestic violence for *experienced* patrol officers some of whom remained ignorant of the

¹¹⁷Introduction to the domestic disputes training notes used in Ashford District training school (Thames Valley Police).

changing expectations of their senior officers and, indeed, of the general public. A few of the older officers spoken to in Thames Valley, who had not been through the more recent training sessions, were confused about the force policy on domestic violence: some seemed to believe that the consensus was still to avoid positive action. One officer who had taken an injured woman to hospital claimed that she did not want to make a statement so he left his calling card with her and told her to contact him the following day if she changed her mind. He then added:

It is the *informal policy* to leave the ball in their court, and not to encourage them to make a complaint (my emphasis).

Hence, whilst new policies and training can gradually improve the police response to domestic violence there will, for a number of years following their introduction, be some officers who remain ignorant of or resistant to change.

The other point to make is that whilst policies and training can improve many areas of the police response they do not necessarily have much impact on the decision to arrest as other more influential factors can override the impact of policy at the scene of disputes. Levens and Dutton (1980) found that policy and subsequent improved training on domestic violence resulted in a substantial increase in the police willingness to dispatch cars to domestic disputes, a significant increase in the use of mediation and referral techniques, but had no impact on arrest rates. The Thames Valley study also found that the dispatch rate had increased dramatically since the mid 1980s (see chapter four). Changes in policy and training along with the changes in wider societal attitudes which led to policy reform (discussed in chapter one) seemed

to have altered the cultural attitudes of new recruits and, to a lesser extent, older or established officers. And, as organisational sub-culture is an intervening variable it will have had some impact on arrest rates although the extent of this is difficult to measure.

There is a two-way relationship between policy and 'cop culture'. First, as stated above, the former influences the evolution of the latter and, secondly, the latter intervenes, to a certain, unmeasurable, extent affecting of the former. In other words, policy and training does not translate directly into action. Officers take much of what is recommended by policies, directives and training and then adapt this information into 'practical' working rules. 'Cop culture' informs this translation of policy into practice. Consequently, in the case of domestic violence, force orders present officers with guidelines and recommendations which promote the increasing use of arrest but cannot, alone, provide a panacea for the relatively low arrest rate. The successful application of these recommendations depends on various situational and organisational factors.

5.3 Understanding the impact of organisational criteria on police decisions

In trying to understand the behaviour of rank and file officers, the organisation of the police service needs to be considered. This section will consider the impact of the policing 'style' of the Thames Valley, the technologies in use, the issue of finite resources, the organisational goals and rewards and the organisational structure of policing.

5.3.1 Policing style

Low organisational priority has traditionally been accorded to dispute settlement. There is little supervision of officers by higher ranks at the scene of domestic disputes and there is little formal, or even informal, support for officers who have had to deal with complex and often distressing interpersonal disputes. Bayley and Bittner (1984) asserted, just over a decade ago, that in America police received no instruction, no guidance and, above all, no recognition for doing this type of work (see also, Bittner, 1975). These criticisms have been reflected in the domestic violence literature on this side of the Atlantic.

As mentioned above, the 60/1990 Circular and improved training attempted to change this. Nevertheless, in 1993 Thames Valley officers still felt that domestic disputes were more difficult to deal with than most other incidents. Unlike many other types

of incident there is little organisational support for patrol officers responding to domestic violence. It is very rare for CID to investigate a domestic dispute unless a murder or a very serious assault has been committed. Similarly, the Family Protection Units will only take responsibility for a domestic dispute if the woman has made a complaint of rape or sexual assault, or if a child is at risk of abuse or neglect. During the period of fieldwork for this study there were no dedicated units or officers whose sole purpose was to deal with domestic violence.

Further difficulties can arise from the organizational conception of an 'incident'. Patrol policing in the Thames Valley at this time was almost entirely incident focused.¹¹⁸ This means that it was reactive and based on single session intervention. Domestic disputes are hard to manage within such an organisational framework because they are rarely isolated 'incidents' but, rather, on-going complex problems within dynamic relationships. Domestic disputes challenge the language and classification systems of the police service. The 'incident' framework can impede the appreciation of domestic violence as an enduring condition, with 'cycles of violence',¹¹⁹ and thus can discourage patrol officers from responding appropriately. A large observational study across various American states found that officers were

¹¹⁸Since the completion of this project, the Milton Keynes police division has attempted to change the policing philosophy away from a reactive, incident-focused style and towards a more proactive and interactive style of policing.

¹¹⁹Leonore Walker (1979) introduced the concept of a 'cycle of violence' in critical response to Murray Straus's original attempts to measure 'family violence rates'.

indifferent towards ascertaining whether assaults were isolated incidents or part of a continuing series of violent incidents (Smith and Klein, 1984). Sheptycki (1993) has argued that synchronic conceptions of domestic violence deny the history of the relationship within which the violent incident is embedded. The officers in the Thames Valley study, however, did not deny the biographies or histories behind the disputes they attended. Indeed, they often took the time to try to understand what had precipitated the conflict which meant that they knew about a history of conflict in sixty per cent of the incidents that they had attended. Nonetheless, as table 5 shows, this knowledge did not seem to impact on the decision to arrest.

Table 5

Officers Knew about a History of Disputes:
Number and Percentage Arrested

History	History of Disputes	No History of Disputes	Total
Arrest	85 (50%)	83 (50%)	168
No Arrest	109 (50%)	110 (50%)	219
Total	194	193	387

$X^2 = .025$ ($p < .87$)

Current policy and training warns officers about the dangers of attempting to mediate between disputing parties, advising positive action such as arrest or the removal of the perpetrator. A suspect cannot be arrested for previous disputes, even previous criminal assaults, if there is no evidence to corroborate an allegation. Thus, this

approach to incidents of domestic violence, which has as its focus the choice of whether to arrest or not, eradicates historical details which are not deemed relevant to the decision making process (Sheptycki, 1993). It negates some of the very reasons for the complaint being made to the police in the first place. Some of the women who had experienced abuse of varying degrees for many years and who had finally decided to seek help at a time when the immediate incident could not be categorised as a criminal offence, were disappointed with the police response. They wanted the police to recognise their victim status and help them to eliminate the violence from their lives. The police, however, without sufficient criteria to justify a criminal charge, felt that there were few alternative provisions available to them to offer help.

In many cases officers heard competing versions of the same incident. In order to make sense of the situation, they had to interpret the stories given by the various actors and decide which version had more credibility. To do so, they needed to reduce complex stories into categories which would suggest whether or not a criminal law response was appropriate. As Sudnow (1965) argued, the operations of all criminal justice agents are routinely maintained via the appropriate classification of crimes into categories. In other words, categories of the criminal law constitute the basic conceptual equipment with which police organise their everyday activities.

The police marshalled the linguistic categories at their disposal in order to create an *object* to respond to. They tried to decipher clear, organisational categories from

often confusing and conflicting accounts of past and present behaviours. The police expected disputants to adopt what they considered to be recognisable and legitimate roles, and to behave accordingly. The types of categories which officers used, in trying to make sense of domestic disputes, were the same as those they applied to the majority of incidents they dealt with. They were essentially dichotomous: victim or offender; crime or no-crime. If the officers were not able to make sense of the information volunteered, or the incident defied these categories, officers felt less sure about how to respond. For example, if a woman alleged that her partner had hit her, but she had no injuries or other corroborative evidence, the officer usually believed that the incident could not legitimately be labelled 'a crime'. On other occasions the officers were able to decide objectively who was the victim and who the offender, but when these labels were rejected by the disputants the presumption was against arrest. For example, suspects were rarely arrested when their victims refused to make statements or in any other way cooperate with the police investigation.¹²⁰

Occasionally, in incidents where the disputants did not fit neatly the appropriate labels of 'victim' and 'offender', the officers found that their goal of restoring order was frustrated by each disputant's determination to prove the other was the wrong-doer

¹²⁰Edwards (1991) maintained that police should impose these labels according to strict legal definitions, regardless of the subjective perceptions of the disputants or their willingness to comply with the police definitional process. However, most officers argued that without a victim, or without any evidence of a crime, there is little prospect of mounting a prosecution and hence no incentive to record the incident as a crime. Indeed, considering the implications for the service's clear up record, there is a disincentive against starting an investigation when the officer believes it is doomed to failure.

and they the wronged. In order to gain control of such situations, officers looked beyond these immediate constraints and transferred their attention to another, as they saw it, more deserving person. They 'constructed' an alternative victim, marginalising the female disputant in the process. In such cases the original goal of maintaining or creating order was not modified but the narrower focus of the officers' concern shifted. Sometimes their concern was for a neighbour. By labelling noisy disputants 'joint offenders' it would be decided that the neighbour, whose peace was disturbed by loud arguments or anti-social behaviour, was the 'real victim'. At other times it was the disputants' child or children who were considered to be more deserving of the victim status, as was the case in the following incident described by one of the attending officers¹²¹:

They'd had a row ... and she started to try to hit him so he restrained her by holding her back by her arms and she dropped their child. She'd done this on purpose to anger him - she said that he dotes on the child and she seemed jealous of the attention the child gets. She then drove off recklessly with the child. ... Later on they fought again. Both had been assaulted by the other. She had minor bruising and he had scratches to his face - both common assaults. ... They were both to blame. The child was the real victim here. ... We warned them about involving the child in their disputes.

The evidence suggested that both parties should be arrested for assault. As neither wanted to make a statement against the other and as the practical issue of child care

¹²¹All of the quotations presented in this chapter (unless otherwise stated) are taken directly from interviews with the patrol officers who had attended the disputes. As such, they are the words of the officers. The quotations do not represent the full transcripts. Some details have been removed in order to keep them as short as possible. However, nothing has been removed which could in any way alter the meaning of what is reported.

meant that the arrest of both would have been an inappropriate response, evidential criteria could not help the police to achieve their immediate aim. Consequently, they turned their attention away from the adults and focused on the child in order to diffuse the situation. The 'original victim' did not benefit from any advice or information concerning her domestic relationship.

5.3.2 Technology

The gradual introduction of various forms of technology over the past decade has enhanced the facility for collecting and storing valuable information (see chapter four). Nevertheless technological innovation has possibly engendered as many obstacles to, as opportunities for, improving services. The technological advances within the police service (the increased use of patrol cars; the use of personal radios; and the computerisation of the control rooms) all mean that officers are expected to rush from one incident to the next, trying to keep ahead of ever increasing demands on their time. Holdaway (1983), over a decade ago, noted that officers were becoming less inclined to get out of their cars to communicate effectively with members of the public, preferring to drive around responding to 'exciting' incidents, thus distancing themselves further from interaction with the public. Nothing has been done to reverse this trend.

Today there is very little proactive mobilization of patrol officers. In the two areas under study officers' movements were directed by a centralized command system. This meant that they spent most of their time in vehicles patrolling specific areas of

the division waiting to be dispatched in response to citizen complaints received by telephone. This type of organization sharply contrasts with the traditional beat officers who patrolled a limited area on foot and were consequentially territorially cognizant and familiar with most of the local residents. The majority of the officers who responded to domestic incidents in this study were not acquainted with the families they encountered because they were regularly assigned to a number of different areas of the city. Hence, when officers arrived at disputants' homes they usually had to spend time gathering valuable biographical information about the parties involved in order to make informed choices. If time impeded the accumulation of relevant data, in particular the accumulation of evidence, officers might be less likely to arrest.

If the technology is used to its best effect the benefits of accurate and easily accessible data which can be quickly transmitted to patrol officers would outweigh the disadvantages of the technological thrust towards more reactive policing and away from community policing. However, (as was discussed in chapter four) inadequate computer systems and poor communications in the control room meant that constables sometimes responded to domestic disputes with little or no intelligence on the disputants. In 40 per cent of the 387 Thames Valley incidents officers did not know about any history of disputes. Of course, in some of these cases there might not have been a history of violence. However, evidence from the United Kingdom and the United States suggests that in more than 60 per cent of incidents that the police attend

there will have been a history of prior disputes.¹²²

5.3.3 Resources

The problem of finite resources (the need to ‘get results’ without overstressing resources) impacts on the police organisation as on other organisations within the public sector.¹²³ The specific allocation of financial resources rarely affected operational decisions, although in a couple of cases officers could not comply with victims wishes because of financial constraints.¹²⁴ Usually officers were more concerned about human resources. It was not their own personal time that they were concerned about but of wasting ‘police time’. Domestic disputes, which tend to be extremely time consuming, put considerable pressure on patrol officers. Some spent up to, and occasionally beyond, an hour talking with, and advising, disputants. Too often they felt that at the end of this period of intervention nothing much had changed. The disputants may have been quieter than when the officers arrived and they may have been willing to spend the next few hours, or days, with each other in

¹²²Attacks by the same assailant are usually repeated, and tend to escalate in frequency and severity over time. Work carried out at Manchester University has documented the amount of repeat victimisation in domestic violence in the United Kingdom (Lloyd *et al.*, 1994) Whilst the work of Straus *et al.*, (1980) in the United States has shown similar rates across the Atlantic. See also Morley and Mullender (1994) for a discussion of the literature on domestic violence multiple victimisation.

¹²³At the time of the fieldwork police budgets and performance were under review and the Thames Valley Police Service has since lost 300 of its officers.

¹²⁴Two men who had assaulted their wives fled to different countries, one to Scotland and the other to Ireland. Although in both cases the victims wanted to press charges the officers’ extradition requests were refused for financial reasons.

a semblance of peace, but the officers were often aware of the precariousness of the social order they had created, and that they had imposed temporary order on intractable problems, as the following interview excerpt shows:

A woman called us from her neighbour's home and said that she had been assaulted by her husband She had been in the Refuge before because of his violence. We ... spoke to both parties. They had fought and both had superficial injuries. ... We spent one and a half hours talking to them and listening to their problems - trying to sort it all out, but even when we left we thought that their might be further problems, as some of their problems seemed irreconcilable, so I notified the next shift to be aware in case of further problems. After all that talking, nothing had changed. It's so frustrating.

Charging someone with ABH or criminal damage, the offences most frequently committed during domestic disputes, requires a considerable commitment of time in order to secure convictions at court. Copious amounts of paperwork are required in order to prepare a case for the CPS. Officers bemoaned the waste of valuable police resources when victims withdrew their statements after all the paperwork had been completed and the suspect had spent time in police custody. Some regretted the fact that they would have to devote even more resources in the near future to repeatedly re-visiting women who refused to end their violent relationships.¹²⁵ When suspects are prosecuted the officer in charge is often required to attend court. Court attendances are not only very time consuming, but are also expensive, because shift patterns have to be adjusted to accommodate an officer being freed from patrol duty, which invariably necessitates overtime. Officers sometimes argued that victim

¹²⁵In this context officers had a keen appreciation the problems of repeat victimisation.

unreliability and the derisory sentences meted out by the courts meant that it was often not really worth preparing files on suspects arrested for the less serious instances of ABH or where damage to property was minimal.

Various studies conducted during the late 1970s and 1980s found that when domestic disputes occurred at the end of an officer's shift an arrest was less likely because the crime was not considered worthy enough to justify the officer staying late (Berk and Loseke, 1980-1981; Stanko, 1989; Worden and Pollitz, 1984). The Thames Valley study found no evidence of this during 1993. However, some officers admitted to feeling pressure to resolve incidents as soon as possible in case something more urgent came up, as the following case illustrates:

The next door neighbour had phoned to complain about this noisy domestic. He said that when he had tried to intervene the husband had threatened him. When we arrived the dispute had calmed down. There had been no physical violence and the neighbour did not want to pursue a complaint, so we left. There was no point in hanging around. It was a busy night. We needed to be free for the next shout [request from the control room to attend an incident].

Observing patrol officers responding to various types of calls, the researcher noted that this reluctance to 'waste' time, even when there was no immediate demand on their attention, influenced other areas of their work. Calls about disturbances between youths in the streets, or about suspicious persons, rarely resulted in an officer-citizen encounter. In most of these cases the police arrived, took a quick, cursory look around and, if the disturbance was over or if they could not immediately identify the people about whom the complaint had been made, they left, often without

even getting out of the car.

In just over a third of the domestic incidents the male disputant had left the scene of the dispute prior to the arrival of the police. Officers sometimes argued that due to inadequate resources they could not always devote sufficient time to locating absent suspects even when they had cause to arrest them. And in cases where there had been no criminal offence, or the victim would not make a statement, the police usually decided that attempts to find these men would not be sensible use of resources. Occasionally, when officers did make efforts to locate absent suspects, a number of days or even weeks might have passed before the alleged assailant was found. This was mainly because of shift work or excessive demands on their time. In one instance an officer took three weeks to locate the perpetrator only to find that once he had been located the injunction which he had transgressed had expired. Hence, even though the injunction had, at the time, had a power of arrest attached, the officer was informed by the county court that the suspect could no longer be arrested for having breached it.¹²⁶

Of course, not only police resources but also other agencies' resources impact on operational policing. Service gaps created by the diminishing resources of other

¹²⁶Non-molestation injunctions, made by the county court, order a person not to assault, molest or harass a woman and/or her children. Powers of arrest are attached only if the judge is satisfied that violence has previously occurred and may re-occur. A person who breaches an injunction can be apprehended for contempt of court (see chapter ten for a further discussion of the civil law pertaining to domestic violence).

agencies are left to be filled by the police. At the same time as the present Home Secretary, Michael Howard, has been arguing that the police should get back to basics by concentrating on catching criminals (Rose, 1996: 88), the social and economic policies of his government (the most notorious being the closing of hospital wings and mental institutions as part of a 'care in the community' policy which has closed down one option without creating a satisfactory alternative) have left many young, old and vulnerable people literally out on the streets. Rising numbers of homeless people, and other vulnerable persons with minimal assistance from social services, have created an increase in demands for 'social service policing'. Whilst this work takes up a lot of time it is frustrating in the extreme as officers know that they can provide no more than superficial palliative care.

5.3.4 Organisational goals

For a long time the organisational goals regarding domestic disputes emphasised superficial mediation and discouraged recourse to the criminal law. As is stated above, force policies now encourage greater intervention, in particular they encourage arrest. Policy advisors and senior police officers can attempt to determine the goals of the rank and file through training, policies and rules, rewards and punishments and the perpetuation of an organizational culture which is in harmony with their aims. Nevertheless, patrol officers have discretionary powers which enable them to modify goals and, thus, to control outcomes of specific circumstances.

The Police Service measures its efficiency principally by reference to collated

statistics on the extent and type of crime recorded, the proportion of that crime detected and the number of cases prepared for prosecution. Within this framework crime prevention work and duties which are referred to as the 'social service' tasks of the police are undervalued, partly because they are difficult to measure. Pressures of public accountability are even greater than the internal pressures from senior management. Central government allocates resources according to demands and, as demands can only be shown by tangible statistics, this dictates an emphasis on catching and processing offenders. Hence, the reward structure for officers is determined largely by 'good arrests' (the number of 'collars felt').¹²⁷ Officers recognise that these are not very likely in domestic disputes (only 17 per cent of arrests in this study resulted in a prosecution - see figure 1, Appendix 1) and so the wider organisational goals are sometimes compromised and working rules emerge which reduce the emphasis on arrest in domestic violence cases.

¹²⁷Whilst research has shown that a high arrest rate is considered a good measure of an effective officer, and a way to impress line managers who are considering new recruits for detective work, it is rather crude to argue that a 'good arrest' is the only thing motivating patrol officers (Cain, 1973). Indeed, the numbers culture is, to some extent, now receding. Many officers in this study personally valued the other roles they performed and worried about the emphasis on arrests. The Sheehy Report was published during the early stages of the fieldwork and officers were constantly expressing reservations about the recommendations for performance-related pay, arguing that such a move would de-value many of the essential services they offer the public.

5.3.5 Organisational structure

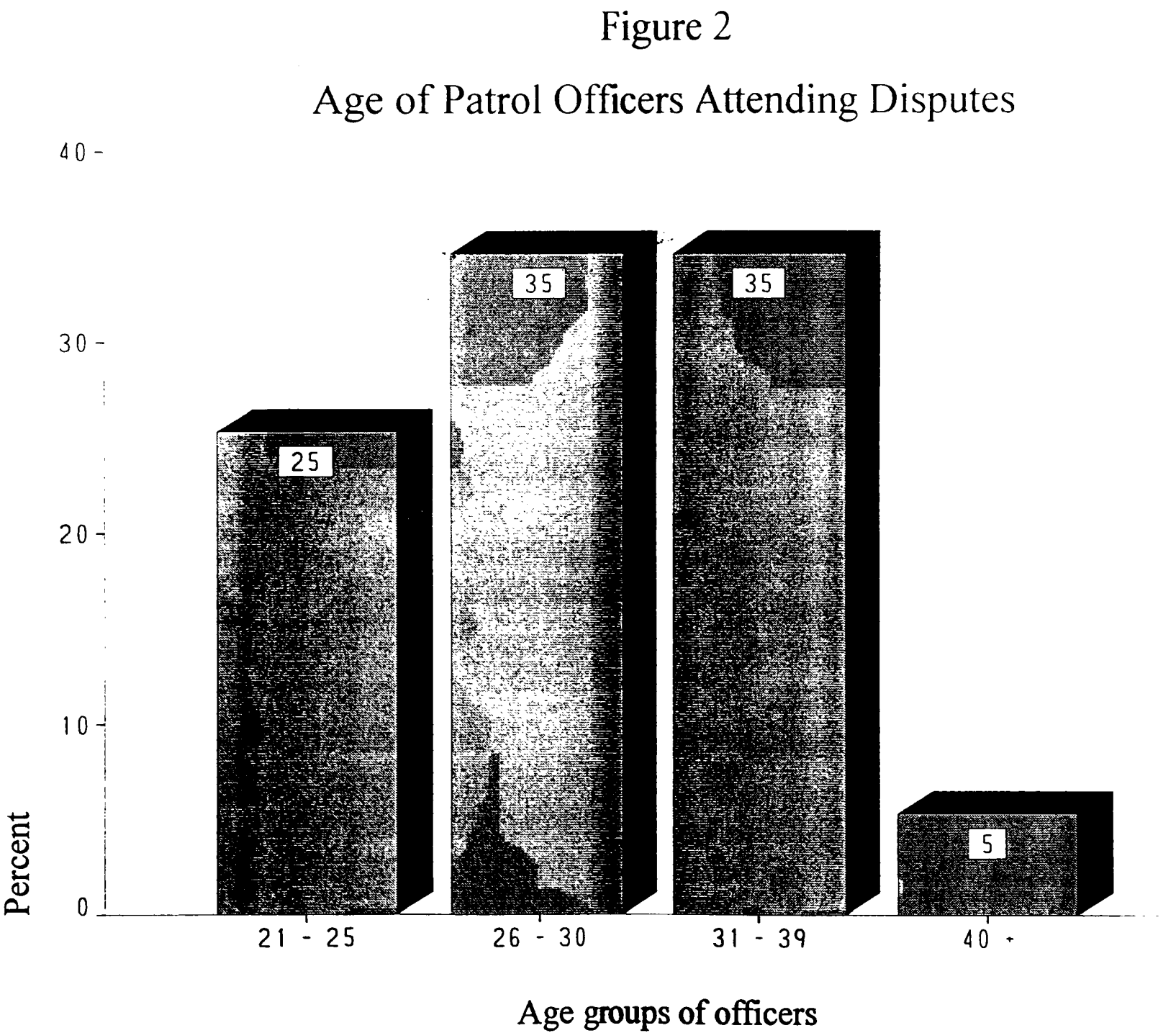
The increased use of functional specialisation has steadily decreased the substantive content of patrol work, leaving these officers with more mundane and less challenging roles to perform. This gradual deskilling of patrol work has reduced the chances of being rewarded and recognised by supervisors and further diminished the status of the job. All of this has conspired to push the most able officers out of uniform patrol and into a specialist branch. A number of the patrol officers spoken to informally during the fieldwork period talked about their ambitions to work in CID and other specialist departments such as traffic. Whilst an officer remains a constable, this is essentially side-ways mobility. However the majority see it as promotion. Specialist departments are considered to be exciting and glamorous, providing officers with higher status than uniform patrol. As it is almost always a patrol officer who will respond to and deal with domestic disputes this effectively means that these incidents are dealt with by the youngest, least experienced and least competent officers.¹²⁸

Biographical data on 'first' and 'second' Thames Valley officers was collected where possible.¹²⁹ For the purpose of discussing the age, rank and experience of officers,

¹²⁸Bourlet (1990) pointed to the youth and inexperience of officers when criticising the police response to domestic violence.

¹²⁹The 'first' officers were those who attended the incident and reported the result back to the control room, and were, therefore, interviewed by the researcher (see chapter three). The 'second' officers also attended the incidents, when there was more than one officer attending, but were not typically interviewed by the researcher. Hence, information on the personal details of such officers was reliant on the memories and knowledge of the 'first' officers. In a quarter of the cases there are no details of a second officer. This is either because the 'first' officer did not

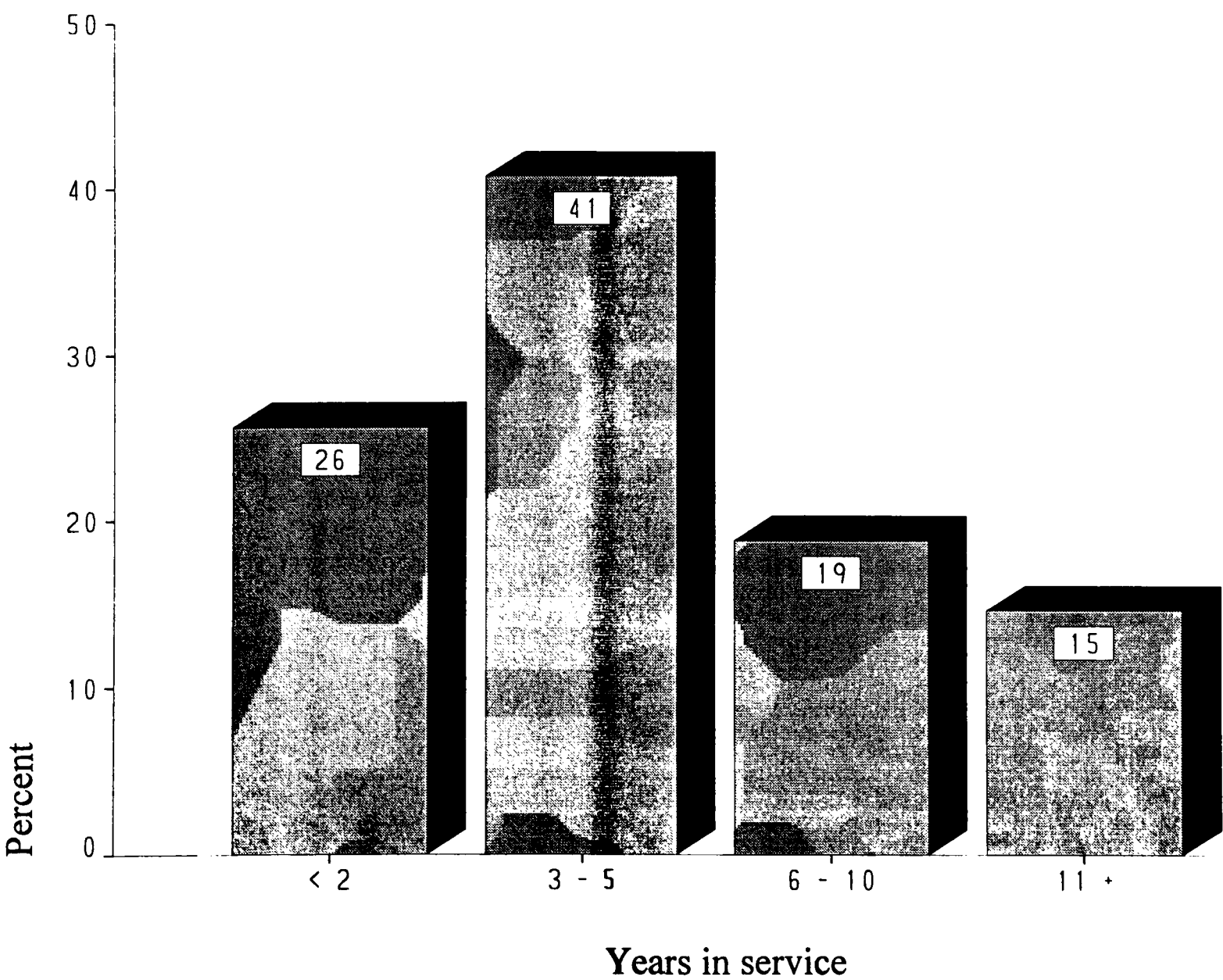
these data have been aggregated. As figure 2 shows, their ages varied from 21 to 54, with the mean age being 25 years.



remember who he or she attended the dispute with, or he or she was working with a special constable and details were not recorded in such instances, or, more typically, because there was only one officer attending.

A number of the officers commented, both during interviews and in other less formal contexts, that they invariably felt ‘out of their depth’ telling disputants older than themselves how to behave. This was especially true for those who were new to policing. Although the length of service of officers varied from 1 year to 37 years, the majority had less than 5 years experience, and more than a quarter had been in the police service for less than two years (see figure 3).

Figure 3
Length of Service of Officers Attending Disputes



The majority of officers who attended domestic disputes in this study were Constables, with just 39 being Sergeants. Hence, disputants, and indeed constables, rarely benefitted from the experience and expertise of higher ranking officers. The relative inexperience of officers (the majority having been trained whilst new policies and guidelines have been in place) could, however, persuade officers to take incidents of domestic violence more seriously than has been the case in the past, thus subverting the tendency for officers to concentrate on 'good arrests'.

5.4 Procedural law (police powers)

When the police attend any incident they do so with the knowledge that they alone have certain powers to intervene in private disputes and to behave in accordance with statutory acts, most notably, PACE and the Public Order Act 1986.

Under PACE officers have the power to enter premises in order to arrest anyone who has committed an arrestable offence. This includes ABH and Grievous Bodily Harm (GBH) and Wounding [s.17 (1) (b) PACE]. A constable may also enter premises in order to save life or limb, or to prevent damage to property [s.17 (1) (e) PACE]. In addition to these powers, officers may, under the Common Law, enter property to prevent or deal with a breach of the peace.

A constable may arrest anyone who is, or is reasonably suspected of being, about to

commit, or has committed an arrestable offence, or for certain other specified offences, including indecent assault on a woman.¹³⁰ Arrest can also be justified as a preventative measure: to prevent physical injury to another person; or to protect a child or other vulnerable person; or to prevent a non-arrestable offence such as common assault [s.25 PACE]. Under Common Law a constable may arrest to prevent a breach of the peace. Officers can also use the Public Order Act 1986 to arrest for threatening or abusive conduct within or outside premises, or for noisy or disruptive behaviour in certain circumstances. The power to arrest for a breach of the peace constitutes a powerful legal resource for officers having to deal with recalcitrant disputants. As Kemp *et al.*, (1992) argue, officers have considerable latitude both to define what behaviour might result in an outbreak of violence and to determine what behaviour would suggest reasonable grounds for considering a renewal of the breach of the peace to be imminent. Arrests for breach of the peace are attractive options for officers dealing with domestic disputes, because to bring a person before a court for breach of the peace the police need no independent witnesses or complainants. However, a magistrate can only bind over the defendant to keep the peace because, since no criminal offence has been committed, no conviction can result.

A few officers in the Thames Valley study seemed unaware of, or confused about, some of their powers. There were occasions when the officers professed that they

¹³⁰An arrestable offence is any offence punishable by five years or more imprisonment, or for which the penalty is fixed by law [s.24 PACE].

were keen to arrest an alleged perpetrator, because they felt sorry for his partner, but claimed to have been prevented by lack of legal powers.¹³¹ On a few occasions officers were called to a dispute and upon arrival were told by women ‘cowering’ behind the front door that the dispute had been resolved and they were no longer required. Without an invitation into the home the officers tended to leave. For example, one woman had opened her door only a couple of inches so she could barely be seen and asked the officers to leave, refusing to talk to them. The officers left even though they believed that she was genuinely scared and suspected that the aggressor was behind the door threatening her and preventing her from talking. When asked if he had considered forcing an entry the officer showed an ignorance of his powers by replying:

No, if we had better powers I would have pushed my way in but with no breach of the peace this was a grey area and I couldn’t have stepped in. In such situations we have no right of entry. It was a no win situation as it could have made matters worse for the woman if we had forced our way in. This is the most frustrating type of incident to deal with.

From this reply it is difficult to ascertain whether it was the perceived limitations of procedural law (misunderstood though they were) or the police working rules which prevented this officer from ‘forcing’ his way in. The officer’s reticence to ‘push his way in’ is not part of a general reluctance of the police to intrude in the private lives of the public. Often police work necessitates intrusions into privacy. The work of

¹³¹Various studies, including this one, have found that some operational police officers are either ignorant of, or confused about, their legal powers. In particular, some of the Thames Valley officers were unsure about their powers under PACE. (See also Bittner, 1970: 129)

the vice squad and child abuse investigations and other ‘family protection’ matters provide obvious examples. Whilst some officers might not like this part of their work, or might hold private reservations about the anomalies of the criminal law concerning prostitution, for example, these concerns would not prevent them carrying out their investigative duties. In the incident cited above the officer’s comment regarding his belief that ‘it could have made matters worse’ has little to do with the criminal law and much to do with the tendency of officers to make judgements about appropriate responses according to their perceptions of the usefulness of the criminal law in dealing with domestic disputes (this will be discussed in some detail in chapters six and seven). In other words it has more to do with the ‘law in action’ than the ‘law in books’.

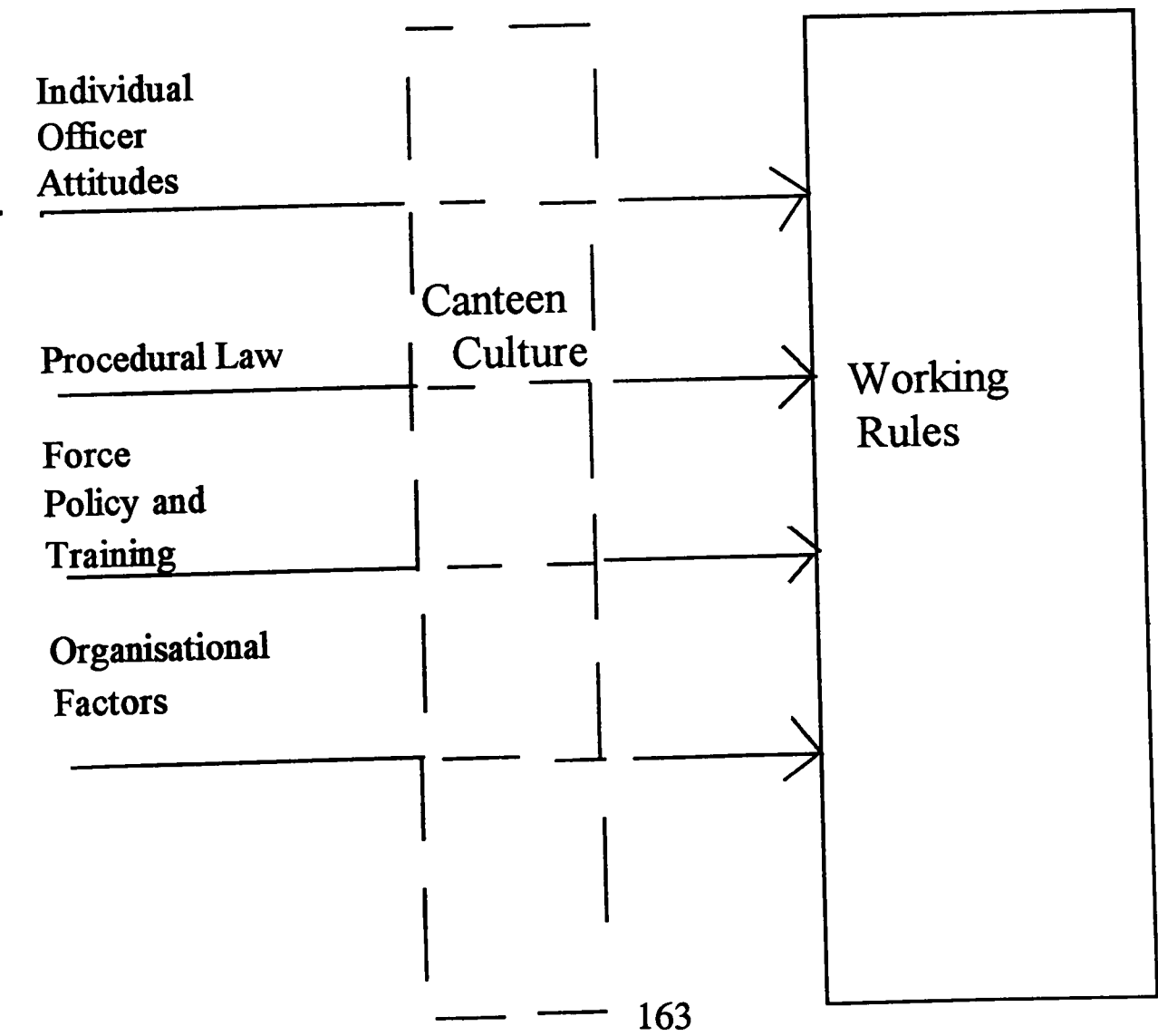
The important thing to note is that the police have powers - they are not obliged to act according to the criteria of PACE, or any other act. Police officers *can* arrest members of the public who are considered to be breaching the peace or who are suspected of committing a criminal offence but, in the main, *they do not have to*. Ultimately the police have powers of discretion which, to some extent, allow them to decide in which circumstances and with which people they will exercise coercive powers.¹³² Hence the procedural law influences working rules but it does not directly impact on the decision to arrest in cases of domestic violence.

¹³²The issue of police discretion and the use of procedural law is explored further in chapter six.

This chapter looked at the criteria which, to a greater or lesser extent, contribute to the establishment of a set of working rules which influence the officers decisions at the scene of domestic disputes. Figure 4 shows that individual officer attitudes, procedural law, force policies and training and organisational factors all result in the creation of a set of working rules which shape arrest decisions. These factors are mediated through a set of cultural norms, values and beliefs which collectively can be referred to as ‘cop culture’. Hence, cop culture is best understood as an intervening variable. Alone it does not directly influence police decisions, but, rather, it affects the way that policies (for example) are understood.

Figure 4

Model of Factors Influencing Working Rules



The next chapter examines these working rules and explain how they guide the interaction between the disputants and the police.

CHAPTER 6

Towards an Alternative Model of Police Decision Making

In chapter five it was argued that officers' responses to incidents are shaped by the structures within which they work: on the way in which they are trained; the policies and directives they are encouraged to comply with; the organisational rewards available; and the ways in which their work is supervised. These structures, it was suggested, are inevitably influenced by sub-cultural norms, values and beliefs. Drawing on observation of officers on patrol, and interviews with officers and (less often) victims, this chapter will show how working rules which derive from these structures and sub-cultural influences, as well as evidential criteria, affected the choices made by Thames Valley officers attending domestic disputes. The question posed is: to what extent can evidential rules explain police decisions regarding arrest and to what extent are these decisions explained by working rules?

6.1 The negotiation of temporary solutions

At most disputes officers were faced with a series of limited choices. Contemplating the options available, they tried to decide how each of the alternative choices would impact, in the short-term, on the individuals concerned. Examining the dynamics of the interactions between officers and disputants - looking at how the parties, with their competing aims and understandings, communicated with each other - will show how decisions were made. Thus, the relatively low arrest rate (relative to the aims of the 60/1990 Circular) will be rendered comprehensible. The processes by which officers made decisions will be examined as part of a wider process of negotiation between all the significant actors.

This use of the term 'negotiation process' owes much to the work of Kemp et al., (1992). Their concept of negotiation is drawn from a negotiated order approach to organisational theory (although the idea that police officers settled disputes by negotiation was used over twenty years prior to the work of Kemp et al., by Albert Reiss (1971) and by Skolnick (1966)). The term negotiation is used below to describe the collation and interpretation of information gathered from disputants; the decisions made which relied on this interpretation; and the attempts to implement such decisions. It also describes the mediation which occurred between disputants and officers when they attempted to reach solutions which served the interests of as many of the relevant parties as possible.

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To refer to the police handling of domestic disputes as a negotiation process might suggest that each of the 'negotiators' has an equal chance of having their individual goals realised. Of course this is not the case, for they do not have equal status, authority, or power. The police interact with disputants in order to create social order. However, the men and women involved in the disputes do not always want to establish a peaceful solution. The various actors might have different agendas and in domestic disputes rarely does one solution satisfy the aims of everyone involved. In cases where there are conflicting stories and requirements the police have the ultimate authority to decide what 'the truth' is and the power to act accordingly, even if none of the other actors involved agree with their interpretation and their subsequent response.

In describing the processes of negotiation, I will draw on Jarvie's (1972) understanding of situational logic. During the fieldwork and analysis stages of this research I attempted to understand the process of decision making as one which followed a logical pattern related to a rational consideration of possible outcomes. This helped to explain why different officers (some seeming to be more sympathetic or more conscientious than others) tended to arrive at similar decisions. In exploring various sociological theories I initially considered adopting a rational choice perspective which draws on the theory of games and maintains that social life is principally capable of explanation as the outcome of the 'rational choices' of individual actors. It suggests what people ought to do in order to achieve their objectives (see Gambetta, 1987; and Elster, 1986). Deriving from economic theory,

this perspective was found to be too formalistic for the purposes of understanding police action and, hence, it was decided to explore the less deterministic work of Jarvie.¹³³

Drawing on the works of Hayek and Popper, Jarvie conceives man (sic) as pursuing certain goals or aims within a framework of natural, social, psychological and ethical circumstances. These circumstances constitute both means of achieving his aims and constraints on that achievement. He refers to man's conscious or unconscious appraisal of how he can achieve his aims, within these circumstances, as "sorting out the logic of the situation". It is called logic because the actor tries to find out the best means, within the situation, to realise his aims. Hence, situational logic is explanation of human behaviour as attempts to achieve goals or aims with limited means. Jarvie does not suggest that the actor perfectly scrutinises the situation to find one uniquely effective move. He argues, rather, that several different moves often present themselves, although it is unlikely that the actor will be emotionally and morally indifferent between them (1972:4). Take, for example, incidents where the evidence of an offence is weak or where the victim is not keen for an arrest. In such incidents, removing the suspect, arresting him or leaving the dispute without taking any direct action would all seem to be reasonable options. However, if in this situation the suspect is aggressive and confrontational the officer might, because of his emotional response to the other actors involved, consider an arrest to be the more

¹³³ I am grateful to Dr Anthony Heath for his advice on this issue.

attractive option (see discussion of the suspect's demeanour below).

When we discuss the police response to domestic disputes we are, in effect, discussing their negotiation of temporary solutions to chaotic and often intractable interpersonal disputes. The main goal of the operational officers in this study, prior to the identification of criminal offences and suspects and assistance to victims, was to restore order. This does not mean that the police simply were pursuing their own agenda: the identification of suspects and, more importantly, the implementation of the criminal law sometimes facilitated the establishment of order. In turn, the restoration or maintenance of order usually assisted the victim. They focused not on the long term problems of disputants but on identifying immediate conflicts and facilitating their resolution and preventing their re-occurrence in the near future (usually for the duration of the shift) where possible. As Bayley and Bittner (1984) have argued, the police view appropriate goals as establishing control, immediately protecting lives and property, tending to the injured, but not correcting social problems like marital discord which might result in future episodes of violence.

There are essentially three outcomes which can result from the police attending a domestic dispute: one of the disputants can be arrested; one of the disputants can be removed from, or voluntarily leave, the scene; or both disputants can remain together after the police leave the scene. The first outcome might indicate that the police have sufficient evidence of a criminal offence or it might be the result of a breakdown in the negotiation process between the police and the disputants, whilst the latter two

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might be the result of successful negotiation. In many of these types of cases attended by Thames Valley officers arrests could have been justified in order to prevent further breaches of the peace. However, where this was not considered to be necessary, attempts were made to restore the peace and negotiate a course of action considered agreeable to the victim whilst avoiding unnecessarily provoking the other party. It will be shown that these outcomes were the product of a two stage negotiation process.

At the first stage the police gathered and interpreted information and at the second they considered the 'options' available (which required discussion with the disputants) and took action. Both stages involved a certain amount of interaction in order to move successfully onto a conclusion. Poor communication between the various actors, for whatever reason, could frustrate officers' attempts to gather information which, in turn, could reduce the options available. Also, officers in the process of taking action might have found that they had to return to the information gathering stage if one, or more, of the parties, challenged the appropriateness of the action and made further, or counter, allegations. However, for ease of understanding, the two stages, and the working rules which informed them, will be discussed discretely.

6.2 Gathering and interpreting information

When the police first arrived at the domestic disputes which were the focus of this study they began by gathering information so as to enable them to interpret the situation. When both disputants were present police officers tended to separate the parties, as the force policy recommended, and listen to what each person claimed had happened. This section will examine the extent to which officers gathered information which could be used as evidence of a criminal offence and the influence of this evidence on their decisions regarding the arrest of the perpetrators.

As discussed in chapter five, some critics of the police have argued that when officers respond to domestic violence incidents legal criteria, that is whether or not an offence has been committed, are frequently superseded by 'moral' criteria, in particular whether police officers feel that the woman is to blame for the violence, and that this dissuades them from arresting the suspect (see, for example, Stanko, 1985; Hanmer, 1989). Hence, to put it crudely, it is argued that officers sometimes ignore evidence of criminal offences arising from domestic disputes and consequently arrest less frequently than they do in other cases such as violence between non-intimates. Some writers have explained the inequities in the police response to violence between intimates and violence between strangers by reference to the public/private dichotomy. Dobash and Dobash (1980), for example, have argued that the police feel that they should not intrude in the private sphere of the family and value this institution above the safety of individual women. Sanders (1988), however,

understands differential responses as resulting from the substantive law, the 'law in the books'. His work has suggested that there is a structural bias against domestic violence incidents in the law. Most of the non-domestic cases which were prosecuted in Sanders' sample, which would probably not have been prosecuted had they been domestic, contained a public order element. It seems that public violence which threatens public order is readily prosecuted but public violence with no public order implications is treated in much the same way as domestic violence which takes place in private.

Public order offences, Sanders argues, are more likely to result in an arrest than domestic disputes because police officers' evidence is sufficient for the former whereas evidence from an independent witness is necessary for the latter. Thus 'evidence' of a public order offence may be constituted by an officer's belief in a threat, but this is not evidence of a domestic violence offence. Of course this does not mean that where there is evidence the police will necessarily arrest. The police must *want* to arrest a suspect first and the law then facilitates their desire. In other words, the point which Sanders makes is that public order law enables the police to take action against certain suspects.

Some disputes in the Thames Valley study occurred outside of the disputants home but the officers were not more likely to arrest the suspects in such situations than

when the disputes took place behind closed doors.¹³⁴ Whilst the public order law would have facilitated arrests in most of these cases the officers did not choose to take action. Clearly we need to ask why officers want to arrest in many public order disputes involving violence between non-intimates but do not want this when the violence arises from a domestic dispute. This can partly be answered by reference to the historical and the political role of the police (as tools of the State used to maintain public order, control the masses and protect the privileged few)¹³⁵ and partly by reference to the desire to control 'suspect communities'. These are certain types of communities which the police have a vested interest in trying to control. They are, for example, the drug offenders, or those repeatedly involved in criminal, often violent activity (see Singh Choong, 1994). Many wife abusers do not fit into these suspect communities and therefore the police do not feel the same need to gain control over them. This is not to argue that they do not care about domestic disputes or the victims of private violence, rather that the abusers do not fit their idea of a suspect community. Take, for example, the following incident, described by the attending officer:¹³⁶

This couple's relationship is desperate, they're always having domestics. He was beating her up in public according to anonymous

¹³⁴There was no statistical correlation between the location of a dispute (public or private) and the decision to arrest.

¹³⁵See Reiner (1992: chapters 1 and 2) for a sophisticated critique of this rather simplistic analysis.

¹³⁶Unless otherwise stated, all quotations in this chapter are the statements of police officers made to the interviewer during interviews about their response to specific incidents.

witness reports. We found them walking on opposite sides of the street. Neither would talk to us. They told us to fuck off and leave them alone. I couldn't see any injuries on her, but he was limping. When I asked him why he was limping he said he injured his leg playing football but I reckon that she had probably kicked him in the fight. We left them as neither would cooperate and they'd calmed down.

In another, apparently more serious, incident a man had threatened to injure his wife with an iron bar whilst they were arguing on the pavement. When the police arrived he proceeded to threaten to injure them. The officers explained that they were reluctant to approach the man for fear of injury and eventually he ran away. Little effort was made to locate the suspect despite the criminal offences (threatening behaviour to both the suspect's wife and the police officers). The police avoided confrontation with an aggressive and well-built suspect in another incident after being warned by the victim that he would get violent if approached by police officers.

It is not unusual for patrol officers to be exposed to perilous situations. Responding to "pub brawls" or clashes between neighbourhood gangs often involve officers asserting their authority over young, aggressive men who are sometimes armed with dangerous weapons. However, these two incidents suggest that officers are less likely to overcome their fear and natural aversion to personal injury in domestic disputes than they are in tackling violence arising from public order situations. Clearly the public/private dichotomy is an ideological concept and not a physical one.¹³⁷

¹³⁷Of course, this is not to argue that the public-private dichotomy is as powerful today as it was in the 1970s when feminist critics first exposed the discrepancy between the criminal justice response to violence between strangers and that between intimates. The police have changed their role in domestic disputes but differences

Domestic disputes are usually treated the same whether they take place in private or in the public domain. In other words, it is not *where* something is happening, but *what* is happening.

6.2.1 Evidential rules

Whilst the substantive law relating to public order distinguishes between disputes in public and those in private, the law on assault does not. Violent physical assault on any person, from common assault to murder, regardless of age or gender, infringes the criminal law wherever it takes place.¹³⁸ A suspect should only be prosecuted if "there is admissible, substantial and reliable evidence that a criminal offence known to the law has been committed by an identifiable person ... [and that] there is a realistic prospect of a conviction (CPS, 1993: para. 2.2). Consequently, in domestic disputes, even if the police believe that an offence has taken place and believe that they know who has committed the offence, they cannot charge the alleged perpetrator if they can gather no evidence to support their beliefs. Whilst officers can arrest persons without evidence of a criminal offence these are not likely to be 'good arrests' in that they are not likely to result in a prosecution and consequently are often seen as a waste of finite resources (see the discussion of organisational factors in chapter five).

between these and public order violence persist.

¹³⁸All assaults under the Offences Against the Person Act 1861, except for Section 42 (common assault), are arrestable offences.

In the Thames Valley study, where there was incontrovertible evidence¹³⁹ that an offence had taken place the police tended to make an arrest, although they were sometimes persuaded against such action by women who were opposed to an arrest (see discussion of the role of the victim, below). Similarly, where there was no evidence of a criminal offence having been committed the presumption was against arrest, as table 1 illustrates.

Table 1.
Evidence of an offence:
Number and Percentage Arrested.

	Suspect not arrested	Suspect arrested	Total
No evidence	141 (76%)	45 (24%)	186 (48%)
Evidence of an offence	78 (39%)	123 (61%)	201 (52%)
TOTAL	219	168	387

X² = 53.8 (p < .001 significance)

The suspect was arrested in almost two thirds of the incidents where there was evidence of an offence, but in less than a quarter of those where there was no evidence. In the vast majority of cases (as table 2 shows) the victims and the officers

¹³⁹The variable ‘evidence’ is constructed from my own evaluation of which incidents involved evidence of a criminal offence. All of the available information on each case (details gathered from officers, crime complaint forms and victims statements, where available) was considered and evidence of violence or criminal damage was noted. This was regardless of whether the officer thought that a ‘crime’ had been committed. This definition does not include breaches of the peace. Many of the cases included in the ‘no evidence of an offence’ category did involve such breaches. Methodological triangulation, in particular interviews with victims, provided sufficient proof of the reliability of this definitional process.

were in agreement and the decision to arrest was consistent with their assessments about offences having been committed or not (in 123 cases officers and victims agreed that their had been a criminal offence and the suspect was arrested and in 110 cases officers and victims agreed that there had been no offence and the suspect was not arrested).

Table 2.

Allegations and Evidence of an Offence:
Number and Percentage Arrested.

	Victim alleges offence		Victim does not allege offence ¹⁴⁰		
	Suspect arrested	Suspect not arrested	Suspect arrested	Suspect not arrested	Total
Evidence of offence	123	78	-	-	201
No evidence	17	31	28	110	186
Total	140	109	28	110	387

Nonetheless, in 48 cases the victim alleged that there had been a criminal offence but the officers ‘found’ no evidence to support the allegation (in spite of this lack of evidence they arrested the suspect in 17 of these 48 cases for breaching the peace - see below).

¹⁴⁰This does not mean that there definitely had not been a criminal offence. Someone might have been assaulted, or property might have been damaged, but, for whatever reason, the victim made no allegations of an offence.

Evidence is not always a clear cut entity waiting to be recognised or discovered by the police. Often the police have to go to great efforts to find information which can be turned into evidence. As McConville et al., explained:

... at each point of the criminal justice process 'what happened' is the subject of interpretation, addition, subtraction, selection and reformulation. ... Case construction ... involves not simply the selection and interpretation of evidence but its *creation* (1991: 12).

In the case of domestic disputes, they have argued, certain types of fact would *not* be sought and so the incidents would be constructed in such a way that 'no further action' (NFA) would be the obvious result (1991:34). Similarly, Sanders (1988) argued that domestic cases are generally regarded as trivial *per se*, and are therefore presumed to be unsuitable for prosecution. Since 'triviality' is not an objective fact capable of simply being reported by investigating officers, he argued that officers decide against police action and justify this in organisational terms by selecting and interpreting the 'facts' to suggest that there had been no offence, or not a serious offence.

It might certainly have been the case that during the 1970s and 1980s domestic violence was regarded by the police as fairly trivial. However, there is no evidence that this was true of the Thames Valley Police Service in 1993. It may be that in some of the 48 incidents where there was an allegation, but apparently no evidence, the police failed to investigate thoroughly. However, in the main, officers took domestic violence seriously and sometimes made great efforts to achieve satisfactory solutions for all involved. For instance, I attended two incidents involving women

who made allegations of assault which their partners denied and for which they could produce no corroborative evidence. In both cases the women were under the influence of alcohol and were confused and, at times, incoherent. The attending officers questioned all parties at length but no relevant facts emerged.

Officers do not need evidence before they arrest a suspect, only a reasonable suspicion that an offence has taken place.¹⁴¹ Therefore they do not need to see an injury in order to charge a perpetrator with ABH (ABH is an offence against section 47 of the Offences Against the Person Act 1861 and is an assault which interferes with the health or comfort of the victim - Smith and Hogan, 1992: 423). Thus, while a bruise caused by an attack would constitute an ABH, a mark is not necessary to prove this offence. However, the majority of officers spoken to in the Thames Valley believed that they needed both evidence and a cooperative witness in order to secure a conviction. Some even argued that the force policy stated this. This policy explained:

if it is clear that offences have been committed eg. there is *evidence of an injury*, (my emphasis) the perpetrator should be arrested (original emphasis).¹⁴²

Read carefully it does not say that the police need evidence in order to make an arrest but it could, on a superficial reading imply just this. As the law stands it would be

¹⁴¹s.24 PACE.

¹⁴²Thames Valley Police, Milton Keynes Police Area, Area Memorandum No. 7/92. para. (d).

easy to charge a suspect of violence even where there is no injury if the victim and the suspect both made statements which said that the victim had been assaulted by the said suspect. However, officers would only be likely to get such evidence if they initially made an arrest. Clearly, what starts off as an evidential rule becomes, in many cases, a working rule regarding injuries to a victim. Not surprisingly, therefore, evidence of injuries to victims was correlated with the decision to arrest (only a third of cases where the victim was not injured resulted in an arrest as compared to over half of those where the victim was injured) as table 3 shows.

Table 3.
Victims Injuries:
Number and Percentage Arrested.

	Suspect not arrested	Suspect arrested	Total
Victim not injured	140 (67%)	69 (33%)	209 (54%)
Victim injured	79 (44%)	99 (56%)	178 (46%)
Total	219	168	387

$x^2 = 19.9$ ($p < .001$)

Allegations of criminal damage can easily be substantiated but allegations of relatively minor assaults are more difficult for the victim to prove. Bruising is unlikely to be visible until a few hours after the injury has been sustained, by which time the police have usually attended and left the dispute. Even in cases where they believed the woman’s allegations, and the woman was willing to make a statement, the absence of corroborative evidence would usually mean no action. For example, officers attending one incident, where a woman had made an allegation of an assault, stated

that they would have liked to have arrested the suspect but did not do so in fear of the potential repercussions of a wrongful arrest as he was "very aggressive but extremely sure of his legal position":

He refused to discuss his domestic situation with us - he said it was none of our business. He obviously knew how far he could go before we could arrest him. He was very sure of himself - quite evil. He was playing with me. I wanted him to take a step further so I could arrest him. I believed the woman's allegations of violence but there were no visible injuries.

In another case officers were similarly reluctant to arrest because of a lack of evidence to substantiate the woman's claim of assault:

A woman called us to say that she had been hit in the face by her ex-boyfriend. There were no visible injuries. ... She was aware that he couldn't be arrested.

When asked why the suspect *could not* be arrested this officer explained: "because there were no visible injuries".

The officers could have returned to visit the victim the following day and sought corroborative evidence. But they rarely did this, preferring to 'leave the ball in her court'. In other words, they invited the victim to contact them the following day if visible injuries appeared - occasionally making a provisional appointment for the victim with the scene of crime officer (SOCO). They made no effort to contact victims again and the victims rarely kept their appointments with soco. As McConville et al., argue, in domestic disputes it seems that sometimes the police make little effort to 'construct' a case. However, it will be shown that this is not because domestic disputes are considered to be 'trivial' (Sanders, 1988) or because

these victims are ‘non-influential’ (McConville *et al.*, 1991). Time constraints and communication barriers might have impeded the investigative process, but the main reason why the police failed to investigate some complaints thoroughly was because victims frequently refused to support the prosecution of the perpetrators. However, this does not mean that failure to support prosecution or an absence of evidence meant that the police would not make an arrest (see below and chapter seven).

Table 1 showed that in 45 (27 %) of the cases where a suspect was arrested there was no evidence of a criminal offence. The majority of these arrests were in order to prevent a further breach of the peace (see figure 3, below). None of these arrests resulted in a criminal charge being laid. In order to understand police action in these cases, it is necessary to consider the use of the criminal law as a resource.

6.2.2 The criminal law as a resource

In cases where there has been an infraction of the criminal law, or where this is the reasonable belief of the police, officers are entitled to use certain powers to apprehend suspects and to commence criminal proceedings against them.¹⁴³ Because their belief is a matter of judgement and discretion, they are able in practice, if they consider it expedient, to use legal powers in cases where there has been no such criminal offence. Officers are given discretion by the law and by the organisational structure. There is no-one ‘policing the police’ when they respond to

¹⁴³See the discussion of police powers in chapter five.

incidents away from public, and sometimes away from peer, scrutiny. In this study police officers occasionally took actions on behalf of the victims for which they possessed no legal powers. In 17 of the 48 cases where the victim made an allegation of a criminal offence without objective evidence (see table 2, below) the officers made an arrest because the woman wanted this. Sometimes suspects were arrested even though they had not committed any criminal offences, as in the following case:

The husband had damaged the wall but it was his home. ... He was drunk, but completely calm. ... She made no complaint of violence and did not seem to be injured. ... I asked her if she wanted to leave and I'd take her somewhere but she had nowhere to go. ... The woman wanted him removing but the house was in both of their names. I asked him if he was prepared to leave and stay somewhere else for the night but he was not. I told her that we would arrest him for breach of the peace and he would be out of the house for a few hours to give her the chance to decide what she wanted to do. She then said that she didn't want him arrested but just wanted him out of the house. I arrested the man for breach of the peace anyway. I did this because the woman said if he stayed there she would attack him! I felt that if I had not removed this man from the house one or other of the partners would have got hurt and I did not want them fighting in front of the children.

In other cases the officers arrested suspects to prevent a 'further' breach of the peace when there was no evidence that the peace has been breached previously. In explaining such actions it was apparent that the officers felt that the moral justification for removing the male outweighed the equivocal legal powers. They were re-defining incidents which had initially been reported as 'service' matters into 'criminal' incidents because it turned out to be desirable to use the criminal law to reach

satisfactory resolutions.¹⁴⁴ It was desirable because the victims in such cases often wanted the suspects to be removed temporarily from the home. They wanted a few hours 'breathing space' to consider their options or to pack their bags and seek alternative accommodation. An arrest was also sometimes 'desirable' because the police wanted to issue some summary punishment (to put the suspect in a cell for a few hours to consider his behaviour) and they wanted to use the law to prevent a further dispute (as an immediate crime prevention measure).

In other cases officers insisted that men leave their own homes for the night, although they sometimes admitted that they had been unsure of their legal powers to do so. Concerned about the potential repercussions of complaints they were usually careful not to aggravate the men unnecessarily. Hence, when they drove men to other addresses, as they often did, it was not only to ensure that they did indeed leave the vicinity, but also partly to placate them. They explained that if they were going to insist that a man leaves his own home the least they could do was to give him a lift somewhere else.

It seems that the contrast drawn between 'law enforcement' and 'social service' police work in some of the literature on policing disputes is, to some extent, a false dichotomy (Ekblom and Heal, 1982; Morgan, 1984). As Kemp *et al.*, (1992: 86) argue, the contrast serves to obscure the help-control continuum. Some of the

¹⁴⁴Ericson (1982) has made the point that officers frequently do this.

incidents dealt with by the police using ‘peacekeeping’ negotiation processes in this study did involve infractions of the criminal law. Conversely, as discussed above, the police did threaten to invoke the criminal law and in some cases use it where there was no evidence of a criminal offence in order to resolve a dispute successfully. Clearly, specific incidents do not dictate *either* a law enforcement *or* a social service response. The social service functions, such as providing transport for disputants to temporarily re-locate, are not only examples of benevolence but also serve a ‘crime control’ function. Similarly, spending time with disputants talking through their ‘troubles’ is not only fulfilling a social service role, but is also an attempt at preventing further violence, and as such is a ‘crime control’ measure.

6.3 Considering the ‘options’ and taking action

When officers had gathered relevant data and interpreted the events which had precipitated their attendance they entered into the second stage of the negotiation process. In those cases where an arrest was considered to be legally justifiable the officers had to decide whether such action would facilitate or constrain their realisation of their goals. Furthermore, there were many disputes amongst those recorded in this study which involved either no criminal offence or only minor infractions of the criminal law and where both parties had a ‘story’ to tell and had, invariably conflicting, expectations of the police. Whilst the criminal law can both

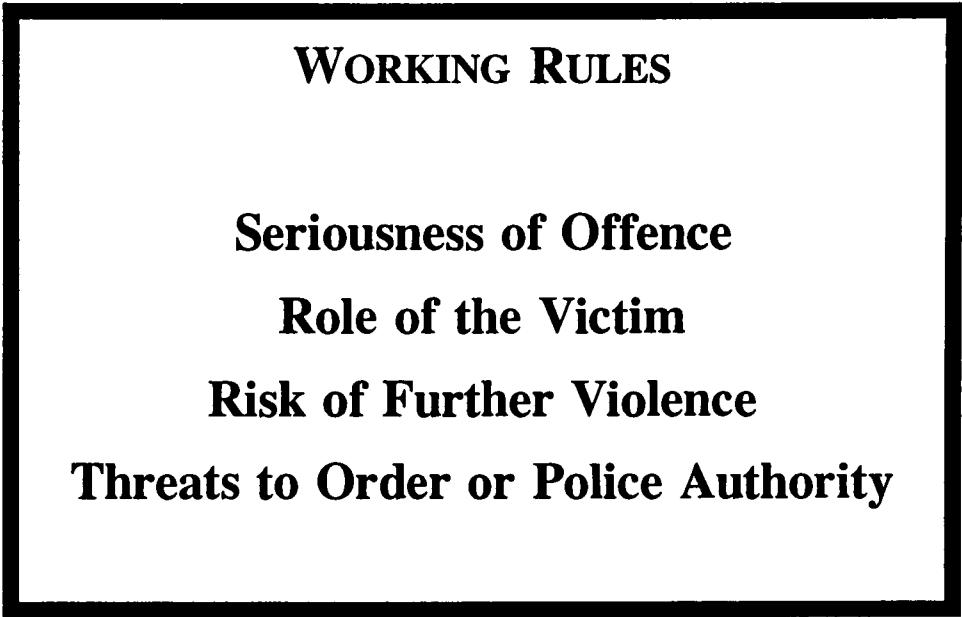
enable and constrain police choices, as Reiner (1992) acknowledges, it does not determine practical policing as officers have wide discretionary powers.

Commentators such as McConville *et al.*, (1991) and Kemp *et al.*, (1992) have questioned whether it is the 'law in books' or 'law in action' which best explains police handling of incidents. They have argued that, to a large extent, the 'law in action' takes over from the 'law in books' when police are at the scene deciding on the appropriate response (Fielding, 1989). The 'law in action' refers to the 'working rules' which determine much police behaviour. For these authors discretion is structured according to a set of informal working rules developed by policing on the ground. The working rules adopted by patrol officers shape the interaction between the officers and disputants and hence influence decisions.

Qualitative and basic quantitative analysis of the Thames Valley interview data, as well as observational work supported these theories. It was found that officers responses were not arbitrary and patternless, that discretion was not exercised within a vacuum, as has been suggested by some feminist writers, but, rather, according to working rules. Four working rules shaped their choices. These related to the seriousness of the offence; the role of the victim; the risk of further violence; and threats to order or police authority (see figure 1). However, it must be borne in mind that in any one case other factors, including evidential criteria, might have influenced, to a greater or lesser extent, the officers' decisions.

Figure 1

The Working Rules which Shape Police Decisions in Domestic Disputes



Before describing what, it will be argued, is the most influential working rule - the role of the victim - the first working rule - seriousness of offence - will be discussed in order to illustrate the inter-relation between evidential and working rules. Early sociological research argued that the low visibility of everyday police work meant that working rules bore little relation to legal rules (Skolnick, 1966). More recently, Smith and Gray (PSI) (1983) have argued that the decisions made by officers on the street are not governed by legal rules, although issues of legality inform the way that officers explain their actions to others (whether to prying sociologists or to senior officers). Hence, it was suggested that there was a wide chasm between the ‘law in books’ and the ‘law in action’. In cases of serious violence it is difficult to disaggregate working rules from evidential rules in trying to understand the factors

which influence decision making.

6.3.1 The seriousness of the offence

Whilst McConville et al., (1991) were right to argue that working rules were more important to an understanding of police action than evidential rules, the authors failed to identify one important working rule: the seriousness of the offence. Cretney and Davis (1995) considered offence seriousness, but rejected it as having no influence of police decision making processes:

There appears to be an almost random relationship between seriousness and the investigation and prosecution of assault (1995: 13).

This quotation requires close scrutiny. The authors are arguing two things: first, that seriousness does not influence the *investigation* of assault and, secondly, that it does not influence the *prosecution* of assault. In the Thames Valley study seriousness of the offence was a predictive variable in the decision to arrest but it did not seem to affect the decision to prosecute (see chapter seven). Once the suspect had been arrested, the victim's choice was the only important variable shaping police and prosecutors decisions.

During the period of patrol observation, for example, I attended a dispute which had resulted in quite serious injuries to a woman's face and arms (as well as damage to various items of property). Both she and her child were visibly disturbed and afraid. The officers did not wait to find out what she wanted - they immediately arrested her husband. There was clear evidence of two criminal offences but it was not clear

whether their decision was influenced by evidence or working rules, most notably the seriousness of the offence and the risk of further violence (as the husband was still agitated). Serious offences of violence usually mean strong evidence and it is probably the case that *both* evidential and working rules influence police decisions in such cases.

In a serious case of rape and GBH,¹⁴⁵ the victim sustained serious head injuries, resulting in a long period of hospitalisation and permanent brain damage. When the police were first called, by a nurse, to the hospital the woman was adamant that she did not want to make a statement, explaining that she and her boyfriend normally engaged in violent sex and that, therefore, this incident was not extraordinary. The Family Protection Unit¹⁴⁶ was informed and they provided advice and support for months after the initial report, even though she maintained that she would not press charges. Eventually the victim made a statement and the suspect was prosecuted.

The police had pushed for a prosecution in this case despite the initial wishes of the victim, and the less than perfect evidence (the issue of consent concerning the rape allegation was problematic) because of the working rule pertaining to the seriousness

¹⁴⁵GBH is contrary to sections 20 and 18 of the Offences Against the Person Act 1861. Wounding or GBH, where no intention to cause GBH needs to be proved, is contrary to section 20; committing wounding or GBH with intent to do so is contrary to section 18. In order to charge a suspect with GBH the victim needs to have suffered serious bodily harm evidenced by the breaking of the whole skin.

¹⁴⁶A police unit specialising in the investigation of sexual offences and all cases of child abuse.

of the offence. Whilst the evidence would not have been ‘water-tight’ without the complainants’ statement, there was certainly sufficient evidence to charge the suspect. Therefore, whilst the working rule relating to the seriousness of the offence certainly shaped the officers’ decisions the strength of the evidence was also importance. Hence, there was an inter-play between evidential and working rules. McBarnet’s (1981) structuralist approach to police decision making (which pointed out that the ‘law in books’ was ambiguous and permissive and therefore condoned deviation from due process legality) encouraged greater understanding of the inter-play of the ‘law in books’ and the ‘law in action’.¹⁴⁷

6.3.2 The role of the victim

In the literature on domestic violence it is recognised that the single greatest impediment to an effective criminal justice response is the victim’s failure to report the incident to the police (see chapter eight). However, a discussion of the role played by victim noncooperation in the police decision making process and in the prosecution process once the incident has been reported has been conspicuously absent from this literature. Many critics have asserted that victims want the police to arrest their partners and rarely withdraw their statements once made. They have argued that victim preferences by themselves do not significantly affect police decisions because

¹⁴⁷See Reiner (1994) for a thorough discussion of the development of sociological research in this area.

of an overwhelming police bias against arrest.¹⁴⁸ And, further, that victim withdrawal and unreliability is a "myth", promulgated by police to excuse this bias (Stanko, 1985; Faragher, 1985). McConville *et al.*, (1991) have argued that only influential victims can affect the way that the police handle complaints and that victims of domestic violence are particularly 'non-influential'.

Other writers have been more inclined to acknowledge the influence of victims on the police decisions to arrest and charge suspects. American research found that victim preferences accounted for the largest variance in arrest rates (Berke and Loseke, 1980). And in the United Kingdom Cretney and Davis (1995), who interviewed 93 assault victims admitted to an accident and emergency department, found that at the initial victim-police encounter the victim largely determined the progress (if any) of the case, almost regardless of whether the injuries had resulted from a domestic dispute or a dispute between non-intimates. In reality, these authors have argued that police do not respond to 'crimes against society', but, instead, to 'complaints by the aggrieved'. They will usually only take action if the aggrieved is committed to the prosecution process, even in respect of very serious assaults. If the victim is reluctant to cooperate with the prosecution effort, whether this is because of fear of retaliation or for another reason, the police will not pursue the case.

There were a few disputes which had been resolved prior to the arrival of the police.

¹⁴⁸Indeed Bayley (1986) reported that victims wishes were not even correlated with the arrest of assailants.

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Some were only mild altercations which had been resolved through effective communication between disputants. On other occasions the suspect had left after the police were telephoned. Indeed some women called the police with the sole intention of scaring the man into leaving. All of this ensured that officers sometimes had to do very little to stop a dispute. The knowledge that they had been called was enough to persuade some of the men to leave the scene or calm down.

Some disputants were subdued into deferential compliance by the arrival of the police. This facilitated a reasonable discussion of the issues, as the following incident shows:

...When we arrived they stopped rowing. She had phoned because she wanted someone to speak to and to stop the row. It was late at night and she didn't know who else to phone. She was upset. I asked her what she wanted us to do. She said she just wanted us to calm the situation down. We managed to talk to them both and left them calm.

In this, as in other incidents which had been little more than a mild disagreement, the police negotiation process involved mediating between the disputants in a 'social service' type role rather than a law enforcement role. In some cases the officer explained that the woman had called the police because "she wanted someone to talk to, someone to act as a mediator." On other occasions they found that they were expected to advise couples about their relationships, and even, on a few occasions to try to persuade partners *not* to leave, as was the case with the following example:

Neither would make an allegation against the other. He just wanted to leave when we arrived, and she wanted me to make him stay with her. I explained that it wasn't my job to persuade people to stay with partners against their wishes and that I had no powers to force him to stay.

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In some cases where the victim agreed that the man could stay in the home, or where the police could not reasonably justify removing him, the officers would warn the suspect that he would be arrested if he did not calm down and behave himself, or if the police had to be called out again to a repeat disturbance. Of the male suspects who were not arrested, one in five were warned that they risked being arrested if the police were called back to another domestic dispute.¹⁴⁹ This was sometimes the very response that victims had hoped for when calling the police: the majority of the victims who did not want the police to remove or arrest the suspect wanted the situation defused and the aggressor calmed down, without recourse to the criminal law. As one woman I interviewed explained, when asked what she expected from the police:

I was looking for someone to control the situation. I hoped they'd calm him down without him going to the station. I've got a lot of faith in the police.

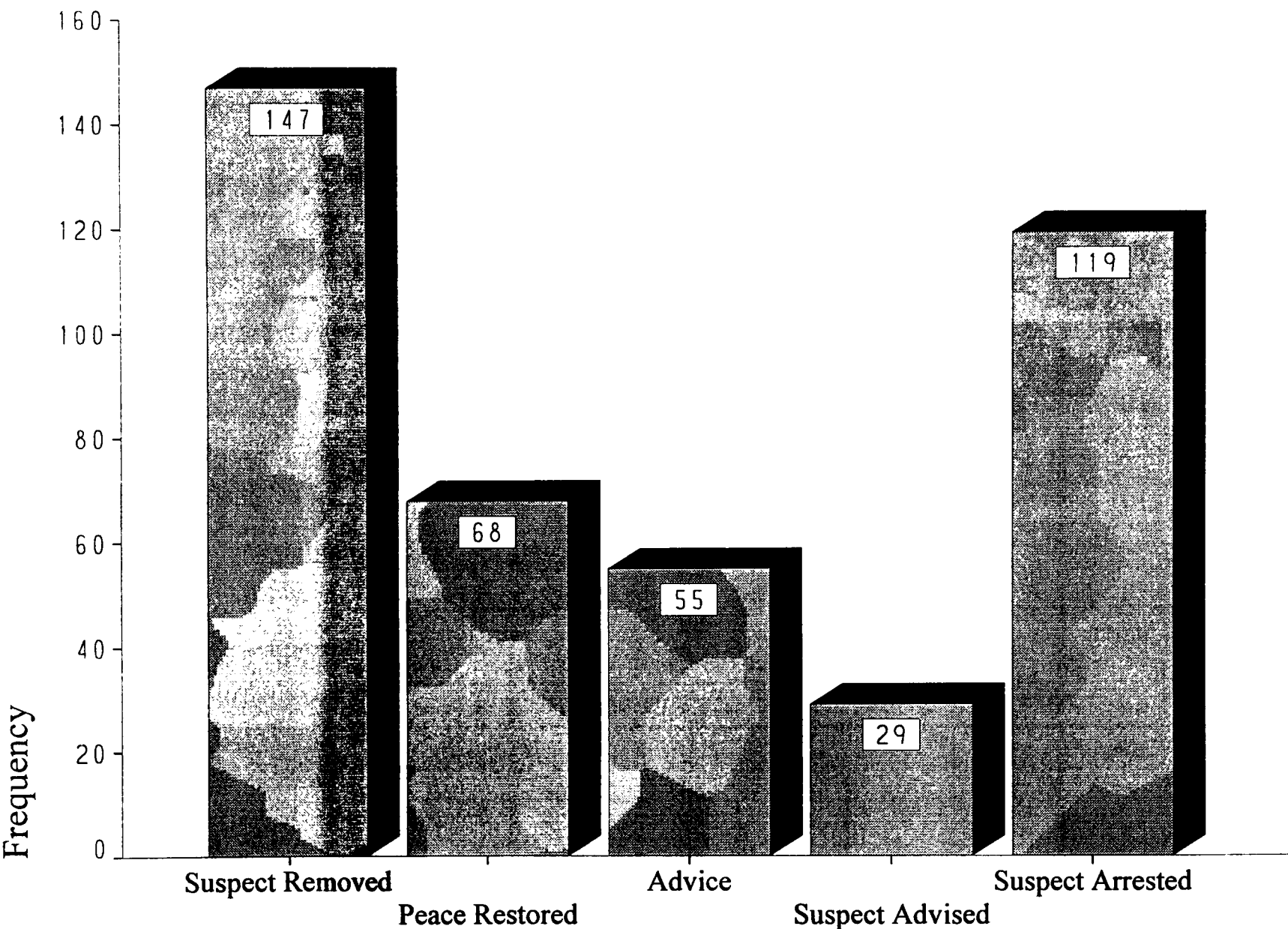
The majority of victims, as figure 2 shows, wanted the suspect to be removed from the scene.¹⁵⁰ Many wanted simply to be advised or for the officers to restore the

¹⁴⁹ In addition to such warnings, a few suspects were told to contemplate their unacceptable behaviour and to improve their treatment of their partners.

¹⁵⁰ When the officers were considering the options they questioned the disputants to discover what they wanted the police to do: "So what do you want us to do?" was the most common response to the disputants' revelations of violence, intimidation or discord. Consequently, information on the victims' wishes was obtained from each police officer.

peace, and only a third wanted the suspect to be arrested.¹⁵¹

Figure 2
The Victims' Wishes - According to Officers



Note: The third column represents the 55 victims who wanted to be advised by the police (this included those who wanted information on other sources of help), whereas the fourth column represents victims who wanted the police to advise the suspect (this included requests for the police to warn the suspect about his behaviour).

¹⁵¹Other studies have similarly found that many women do not want their partners to be arrested and charged, with the majority wanting support and advice (see Bourlet, 1990; Cleveland Refuge and Aid for Women and Children, 1984).

Looking more closely at these data, however, it was found that there was substantial overlap between the victims requests for the suspect to be removed and their requests for him to be arrested. In other words, in many of the incidents the victim had wanted the police to do either of these things. Also, in many cases where the woman had initially only wanted the police to remove the suspect, he was arrested because the negotiation process had broken down (see below). Most of these women were satisfied that arrest was the only option left. Hence, these two variables were combined to create one variable of victims wishes for action (for removal or arrest of the suspect). Table 4 shows that victims wishes for action were highly correlated with the decision to arrest.

Table 4

Victims Wished Police to Take Action: Number and Percentage Arrested.

	Suspect not arrested	Suspect arrested	Total
No request for remove or arrest	120 (81%)	29 (19%)	149 (38%)
Request for remove or arrest	99 (42%)	139 (58%)	238 (62%)
Total	219	168	387

$x^2 = 56.56$ ($p < .001$)

Whilst Thames Valley officers were clearly influenced in their decision to arrest by the wishes of the victims, they were more likely to choose *not* to arrest when the victims did not want police action - in over four fifths of the incidents where the

victim did not want the police to take action they did not do so - whereas the difference between the proportion arrested and those not arrested when the victim wanted police action was not so great.

Many Thames Valley Officers believed that victim unreliability, along with other problems inherent in implementing the criminal law in disputes between intimates, made domestic violence cases more prone to failure. Examination of the interview data shows that victim unreliability is a fact and not a myth postulated by police officers to justify their inaction (as suggested by Stanko, 1985, and Faragher, 1985, - see above). In a third (69) of the 219 incidents which did not result in an arrest, the victim had either refused to make a statement or initially made a complaint but then refused to sign it, or withdrew it, before the suspect was arrested. And in 71 (42 %) of the 168 cases where the suspect had been arrested the victim withdrew her statement at some stage - either before or after the suspect had been charged (see chapter seven).

Some critics have suggested that the police are themselves sometimes responsible for 'persuading' victims to withdraw their complaints by allowing a 'cooling off' period and by their behaviour towards victims (Edwards, 1989; Faragher, 1985; Chambers and Miller, 1983). There were only 12 cases in which Thames Valley officers gave the victim a 'cooling off' period, and in four of these cases the suspect was eventually arrested. Some of the other eight incidents involved women who were too drunk to make a statement and were told to contact the police the following day when they

were sober. Similarly, some women who alleged assault but had no visible injuries were asked to call the police the following day if any bruising appeared. Needless to say, these women rarely did make further contact with the police. The majority did not involve very serious allegations, as the following excerpt illustrates:

A woman called us to say that she had been assaulted by her ex-boyfriend in a car park. The injuries were minor. She'd hit him and he'd hit her back harder. I completed a 'CID 1' (initial crime complaint form) at the scene. I contacted her two days later as I was on my way to arrest the man for ABH but she said she did not want to make a statement. They are now happily back together. I don't think she had been threatened or pressured not to make a statement.

When asked if she'd used the two days as a 'cooling off' period the WPC admitted that she had and added:

From experience I think this is a good thing but I wouldn't use it for a very serious offence.

However, four of the 12 cases were more serious, involving hospital treatment. The police were prevented from taking statements by the women's condition and their need for medical attention. In all these cases the officers left the woman saying that she should contact them the following day should she decide to make a statement. The excerpt below shows the most alarming example of this type of 'leave the ball in her court' response:

This woman had been assaulted by her partner and she had a broken nose. He'd left and she was rather uncooperative - more concerned for the welfare of their child, who was only one year old. She was worried about who would look after it when she went to hospital. She was also pregnant with his child. The ambulance took her to hospital. I did an area search for the suspect but could not trace him. She was not in a fit state to give a statement and so I decided I'd pass the job over to the next turn [the team of officers who would be starting patrol duty after this officer's shift ended].

In fact the 'job' was not passed on at all. No-one was told about this incident.¹⁵²

The woman did not make any further calls to the station and she was not seen by another officer.

The officers who had left women in hospital beds with no intention of making further contact had, in fact, usually dealt with the initial incidents effectively and sympathetically. Their failure was in not following them up. When questioned about this some made weak excuses about shift work, arguing that as they might not be on duty the following day, or might be working a night shift, they were not best placed to make further contact. It is certainly true that shift-based reactive policing is not conducive to officers taking ownership of problems. However, the assaults which required the women to seek medical attention were serious enough for the responding officer to request that CID conduct follow-up investigations. And yet in none of these cases was CID informed. It is clear that if women do not initially request, or agree to, police action, for whatever reason, they usually do not get a second chance. These examples illustrate that the probability of an arrest is reduced when the victim is unwilling or unable to make an initial statement and when organisational factors conspire against further contact between a police officer and the victim.

A few victims might have been dissuaded from pursuing criminal action by officers'

¹⁵² Every constable and sergeant on the next shift was asked if he had knowledge of the incident. When re-approached about who he had passed details on to, the original officer in charge said that he could not remember.

behaviour. For example, victims were sometimes warned that they would probably have to go to court and stand up to aggressive cross examination without being told about the support women could receive from Women's Aid or Victim Support. Officers justified this by explaining that if the women could not stand the process their cases would collapse, because the prosecution would rely on their testimony.

As one officer explained:

This girl was assaulted by her boyfriend. ... I discussed the options with her and told her that he could be arrested for ABH. At first she said she would support police action and then we told her that she would need to be present in court if the CPS took the case on. She then declined to give a statement.

Whilst such officers were 'preparing' the victims for what *could* happen, they were giving them the worst possible case scenario. Most defendants plead guilty, especially in the magistrates court, and therefore most cases are dealt with quickly involving only the CPS and defence counsel, without the victim having to attend court.¹⁵³

Occasionally officers made great efforts to continue with a case after the victim had decided to withdraw. This caused a few victims to be very angry. One officer threatened the witness that he would persuade the CPS compel her to testify if she did not cooperate with his efforts. The woman could not be persuaded and, indeed,

¹⁵³Precise statistics on guilty pleas are difficult to obtain (see Baldwin and McConville, 1978), but from April 1992 to March 1993 97.6 per cent of cases proceeding to a hearing resulted in conviction and 83.6 per cent of the convicted defendants had pleaded guilty (CPS Annual Report, 1993b).

became more adamant:

The policeman was angry with me for not signing my statement. He said he was going to send the papers to the CPS anyway. He kept going on and I wanted him to leave me alone. I'd made my decision!

Other women were not only unwilling to make a statement about aggressive partners, but were angry at the police for trying to intervene in the first place, as the following case shows:

A neighbour had called us and the woman was angry that we had come because she said our presence would make him angrier and lead to more arguing. She didn't want any one else involved and became irritated by us. She was slightly injured but she wouldn't make a complaint.

Police were called to another incident by a 15 year old boy who alleged that his father was attacking his mother. When the officers arrived the mother told them, in no uncertain terms, to leave. They insisted on seeing the boy and tried, in vain, to persuade her to talk to him:

She kept telling me that this was nothing to do with me and telling me to leave. I made sure that the boy was O.K and told him to call again if he was frightened. Then the woman threw a plate of food at me and so we left, covered in gravy. My partner slipped in the gravy on the way out. Thinking that we were not leaving quick enough she grabbed me by the jacket and told me to 'fuck off'.¹⁵⁴

I interviewed this woman at a later date and she was still outraged that the officers had insisted on checking on the welfare of her son. Angry with me, for being "yet another busybody", she nevertheless offered an explanation for her affront:

They asked if I was O.K and tried to come in, and then insisted on speaking to my son. I didn't want the copper to speak to my son. He

¹⁵⁴This incident was discussed in chapter five.

shouldn't be allowed to speak to him without my permission ... it had nothing to do with my son or the police.

Another woman had similarly been unwilling to cooperate with the police. Talking to me during an interview she explained that "It was nothing to do with the police - they shouldn't have interfered". When reminded that she had been assaulted, she replied "that's my business - no-one else's". Whilst these types of incident were few and far between, they served to reinforce the police cultural perceptions of victims of domestic violence being uncooperative and sometimes hostile in the true sense of the word (see chapter five). As one officer said: "In some domestics you know when to leave well alone, when you feel like an intruder".

This chapter is aimed at understanding the factors which influenced the police decision to arrest. This is not, therefore, the appropriate place to attempt to understand women's reluctance to testify against their partners, or ex-partners.¹⁵⁵ However it is relevant to try to understand if officers ascertained victims' reasons before deciding on the suitable course of action. Examination of the cases where the police chose not to arrest reveals that the police did not seem to distinguish cases where the victims would not cooperate because of genuine fear of retaliation and those cases where non-cooperation was due to the victim not feeling that she was ready to end the relationship, or another 'rational' reason.

One officer had arranged for a victim to visit the police station the day following an

¹⁵⁵This will be discussed in chapter eight.

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incident in order that the soko officer could take photographs of her injuries. She did not attend, and the case was not pursued. In explaining her reluctance to press charges, the officer reasoned that "violence was a typical part of her life, [that] she still loved [the suspect] and wanted to be with him." In another case a woman had been "terrorised" by her estranged husband who had kept her hostage in her home for many hours and made threats against her life. The officers recognised that she had believed the threats to be genuine and was "very upset and shocked", and yet they accepted her refusal to make a statement, based on her fear of retaliatory violence, and did not arrest the suspect. Allegations of the offence of threats to kill were rarely pursued, even when the victim was willing to make a statement, due to the lack of evidence. Unless a third party has witnessed the threat there is no corroborative evidence.

Officers' reluctance to arrest a perpetrator when the victim would not make a statement or agree to testify applied to victims other than women. In a handful of cases the women, having been assaulted or threatened by their partners, retaliated.

The following incident provides one example:

We were called out by an Asian woman who'd had an argument with her husband. He was a postman and had just got in from work and was calmly sat eating his breakfast. She said that he'd threatened to hurt her and she wanted him removed from the home. The house was in his name but he agreed to leave once he'd finished his breakfast. We thought this was the best course of action as she was nine months pregnant and had three children all under five years with her. We left but then five minutes later we were called back: the wife had stabbed her husband in the back. He was bleeding very heavily and we had to keep him still while the ambulance came. He claimed to have fallen backwards onto the knife, and when we said that we didn't believe this

he said he'd stabbed himself. This would not have been possible due to the position and depth of the wound. It was a very serious GBH, probably an attempted murder, but he would not make a complaint against his wife and when we spoke to her all she would say is 'its an Asian problem', and she refused to answer any questions. No one was arrested. What can you do?

Another woman had been viciously attacked by her husband, who had smashed a blunt object on the back of her head. The police spent hours by her bedside in hospital after she had received medical attention but she refused to make a statement. She blamed alcohol, explaining that her husband was never violent when he was sober. Like some other victims, she minimised the violence and blamed herself for provoking him. A few hours after the attack, her son, having seen his mother's injuries, retaliated by stabbing his stepfather. The stepfather survived the attack but was taken to the same hospital as his wife, with even more serious injuries. He was also asked to make a statement but refused. Neither of the suspects were arrested. Of course in this case, as in others, the police did not *need* the cooperation of the victims. They could have collected evidence even without initial complaints but the working rule about victim cooperation shaped their response.

It has been argued that the manner in which the 'options' are put to the complainant is likely to determine the choices made (Faragher, 1985). During patrol observation work the writer saw exceptions to this: examples of good practice. For example, one man who had physically assaulted his wife was immediately arrested. Two constables spent over two hours with the victim taking extensive statements and offering advice and sympathy. They gave the victim the name and telephone number of the

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coordinator of the local Victim Support group and told her the address of the local refuge. Their response was, in the writers opinion, impeccable. However, when we left the woman's home both admitted that they 'knew' that she would withdraw. The following day she did. The constable who visited her and took a withdrawal statement tried to persuade her to support police action, but she would not. The charges against her husband were subsequently dropped.

One woman, interviewed about the police response to a physical assault against her discussed another incident which had occurred a year earlier. She had been raped and assaulted, by the same man who had attacked her on this occasion, but had decided to withdraw her statement after her partner was arrested. She explained that she had been very surprised that the police had responded so positively to her complaint that her husband had both raped and physically assaulted her:

The officers in uniform were very sensitive - they took the rape allegation very seriously. I was stunned by that. But I only wanted to complain about him hitting me, not about the rape. He'd broken my nose and I wanted him done for that not for the rape. So I dropped the charges - it was all too much.

This woman had received assistance and support from the family protection unit as well as the patrol officer in charge of her case. They had all made an effort to persuade her not to withdraw her statement, yet she withdrew her support for her own reasons.

It would seem that whilst there were examples of both good and bad practice (for

example, the occasional use of 'cooling off' periods) the number of victims who withdrew their complaints stage suggests that they tended to decide against supporting the prosecution effort for reasons of their own, usually through fear or because they wanted a reconciliation with the perpetrator. When specific officers were asked to what extent they had tried to persuade the victim to make a statement, or not to withdraw a statement previously made, many insisted that they had tried to do so. But most then went on to say that once a woman has made up her mind it is near impossible and probably not desirable to change her mind. They spoke of respecting the victims' wishes and recognising her responsibility for her own life and seemed to be sensitive to the problems women faced in prosecuting their partners or ex-partners.

In those cases where there were no legal grounds for an arrest the police had to decide whether or not to terminate their intervention or whether to try to negotiate an alternative resolution. This was also the case if, after discussing the 'options' with one or both of the parties, the women did not wish to make a complaint. Victims sometimes decided to leave the scene, and the officers invariably performed a 'social service' type of role by assisting them in this endeavour, usually driving them, and any children, to an alternative address. If neither disputant was willing to leave, or be taken away from the scene, a 'truce' had to be negotiated, even if the officers recognised that this was likely to be only temporary. In most of the disputes the victim had marginally more bargaining power than the suspect. Her wishes typically superseded those of the suspect. The police tended, especially, to resist removing women:

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When we arrived the woman was armed with a baseball bat and was shouting at her husband. She claimed she was defending herself. He claimed she had hit him with it but I saw no marks. He had thrown away her valium as he says she is a zombie when she's on it. She wanted him to leave and he would not and so he was arrested to prevent a breach of the peace. I thought she was the more aggressive of the two and warned her about her own behaviour - about not using the bat as a weapon. I didn't feel very sympathetic to her. I would rather have arrested both as they were both to blame, but I wouldn't arrest her because of the children.

In such cases the options open to suspects were often dependent upon the choices made by the victims. If the police and the victim agreed that arrest was a desirable outcome the man would usually be arrested. If it was decided that the suspect should leave the home, he would usually be given the option of leaving or facing arrest. Sometimes suspects were offered a 'deal': 'leave peacefully, promise not to return tonight, and you won't be arrested. Play up, and you will spend the night in a cell.'

A victim's state of mind clearly affects the success, or otherwise, of the negotiation of any desired solution. The suspect was not arrested in almost three quarters of the incidents where the victim was calm (see table 5).

Table 5

The Victim’s State of Mind (calm): Number and Percentage Arrested

	Suspect not arrested	Suspect arrested	Total
Victim not calm	143 (51%)	138 (49%)	281 (73%)
Victim calm	76 (72%)	30 (28%)	106 (27%)
Total	219	168	387

$x^2 = 13.6$ ($p < .001$)

If we compare these data with those presented in table 6 we see that the opposite of being calm, that is, the victim being hysterical, is similarly highly correlated with the decision to arrest (the suspect was arrested in almost two thirds of those incidents where the victim was hysterical compared to just over one third where she was not).

Table 6

The Victim’s State of Mind (hysterical):
Number and Percentage Arrested

	Suspect not arrested	Suspect arrested	Total
Victim not hysterical	196 (60%)	129 (40%)	325 (84%)
Victim hysterical	23 (37%)	39 (63%)	62 (16%)
Total	219	168	387

$x^2 = 11.4$ ($p < .001$)

There are a number of reasons why this is so, all of them inter-related. Clearly, if the victim is calm it is likely that she is not in immediate danger (that she is not as

afraid of further victimisation) and that she has not suffered a serious injury. There were, of course, examples where the woman was calm in spite of injuries, danger and likelihood of further abuse, but these were atypical. However, the main reason why the victim's state of mind impacted on the officers' decisions regarding arrest concerns the negotiation of a temporary solution. Women who were calm were more likely to be able to engage in discussions, not only with officers but also with the suspects, and contribute towards the achievement of a peaceful solution, avoiding the necessity of an arrest.

6.3.3 Risk of further violence

Some critics of the police have argued that even when victims are in danger and request an arrest officers consistently refuse to make arrests (Buzawa and Buzawa, 1990; Davis, 1983; Black, 1980). This was not borne out by the Thames Valley study. In the few cases where the police believed that to leave the aggressor in the home would have put the victim at a significant risk of further serious violence¹⁵⁶ they arrested the suspects in order to remove that risk, even if they did not believe that they had a good prospect of securing a conviction. Even when victims were adamant that they would not make a statement about the incident the dangerousness of the situation shaped the police response - they arrested first and asked questions

¹⁵⁶The risk had to be *significant*. On occasions the police considered that there was a slight risk of further violence and yet took the chance of leaving the alleged aggressor at the scene (see below).

later. Details of two cases will serve to illustrate this point. In both of them the victim was unwilling to cooperate, the offences were serious and there was sufficient evidence to charge the suspect, and yet in only the first case did the police consider that there was a risk of further serious violence:

This couple are involved in an on-going domestic situation. She has been attacked on many occasions and will never support police action - she never wants him charging with anything. He's been in prison for numerous violent offences. He's got form for violence to others as well as his wife and for firearms offences. The wife had called us in this incident saying that her husband was trying to kill her. When we arrived we saw him dangling her over the balcony. The front door was open so we went straight in and arrested him, even though she was telling us to leave him alone. He had punched her and thrown her across the room before he held her over the balcony, threatening to kill her. She had a split lip and was very badly bruised and very distressed. I stayed with her after he was arrested. Her doctor was there as well. I spent several hours with her taking a statement. At the end she refused to allow it to be used in court. She told me that she did not want him charged. She then made a withdrawal statement, as she has done four times before. So he was never charged for the ABH or the threats to kill.

The officers' priority in this case was to remove the aggressor, by arresting him, in order that he could not inflict any more damage on the victim. Once the immediate danger was over because the suspect had been removed and put in a police cell to calm down, the victim's wishes came back into the equation and took precedence in the decision of whether or not to charge the aggressor.¹⁵⁷

In the second case, when the police arrived there was no longer any immediate

¹⁵⁷See chapter seven for a discussion of the victim's wishes influencing the decision to charge.

danger of further violence as the suspect had left the scene and the woman had been admitted to a hospital:

This lady's husband had beaten her up and then left. She had blood pouring from the back of her head where he'd thrown an ashtray at her. There was a history of violence and it was a clear GBH. She was taken to hospital. She was totally incoherent and not prepared to make a statement. She blamed the alcohol and minimised the violence, and blamed herself for provoking him. I explained the options to her later when she was more coherent but she would not make a statement.

As the period of immediate danger was over the officers deferred to the wishes of the victim and the suspect was not arrested. In some situations officers decided that there was not an appreciable risk of further violence and so left the couple together. Occasionally they were left feeling uncomfortable after such a decision, as the following excerpt shows:

It had been a bad row but no violence had been used. ... The couple were told that for the sake of the child they should calm down. The woman was obviously afraid of the man, and by taking the friendly approach and not removing him from the house I was taking a risk. In such situations it's always a gamble. I told her that I'd be in the area for the rest of the night and she should phone if it re-erupts. I drove past their house a few times later that night to check everything was all in order.

Occasionally the risk assessment involved officers' fears for their own personal safety. In the main, police officers aim to secure arrests which are likely to result in a prosecution whilst avoiding compromising or even career threatening complaints, as well as personal injury. For example, one officer explained that his decision not to arrest a man who had hit both his wife and his daughter was a result of considering

his own personal safety:

Initially I was going to arrest him but the man was so aggressive I thought I'd leave him to calm down. He did calm down once the mother and daughter had left for the hospital and so I decided to leave him at his home address rather than engage in an unpleasant confrontation. I went to the hospital to see the wife and the girl and told the woman that if she wanted to pursue a complaint to go to the station the next day.

When asked if he might have been more assertive if the man had not been so intimidating the officer replied:

I was a little afraid of him, but partly I'm just disillusioned with the criminal justice system. I have charged this man before for assaulting another woman and he was acquitted at court.

It is not possible to establish whether fear of personal injury or disillusionment with the criminal justice system was behind this officer's reluctance to take more effective control over this incident, but, needless to say, the woman failed to pursue a complaint against her partner.

6.3.4 Threats to order and police authority

There is evidence from various studies to suggest that the attitude of the suspect is crucial in determining whether or not an officer will charge a suspect. Research has demonstrated that if a suspect challenges the authority of the police and is hostile to the officer he is more likely to be arrested (Worden and Pollitz, 1984; Smith and Klein, 1984). Indeed it has been suggested that an arrest nearly always occurs if an assailant remains violent in the officers presence (Ferraro, 1989b). The Thames Valley study lent some support to these findings: when the suspect was 'aggressive' -

either verbally or physically confrontational and threatening the police authority - the police were more likely to arrest him and when he was calm they were more likely to decide not to arrest him. Whilst only one in three of all suspects were ‘aggressive’ towards officers, over two thirds of them were arrested. Hence, they accounted for almost half of all of those arrested (see table 7).

Table 7

Suspects’ Demeanour: Number and Percentage Arrested.

	Suspect not arrested	Suspect arrested	Total
Suspect calm	182 (66%)	92 (34%)	274 (71%)
Suspect aggressive	37 (33%)	76 (67%)	113 (29%)
Total	219	168	387

$\chi^2 = 39.9$ ($p < .001$)

Some critics have suggested that the demeanour of the suspect takes precedence in the decision making process over other variables such as the evidential criteria or, more pertinently, the wishes of the victims (Dobash and Dobash, 1980; Dolon *et al.*, 1986). This was not found to be the case in the Thames Valley study where both evidential criteria and the wishes of the victim were more highly correlated with the decision to arrest than the suspect’s demeanour. However, because the suspect’s demeanour presented a source of variance in the outcome of the negotiation process it affected the arrest decision in many cases.

Challenges to police authority, provocation of individual officers, or unwillingness to calm down enough to respond to questions all meant poor communication between officers and the men involved in the disputes. Just as a calm victim can expedite a smooth and successful negotiation of the pertinent issues, a hostile suspect can impede this process. The frustration of officers' attempts to facilitate a smooth resolution to messy disputes was particularly evident in incidents where the suspect was not only hostile but also drunk. In a conflict situation people are more likely to be belligerent and volatile and less likely to be calm upon request when they are drunk. Consequently, arrests are more likely (Bayley, 1986; Buzawa and Buzawa, 1990).¹⁵⁸ The suspect being 'under the influence of alcohol', is highly correlated with the suspect being 'aggressive' and, therefore, with the breakdown of the negotiation process and the decision to arrest, as table 8 shows.¹⁵⁹ Less than one third of the 'sober' suspects were arrested compared to over one half of those considered to be 'under the influence of alcohol'.

¹⁵⁸Again, research has suggested that suspects who are drunk and belligerent to the police are most likely to be arrested whether an incident is a domestic in a home or a non-domestic out in the street (Sanders, 1988).

¹⁵⁹Only half of the suspects who were calm were under the influence of alcohol, whereas three quarters of those who were aggressive were under the influence of alcohol.

Table 8

Suspect was Under the Influence of Alcohol:
Number and Percentage Arrested.

	Suspect not arrested	Suspect arrested	Total
Suspect sober	137 (69%)	63 (31%)	200 (52%)
Suspect with alcohol	82 (44%)	105 (56%)	187 (48%)
Total	219	168	387

$x^2 = 23.9$ ($p < .001$)

In just under a quarter of all incidents the suspect was asked to leave the scene of the incident. Men who were initially resistant to officers' suggestions that they leave were threatened with the criminal law in an attempt to make them cooperate, as in the following incident:

This woman called us because her ex-husband arrived at her home causing a disturbance. He was drunk and refusing to leave. According to the woman relations between them were normally good. I asked him to leave, explaining that this was an unreasonable hour to call uninvited. He argued with me for a while and so I threatened to arrest him to prevent a breach of the peace, after which he left.

When men were reluctant to leave the scene of the incident officers sometimes spent considerable amounts of time convincing disputants that they would not be dissuaded from their decision, as the following excerpt shows:

They needed separating so we told the man to get dressed and go and

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spend the night with a friend. The man was procrastinating, hoping that if he took a long time to get ready the I would leave and he'd stay in the house. I warned him that if he didn't leave soon I would arrest him to prevent a further breach of the peace. He soon got moving then and I escorted him out of the house.

Fifty six suspects were told that if they did not leave they would be arrested. Some were further warned that if they returned within a given period of time they would also be arrested.

The successful negotiation of the above two incidents was threatened by the male disputants challenging the decisions, and indeed the authority, of the officers. The threat by the police to use their powers was enough in both situations to 'persuade' the men to cooperate with the officers. The police are the only ones with a legitimate claim to intervene in the affairs of citizens, to enforce the law and keep the peace and to exercise force in carrying out their duties (Bordua and Reiss, 1966). Indeed, as Bittner (1980) argued, their legitimated claim to legal force is the central characteristic of the police role. This means that when an officer wants a man to leave his own home for the night he usually only has to ask him to do so. In asking the men to leave their homes, these officers were not doing anything that the women, or any other private citizen, could not have done. They were simply making a request and yet, despite the fact that sometimes they had no more *rights* than the women, their 'authority' guaranteed compliance in many of the cases. Even though officers do not always have the necessary police powers to achieve their goals they have the full ideological weight of the law behind them (Kemp et al., 1992).

As Dixon *et al.*, (1990) have found, from research on the legal regulation of police powers under PACE, police officers may be able to achieve their objectives not by using a legal power, but by securing the 'consent' of the suspect. An officer does not usually have to arrest someone or physically grapple with him in order to make him comply with his demands. Police officers are symbolically distanced from the other actors by their uniforms, their technology, the law which they represent, and the force at their command. Hence, what might superficially appear to be compliant consent to an officer's suggestion might, in fact, be unwilling acquiescence, submission, or cooperation or compliance rooted in ignorance of the possibility of acting differently (Dixon *et al.*, 1990). When a male disputant was asked to leave his own home he generally had neither the knowledge nor the power to consent in any true sense of the word.¹⁶⁰ Hence, the criminal law allows officers to manage disputes even when they do not enforce it or directly threaten to enforce it.

Twenty of the 56 suspects who were threatened with arrest refused to comply with the officers requests. All were consequentially arrested. Their pugnacity, often coupled with being disinhibited by alcohol, meant that they were not willing or able to cooperate in the negotiation process. The following excerpt shows an attempt by an officer to negotiate with a suspect, despite the officer's obvious irritation at being provoked. As was usual, the man was given a few chances to cooperate before the police asserted their authority:

¹⁶⁰Similarly, disputants rarely ask officers what *rights* they have to enter their homes and demand that they disclose personal details about their relationship.

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A woman called us up to say that she wanted her 'ex' removing from the house as he was refusing to leave. They had recently split up and he had come round to see the baby. She had allowed this although they have a history of domestic disputes. She wanted him to leave after a while but he told her to 'fuck off' and said he would not go. ... There had been no violence but she was afraid. I tried to talk to him and reason with him but he was very arrogant and very condescending. I told him to leave. I gave him a couple of chances to leave, and eventually he went. He then went outside and sat in his car and would not drive off. I again told him to leave. He swore at me, drove 100 yards and parked up again. I then went to his car and arrested him to prevent a further breach of the peace. I thought enough's enough!

Officers tended to be most willing to negotiate with truculent suspects when they sympathised with their emotional plight, as the following example shows:

This was a very young couple with young children. She had thrown him out on many occasions. He kept returning and pressurising her to take him back - pushing his way into her home and hitting her. On this occasion he had forced his way in. After we arrived he left amicably saying he had only come to see his baby. But then he stood outside her home and refused to leave. He kept calling out and saying he wanted her back and he wanted to be with his baby. He was very distraught, crying and shouting and generally harassing her. I went out and spoke to him for 15 minutes and offered to take him anywhere he wanted to go. He refused to go anywhere. I warned him three times that if he did not leave voluntarily I would have to arrest him to prevent a breach of the peace. In the end he was arrested. I used the breach of the peace to give me the power to get him in my car and take him away. He was kept in custody only for long enough for me to call his mum and then I took him to his mum's home on the other side of town. I wanted to get him away from the house as he was carrying four stanley knives on him. He had a fairly plausible excuse to do with his work, but I was concerned for the woman's safety as the man was so upset. I would rather not have arrested him but it was a busy night and I could not spend any more time trying to persuade him to leave voluntarily.

In this incident there was not one uniquely effective move. The officer was faced

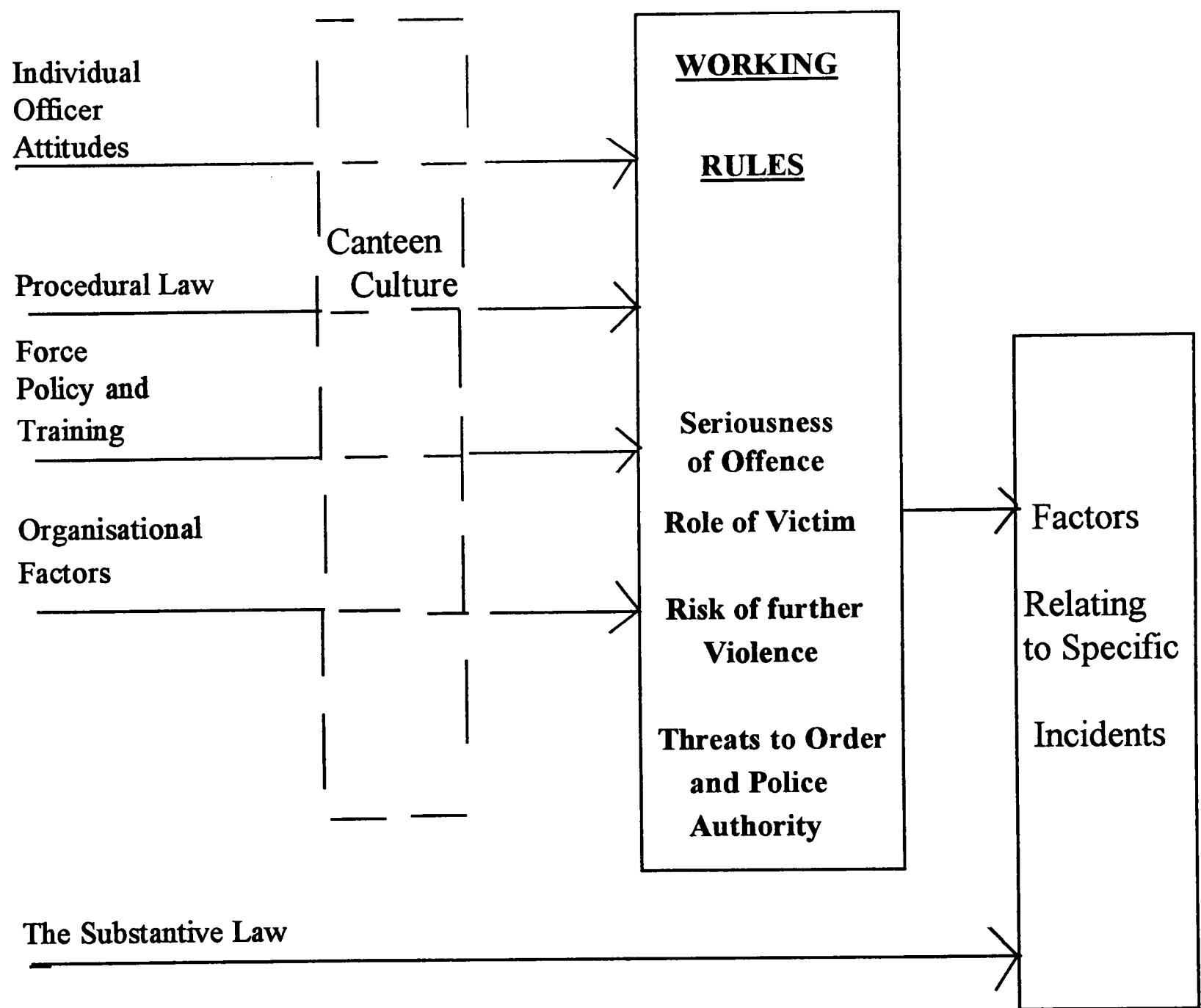
with two options and neither seemed to be ideal. In the end he responded to the woman's predicament and arrested the man.

6.4 Quantitative assessment of the data

The discussion so far has concentrated on the negotiation process involved when officers interact with disputants in order to achieve temporary solutions to what are often on-going conflicts. It has been shown that evidential criteria, seriousness of the offence, the role of the victim, risk and dangerousness, and threats to order or police authority all impact on the interaction between the various actors and hence on the outcome of the negotiation process. In other words, these working rules influence arrest decisions. Figure 4 presented in chapter five showed the factors which influenced the working rules adopted by officers in their response to incidents of domestic violence. Figure 3 (below) develops this model showing the working rules discussed above. The remainder of this chapter will assess the relative explanatory strength of these working rules and the substantive law as factors relating to specific incidents (presented in figure 9, s.6.5 below).

Figure 3

Model of Factors Influencing Police Decisions Regarding Arrest



first, it might be helpful to chart the proportion of incident choices (the decision whether to arrest) which can be explained by reference to evidential and working rules. Table 1 (s.6.2.1) showed that whilst evidence of an offence could explain the

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police choices in the majority of incidents there were 78 cases in which there was evidence of an offence but the suspect was not arrested. Figure 4 (below) shows that 42 of these 78 cases did not result in an arrest because the victim did not want the perpetrator to be arrested and would not make a statement. This leaves 36 cases where the failure to arrest, despite evidence of an offence and despite the victim wanting the suspect to be arrested, needs to be explained. Of these 36 cases 15 did not involve injuries to the victim (the offences were property crimes where the offence was not considered to be serious and where the victim was not thought to be at risk of further violence). Hence there were 21 cases where there was evidence of a violent offence and where the victim wanted the perpetrator to be arrested. In 18 of these incidents the suspect was calm and did not behave in a threatening or confrontational way with the police officers, and the other three incidents were relatively trivial with the victim having sustained only minor injuries.

Figure 4
Officers' Choices: The Explanatory Power of Evidential Criteria and Working Rules.

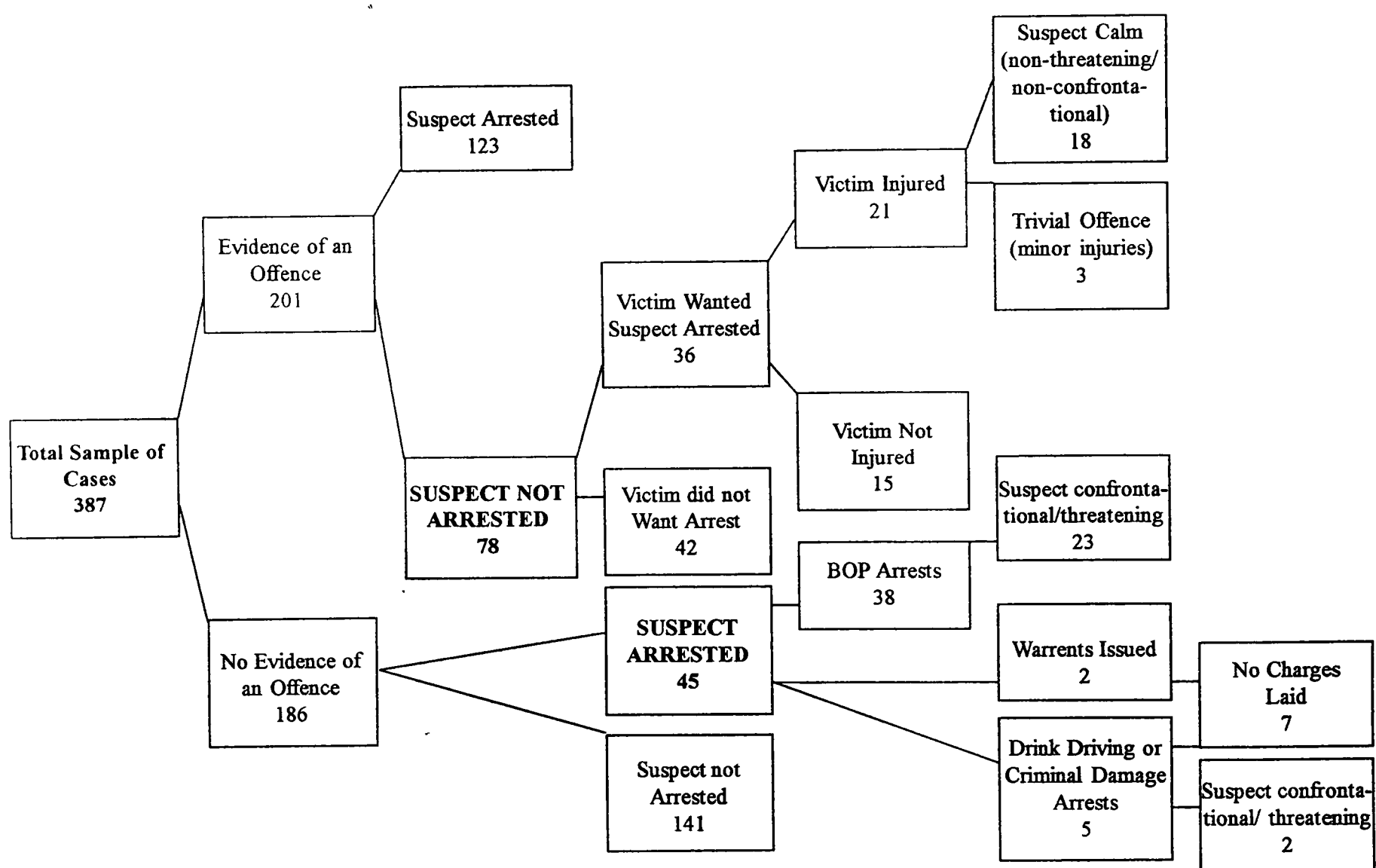
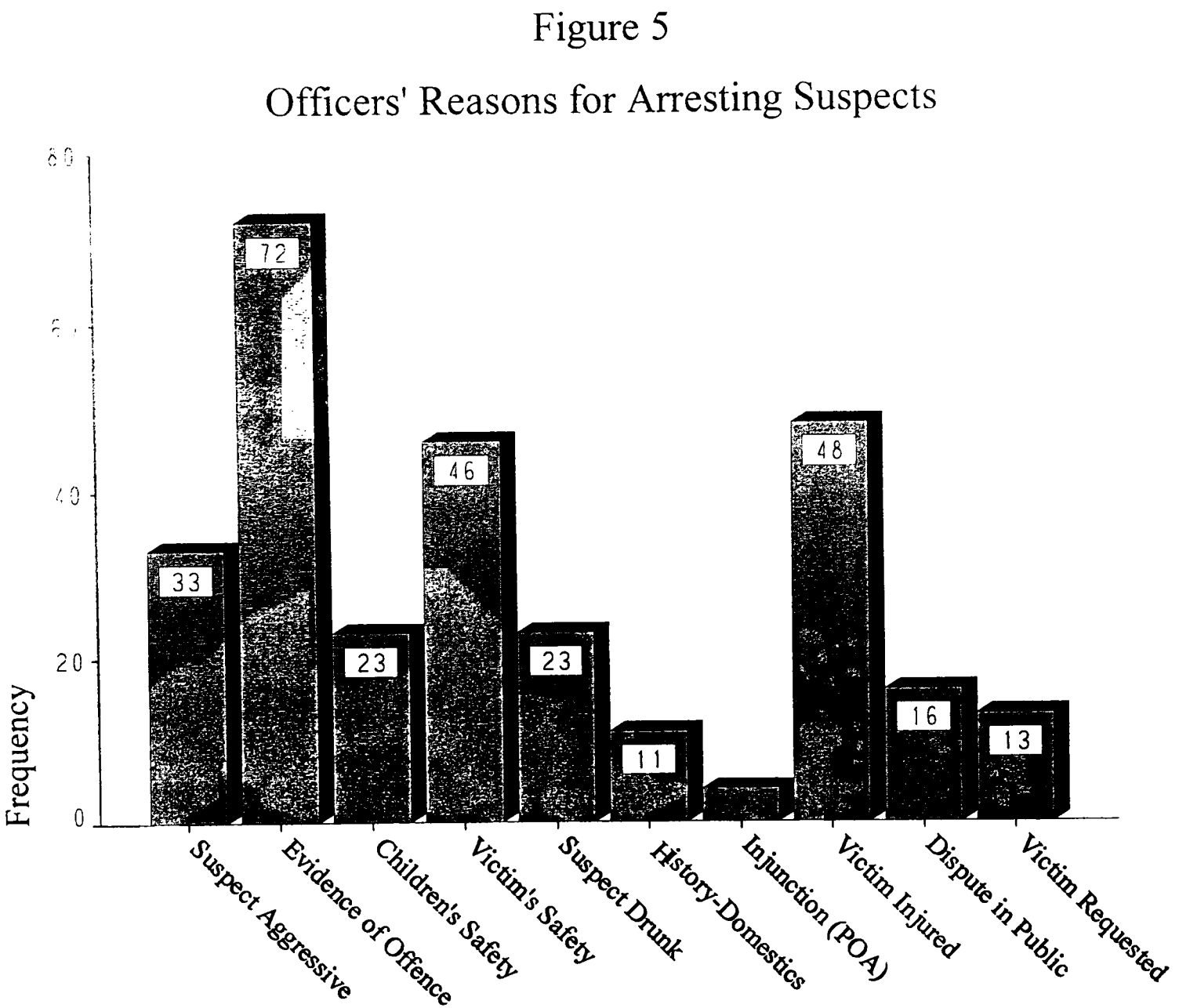


Table 1 (s.6.2.1.) also showed that in 45 of the cases where a suspect was arrested there was no evidence of an offence. As figure 4 shows, the majority of these arrests were for breach of the peace (see the discussion of the criminal law as a resource, above). In 23 of these 38 cases the suspect was confrontational and threatening towards the officers. The others were also - to some extent - 'resource arrests'. The police used the criminal law to remove confrontational suspects and give victims some brief respite. None resulted in a criminal charge. Of course, as discussed above, in many of the cases charted in figure 4 more than one factor will have influenced the officers' decisions regarding arrest. The chart crudely reduces complex data to illustrate the working rules which seem to have had the greatest impact on the decisions made. However, in some incidents 'explained' by reference to evidential criteria, for example, one or more of the working rules would also have played a part in shaping decisions. There will have been an inter-play between various factors.

Of course, the simplest way of discovering why officers arrest some men and not others is to ask individual officers to provide reasons for their actions in specific cases. This was done in relation to all of the 387 incidents charted in this study. Justifications for arrest or for no further action were not taken at face value but tested against all of the information gathered, from the officers, the victims and from direct observation. An examination of these data provided support for the qualitative analysis of the interview data.

Figures five and six illustrate the range of answers.



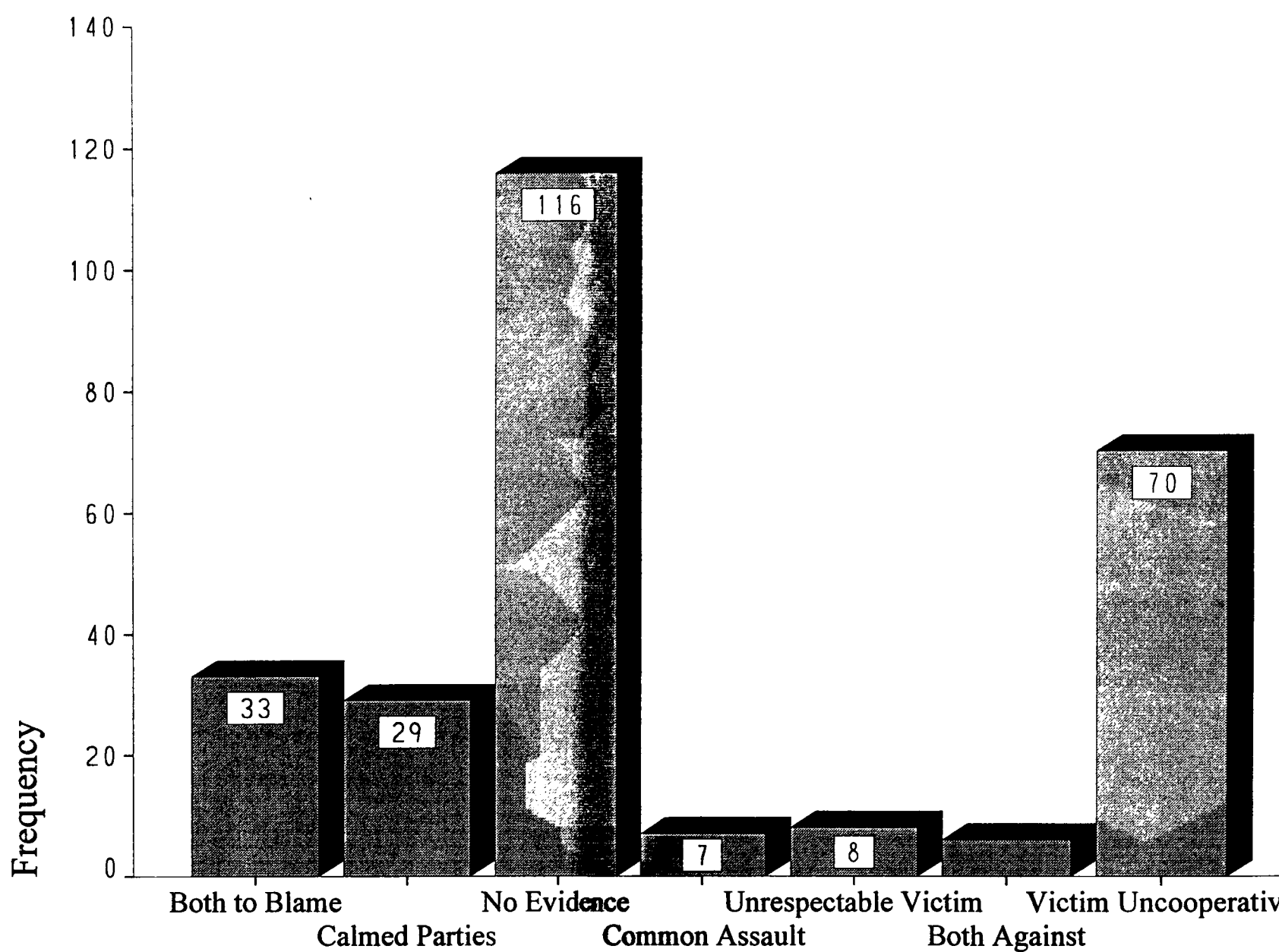
Note: The numbers in the columns add up to more than 168 (the number of suspects arrested) as for some incidents officers offered more than one reason for arrest.

In nearly one in five cases evidence of a criminal offence was cited as the reason for arrest. The second most often cited reason was evidence of victims' injuries.

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Securing the safety of the victim and her children were also regularly mentioned as reasons for arresting suspects. The aggressive demeanour of the suspect was also often cited as a reason for arrest and in six per cent of the 387 cases the officer justified an arrests by reference to the drunken state of the suspect. In only a few cases did the officers explain that they arrested the male because the victim requested it. This might suggest that the wishes of the victim, rather than being paramount, were of minimal importance. However if we look at figure 6 we can see that the victim not wanting, indeed being positively against, an arrest is the second most often cited reason for not arresting the male.

Figure 6
Officers' Reasons for Not Arresting Suspects



Note: The numbers in the columns add up to more than 219 (the number of incidents where the suspect was not arrested) as for some incidents the officers offered more than one reason for not arresting the arrest.

As figure 6 shows, lack of evidence was the reason given for not arresting the suspect

in over a quarter of the 387 cases. In 33 cases the officers argued that they did not arrest the suspect because both suspect and victim were equally to blame for the dispute. And in eight cases the officer made some derogatory reference to the victim, either blaming her for provoking the dispute or stating that she was a 'bad' wife or mother and implying that she did not deserve police protection. However, closer examination of these cases shows that in the majority there were other non-judgemental reasons for officers' failure to arrest, for example, a lack of evidence (see the discussion of officers' attitudes in chapter five). Finally, some of the officers explained that they had not arrested anyone because they had managed to calm the parties involved. Whilst this was not frequently offered as an explanation for failure to arrest the discussion above shows that the successful negotiation of a temporary resolution was a much stronger reason for officers not arresting the male disputant than perhaps they realised.

In order to test the conclusions arrived at through qualitative analysis and basic statistical analysis of the interview and observation data (presented above and in chapter five), a logistic regression analysis was performed on the interview data with independent variables being chosen from cross-tabulating all variables with the dependent, dichotomous variable, arrest. Two regression analyses were conducted. In both, those variables which attained a probability score of one per cent or less ($p < .001$) were entered for regression, but in the first the 'cultural variables' identified in chapter five were also included. As stated in chapter five, none of these variables were included in the final model (all were rejected in the early stages of regression).

The second regression analysis included only those variables which attained a probability score of one per cent or less. Figure 7 shows the variables in the equation for this model¹⁶¹ (the independent variables are explained below the table).

Figure 7

Parameter Estimates for the Logistic Regression Model.¹⁶²

Variable	B	S.E.	Sig	X ²
Alcohol	.5600	.2632	.0333	23.90
Evidence	1.2584	.3082	.0000	53.83
Aggressive	1.6229	.3091	.0000	36.94
V/action	1.9156	.2946	.0000	56.56
V/calm	-.6021	.3039	.0476	13.56
V/injured	.5582	.3106	.0723	19.99
Constant	-3.0944	.3683	.0000	

The explanatory variables:

Alcohol: the suspect was under the influence of alcohol.

Evidence: there was sufficient evidence of an offence having been committed (it was the researcher, and not the officer, who decided whether or not there was sufficient evidence of an offence, according to all of the information provided by officers).

¹⁶¹The variables were entered at .05 and removed at .10.

¹⁶²‘B’ is the estimated coefficient; ‘SE’ is the standard error; ‘Sig’ is the significance based on the wald test; ‘X²’ is the chi-square statistic for the cross tabulation between each variable and the variable ‘arrest’.

Aggressive: the suspect was aggressive or confrontational towards the officers.

V/action: the victim wanted the police to take action - to arrest the suspect or to remove him from the scene.¹⁶³

V/calm: the negative statistic indicates that the victim was not calm.

V/injured: the victim was injured.

There were only two variables rejected from the equation. These were 'victim was afraid' and 'victim was hysterical'. In both cases the variables were probably rejected because of multicollinearity with the variable 'v/calm', as women who were afraid or hysterical were not likely to be calm.

The classification table for this final model is presented below to illustrate how well the model fits. It shows the comparisons between the predictions and the observed outcomes.

¹⁶³This variable was created by combining the data for the victim's request that the suspect be arrested with her request that he be removed (see table 4, above).

Figure 8

Classification Table for Arrest.

Predicted Arrest			
Observed	No	Yes	% Correct
No	171	48	78%
Yes	40	128	76%
Overall 77%			

This classification table shows that this model successfully predicted the decision to arrest or not in 77 per cent of the cases studied. Hence the variables in the model above would accurately predict whether or not a man would be arrested at any one time within the two police areas under study (if the external conditions, such as force policy, were the same as during the fieldwork period) in 77 per cent of cases.¹⁶⁴

¹⁶⁴Another way of assessing the goodness of fit of a model is to examine how "likely" the sample results actually are, given the parameter estimates. The probability of the observed results given the parameter estimates is called the likelihood. Because the likelihood is a small number less than 1 it is typical to use -2 times the log of the likelihood as a measure of how well the estimated model fits the data. A good model is one that results in a high likelihood of the observed results which means that the figure for -2 times the log likelihood is small. If a model fits perfectly the likelihood is 1 and -2 times the log likelihood is 0. The -2 Log Likelihood for this model was 311.081. Another measure of how well the model fits is the 'goodness-of-fit statistic'. This statistic compares the observed probabilities to those predicted by the model. The 'goodness-of-fit statistic' for this model was 499.380.

Certain interactional effects¹⁶⁵ were tested in cross-tabulations with the arrest variable (choices were theoretically informed) to see if some of the variables became stronger in relation to others, rather than assuming that they all worked independently of each other or in addition to each other. The only interaction effect which was considered to be strong enough to test logistically (according to log odds ratios) was the interaction of the victim's wishes concerning arrest and the aggressive/confrontational demeanour of the suspect. However, whilst this was significant in a cross tabulation, it was rejected from the logistic regression model (significance statistic .2066).

6.5 An alternative model

Chapter five presented a model of the 'cop culture' explanations of the police response to domestic violence but concluded that 'cop-culture' alone could not explain the police decision making process at incidents of domestic violence. Qualitative and quantitative assessment of the data collected during the Thames Valley study suggested 'cop-culture' interacted with other contextual factors such as organisational criteria, force policies and training, procedural law and individual

¹⁶⁵When certain variables (it can be any number of different variables) have combined effects, that is that their joint effects are non-additive, it is called an 'interaction effect'.

officer attitudes to create a set of working rules which shaped the exercise of police discretion. This chapter has shown that decisions in nearly all of the 387 cases recorded in the Thames Valley study could be explained by reference to either these working rules or the substantive law. Thus, an alternative explanatory model has been conceived. The factors (explanatory variables) presented in figure 9 relate to the evidential and working rules of operational patrol officers and directly affect the officers decision making process.

Figure 9

An Alternative Model of the Police Decision Making Process

NO ARREST	EXPLANATORY VARIABLE	ARREST
No Evidence	Evidential Criteria	Sufficient Evidence
Minor Offence	Seriousness of Offence	Serious Offence
No/Minimal Risk of Further Violence	Risk of Further Violence	Immediate Risk of Further Violence
Victim does not Want an Arrest	Victim's Wishes	Victim Requests Arrest
Victim Calm	Victim's Demeanour	Victim Agitated
Suspect Calm	Suspect's Demeanour	Suspect Aggressive and Confrontational

There are two factors in the model which do not feature in the logistic regression results table: 'the seriousness of the offence' and 'the victim in immediate danger'. These were explanations for decisions which arose from the qualitative data but which were not considered suitable for statistical analysis. The 'seriousness of the offence' was not included because the data gathered for most of these incidents was filtered through the subjective perceptions of officers and was, therefore, not considered detailed or rigorous enough to apply a seriousness scale test to. And to use the offence for which a suspect was arrested as a guide to seriousness would be useless in an analysis which is aimed at testing the factors influencing the decision to arrest. In other words, it is not an independent variable.

The other factor, 'the victim in immediate danger' could not be added to the regression analysis as there were too few cases where it applied.¹⁶⁶ It has been included in the 'alternative model' because in the few cases that it did occur it appears to have been the most influential factor in the decision to arrest.¹⁶⁷ The impact of the specific factors influencing officers' decisions can be measured in two ways: by their frequency and by their power. Firstly, quantitative analysis of the data can show the number of incidents where a specific factor was influential, and,

¹⁶⁶If there are any cells which are empty, or contain extremely small numbers, in a cross-tabulation between the dependent and independent variables, the independent variable cannot be included in the regression analysis.

¹⁶⁷ Logistic regression analysis cannot cope with factors which infrequently occur but are very strong when they do occur.

secondly, qualitative analysis can reveal how powerful an effect a specific factor had on the decisions made. Although the variable 'victim wants police action' was the strongest predictor of arrest in the logistic regression analysis, and victim non-cooperation was the second most often cited reason officers forwarded for non-arrest, in certain incidents other factors, such as the victim being in immediate and serious danger, prevailed over the wishes of the victim as more powerful determinants of the police response.

In trying to analyze the data gathered in this study I have considered a number of different approaches to understanding police dispositions: the impact of legal versus 'working' rules; police discretion; 'cop-culture'; police organisation; and the role of the victim. As discussed in chapter five, these concepts are, to some extent, inter-related, since 'cop-culture' and the police organisation inform the use of police discretion, and the adoption of working rules. The model presented above illustrates the factors which were most influential in the officers' decisions of whether or not to arrest the male in domestic disputes. Of course, each incident is a unique event and the particular outcomes are contingent on a range of factors, including particular situational and biographical details. For this reason no model can, or should, attempt to provide a deterministic recipe for action. However, it does identify those factors which are strong determinants of police behaviour when responding to domestic disputes, and for this reason the model is more than just an heuristic device.

The statistical analysis of the data gathered in this study, as is evidenced above, has

shown that officers are, to some extent, bound by legal rules and organisational factors, and, more importantly, they do not exercise discretion in a random or pattern-less way. Their discretion is structured according to working rules developed by policing on the ground. Further, it has shown that citizens enter the criminal justice system not only as alleged violators or victims, but also as, to a certain extent, enforcers of the law.

This chapter set out to assess the extent to which evidential rules can explain police decisions regarding arrest and the extent to which these decisions can be explained by working rules. It has been shown that evidence of an offence does not necessarily produce an arrest and the lack of it does not necessarily prevent officers from making an arrest. Clear, incontrovertible evidence of an offence often led to an arrest but not because the police pursued rigorously all cases where there was evidence of an offence, but, rather, because evidence facilitated police action when the working rules pointed towards an arrest. In other words, when the police had other reasons for wanting to arrest someone, either, for example, because the suspect had challenged their authority or because the victim wanted him arrested, or was in further danger, and they felt that it would be to her benefit, evidence of an offence allowed them to do this. Hence, the criminal law did not determine arrests but, rather, it often facilitated them. Thus to paraphrase McConville *et al.*, the substantive law makes arrests possible, but it does not dictate that arrests should be made: the reason for the arrest has to be sought elsewhere (1991: 17).

Police powers and the criminal law are mediated through the sub-cultural norms and values of policing so that they provide a resource for the police to act in a way which they believe to be most appropriate. In some cases officers decide what response is most helpful to themselves and to the victim, or other interested parties, and then fit their legal powers around their decision. In other words, the choice of response often came before the assessment of the position of the criminal law (Bittner, 1967). Hence the criminal law was often used as a means of controlling one or both disputants, invariably to impose order and to assert authority over the disputants, and as a measure of temporary relief for the victim. This is the way that the 'law in books' is translated into the 'law in action'.

CHAPTER 7

Factors Which Shaped The Decision To Charge And Prosecute

When the police make an arrest the suspect is taken to the police station so that detention can be authorized by the custody officer.¹⁶⁸ Detention in custody allows the arresting officer, and sometimes his colleagues, to interview the suspect. When the officer believes that he has sufficient evidence to prosecute he is supposed to stop the investigatory process¹⁶⁹ and put the facts before the custody officer who can then decide whether or not to charge. However, even when the custody officer believes that he has sufficient evidence to charge the suspect with the alleged offence there are a number of choices: he can decide to caution him; he can release him with no further action (NFA); he can delay the decision either by releasing the suspect on police bail to return at a later date or by reporting the suspect with a view to a summons; or he can charge the suspect. If the decision is to charge, the

¹⁶⁸PACE created a new type of officer, namely the 'custody officer'. Custody officers need to be at least the rank of a sergeant. They are responsible for suspects' rights and welfare whilst in custody. As such they must inform the suspect of their rights and record the details of the suspect and alleged offence and keep detailed custody records of all interactions between officers and the suspect once the suspect has been 'logged in' on arrival. The custody officer has, in theory, to decide whether or not to detain the suspect and, if so, on what grounds, and whether or not to charge the suspect and, again, if so, on what grounds.

¹⁶⁹PACE 1984 Code of Practice C, para. 11.4.

Administration Support Unit staffed by police officers and civilian employees, 'processes' the case and sends the file to the CPS.¹⁷⁰

The original intention was to interview custody officers about these decisions but during the pilot study it was decided not to continue with this part of the fieldwork. This decision was reached in part because custody officers, while easy to locate, were invariably too busy to devote sufficient time to an interview.¹⁷¹ However, the main reason for not continuing with these interviews was that the responses obtained from custody officers suggested that they did not, in any real sense, make decisions. Rather, decisions were made by the patrol officers in charge of the cases or by the victims (see below).

McConville *et al.*, found that the custody officer is not an independent decision-maker, as PACE intended him to be. They cite examples of custody officers admitting that they would go along with whatever the arresting officer said: "I'm dependent completely on what the officer says happened." (1991: 122). Indeed, Sanders and Young (1994) have argued that it is very rare for custody officers to caution or release a suspect with no further action when arresting officers want to

¹⁷⁰The CPS, set up in 1986 by the Prosecution of Offences Act 1985, is an independent prosecuting authority headed by the Director of Public Prosecutions and responsible for the prosecution of most of the criminal offences brought by the police in England and Wales.

¹⁷¹The few interviews which were conducted were hindered by constant interruptions.

charge, and vice versa. The Thames Valley study supported the findings of these critics. Indeed there was only one case, of the 387 investigated by the researcher, in which the researcher was aware that the custody officer had challenged the decision of the arresting officer.¹⁷² It was clear that reliable information regarding the charge decision could more easily be obtained from the arresting officer.

This chapter will examine the factors which shaped the decisions made by officers regarding charging and the processes by which cases came to be prosecuted or discontinued by the CPS. In discussing these decision making processes, two themes which emerged in the previous chapter will be further developed: first, the role of the victim in the criminal justice system; and secondly, the use of the criminal law as a resource.

7.1 Factors influencing the initial charge and prosecution decisions

Of the 224 suspects arrested in the Thames Valley study, 27 per cent (61) were charged with a criminal offence and 61 per cent (137) were refused charge. Ten per cent (23) were either cautioned, dealt with by the county court (usually for breaching

¹⁷²This was an unusual case involving a man voluntarily attending the police station to report that he had strangled his wife. The wife survived the attack and refused to make a statement. The officer in charge of the case requested that the man be charged, but the custody officer decided against this as there were no independent witnesses and no complainant. This case is discussed below.

a county court order) or charged with breaching the peace and bound over to keep the peace by the magistrates court.¹⁷³ The remaining three suspects were released on police bail [47(3)] whilst the police sought advice from the CPS. In all three cases the CPS decided against prosecution and the suspect was released from police bail with no further action taken (see Appendix 1, figure 1).

In 33 per cent (20) of the cases charged the CPS discontinued or offered no evidence¹⁷⁴ (although half of these suspects were bound over to keep the peace), and in five per cent (3) of the cases the charges were dropped by the police (see Appendix 1, figure 1). The other 38 (sixty two %) were prosecuted to the point of conviction.

The victims wishes were identified in all of the 387 cases examined in detail. As explained in chapter three, 168 of these cases resulted in an arrest. In 71 of these 168 cases the victims withdrew their statements after the suspect had been arrested (see table 1). Custody Sergeants refused to charge the suspect in 75 per cent of these 71 cases (although in six of these cases the suspect was put before the magistrates court and bound over to keep the peace). In the remaining 18 cases the suspect was charged because the victim did not withdraw her support until the file had been sent to the CPS. Hence, in all cases where the victim withdrew her support prior to the

¹⁷³These bindovers were civil resolutions. The defendants must not breach the peace for the period of the bindover, usually six or twelve months. Failing to keep the peace will result in a penalty of usually £50. or £100.

¹⁷⁴Both dispositions are, in practice, identical in effect and amount to acquittals.

decision to charge the police refused to charge the suspect.

Table 1

Victim Withdrawal: Number and Percentage of Suspects Charged

	Refused charge	Suspect charged	Total
No withdrawal or no statement	54 (56%)	43 (44%)	97
Victim withdrew	53 (75%)	18 (25%)	71
Total	107	61	168

If we examine all of the cases where the police refused to charge the suspect we can see that in almost half of these cases the victim had withdrawn her statement after the arrest and before the decision to charge was made. The majority of the remaining ‘refused charge’ cases were arrests for breach of the peace where the victim had made no statement at all and where neither she nor the police intended for the suspect to be charged with a criminal offence. Only three cases involved victims making but not withdrawing their statements and the police refusing to charge and these were sent to the CPS for advice (as stated above, none were prosecuted). Hence, the data show that when suspects are arrested for breach of the peace or when witnesses withdraw their statements suspects are unlikely to be charged.

A total 58 cases were sent to the CPS - four were prosecuted on reduced charges and

20 (34 %) were discontinued.¹⁷⁵ Hence, just over half (34) were prosecuted on the initial charge. The majority of the discontinuances were because the victim withdrew her complaint (see table 2). This had implications for both the public interest and evidential criteria (although there were four cases which were discontinued despite support from the victim). Indeed, of the 18 cases where the victim withdrew after the file had been sent to the CPS 16 were discontinued because of the withdrawal (six of these suspects were bound over to keep the peace) and two resulted in a prosecution for a reduced charge.¹⁷⁶ Both of these suspects had initially been charged with ABH but the charges were reduced to common assault when the suspects was persuaded to enter guilty pleas to the lesser charge. As Cretney and Davis (1996) have argued, victim withdrawal presages discontinuance.

¹⁷⁵For the purposes of this discussion 'discontinuance' is used to cover both cases which were stopped in court either by withdrawal or by the CPS offering no evidence against a defendant and cases discontinued at a preliminary stage by formal written notice (under section 23 of the Prosecution of Offences Act 1985).

¹⁷⁶The charges were reduced in the other two 'reduced charge' cases because there was insufficient evidence.

Table 2

Prosecutors' Reasons for Discontinued Cases.

	W/drew	Evidence	Pub. Int.	Total
Discontinued bindover¹⁷⁷	6	1	3	10
Discontinued - NFA	10	-	-	10
Total	16	1	3	20¹⁷⁸

W/drew: The prosecutor discontinued the case because the victim withdrew her complaint.

Evidence: The prosecutor discontinued the case because of insufficient evidence.

Pub. Int: The prosecutor discontinued the case according to public interest criteria.

¹⁷⁷A bindover may be imposed as part of a sentence upon conviction, but in these cases it was imposed without conviction. The defendants accepted a bindover when the charges against them were withdrawn.

¹⁷⁸As discussed in chapter three, interviews were sought with prosecutors in relation to these 20 cases which had been discontinued, the three cases on which they had advised the police to take no further action, and the four cases where the suspect had been prosecuted on reduced charges. However, in only 25 of these 27 cases were interviews conducted. This was because the CPS could not locate the files of the other two cases. The researcher knows, from discussions with police officers in charge of the cases, that the victims withdrew in both cases, but no other knowledge is known of the prosecutors subsequent decisions. One of these incidents was sent to the CPS on an ABH charge, the other on a 'GBH wounding with intent' (s. 18 OAP Act).

Interviews with prosecutors as well as with police and victims showed that there were two main reasons why cases were not charged: first, that it was never the intention of the officers or victims to charge in a number of cases and; secondly, that the victim withdrew her support for the prosecution (the reason why so many cases were discontinued by the CPS). Before looking at the decision to prosecute, however, the factors which shaped officers' decisions to charge suspects will be examined.

7.2 The decision to charge

Considering the high attrition rate in these cases of domestic violence it might be more relevant to discuss the factors which persuaded officers not to charge a suspect. As mentioned above, there are essentially just two such factors - the intention to arrest suspects for reasons other than prosecution and the uncooperativeness of the victim.

7.2.1 Prosecution was never the intention

There were 101 arrests for breach of the peace and in the majority of these cases charges were refused. Occasionally after the suspect had been arrested it transpired, from talking to the victim, that he had committed an offence and so he was charged with a criminal offence (see Appendix 2, figure 2). However 88 of the men arrested for breaching the peace (typically the arrests were common law arrests 'to prevent a further breach of the peace') were released with no further action. In the majority

of these cases prosecution was not the intention of the arresting officers. Instead arrest was used as a resource to terminate domestic disputes: to maintain order and prevent further trouble; to provide the victim with a little 'breathing space' to consider the options and take initial action if desired; to give the suspect a few hours in a cell to calm down (an immediate crime prevention measure); and to issue some summary punishment (Singh Choong, 1994) (see chapter six).

Under PACE (s. 37) a custody officer can only agree to a period of detention if the arresting officer intends to keep the suspect at the station in order to gather evidence, to preserve evidence of an offence, or in order to charge. In many of the arrests made in this study the officer clearly had no such intentions and yet custody officers allowed the suspects to be held in detention for up to six hours.¹⁷⁹ Whilst these arrests were lawful, the legality of these detention decisions was rather less clear. Custody officers could have justified the detention of suspects without charge by arguing that they intended to put each suspect before the magistrates court in order to achieve the civil resolution of a bindover to keep the peace, but once the suspects had calmed down it was no longer necessary to have them bound over. However such justifications were not considered necessary as the law in this area is sufficiently imprecise as to allow officers to use it as a resource for aims other than prosecution. If these suspects were to be released immediately (whilst still agitated and possibly under the influence of alcohol or drugs) they might return to the scene of the dispute

¹⁷⁹A suspect can be held without review for six hours or until he has been charged with a criminal offence.

and cause damage or harm to persons or property. Unlike disputes in public - for example fights in the street, where disputants can usually be released immediately after arrest without the likelihood of the dispute starting up again - domestic disputes require that one party be removed from the presence of the other for enough time for the antagonist genuinely to calm down. PACE does not authorise detention for these purposes but it is a common sense use of the powers contained therein.

It seems, therefore, that a different interpretation can be made of the high attrition rate. Critics have tended to assume that if arrests do not result in prosecutions the police have failed the victim. The fact that many of the arrests, especially those for public order offences, did not result in a charge is not necessarily a sign of police failure, it may often have been a sign that the police used the law in order to resolve a dispute even when they had no realistic prospect of getting a conviction. In other words, they did not *fail* to charge - they *never intended* to charge, for in many cases there was no evidence on which to base a charge. But they used the law as a resource for the benefit of the victim.

Feminist researchers have suggested that men who are violent towards their partners are frequently charged with crimes of lesser seriousness than would appear to be justified by the facts. Edwards (1986) found that often men were charged with breach of the peace or being drunk and disorderly rather than with assault, and when an assault charge was made it was often a common assault charge, with the victim being

advised to prosecute privately. Criming down,¹⁸⁰ like the failure to arrest in cases of domestic violence, has been explained by feminist researchers in terms of "undeserving victims" and cultural attitudes regarding the privacy of the home and the acceptability of certain behaviours (Smith, 1989). The majority of the breach of the peace arrests in the Thames Valley were not examples of the police under-enforcing the law, but rather examples of the police engaging in law enforcement for 'social service' ends when, because of uncooperative victims or lack of evidence of an offence, they believed that they had little hope of achieving a prosecution (discussed in chapter six).

7.2.2 Uncooperative complainants

Sometimes police officers arrested suspects even though the victim was uncooperative because they considered the violence to be serious and the victim in danger of further harm (see chapter six). However, the decision to charge - even in very serious cases - was shaped almost entirely by the victims' wishes, as the following case illustrates¹⁸¹:

This couple were a common law husband and wife. There were three

¹⁸⁰The practice of moving the classification of the offence from ABH (s. 46 of the Offences Against the Person Act, 1861), a crime which typically requires police action and public prosecution, down to 'common assault' (s. 42 OAPA, 1861), (since the Criminal Justice Act 1988 [s. 39] common assault is a summary offence) which is usually dealt with through a private summons or by civil action, has been referred to as 'criming down' (Edwards, 1986).

¹⁸¹As with the quotations presented in chapters five and six, all excerpts from interviews recorded in this chapter are the words of the responding patrol officer unless otherwise stated.

separate reports from members of the public of a male attacking a female within four minutes. They were arguing in public. Both were injured: the male had cuts and abrasions to his fists, from punching her, and scratches on his face. The female had bleeding from her mouth, some teeth had been knocked out and her left jaw was very swollen. She had cuts to her ears and abrasions on her hands from falling to the ground when he pushed her. She was asked if she wanted to press charges for GBH and she said no. I arrested him anyway, but she tried to prevent us making the arrest and when her partner was put into the car she tried to pull him from it. She pretended that she could not remember anything. The ambulance had arrived but she had refused medical attention. Both of them were taken to the station but the custody officer was worried about her state and so we took her to the hospital. When I followed up the case, I found out she had a broken jaw, which is now wired up with plates. Her teeth were braced and wired. She had suffered from internal bleeding in her stomach and had to have an operation the next day for internal injuries. I phoned her again a week later and asked her to make a complaint, but she kept saying no because she loved him. And she would not even tell me where I could find him.

Although arrested for GBH, the man was released without being charged because the victim had refused to make a complaint.

Police officers often referred to the difficulties inherent in achieving a successful prosecution, particularly for a crime of violence. They argued that they wanted to be sure of a witness's commitment to the prosecution effort before they used scarce resources in preparing a case for the prosecution. In practice they never attempted a prosecution when the victim was hostile. However, even in cases where a statement had been taken and there was photographic evidence of injuries the police chose not to send a file to the CPS when the victim withdrew her support. In one case they argued that the woman's learning disability meant that the CPS would be unlikely to compel her to testify. In other cases there were other justifications. One

woman, who had been married for only six weeks and had been assaulted by her husband on four separate occasions since the wedding, had been subjected to a serious assault. The police had been alerted by her husband who had voluntarily gone to the police station and told the station duty officer that he had strangled his wife and that she might be dead. The responding officer found her alive but distressed. However, he explained that:

She was adamant that she did not want to make a complaint. I tried to persuade her to but she would not budge. I asked the custody sergeant if he could be interviewed for a bindover but the sergeant said no as she was not making any complaint.¹⁸²

When asked why he decided against sending the papers to the CPS, the custody sergeant argued that "there would have been no point as they would not take it on without any witness".

In all of the three cases where the charge was dropped and in many of the 23 cases disposed of in the magistrates or county courts on the day of, or the day following, the arrests the witness had refused to support police action. Hence when Sanders and Young (1994: 214) argued that the police "have little interest" in 'domestics' they failed to appreciate that it is more typically the victim who has little interest in a prosecution, and not the police - as was shown by quantitative analysis of the data.

Logistic regression analysis was carried out on all of the incidents which had resulted

¹⁸²This was the only case where a custody officer made a decision which was different from the action suggested by the officer in charge of the case - see above.

in an arrest. The dependent variable was 'criminal charge' (61 of the 168 arrests resulted in a criminal charge being laid)¹⁸³ and the independent variables were those which had been tested against the decision to arrest (except for the variables 'evidence' and 'victim injured').¹⁸⁴ This analysis created a model with just two variables as predictors of the decision to charge: i) the victim requested an arrest, and ii) there was a history of disputes between the couple.

i) The first, and strongest, of the two predictive variables in the model was also one of the strongest variables for predicting an arrest. It is not surprising that if a woman wanted her partner arresting in the first place she would be more likely to want to see him charged and prosecuted. Qualitative analysis of the data shows that the police value a cooperative witness above almost anything.

ii) The second predictive variable, history of domestic violence, was not included in the logistic model for arrest. It might have been absent at that stage because when the police were deciding whether or not to arrest they might not have known about the history of violence. Alternatively the other variables, such as the demeanour of the suspect or victim or the evidence of an offence, could have been such strong determinants as to weaken the predictive power of the history variable. However, it was a strong predictor of the decision to charge. There are two possible explanations for this.

¹⁸³In three of these cases the charges were subsequently dropped.

¹⁸⁴It was considered inappropriate to use these two variables to measure the factors influencing the decision to charge as there is very little chance of someone being charged when there is no evidence of an offence, the victim having sustained injuries providing further evidence.

Firstly, in cases where there was a history of violence it is more likely that the police involved in the decision making process would have had prior contact, or at least knowledge, of the suspect and might, therefore, be more inclined to lay charges. Knowing that he had been violent or caused disturbances on previous occasions, officers might have decided that previous warnings, or conciliatory approaches, had not deterred him and this time they needed to take criminal action.

Considering the strength of the other variable in the model, there is a more plausible explanation: that the victim having suffered similar abuse in the past had finally decided that she had had enough. Research suggests that women will often suffer numerous acts of violence before engaging with the criminal justice system (Smith, 1989). Hence it is probably the case that the victims in this study who had experienced such abuse before were more willing to see the suspect prosecuted than were those for whom the incident was the first such event. If this latter explanation is correct then both variables in the regression point in a similar direction - to the importance of victim co-operation in the decision to charge domestic violence offences.

7.3 The decision to prosecute

The data collected from both police and prosecutors in the Thames Valley show that 'victim unreliability' is a fact and not a myth postulated by criminal justice agents to

excuse their inaction (as suggested by some critics - see chapter six). The complainant's reluctance to support a prosecution was the most influential factor in the initial decisions regarding charge and prosecution in cases involving an arrest for a criminal offence.

Other American and English data also suggest that the majority of domestic violence cases are not proceeded with because of victim withdrawal (see Quarm and Schwartz, 1983; Edwards, 1986; Crisp and Moxon, 1994). Indeed, Cretney and Davis have argued that in *all* cases of assault "It is difficult to overestimate the importance of witness evidence" (1995: 107). In the incidents they followed it was only the availability of independent witnesses which made a prosecution viable. In cases of domestic violence, because of the very private nature of the violence, the police invariably do not have the luxury of independent witnesses:

As far as 'domestic' violence and violence in the drugs world are concerned, the low conviction rate is a direct result of victims' inability or unwillingness to make a formal complaint or to give evidence when called upon to do so. In other words, this high failure rate is not necessarily reflected in the trial: most cases do not get that far (Cretney and Davis, 1995: 144).

The CPS should review all cases referred to it in accordance with the principles set out in the Code for Crown Prosecutors (hereafter referred to as 'the Code'), issued pursuant to section 10 of the Prosecution of Offences Act 1985,¹⁸⁵ and then decide

¹⁸⁵Under section 10 of the Prosecution of Offences Act 1985 the Director of Public Prosecutions issues a Code for Crown Prosecutors giving guidance on general principles to be applied by the Service in determining whether cases should proceed

whether to prosecute or drop the case.¹⁸⁶ In order to decide which cases to prosecute and which to dismiss, prosecutors should apply the tests set out in the Code. The first is the strength of the evidence¹⁸⁷. They should be satisfied that there is "admissible, substantial and reliable evidence that a criminal offence known to the law has been committed by an identifiable person [and that] there is a realistic prospect of a conviction" (CPS, 1992, para. 4).¹⁸⁸ Where the evidence satisfies the evidential criterion, the prosecutor should go on to consider whether the public interest requires a prosecution. Only if the public interest criterion is also satisfied should the case proceed to prosecution. These criteria apply to offences committed in domestic circumstances as they do to any other offence. However, when the case is one concerning domestic violence the CPS follows additional guidelines in deciding on the disposal of cases.

In April 1993, before prosecutors were interviewed for the study reported in this

or not. The Code forms part of the Director's Annual Report to the Attorney General, which is laid before Parliament in accordance with section 9 of the Act.

¹⁸⁶The CPS is entitled to discontinue a case as soon as it has examined it or at anytime thereafter (Prosecution of Offences Act 1985, s. 23.).

¹⁸⁷Although the slim Code for Crown Prosecutors is publicly available, the CPS makes most of its day-to-day operational decisions on the basis of 'manuals' which contain detailed guidance about what might constitute enough evidence for proceedings, for example.

¹⁸⁸A lot is made of the CPS '51 per cent rule' in discussions of the evidential criteria necessary for a prosecution. The Code makes no reference to this criterion, and Barbara Mills, current Director of Public Prosecutions, in an interview reported in a police journal, argues that the CPS "does not have a 51 per cent rule" (*The Voice of the Service*, 1993b). Indeed the Code only requires that there be a 'realistic prospect of conviction'.

thesis, the CPS updated and published a comprehensive guide issued to staff for dealing with domestic violence cases: the Statement of Prosecution Policy (CPS, 1993). The main tenet of this guide was that the CPS recognised and endorsed the principle that violence in a domestic context was not a factor which reduces the seriousness of the offence. The Statement insists that in cases of domestic violence the prosecutors should, first and foremost, review the case "In accordance with the principles set out in the Code for Crown Prosecutors" (para. 2.1). In other words they should ensure that the evidential and public interest tests are applied before proceeding to prosecution. They are advised against reducing the seriousness of charges; recommended to seek bail conditions or remand in custody to protect victims from further harm or intimidation; and to consider opting for a bindover when the witness has withdrawn her support and the case is to be discontinued. As far as the public interest considerations are concerned the statement points out that:

If there is sufficient evidence to offer a realistic prospect of conviction, and the victim is willing to give evidence, it will be rare for the public interest not to require a prosecution for offences of domestic violence (para. 6.3).

However, on the issue of evidential criteria, the Code asks prosecutors to consider if the witness is "either hostile or friendly to the accused, or may be otherwise unreliable" in evaluating the evidence (s. 5 [iii]).¹⁸⁹ It will be argued below that

¹⁸⁹The Code is regularly updated. The Code referred to in this thesis is the one which was in use in 1993 when the fieldwork for this study was being conducted. In 1994 the Code underwent substantial revision and this cautionary note about 'unreliable' witnesses has been omitted. This might have the effect of strengthening the presumption in favour of prosecution in cases of domestic violence.

in cases of domestic violence it is invariably the latter point which concerns prosecutors. Referring specifically to the problem of hostile witnesses, it continues:

Whilst the victim's wishes will be taken into account when determining whether to proceed with a prosecution, prosecutors must balance an individual's wishes with the wider public interest in prosecuting perpetrators of domestic violence (para. 6.4).

In some circumstances, it states, "an assessment of the public interest might prevail over and above the wishes of the individual victim" (para. 6.7). In deciding whether or not to pursue a prosecution when the victim has withdrawn her statement prosecutors are asked to consider the seriousness of the offence, the history of the relationship and the effect on children of living in a violent household (paras. 6.7, 6.9, 6.10).¹⁹⁰

Recognising the problems incurred by victims withdrawing their complaints, the statement sets out the procedure to be adopted by prosecutors. There are steps to be followed referring to the supervision of the case, communication between the defence and prosecution, and establishment of the veracity of original allegations. If a victim withdraws her testimony the CPS must follow specific criteria in assessing why the victim has withdrawn her support for a prosecution. If the veracity of the original allegations is confirmed but the victim refuses to go to court the CPS has a number of options. It can compel a victim to give evidence in relation to violence against

¹⁹⁰The 1992 Code did not refer to the history of the relationship. However, the revised Code (1994) does state that the public interest is in favour of prosecution if "there are grounds for believing that the offence is likely to be continued or repeated, for example, by a history of recurring conduct" (para. 6.4 (m)).

herself or her children;¹⁹¹ it can proceed without her testimony (provided that the public interest requires a prosecution); and it can use section 23 of the Criminal Justice Act 1988. This permits a statement made by a person to be admissible as evidence of any fact of which direct oral evidence by that person would be admissible, as long as the statement was made to a police officer and as long as the witness refuses to give evidence through fear (para. 3.4 (f) (i)(ii)(iii)). The CPS guidelines state that "discontinuance of the proceedings on evidential grounds should only take place when all options have been considered and found to be inappropriate" (para. 3 (g)). The following section will show that the CPS invariably discontinued cases of domestic violence when a victim withdrew without considering any of these options.

7.3.1 Discontinued cases

In one case, where charges of threats to kill and criminal damage were discontinued because the victim had refused to testify, the prosecutor had discovered, from the officer in charge of the case, that the victim had moved back into her ex-partner's home whilst awaiting a court hearing, thus breaking his bail conditions. Similarly, one man had been charged with ABH but his wife, whom he was still living with, withdrew her statement soon after he was charged, leaving no witness to the offence.

¹⁹¹Up until 1978 spouses were compellable witnesses against their married partners in cases where they had been assaulted. However, in that year The House of Lords [*Hoskyn v Metropolitan Police Commissioner* 1978 2 All E R 136] ruled that a wife should not be treated as a compellable witness against her husband in a case of violence on her by him. Partly in response to rising fears about wives being pressured by partners not to testify this position was reversed by the enactment of section 97 of the Magistrates' Courts Act 1980, and later by section 80 of PACE.

In explaining her decision to discontinue, the prosecutor made reference to the fact that the couple were still living together, but placed most emphasis on the fact that the injuries were not serious and that this was the first time he had assaulted her. In this case the prosecutor seemed to have followed the guidance laid down in the statement and the Code. However, one GBH charge was discontinued because the victim withdrew, even though it was clear that there had been a history of violence. Social services had already forbidden the suspect to contact his children because of his repeated violent outbursts. In this case the statement would seem to suggest alternatives should have been considered before the decision to discontinue was made. It would have been possible in this case for the CPS to justify compelling the witness to testify, but they did not do so.

A charge of indecent assault,¹⁹² involving an estranged couple (she was in the process of getting a divorce - she had got a decree nisi two years before but did not want to continue for the decree absolute), was discontinued by the CPS because the victim withdrew her support. Information taken from the CPS file on this case suggests that the officers in charge of the case had little faith in the reliability of the witness from the start. They asked that the suspect be remanded in custody, but instead he was given conditional bail. According to the police, the woman subsequently "allowed" the defendant to visit her, thus helping him to break the conditions of his bail. Subsequently her solicitor wrote to the CPS asking for his bail

¹⁹²The complaint was of forced digital penetration.

conditions to be lifted because she did not mind him visiting her "when he was sober", he had gone for counselling, and she was no longer afraid of him. A short while later she withdrew her statement and the CPS discontinued the case. The police had been worried that this would happen from the time of the arrest. On the confidential information form the police officer had informed the CPS that:

This is an unusual set of circumstances where a 'wife' has made allegations against a 'husband'! At this time the aggrieved says she is prepared to continue with her complaint - time will show!

When the officer discovered that the victim had allowed the defendant to visit her, thus breaking his bail conditions, he sent another note to the CPS suggesting that the aggrieved would probably withdraw her complaint:

The obvious inference is that if she is happy to have contact with (the defendant) it's possible that over the next few weeks they will resolve their problems and she will withdraw her complaint.

It is, of course, possible that the sceptical attitude of the officer was, in part, responsible for the woman's failure to support the prosecution effort. If the officer had little faith in her as a witness this might have manifested itself in some degree of hostility and she might not have received the support and encouragement needed to continue with the prosecution. Without more information this is, of course, mere speculation. However, whether the officer's attitude was a *cause of*, or a *response to*, the victim's attitude whilst the case was still proceeding, once the victim had withdrawn the officer's preconceptions about this particular case and his prejudices about cases of domestic violence in general were confirmed. He sent a note to the ASU stating that:

The woman was using the police to sort out her immediate domestic

problems and in future any complaints made by her could well be treated with suspicion and the possibility of a withdrawal in the future.

In another case, however, it was clear that the police and other agents were keen for a case to go ahead and yet despite their efforts to support the victim she eventually withdrew for her own reasons. She had been raped by her boyfriend who had only recently moved into her home. In interview he admitted to having had sexual intercourse with her but denied rape, alleging that she had consented. He was remanded in custody but after making two suicide attempts he was released on conditional bail. The victim was helped by Victim Support who accompanied her to the 'old style' committal hearing. On this occasion she encountered the defendant in the waiting room and became hysterical, refusing to go into the courtroom. The prosecutor requested an adjournment and the judge agreed to set a new court day one month ahead. During this period the victim made a statement saying she could not go through with a court case, although she did not withdraw her original complaint. The case was discontinued because it rested on the issue of consent and her testimony was needed if the prosecution was to succeed. The prosecutor argued that it would not have been fair to compel her as she was obviously terrified of the court process.

In all cases which were discontinued the suspect had initially pleaded not-guilty to the offence charged. It is possible that the victims withdrew their complaints *because* the case was contested, and that they would have continued to support the prosecution had the suspect entered a guilty plea, but this is speculation. Chapter eight presents evidence which suggests that there are various reasons why victims of domestic

violence fail to support prosecution. The prospect of having to testify is but part of a broad feeling that the process of prosecution is not worth the outcome, which is usually predicted to be a minor sanction imposed by the court.

7.3.2 Charge bargaining

Charge bargaining and charge reduction (the dropping of the most serious charge in return for a plea of guilty to a lesser offence) is a widespread practice for all offences. It usually involves the defendant agreeing to plead guilty in exchange for the prosecution proceeding on a less serious charge. The law does not effectively constrain this practice and indeed the Code seems to encourage it, especially as it emphasises the "resource advantages both to the service and the courts generally" (para. 11). At mode of trial hearings the defence counsel, the prosecutor and the magistrates must determine whether the offence is more suitable for summary trial or trial on indictment.¹⁹³ Often it is in no one's interest to have the case heard in the Crown Court: the costs of such a trial are far greater than a magistrates hearing; the defendant risks a higher sentence if found guilty; and the prosecutor might not have sufficient evidence, or might be unsure about the reliability of the evidence, fearing an acquittal. Furthermore, prosecutors are concerned about resources: cases for the Crown Court require a good deal of preparation. Hence, defence solicitors have good reasons for persuading their clients to plead guilty to lesser offences which can be tried summarily, and prosecutors have good reasons for agreeing to this.

¹⁹³The procedure followed at such hearings is prescribed by the Magistrates' Courts Act 1980.

Fears about evidential sufficiency might persuade a prosecutor to initiate such a deal or agree to the defendant being bound over in exchange for dropping all criminal charges. This, of course, sometimes means that defendants will be encouraged to plead guilty to offences for which there might not be sufficient evidence to convict them in a contested case. Clearly this practice does not reflect due process values and adversarial principles.¹⁹⁴ Conversely, it could be argued that this practice 'sells the victim short', that it does not acknowledge the seriousness of the crime committed against her and that, as such, she will not see justice done.

With regard to charging practice the CPS Code recommends that "the charges laid should adequately reflect the gravity of the defendants' conduct and will normally be the most serious revealed by the evidence" (s. 12 [iii]). Dealing more specifically with the acceptance of pleas, it repeats this advice, stating that "the over-riding consideration will be to ensure that the crown is never left in the position of being unable to pass a proper sentence consistent with the gravity of the defendants' actions" (s. 11).¹⁹⁵ Yet, according to Cretney and Davis the police claimed that frequently the CPS reduced charges to a level which no longer reflected the true gravity of the assault. Their own monitoring of cases showed this to be true. Indeed they found "a substantial use of the plea-bargain". Out of 11 initial s.18 charges

¹⁹⁴See Sanders and Young (1994, chapter 6, section 3) for a discussion of the gap between 'due process rhetoric' and 'crime control reality' in pre-trial negotiation.

¹⁹⁵The revised Code (1994) states, more precisely than the 1992 Code used at the time of this fieldwork, that "Crown Prosecutors must never accept a guilty plea just because it is convenient" (para. 9.1).

(GBH with intent) only one was convicted on that count (Cretney and Davis, 1995: 138). In the Thames Valley study none of the three persons charged with GBH were convicted on that count. Clearly these reductions mean that the seriousness of the offence, whilst influencing the decision to arrest (see chapter six) is negotiated in the prosecution process.

Superficially, therefore, it could be argued that prosecutors are not doing their best for victims when they agree to reduced charges or when they agree to drop them in return for a bindover. There appears, from examining these data, to be two main reasons for prosecutors making deals with defence solicitors. Firstly, a lack of sufficient evidence often caused by victims withdrawing, and, secondly, limited resources. It is not always clear which takes precedence in any one case. However, in one Thames Valley case the reduction of the initial charge of GBH to ABH seemed to have been due to the initial over-charging by the police. As the prosecutor explained: "when the police charged him it had looked worse than it was". Although the prosecutor went on to explain, "...besides it makes no difference which you go for, ABH or GBH, they're both punishable by five years".

McConville *et al.*, (1994) found that the CPS often reduced charges likely to require trial at the Crown Court to offences which could be dealt with cheaply in the magistrates court (GBH with intent [s 18], for example, can only be tried in the Crown Court, but GBH [s 20] and ABH offences are 'triable either way'). And when a trial in the Crown Court trial is unavoidable the more serious charges may be

dropped in return for a guilty plea to a lesser offence. If the CPS make a bargain they will not need to prepare a case for a trial. Dropping ABH charges to a common assault is one example of avoiding the possibility of an expensive trial as defendants accused of ABH can elect to be tried in the Crown Court but common assault is a 'summary' (magistrates only) offence, the penalty for which is a bindover or a trivial fine.

Deals can be made between the prosecutor and defence lawyer in order to spare the victim the trauma of having to testify or because of fear of her not attending court on the day of the hearing. One victim arrived in court on the day of the trial but when the prosecutor spoke to her she said that she was petrified and did not want to give evidence: "she kept asking me if she could go home". The prosecutor negotiated with the defence lawyer and the ABH charge was reduced to a common assault, with the defendant then also pleading guilty to the criminal damage. Hence, instead of abandoning the case the prosecutor made a deal which saved the victim the trauma of testifying and resulted in her receiving compensation and the defendant being conditionally discharged.¹⁹⁶

Often when victims withdrew their initial complaints and refused to testify the prosecutors did not have a realistic prospect of conviction. In one case the witness

¹⁹⁶A conditional discharge means that if the defendant appears before the court again within the next 12 months he might be sentenced more severely for this offence.

withdrew and the defendant would not plead guilty to the initial charge of ABH. The prosecutor, rather than discontinuing the case, offered the defence lawyer a reduced charge of common assault, to which the defendant pleaded guilty. As the prosecutor explained, "a deal was the best we could hope for once she'd withdrawn". Indeed it was strictly more than they could have hoped for. With no witness and no plea the assault charge would almost certainly have led to an acquittal.

There has been little acknowledgment of the impact of plea bargaining on the victims of crime. McConville et al., (1994) looked at how defendants are often persuaded to enter a guilty plea (often for cases with very weak evidence) in order to secure the one third sentence reduction in cases when they originally intended to plead not guilty. Their research found that the CPS and the defence solicitors were daily to be seen haggling over charges outside the courtroom. This bargaining process often seemed to be little more than a casual chat and rarely involved the CPS fighting for the retention of the initial charges. There seemed to be little regard for the impact of decisions on either defendant or victim. At the Crown Court the authors found that even more hasty deals were made between the prosecution and defence. Similarly, Baldwin (1985) found that defence solicitors were willing to trade information and favours with prosecutors. Baldwin argued that the courts are not characterised by combat and confrontation but are based to a greater extent on compromise and accommodation. He found that cases were more often than not settled amicably and that prosecutors and defence lawyers would accept an arrangement rather than fight it out in court.

In the cases discussed above the defendant was 'persuaded' to plead guilty to offences for which, without the testimony of the victim, there was probably insufficient evidence. Whilst the victims' withdrawal of her statement was the primary reason for most of these 'deals', resource implications almost certainly encouraged both sides into hasty deals.

7.3.3 Negotiating a bindover

As mentioned above, the CPS sometimes reduced charges because they had been 'overcharged' initially by the police. One GBH charge was reduced to ABH after medical evidence failed to support a degree of injury to justify the initial charge. However, the victim decided, whilst at court on the day of the trial, that she would not testify and so the prosecutor accepted that the charge would be dropped in return for the defendant agreeing to a bindover. The victim had been accompanied by Victim Support all day and her relatives were trying to persuade her to testify but, as she told the prosecutor, she did not want to see her ex-husband punished.

Another case involved a charge for criminal damage and fear or provocation of violence (s. 4 Poa). The defendant had already paid for the damage he caused to be repaired and the victim had told the police that she was scared of going to court. The prosecutor, afraid that she would not attend court on the day, agreed, in advance, to a bindover. He also argued that, as the defendant had made good the damage and had no previous convictions, even if prosecuted for the offences he was initially

charged with he would have got no more than a conditional discharge which, he argued "is not much better than a bindover". In this case the prosecution followed the guidelines pertaining to non-serious offences. In assessing the public interest criteria the Code asks prosecutors to consider discontinuance if "the circumstances of an offence are not particularly serious, and a court would be likely to impose a purely nominal penalty" (s. 8 [i]).¹⁹⁷ However, in this respect the CPS makes decisions based on *their* ideas of 'appropriate punishment'. In one case a charge of threatening behaviour was dropped in return for the defendant agreeing to be bound over. The prosecutor explained:

She'd withdrawn her statement ... and the officers were on rest days. It was not worth getting them in. He'd have only got a conditional discharge or a small fine anyway.

Again, resources were a consideration. The prosecutor was balancing the costs incurred by a contested case with a light sentence at best, with the probability of an acquittal at worst.

In some cases it was not clear whether the CPS had discontinued criminal charges because of the relationship between the victim and defendant or because of the resource implications of a trial. One case involved a dispute between a couple who had separated but who were reconciled during the period whilst the CPS was reviewing the case. The prosecutor received a letter from the defence solicitor informing him of the couples decision to try to re-establish their relationship. The

¹⁹⁷Crisp and Moxon (1994) found that half of cases discontinued because of public interest were explained by reference to an expected nominal penalty.

police were informed and interviewed the victim who said that, although she was reunited with the defendant, she still wanted to go ahead with the court case. The prosecutor, therefore, decided to pursue the prosecution in spite of the reconciliation. However after further correspondence between the police, the defence and the CPS it was decided that, because the injuries sustained (charged as an ABH) were not very serious (the prosecutor had originally stated that the wound to her eye was "quite bad"), there was no history of violence, and the penalty would likely be a conditional discharge, they would agree to the defence solicitor's offer of a bindover. In the prosecutor's words, "there was nothing that could be achieved by a trial". When asked if there were any other factors considered in the decision to accept a bindover the prosecutor admitted that "the cost of running a trial was *obviously* taken into account" (my emphasis).

One case involved a discontinuance of an ABH charge, with the defendant agreeing to a bindover, again because the victim withdrew. The police had informed the CPS, on the confidential information form, that they expected her to withdraw support as she had picked the defendant up from custody after he had been charged and she had told officers that, although he had beaten her often in the past, she still loved him. When the complainant did withdraw her statement she also wrote to the CPS and begged them not to continue. The prosecutor decided that there might be sufficient evidence to continue and wrote to the police requesting photographic evidence of her injuries. The police, however, informed the CPS that "despite our advice she did not receive any medical attention", leaving the CPS with no evidence. Following this

communication the aggrieved wrote another letter to the CPS saying that she blamed herself for the violence which she had brought on by herself by taunting the defendant about other boyfriends. She continued:

The incident that happened was virtually all my fault and I wish other people would now leave us alone to forget and sort it out our own way. I love him and I am willing to stand in his defence in court.

She also stated that the police had persuaded her to sign her initial complaint and had told her that she could withdraw it at a later date if she changed her mind. At this stage the CPS discontinued. All things considered, it was remarkable that the defendant agreed to be bound over, as the CPS were left with no reliable evidence against him.

The CPS policy on the use of bindovers in relation to domestic violence states that such a disposal might be appropriate "... in some minor cases, e.g. cases without a history of violence, where the incident is believed to be an isolated occurrence and the parties are reconciled" (1993: para. 9.1). Clearly there were some cases in the Thames Valley which were more serious than this. However, in practice if the victim is unwilling to testify a bind over is all that the prosecutors believe they should try for (see also Cretney and Davis, 1996).

7.4 Are decisions to charge and prosecute shaped by evidential or working rules?

One critical question which arises from the data reported in this chapter is whether the refusal to charge and prosecute a suspect when the witness was uncooperative was a product of the law or a product of the police culture. In other words, whether it was an evidential rule (they could not charge or prosecute because legally they had insufficient evidence) or a working rule (cases without a cooperative witness had come to be classified as ‘unprosecutable’ so that officers and prosecutors automatically dropped them without considering that there might have been alternatives)?

7.4.1 The decision to charge - working or evidential rules?

Essentially, if a witness withdraws the police have three options. If there is evidence other than the testimony of the witness (which could be her original witness statement) they could charge the suspect in the hope that the CPS will compel the witness.¹⁹⁸ Similarly, if there is sufficient evidence and the suspect admits guilt

¹⁹⁸Since the PACE 1984, the CPS has had the power to ask a court to issue a summons or warrant of arrest in order to compel a reluctant witness, whether a partner or ex-partner, to attend court and give evidence at a trial. If a woman refuses to give evidence at a trial, whether or not she has been compelled to attend, she can be imprisoned for contempt of court. In the infamous case of Michelle Renshaw (cited in Edwards, 1989) a woman was sentenced to seven days for contempt of court when she refused to give evidence against her partner who, it was alleged, assaulted her.

they could caution him. Or, if there is no evidence, they could choose to take no further action. The issue of compellability will be raised below (see also chapter ten), the NFA option is, as is shown above, the typical response, but the second option deserves some attention.

If a victim wants the perpetrator warned about his behaviour, sanctioned in some way, but does not want him prosecuted, a formal caution might be an ideal choice. A caution goes on the suspect's criminal record. If later the victim wants him charged and prosecuted for assault then evidence of cautions can be useful. Cautioning may be a good way of showing men that such behaviour is unacceptable.¹⁹⁹ On average 24 per cent of adults found guilty or cautioned for indictable offences were cautioned in 1992 (Sanders and Young, 1994: 228). However, in the Thames Valley study, conducted just one year later, only two men (approximately four per cent of those cautioned or found guilty [41]) were cautioned.²⁰⁰ In one of these cases the man was cautioned because the victim had withdrawn her statement for an ABH and the CPS recommended a caution. In the other it was the choice of the police. In both cases a caution was justified by

¹⁹⁹The use of cautions for domestic violence is discussed in some detail in chapter ten.

²⁰⁰Of course, there is always variation between forces and without data for the cautioning rates in the Thames Valley it is impossible to know how the cautioning rate for offences arising from domestic disputes fares in comparison to other offences. However, of the five forces examined by Sanders and Young (1994), whilst the variation was great (from 12 per cent in Cumbria to 36 per cent in Devon and Cornwall) the lowest figure of 12 per cent was still much higher than the four per cent found in this study.

reference to the suspects' fears of losing their jobs.

Cautions are an alternative to prosecution, rather than to no further action, and so must only be given in cases where there is sufficient evidence to prosecute. Therefore one might argue that with such evidence the case should be prosecuted. However, research has suggested that in cautioning practice, as in other areas of the criminal law, there is a gap between the 'law in books' and the 'law in action'. Police officers *do* caution when there is insufficient evidence (Sanders and Young, 1994: 231). Indeed, Sanders found that some cautions were administered precisely because there was insufficient evidence (Sanders, 1988b). Of course suspects have to agree to be cautioned. However if a suspect was not told that his victim was considering withdrawal or had already withdrawn her statement he might be happy to accept a caution rather than risk the penalty that a court might impose. Also, research has suggested that cautions are sometimes issued in the absence of consent or an admission (Sanders, 1988b).

Clearly we need to ask why, in cases of domestic violence, the police do not tend to use cautions when they do not believe a prosecution is likely to succeed. This is a difficult question to answer. It could be argued that the typical 'incentives' to caution are absent in cases of domestic violence. These are what Sanders and Young (1994: 234) call "the unofficial police interest criteria". For example, cautions are sometimes given as an alternative to prosecution as a favour to the suspect, providing, or maintaining, the basis of a relationship on which future 'deals' can be built. Thus,

informers are frequently cautioned rather than prosecuted as part of maintaining a mutually beneficial relationship (ibid: 235). Perpetrators of domestic violence are unlikely to make good informers.

Another reason for the police wanting to caution a suspect is to punish suspects in cases where there is insufficient evidence to prosecute (Sanders and Young, 1994: 234). When suspects' offences impact on local business or local residents, for example, there are likely to be demands, through community liaison departments, for the police to take some sort of positive action. Yet it might be that there is no pressure from the community to 'do something' about men who commit acts of violence or damage property within their homes. However, for juvenile offenders cautions are often used as a form of crime prevention or deterrent: a warning of what will happen next time they are arrested. There seems to be no logical reason why cautions are not used for this purpose with perpetrators of offences within a domestic context when bindovers and conditional discharges as well as arrests with no further action seem to be used, in part, with crime prevention in mind.

Clearly, in cases of domestic violence the police do not pursue alternatives to prosecution when a victim is reluctant to proceed. So, officers who argued that they *could not* proceed once a victim has withdrawn did not seem to consider persuading a suspect to agree to a caution and only rarely put the suspect before a magistrates court for a bindover. They implied that they were constrained by the law, but if there was some evidence of the offence they *could* have charged the suspect. Officers

who argued that the police do not prosecute without a cooperative witness were implying that this was a rule based on legal constraints. However, in public order situations, for example, the police *do* often try to proceed because they do not need the witness statement and because they want to charge such suspects (Sanders, 1988). But officers who argued that the police *will not* proceed because of the harm such action might visit on a victim or on the family as a whole might have had a pertinent argument. This reluctance to compel a hostile witness in cases of domestic violence is a working rule.

Moody and Toombs (1982) have suggested that police sometimes will not initiate proceedings in cases where they feel that it will not help the family or will have a negative impact on the family. Many officers made comments along these lines in the Thames Valley study. The officer in the following incident, for example, alluded to such concerns:

Within an hour of arresting him she phoned the station and withdrew the statement. We visited her for an official withdrawal to see if she was being pressured. We believed that she may have been 'persuaded' by a relative of the aggressor's. I did not think that the CPS would have compelled her, and *I feared the implications if they had done* (my emphasis).

Others were adamant that they would not force a victim to testify against her wishes. They talked about not wanting to deny women their autonomy and control over their lives and about how a prosecution could not help women who genuinely want to continue or re-establish their relationships with the perpetrators. One officer spoke

for the majority when he explained: "It's up to her. I'll not push a woman if she doesn't want to make a complaint. She had all the options explained to her but she didn't want to prosecute". Similarly, in the following case the officer was concerned about the whole family. He spent some time talking with the victim and genuinely considering the options, deciding that in this case the civil options were preferable to criminal proceedings:

When I went to see the aggrieved the next day to take a statement she was not sure that she wanted to make a complaint. She was confused as to what to do. Her concern was for the safety of the children. She wanted to do what was best for them. I told her that there were agencies other than the criminal law to help her sort out the best for the children. I have visited her twice since the assault and eventually she decided to file for a divorce instead of going for a prosecution. She also said she would get an injunction. I thought this might be the best as I didn't feel that this family was at the end of its' road. It's no good pushing the criminal law when the courts typically give such weak sentences for domestic dispute which leave the victim feeling alienated. The courts do not take domestic disputes seriously enough

7.4.2 The decision to prosecute - working or evidential rules?

It might be thought that reported assaults involving acquaintances or intimates are very easy to process, because detection is almost guaranteed. However prosecution is not made more likely because of this, rather the relationship undermines the chance of a prosecution because witnesses cannot be relied upon to translate their report into evidence in court. This has been found to be so in all social relationships, especially where there is a power imbalance, and not just in domestic disputes (Cretney and Davis, 1995: 99).

As discussed above, prosecutors rarely proceeded with a case once the victim had withdrawn. However just as victim unreliability should not always preclude the police involving the CPS it should not necessarily preclude the CPS taking a case to court. As with the police we need to ask whether these reduced charges and discontinued cases are products of the law, casualties of stringent evidential criteria, or products of a working rule which equates hostile victims with unwinnable cases. It is important to ask this question as other studies have found that in some cases of violence between non-intimates the police or CPS continue with a prosecution even though the witness has withdrawn (Sanders, 1988). It is possible that in cases of domestic violence it has become an inviolable working rule that victim withdrawal results in the discontinuance of cases. That because officers and prosecutors feel that in many cases to continue with a prosecution would not be helpful to the victims involved, they fail to identify those few cases where to compel a witness or to proceed without the victim's testimony (with independent evidence) might be of long term benefit to the victim.

In most cases discontinued in this study there was some evidence apart from the testimony of the victim. In such cases the CPS could have compelled the witness to attend court and testify. However, prosecutors might be dissuaded from such a decision by the cautious tone of the statement which deals with the issue of compellability in some detail. It insists that a decision to compel a witness "must always be exercised with sensitivity and discretion" (para. 4.2). It recommends effective liaison with support services, in particular Victim Support, to provide

women with the confidence and determination needed to go ahead with a prosecution (para. 4.4). And it warns prosecutors of the risks involved with compelling 'hostile' witnesses (para. 4.3).

In none of the cases examined in this study did the CPS consider compelling a witness or requesting that her testimony be admitted in court as evidence. It seems, from examining the files, that this was not because there were no cases with sufficient evidence to compel the witness, but, rather, that the prosecutors, like the police, did not think that it would have been in the victims' interest to compel them to testify.

Prosecutors become aware of the likelihood of a victim withdrawing either through the information provided by the police on the file sent to the CPS (usually on the confidential information form) or through communication after the file has reached the prosecutor. Information may be conveyed to the prosecutor directly from the victim or through the police officer in charge of the case or through the defendant's solicitor. Alternatively, some victims never directly communicate their wishes regarding withdrawal of their complaint - instead they simply fail to attend court on the day of the hearing. Cretney and Davis (1996) found that in the area covered by their study the woman's decision to withdraw was handled in a rather 'ad-hoc' fashion. Whilst some form of 'checking up' (which is recommended by the CPS Code) generally does occur, both the thames valley study and that carried out by Cretney and Davis found that the degree of vigour employed varies considerably.

Some of the victims wrote to the CPS asking them not to go ahead with a prosecution (see also Cretney and Davis, 1996). According to Edwards, this practice has, in the past, led to "some prosecutors and courts [accepting] victim statements and pleas made by victims on behalf of aggressors, resulting in a more lenient treatment of the offender" (Edwards, 1995: 147). She argues that these pleas should not be taken into account because they are unlikely to be made voluntarily.

The CPS went took one ABH case to court although the witness had told the police that she might not turn up to court. Whilst she was not summonsed to court, she turned up on the day but refused to speak or give any evidence. The judge decided that she had not been interfered with and, in the prosecutor's words, this was "a standard case dismissal". Cretney and Davis (1996) found that whilst requiring a victim to make a retraction statement from the witness-box is meant to be a safeguard against intimidation, none of the prosecutors they interviewed could recall an occasion when intimidation had been revealed as a result of this procedure. Hence, they conclude that such a procedure is a cosmetic exercise, designed to protect the court, prosecutors and police officers, rather than the victim. Other cases suggested some intimidation, however.

A pregnant woman who was assaulted by her boyfriend, who had also threatened to kill her [there had been a history of abuse], contacted the police to ask them if she could withdraw her statement. The suspect had been refused bail and then, later, given conditional bail and yet the police suspected he might have been putting her

under duress to withdraw her complaint. When the police later told her that the CPS wanted to go ahead with the prosecution so she wrote directly to the CPS. Following this communication she spoke to two different prosecutors on two separate occasions requesting that they drop the case. Eventually the defence solicitor suggested his client would accept a bindover instead of going to court to face a charge of ABH. The CPS accepted this and did not demand that the police investigate further the possibility that the victim had withdrawn under duress.

Another ABH charge was discontinued after the victim withdrew. This woman had been subjected to threats and violent attacks throughout her two year marriage to the suspect. She had made a full statement about this and other incidents but whilst the CPS were considering the case she withdrew it, telling the officer in charge of the case that she was afraid of retaliation. When asked why he discontinued this case the prosecutor said that he could not be sure whether she really was withdrawing under duress and that it was up to the police to check this out. He had not, however, requested this of the police and the case officer had not attempted to investigate this further. Whilst prosecutors argued that:

If injuries are serious and [a witness] has been harassed and threatened to withdraw we should try and push for a prosecution. The police should find out why they withdraw - it's very important.

In none of the cases did the CPS make such attempts to assess the possibility of duress.

Witness intimidation is a problem which is increasingly affecting many witnesses of various types of crimes, not just inter-personal violence. Dealing with this issue, the statement suggests that in cases which are discontinued as a result of the victim's withdrawal of support, it may be appropriate to require the victim to attend court to confirm on oath that the initial allegations are true, but the victim has voluntarily and without duress decided not to support the prosecution (para. 3.4 (h)). And it recommends also that a case should be adjourned pending police investigation if there is any suspicion of duress (para. 3.4 (i)).

When prosecutors suspect witness intimidation but do not compel witnesses or recommend that the case proceed without the witness being required to attend court, it appears that they are following a working rule rather than an evidential rule. The working rule that the CPS will not proceed with cases without a cooperative witness seems to be founded on genuine consideration for the problems that compelling a witness to testify might visit on that witness. Occasionally prosecutors argued against compelling witnesses because of evidential problems:

You can compel her to go to court but you can't actually make her speak. If she gave a different story in court and said the defendant wasn't the one who had injured her this would invalidate her original statement.

However, the majority worried about the harm done to particular victims and the message that such control over witnesses would give out to a wider victim population, as the following two quotations from prosecutors show:

The police are right when they say there's little to be gained by taking a hostile witness to court.

We shouldn't compel. If hostile witnesses go to court it sends out a bad message to the victims - that they can't get protection by the police without having to cooperate.

The police and prosecutors believe that they have little chance of establishing the defendant's guilt unless they have a victim who is prepared to testify. This was confirmed by Cretney and Davis' study (1995) and by the data presented above. Many cases sent to the CPS in the Thames Valley study rested on the complainants' statements. This meant that if complainants withdrew their statements the CPS believed that they were left with little else to build a case on. As discussed above, the majority believed that they should not, under such circumstances, compel a witness to testify. Indeed only one prosecutor thought that occasionally this could be considered:

Police should pursue the reasons why the victim has withdrawn and they should improve their interviewing skills as far as the defendants are concerned. As for us, we'll go on whether we've got a witness or not. They usually testify at court even if they've been hostile previously. Also we can use section 23 of the Criminal Justice Act ... But if she's really against this we shouldn't do it. It's a moral dilemma.

Is it that prosecutors need proof, as many have argued, or do they address a separate 'moral' question, as the above quotation suggests?

Occasionally they do have corroborative evidence and still discontinue because of reluctant witnesses. This would suggest that working rules more than evidential criteria shape their decisions. For example, one ABH charge, which had already been reduced from a GBH because of the medical evidence, was discontinued because

the victim withdrew her statement. This was despite a detailed statement from a neighbour who had heard the attack and photographic and medical evidence as well as a partial admission from him.

Another case of ABH, criminal damage and possession of an offensive weapon was discontinued with the proviso that the defendant would accept a bindover. The CPS explained that the defendant had claimed that he had been provoked and that he had intended only to frighten the aggrieved and not injure her, that he was of previous good character, that the injuries were relatively minor (according to the medical evidence), that he had agreed to pay for the damage caused,²⁰¹ and that the couple were both concerned for the welfare of their children. However, what seemed the most decisive factor was that "the couple were trying to work it out amongst themselves".

In one case, which had been discontinued on evidential grounds, there had been counter allegations made by the suspect and there were no independent witnesses to support the ABH charge. Again, the suspect alleged that he had been struck first and had hit back in retaliation (a doctor's report confirmed that he had sustained slight bruising to his face). It was decided that there was insufficient evidence to proceed. However, the prosecutor had another reason for not wishing to prosecute. She stated

²⁰¹The revised Code for Crown Prosecutors (1994) states that if "the defendant has put right the loss or harm that was caused..." the public interest is against prosecution (para. 6.5 (g)).

in a letter to the ASU, in which she proposed to discontinue, that "a magistrates court appearance could only lead to the situation being further inflamed".²⁰² This points to both evidential and 'victim interest' criteria. Similarly, another ABH charge was dismissed when the witness withdrew her statement because she had moved back in with her husband. The CPS decided against going to court "because it would have been damaging for their attempt at reconciliation and the sentence would not have made it worthwhile".

In the light of these explanations, prosecutors were asked if they believed that the public interest is best served by prosecuting men who assault their wives. The majority agreed that it was, mentioning that it might be a deterrent to further violence, or that it was symbolic - sending out the message to society that such behaviour was unacceptable. Many of them said "we need to be seen to be taking it seriously". However, most also argued that the victims' interests were not necessarily best served by a prosecution, believing that "at the end of the day it does little for her", as the following quotations show:

The criminal justice system doesn't really provide any answer to the complex problems these women suffer from.

It might send the right message to society but it does little for the man

²⁰² In all cases in which the CPS concludes that the case should be discontinued it is meant to consult the police wherever possible before the discontinuance is effected. This enables the police to comment on the proposal to discontinue and to provide any possible additional information and evidence. In Oxford and Milton Keynes the prosecutors almost always did this.

and woman who need help.

If they only get a paltry sentence - a conditional discharge or a fine (as most do) then you must weigh up the trauma and the costs of a court case for the victim. Putting her on the witness stand against the disposal. If the couple want to reconcile I don't think it's worth prosecuting.

In conclusion, it would appear that both police and prosecutors rarely initiate proceedings in cases where they feel that it will not help the family or will have a negative impact on the family (see also Moody and Toombs, 1982). They invariably do not think that victims' interests in cases of domestic violence are best served by a prosecution unless the victim wants to prosecute. Whilst the police see themselves as distinct from the CPS, and express concern when the CPS discontinue cases which they consider to be strong, the prosecutors who were interviewed appeared to share the same concerns and express similar opinions to the police. Both shared the same working rules. This finding inevitably raises the question of the independence of the CPS from the police.

7.5 Does the CPS provide independent scrutiny of cases?

The CPS was set up in response to a recommendation of the Royal Commission on Criminal Procedure which had reported in 1981. The Royal Commission had been concerned about the inefficiency, lack of openness and inconsistency of police

procedures in prosecuting cases, and so the CPS was intended to provide independent scrutiny of cases which had been instituted and investigated by the police as a prerequisite to deciding whether a prosecution should take place. However, the finding that the police share the same working rules as the CPS would suggest that the two organisations are not so independent.

There seems to be two arguments pertaining to the independence of the CPS. Edwards, writing soon after its inception, believed that the CPS would provide independent scrutiny of cases, and would be "another level of discretion (which) will interfere with justice" (1989: 220). Indeed, she saw the CPS as providing "another selective mesh through which cases have to pass in order to reach prosecution" (ibid). Hence she was worried about low prosecution rates.

McConville et al., (1991), on the other hand, developed their argument about how the police 'construct' cases, saying that the CPS make decisions according to the information fed to them by the police. In other words, they only know what the police choose for them to know. McConville et al., (1991) thus argued that the CPS sometimes pursued evidentially weak cases where to do so served some police imperative. It was claimed that the CPS often felt that the public interest was best served by uncritical acceptance of police decisions to charge. Hence their argument was that the CPS 'rubber-stamp' the police decisions and that this necessarily leads

to a low discontinuance rate.²⁰³

Superficially it might appear that the first argument is correct. First, it seems that there is a vast differential between the general discontinuance rate and that for domestic violence. In 1994 the CPS had a national 11 per cent discontinuance rate (CPS, 1995). An independent study conducted by the Home Office research and planning unit found that termination rates throughout 13 branches studied ranged from 10 per cent to 20 per cent (Crisp and Moxon, 1994). Even if the two CPS branches investigated by the Thames Valley study were areas of very high discontinuance rates,²⁰⁴ the 34 per cent of domestic violence cases discontinued in this study would be much greater than the rates discovered by the Home Office study, and three times as great as the national average.

Secondly, further support for this argument would seem to be provided by a comparison of Edwards own work with the data collected in the Thames Valley study. Edwards' (1989) study was conducted before the establishment of the CPS when the law allowed the police to prosecute if there was a *prima facie* case. This was a low threshold - it was necessary only to have some evidence to indicate that there was a case to answer. Now a suspect can only be prosecuted if the CPS is satisfied that

²⁰³Sanders and Young (1994: 247), writing a few years after the publication of *The Case for the Prosecution*, acknowledge that the discontinuance rates have increased since the fieldwork was conducted for this publication.

²⁰⁴I was told by the branch prosecutors that this was not the case, although no figures were obtained.

there is "a realistic prospect of conviction" (CPS, 1992, para. 4), meaning that conviction has to be more likely than acquittal. Not only must there be sufficient evidence but the prosecutor must also believe that it is in the public interest to prosecute. Therefore, all things being equal, if the CPS are providing an independent scrutiny of cases, prosecution rates, as a proportion of those suspects who are arrested, should have decreased.

Whilst Edwards did not provide data on the number of charged suspects whose cases were subsequently dropped, she did have statistics on the number of arrested suspects who were subsequently charged. Although some cases were dropped after charge prior to the establishment of the CPS this was rare. Therefore, Edwards' figures provide a point, although not a reliable point, for comparison. In Edwards' study *all* of the arrested suspects were subsequently charged (although this was only two per cent of the original incidents attended), whereas in the Thames Valley study only 27 per cent of the arrested suspects were charged. In as far as it is possible to compare two studies carried out in different areas, using different research methods, this might suggest that the more stringent evidential tests resulted in the police refusing to charge more cases and therefore lend support to her argument about the CPS being yet another filter through which cases can be rejected. However, an alternative and more plausible explanation was provided above. The interesting point of comparison is not at the stage at which the decision to charge is made, but at the stage when officers decide to arrest. Comparing the attrition rates of the two studies shows that officers in Edwards' study only arrested suspects when they had the intention (and, therefore

we must presume, the evidence) to prosecute. In the Thames Valley study, as discussed above, officers often arrested suspects when they had no such intention.

Hence, superficial examination of the attrition rate (in particular, the discontinuance rate) might suggest that Edwards was correct in believing that the CPS would provide not only an independent, but also rigorous scrutiny of cases. However, looking behind the figures, as this chapter has shown, we can see that the main reason for the majority of the discontinuances in cases of domestic violence was that the victim withdrew, and that this was also the main reason why the police failed to proceed with cases earlier on in the criminal justice process. Thus, the majority of the cases discontinued in this study would have been prosecuted if the victim had been cooperative. But, more importantly, most of these cases would never have got to the CPS if the victim had withdrawn earlier. They are no different in substance to the numerous cases which were refused charge, or not even arrested, when the victim was hostile. Therefore the CPS are doing simply what the police would have done had they known the victims response at an earlier stage. This would appear to lend some support to McConville et al., and Sanders' arguments about the lack of independence of the CPS from the police.

However, McConville et al., (1991) are ambiguous on this point. Sometimes they suggest that the CPS *follow* automatically the police, without making their own decisions. Whilst, at other times, they suggest that the CPS and police independently come to similar conclusions about cases because they are both 'prosecution orientated'

and follow the same working rules. This second, rather more sophisticated, argument is supported by the data reported in this chapter. It is, of course, not surprising that the CPS and police come to similar conclusions about cases. They both follow the CPS Code in making their decisions about the strength of cases and the public interest, which means that they both screen out cases for the same reasons.

Officers who decided not to charge a suspect because the witness refused to support the prosecution were effectively making decisions based on what they believed the CPS would or would not do. Officers screened out cases that they thought the ASU would reject, in accordance with the criteria set out in the code. The CPS use a reasonable prospect of conviction test, so the police have to measure their evidence against this before referring a case to the CPS. The police 'second guess' the prosecutors and magistrates, weeding out cases which do not have a realistic prospect of conviction. They did not have to behave like this before the establishment of the CPS, when they would 'have a go' at bringing a case to court on a less stringent evidential test. Of course, the CPS screens cases in anticipation of the courts response. Hence prosecutors will sometimes bargain with the defence counsel by offering a lesser charge in return for a guilty plea if they do not think that they have sufficient evidence to convict the defendant as initially charged (as will be discussed below). Knowledge of such practices means that the police decision regarding the initial charge is often a tactical one. In recognition of the fact that the Code encourages such plea bargaining custody officers may 'overcharge' to allow for a reduction, or 'under-charge' in the hope of avoiding a discontinuance, as this officer

explains:

In interview I tried to get him for intent to commit ABH but he would not admit to any intent and as it is very hard to prove intent. Rather than have the CPS reject the whole case I went for criminal damage which he had admitted to.

Not only do the police refuse to charge suspects in anticipation of the likely decisions of the CPS, but they also make decisions in anticipation of how the courts would respond even if the CPS were to proceed, as the following explanation from a police officer shows:

The victim claimed that her partner had come home drunk and 'high' and assaulted her. The bruising was only faint in the statement she said that she had hit him first and he had retaliated. Whilst the CPS might have taken it on the courts would see it as a "blow for a blow" and it would have fallen down in court. I explained this to the victim who said she understood and agreed not to bother.

Clearly the police, in following the CPS Code, screened out the cases which would probably have been discontinued by the CPS. Hence, when police officers argued, as they often did, that they would usually not send files to the CPS when the victim had withdrawn her statement, because prosecutors would reject the case, they were right. Prosecutors were asked if the police were correct in this assumption and all, but one, said yes. As one claimed:

They're right - with hostile witnesses it's very hard to get much from a Magistrate. With no witness there's no offence with most domestic violence cases. They have to select the strong cases because we couldn't cope with dealing with them all and the weak ones would be thrown out by the magistrates.

Another argued similarly:

We can't take on a case without a witness. If she won't make a complaint or withdraws it will go nowhere. We shouldn't waste time

with hostile witnesses. The police are right to sift cases - they shouldn't send us rubbish. If there's no victim there's no evidence - that's it!

Even those prosecutors who said that they would not mind if the police sent them more of the 'weak' cases acknowledged that "they sift out the ones we'd reject anyway - the ones where there's no evidence." The consensus was that "there needs to be a cut-off point or the CPS would get swamped with work", and the prosecutors had faith in the police deciding where that cut-off point should be.

Clearly police and prosecutors follow the same official guidelines and share the same working rules. Hence they evaluate cases in the same way. With regard to incidents of domestic violence the main factor which shapes the response of both agencies is the victims' wishes. The following chapter will look more closely at these wishes and explain why victims of domestic violence so rarely choose to support the prosecution of their partners or ex-partners.

CHAPTER 8

In The Victim's Interest?

As the previous chapter showed, police and prosecutors do not think that it is in the victim's interest to prosecute offences arising from domestic violence when the victim is opposed to this solution. Some feminist writers disagree with the practice of allowing a victim of domestic violence to withdraw a statement once it has been made and, thus, advocate that reluctant witnesses should be compelled to testify (Edwards, 1989). The Victim Support Inter-Agency Working Party on Domestic Violence (1992) similarly argued that the decision to proceed with a prosecution should not be the responsibility of women who report the crime as they may sometimes be pressurised by violence to withdraw. If necessary, the report recommended, victims should be compelled to give evidence, provided that protection and support can be offered.

Arguments in favour of arrest, prosecution and compelling witnesses have surfaced within a social and political climate which has rarely questioned the appropriateness of the criminal justice system as a way of dealing with domestic violence. Indeed, in describing and criticising the response of the police and the wider criminal justice system, writers have tended to assume that to take punitive legal action against perpetrators is both an effective and desirable way of dealing with domestic violence (Stanko, 1985; Horley, 1988). This chapter will question such preconceptions from the viewpoint of the victim. It will draw on interviews conducted with a sample of women²⁰⁵ who had recently had a visit from the police in response to an incident of domestic violence; on interviews with women in the Women's Aid refuges of Milton Keynes and Oxford; as well as data gathered from patrol officers and prosecutors.

As discussed in chapter seven, over a third of the victims in the Thames Valley study chose, at some stage, not to cooperate with the criminal justice process (almost half of those in incidents which resulted in an arrest withdrew support for prosecution after the arrest).²⁰⁶ These victims were referred to as "unreliable", "non-

²⁰⁵As detailed in chapter three, the sample of 'victims' was chosen from the sample of incidents which occurred during the month of August for which officers were interviewed. There were such 49 incidents and the researcher gained access to 39 victims (in 10 cases the victim either could not be located or refused to be interviewed). Interviews were also conducted with the perpetrators in five cases.

²⁰⁶In Cretney and Davis's (1995) study 81 per cent of assaults were reported to the police but in only 63 per cent of these did the victim make a formal statement (although all had needed hospital treatment).

cooperative" or "hostile". These labels not only indicate police and prosecutors perceptions of the victims but, more interestingly, what they consider to be the purpose of the police response. Women who do not give, or who withdraw, their support are considered ultimately to be acting against their best interests. This chapter will suggest otherwise by examining the perspectives of women who have been victims' of domestic violence: asking why they often do not support prosecution; what they expect of the police and the criminal justice system in general; and the extent to which they were satisfied with the police response. It will be shown that many of these interventions between the police and the disputants were, in the victims' opinions, successful, rather than failures, despite the fact that the majority did not result in a prosecution.

8.1 Victims' reasons for not seeking prosecution

The literature on non-reporting suggests that some of the reasons why women will not testify are the same as their reasons for not reporting in the first place (see Dutton, 1988; Morley and Mullender, 1994).

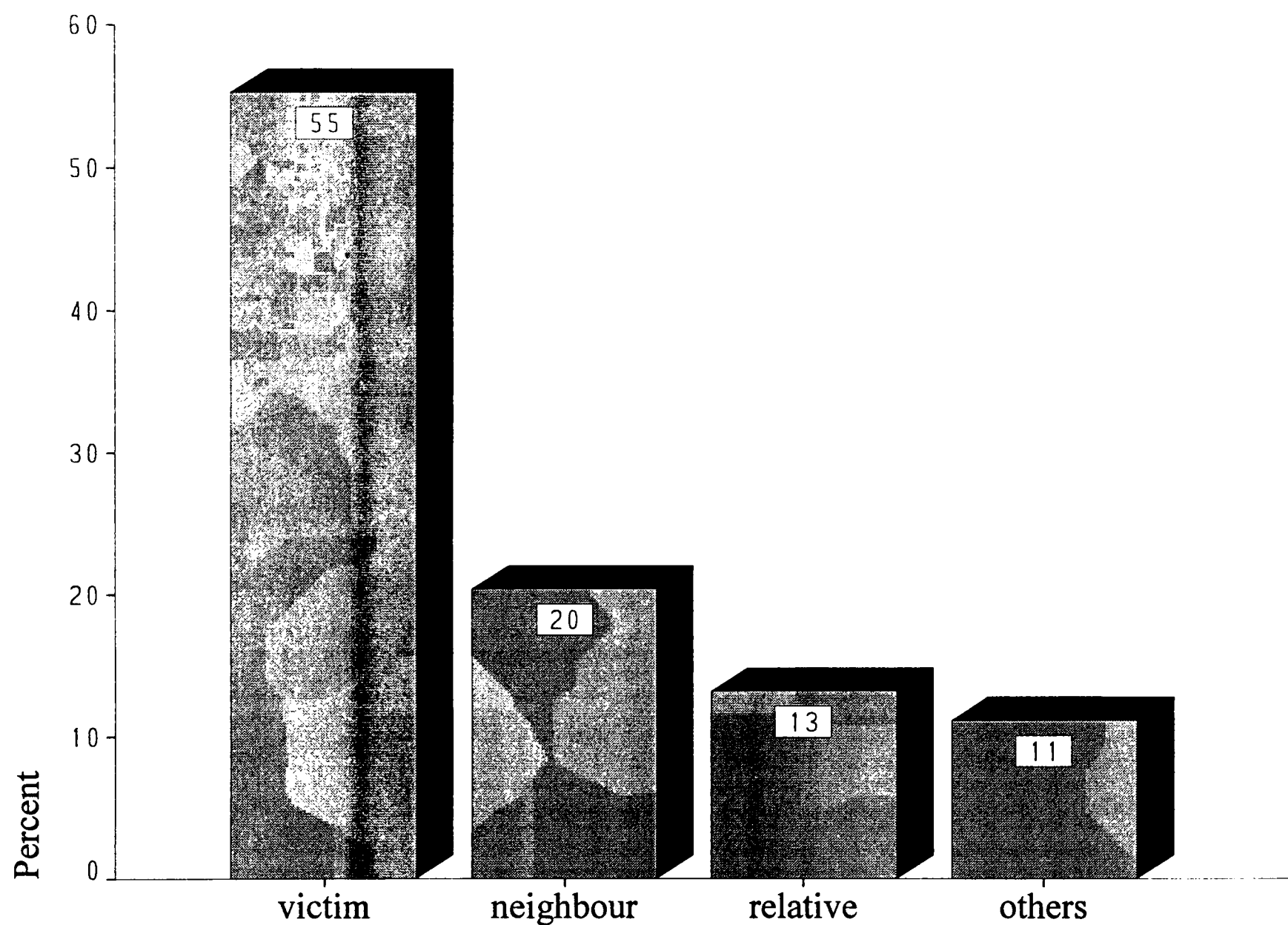
Some feminist writers have attributed women's reluctance to request assistance or support to the statutory agencies' ineffective response or refusal to deal with domestic violence (Dobash and Dobash, 1992). They have argued that women's perceptions of the inappropriate response of the police discourages them from reporting, except

in cases where the violence continues for a long time and becomes intolerable (Carlson, 1977; Dobash *et al.*, 1985; Pahl, 1985; Flynn, 1977).

The two most recent studies found that between a half and two thirds of victims told no-one about the first time they experienced violence, the average time before telling anyone being one to two years (NCH Action for Children, 1995; Mooney, 1994). Respondents explained that they felt embarrassed or thought it was too private a matter to discuss, while some thought that to inform anyone would lead to further, retaliatory, violence. Some were unaware that help was available, others were worried about not being treated seriously or, conversely, about being compelled to take legal action against their wishes. Some women were worried about their children being taken into care. Others expressed feelings of worthlessness, and lacked the self-confidence to believe they were deserving of assistance. The responses for the thames valley study were broadly consistent with these findings.

Just under a half of the sample of 387 thames valley incidents were not reported by the women (see table 1) (in one fifth of the incidents a neighbour called the police, and in 13 per cent a relative, or the male disputant himself, alerted the police). In 12 of the 39 incidents where the victim was interviewed by the researcher someone other than the victim had alerted the police (in seven incidents a neighbour had called, in four a member of the victim's family and one call was anonymous). Hence, it was possible to discuss reasons for non-reporting with some of the victims in the sample.

Table 1
People Who Reported the Incidents



Some women had not reported because they did not think that the police had a role to play in their dispute. As one explained:

If I thought I needed the police i'd call them. They've been O.K in the past when I've called them for other things. They do a good job generally, but this was a domestic - nothing to do with them.

Other women were embarrassed or agitated by police interference, insisting that they

could look after themselves - that "this is private - it's nothing to do with (the police)". Whilst it might be argued that they demonstrated pride and independence, it is also clear that they felt that the police could not provide effective support.

Conversations with women, and observations of women interacting with police officers, suggested that victims made rational choices, within the constraints as they perceived them, regarding the decisions to involve the police or support police action. Three main reasons for non-cooperation emerged: firstly, some women did not want to break up the relationship or the family unit; secondly, some were afraid of further retaliatory violence; and, thirdly, some did not think that the likely sentence would be worth the 'costs' incurred by the process. All three reasons concern the high 'costs', of various sorts, that victims can incur by supporting a prosecution. These reasons are, of course, inter-related, one often impacts on another, but for ease of explanation they will be dealt with separately. No attempt has been made to assess in quantitative terms which reason most accounted for women's refusals to cooperate with the criminal justice system. This is because the sample of interviews with victims was too small ($n = 39$) to allow for any meaningful generalisations and could not so easily be supplemented with officers' views because for many of the cases discussed with officers the reason was not apparent, or the officer's interpretation could not be relied upon. Also, many women cited more than one reason for their non-cooperation and even after fairly in-depth interviews it was not always apparent which particular reason was most influential.

8.1.1 Women don't want to break up the relationship or the family

Chapter seven showed that if a woman does not want to end her relationship with the aggressor it is very difficult in practice for the criminal justice system to intervene effectively. There are, of course, various reasons why some women do not want to end their relationship with their violent partners. Mooney (1994) identified a number of factors which included economic dependency, lack of affordable accommodation, children (they did not want to break up the family) and hopes that their partners would change and stop being abusive. It was not part of the remit of the Thames Valley study to explore the reasons why some women chose to stay with violent men, but in discussing the police response to their victimisation women sometimes referred to this reluctance to break away.

In one case the victim, an asian woman, argued that her culture worked against her. She said that it was very hard for the police to know what to do when she could not contemplate leaving her husband:

Even though my family and his know about the violence I can't leave him. I'd be all alone - they'd reject me.

Although this woman felt particularly isolated and unable to consider alternatives to further victimisation seriously, her experiences were not unique. Other women who did not have specific cultural barriers to making certain choices felt equally trapped in an abusive relationship because of familial ties. One woman, indignant that the wpc had told her that she should divorce her husband, explained:

Yes, I was scared of him and he is a bully, but how dare she tell me I should divorce him. He's my husband and the father of my kid -

there's no way I'm leaving him.

Of course, for some ethnic minority groups police intervention can have very serious repercussions. Men with insecure immigration status might find themselves deported as a consequence of an arrest (Southall Black Sisters, 1989). One of the arrests in Oxford resulted in the deportation of the offender. In this case this was considered, by the victim, to be a satisfactory result as she had already ended the relationship. However, for women who want to remain in the relationship, and in particular for those who have children, deportation might be a tragic consequence of a request for help. In addition, it has been suggested that police sometimes investigate women's immigration status as a condition for receiving assistance, and may even arrest these women while their status is being checked (Mama, 1989).

Recent research suggests a high correlation between physical abuse of wives and physical abuse and neglect of children (NCH Action for Children, 1995). There is also an emerging literature on the long-term effect on children of living with repeated episodes of domestic violence which, until recently, was given only scant attention (Carroll, 1994; Hurley and Jaffe, 1990; Jaffe *et al.*, 1990). However, many women believed that even though partners were aggressive to them they were 'good fathers'. Just as non-violent families sometimes stay together for the sake of the children so do violent and dysfunctional families. One woman explained, "he's assaulted me before but I wouldn't press charges because of my 12 year old son." Another woman changed her mind about supporting police action because her husband had booked a holiday for the following week and she did not want to break up the family "for the

sake of the kids".

Many of the women spoken to in the refuges stated that the worst thing about leaving their partners was being uprooted from their local support networks. A few women encountered practical difficulties regarding re-housing, but for many it was the pain and inconvenience of moving away from their home, taking their children away from their fathers, and sometimes from schools, friends and other relatives, and trying to establish a new life for themselves and their dependants, that they found overwhelming. It had caused a number of them to return to their violent partner, even if only temporarily. One woman who had suffered from a long history of domestic violence withdrew the statement she had made after a particularly nasty attack "because she couldn't stand being separated from her children". This was despite the fact that she had received a lot of help and guidance from the refuge.

One woman who had alerted the police when her husband, who has a history of violence, had set fire to the bedroom quilt said she didn't want to take any criminal action against him but wanted him out of their home. He was removed and she was taken, upon request, to the refuge. The researcher attempted to speak to her a few weeks later. Refusing to be interviewed, she explained that her husband was back living with her and that he was in the house at the time. She explained that she did not want to risk aggravating her husband as she was "trying to make it work". As we were leaving she called after us: "He's changed, honest he really has". Another woman, who was frequently assaulted by her boyfriend, told the officers that, whilst

he occasionally abused her, she had a good relationship with him most of the time. When they said that she should make a statement she replied: "But I'd feel so guilty if he got in trouble. I still love him".

Occasionally women refused to make statements because they considered a certain amount of violence by a partner to be acceptable or because they blamed themselves. One woman, who claimed to have been assaulted by her partner (although she had no visible injuries), informed the police that there were committal warrants out on him. Pleased to have the opportunity to arrest him, they kept him in a cell overnight and had decided that a short spell in prison would give her time and space to terminate the relationship. However, in the morning she arrived at the station and paid off his warrants, which obliged the police to release him. She told the custody officer: "I thought about it and I think I caused the row - I wind him up". In another case, a woman called the police to complain that her daughter had been hit by her boyfriend. However, the daughter, a teenager with a three week old baby, did not want to make a complaint. The officer explained:

She did not welcome our interfering and resented her mother for sticking her nose into her business. She told me that she deserved to be slapped by him and did not blame him. She said she loved living with him and wouldn't go back to her mother's.

Bush and Hood-Williams (1995) found, from their study of relationships on a housing estate in London, that some women normalised the violence.²⁰⁷ They did this

²⁰⁷This was an in-depth study of 13 women in relationships with abusive men and four men who were committing this abuse.

largely because they thought that it was better to be in an abusive relationship than no relationship at all. None of the women used the local self-referral counselling service for victims of domestic violence because they could not make the transition from seeing the violence as part of their everyday lives to identifying themselves as abused women. The authors argued that:

This climate of acceptance ensures that few will seek the assistance of statutory agencies and that those who do will first have to overcome their conviction that they brought the violence on themselves (Bush and Hood-Williams, 1995: 17).

Like some of the women in the Thames Valley study, they feared loneliness and not being able to cope on their own, and spoke of their partners in terms of love, regretting the changes in their relationships since they first met. Missing the companionship and respect they had received at the beginning of the relationship, they wanted the violence, but not the relationship, to end. Whatever the reason, for women who cannot envisage separation from their partner any call for police assistance is likely to be a call for immediate emergency help to halt a particular incident, rather than an attempt to get the man prosecuted.

All the evidence suggests that men who are violent to their partners do not stop being violent, but, rather, increase the frequency and severity of the attacks.²⁰⁸ Hence, if women stay in the hope of a future free from violence they are likely to be disappointed. However, and this is where their decisions might be considered

²⁰⁸There is an emerging literature on repeat victimisation in this field (see, for example, Hanmer and Stanko, 1985; Lloyd *et al.*, 1994).

rational, if they do leave the probability of further abuse does not necessarily diminish.²⁰⁹ Indeed, some studies have found that men escalate their violence during and after separation (Morley and Mullender, 1994).

8.1.2 Fear of retaliation

Research suggests that many women rationally choose to stay with their partner because they hope that by doing so they will avoid the retaliatory violence which frequently results from attempts to leave (Mooney, 1994, Bowker, 1983). Men who are emotionally dependent on their women, are often violent when they feel insecure about the continuance of the relationship, whether real or perceived (Bush and Hood-Williams, 1995). Some women in the Thames Valley study had stayed because their partners had threatened them with violence, and even death, if they left.

Some women will not even call the police for fear of retaliation. One refuge resident explained:

If I'd called the police I'd have ended up in a worse place than this.
He would have murdered me.

Others make choices concerning arrest or prosecution according to their experience of how their partner responds to intervention. One woman who did make a statement and whose partner was arrested told the interviewer that "getting nicked made him

²⁰⁹ Just under 40 per cent of the women in the Thames Valley study were involved in incidents of domestic violence with ex-partners whom they had not been living with at the time of the dispute. Clearly, they had not been protected from further violence by leaving their partners.

more pissed off". When asked whether she would call the police again under similar circumstances she replied:

I'm not sure. Before this incident I wouldn't have hesitated, but now I'm not sure it's worth it.

Another case involved a particularly nasty GBH and threats to kill. The suspect was known to the police for serious offences of violence on intimates (including the victim) as well as strangers and for firearms offences, and had spent many years in prison. The officer explained that this man had not been charged, having been arrested for violence because the victim withdrew her statement as soon as she had made it. This woman, when interviewed by the researcher, insisted that the police should not have arrested her partner without her agreeing to this as this put her even more at risk (when the police had arrived he was dangling her over the balcony of the house threatening to drop her on to the pavement):

They told me to make a statement and get him prosecuted. I wish it was that easy. I hate the bastard but he'd kill me if I got him in trouble with the police. If he went down for hitting me he'd finish me off. I dream of leaving him. I'm going to learn to drive and get a car and take off in the middle the night sometime with my kids. I'll go where he can't find me and start again ... but I think he'd find me wherever I went and just drag me back or kill me. I hadn't wanted him arrested as I thought it would provoke him, cause more trouble. I'm always scared he'll retaliate, and that time he did. He knocked me around again when I got back to the house. He said he was teaching me a lesson.

The researcher had already spoken to the aggressor before interviewing his wife in private and found him to be very angry with the police:

It was a private row between me and my wife and they had no

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business interfering. They burst in and just arrested me straight away and took me to the nick. They're bastards - they arrest anyone given half the chance. She shouldn't have let them arrest me ... now the silly cow deserves whatever she gets.

In the light of her knowledge about her husband, this woman's reluctance to prosecute could be considered to be rational (although this is not to say necessarily in her best interests). Other women interviewed by the researcher had made similar rational choices. As one explained, "If I pressed charges he would have been more violent in future." A woman whose boyfriend had hit her and pushed her out of their car would not make a statement because she was afraid of her boyfriend retaliating. The officer involved in the case, like others, acknowledged that it was difficult to protect women from retaliation from intimates:

Her boyfriend is a 'toe-rag'. I told her about the available agencies who could help her going through the court case but she was adamant she would not go to court and she didn't want any further contact with us. She thought that no amount of agency intervention could protect her. In many ways she's right.

Even when women flee violent partners and seek refuge in 'safe houses' they often remain in fear of further abuse. One woman had moved into a refuge in the thames valley from the refuge in her home town where her ex-partner had found her and threatened to kill her and kidnap their son. She was now living in fear of him tracing her. She had initially made a statement regarding numerous violent assaults but after threats from his brother had withdrawn her support. Like many women living in refuge accommodation, she was nervous every time she heard a knock at the door. When asked if she had told the police about her fears she said:

What's the point. Him and his crowd are the law. They make the rules and they decide who'll get punished. The police can't protect me from them all. Even if they locked him away the rest of his brood would come looking for me.

As Cretney and Davis found:

Whenever victim and assailant have an on-going relationship, whether as partners, family members, or habitues of a common social environment, it may be felt that neither the police nor the courts will be able to prevent further attacks or other threatening behaviour (Cretney and Davis, 1995: 15)²¹⁰

8.1.3 The sentence is not worth the process

Some women's choice, about whether or not to make a statement, depended not only on fear of reprisals but also on their knowledge and understanding of sentencing. As one woman said:

He was furious that I'd called the police in the first place. He'd have really taught me a lesson if I'd had him arrested. Besides I asked the police what he'd get for bashing me and they said probably just a fine. You weigh it all up don't you - it just wouldn't be worth the hassle.

Women who want their partners treated harshly are likely to be disappointed. Only three per cent of the thames valley incidents originally attended by officers resulted

²¹⁰Recent research has found that on high crime housing estates, 13 per cent of crimes reported by victims and nine per cent reported by witnesses lead to subsequent intimidation. And six per cent of crimes not reported by victims and 22 per cent not reported by witnesses go unreported due to fear of intimidation. It also found that in many cases, before a suspect is apprehended, intimidation of the victim is difficult to prevent where the offender knows the identity of the victim (Maynard, 1994).

in a suspect being convicted of a criminal offence.²¹¹ And conditional discharges, community service orders and fines were the usual sentences imposed by the courts, as tables 2 and 3 show.

Table 2
Non-Custodial Sentences

Charge					Total
ABH	C.Dis (6)	fine (4)	P.O. (3)	C.S.O (4)	17
CD	C.Dis (6)	fine (3)	C.O (2)		11
s. 51	C.Dis (1)				1
Total	13	7	5	4	29

Notes: C.Dis - Conditional discharge
 P.O. - Probation order
 C.S.O - Community service order
 C.O - Compensation order

²¹¹Figures 2 and 3, Appendix 1, provide a comparison of the disposal of the cases in Oxford with those in Milton Keynes. Whilst officers in Oxford arrested relatively more male disputants, police in Milton Keynes were more likely to charge arrested suspects. The CPS, in turn, dismissed or discontinued fewer cases in Milton Keynes than in Oxford. Ultimately four per cent of all of the male disputants were convicted in Milton Keynes as compared to two per cent in Oxford.

Table 3
Custodial Sentences

Charge	1 case	1 case	1 case	1 case	Total
Murder	life	72 months			2
GBH	4 months				1
ABH	1 month	6 months	16 months	36 months	4
s. 16	3 months				1
Rape	42 months				1
Total	5	2	1	1	9

Seven men were charged with breaching a county court injunction, but on only one of these was given a custodial sentence (of three months) for the breach.

Knowledge, or previous experience, of lenient sentences leave some women with little faith in the system:

I had a previous domestic with my ex-husband (not the present disputant) who broke my arm and got off with a conditional discharge. I'm disillusioned with the criminal justice system, especially tired out magistrates who haven't got a clue.

An offender who breaches a conditional discharge by committing another offence within the specified period can be imprisoned. However, this is rarely done and members of the public tend to regard a conditional discharge as 'getting off' as they can see no immediate penalty.

It is not only victims of domestic violence who think that most defendants are treated too leniently in court. Studies have shown that the general population underestimates, sometimes greatly, the typical sanctions imposed by the courts (see, for example, Hough *et al.*, 1988; Doob and Roberts, 1988). However, in domestic violence cases it is not only that women regard the court sentences as too lenient but, more importantly, they often consider them to be at best unhelpful and, at worse, totally inappropriate. Most of the women spoken to wanted help and support for the perpetrators, as well as for themselves, and they recognised that most of the penalties available to the courts cannot address these needs. As one woman said:

It's not worth making a statement - I've done it all before. I'm disillusioned with the whole system. He needs help rather than punishment.

This woman had previously supported a prosecution of her partner and he had served a short prison sentence. Rather than being encouraged to address his offending behaviour and his negative attitudes towards women he had become more aggressive and embittered by this experience.

Other women had similarly learnt from past experiences that usually the sentence was not worth the costs of proceeding. In two different cases the women could not be persuaded to make statements against their partners because both had previously pressed charges for ABH and their partners had been fined £200 and £100. As both men were unemployed and the women were in work they had to pay off the fines. As neither had ~~any~~ intention of ending the relationship they decided that they could not afford to risk their partners being fined again.

There are clearly many rational reasons why women do not seek prosecution. But if women do not want their partners or ex-partners to be prosecuted why do they call the police? The following section will show that women have good reasons for requesting police assistance irrespective of their desires regarding prosecution and punishment.

8.2 The expectations of victims and the police response

When interviewed, officers stressed the importance of asking victims what action they wanted them to take. According to these officers, over a third of the victims wanted the suspect to be removed from the scene, with a third wanting him to be arrested, and a third wanting simply to be advised or for the officers to restore the peace (see chapter seven). By interviewing women the researcher explored these expectations and the extent to which the police provided these services.

8.2.1 Immediate protection

In the majority of cases the women wanted their aggressors to be arrested or removed from the scene for immediate protection.²¹² They wanted the police to solve the immediate problem, to "stop what was happening", "to take the situation in hand, to take control". Whilst a few women thought that the police could "control

²¹²During interviews the women used the word "protection" more than any other word in discussing both what they wanted and what they got from the police.

the situation ... calm him down without him going to the station", these needs, as chapter seven showed, usually were met by the police removing the man and taking him either to the police station for a short period of time or to another location.

Many women did not mind whether the man was arrested or taken to another location as long as he was removed from the home. One woman who requested an arrest did so purely for some breathing space: "I wanted a few days rest from him." When asked if she wanted him prosecuted she looked shocked and said: "No, of course not." Another woman explained: "I wanted him out of the way, for the police to take him away until he cooled down". In those cases where the immediate problem had been solved, by the man complying with the victim's wishes and leaving before the police arrived, usually the women wanted no further assistance from the police. In one case, for example, the woman told the police to leave as soon as they arrived, "he's leaving so I don't need you any more. You can go." When the officers asked her to explain what had happened she said "It's none of your business". Of course, for a few women the need for protection did not go away once the aggressor had left the scene of the incident. Some feared further problems and wanted the police to protect them against that possibility by ensuring that the man was not waiting around the corner until the police left: "I wanted them to do a search of the area to make sure he wasn't hanging around still".

The majority of those who wanted immediate protection felt that they had got this from the police and were consequently satisfied with the police response. Two of the

five men interviewed who were arrested had later recognised that the women needed protecting from them. Asked if he considered that the situation could have been resolved without him being arrested, one replied: "No - I was out of control. They had to get me out - I was very drunk and smashing the place up. She needed to be protected from me and that's what they did".

Occasionally the police were considered to be too keen on protecting the victim. One couple regretted the officers' insistence that the woman should leave the family home to stay in a refuge over night. Her husband admitted, when asked, that he would have continued to argue with his wife after the officers had left. Hence, although the 'victim' did not want to leave her home, concern for her and her child made the officers insist that they should not be left with her husband for the night. Both she and her husband were adamant, when interviewed, that the police had over-reacted in this situation.

8.2.2 Suspect warning

A few of the women wanted simply for the police to tell the man off. They argued that a warning from a police officer might deter aggressors from further violence, "to give him a serious warning ... to stop him doing it again". According to a police officer, one woman wanted her aggressive partner warning about his behaviour because "he was not normally violent and she thought that a visit from us would frighten him and stop him doing it again". Other victims wanted only a statement that the men's actions were unacceptable, "I mainly wanted him to be told that his

behaviour was wrong.", or "I wanted them to tell him that he couldn't get away with this". One woman who had wanted her husband arrested was asked by the researcher if she would have been prepared to testify against him in court. She seemed surprised by the question and replied in the negative insisting that she wanted him to be arrested only "to scare him off - to show him that I mean business".

Although the police said that the victims wanted the perpetrators to be warned in only 29 of the 387 cases, data gathered from interviews with victims and from patrol observation suggests that this is a conservative figure. It is likely that victims requested this in more cases than officers admitted to, and that they wanted this to happen in more cases than they actually requested. The disparity between what the police thought victims wanted and what victims actually wanted could be due to problems of communication between distressed women and police officers, or because officers do not like to warn perpetrators of violence if they had no intention of arresting them. They did, as chapter seven explains, sometimes warn men that if they did not leave the scene of the incident they would be arrested, but they did not feel that it was part of their 'job' to chastise people about previous behaviours and warn them not to repeat such behaviour in the future. During the periods of patrol observation, police officers were observed warning and 'telling off' children or youths but they were reluctant to do this with adults, especially if the man was not present when the police initially attended the dispute.²¹³ Police officers tended to evaluate

²¹³ If the perpetrator had left the incident before the police arrived they would rarely locate him in order to 'tell him off' even if this was precisely what the woman

situations in terms of dichotomies (see chapter six for a detailed discussion of this). One dichotomy was offence or no offence. If there had been no criminal offence committed, officers did not believe that they should be judgemental and tell people how to behave, and if there had been an offence they thought in terms of another dichotomy; to arrest or not. If the victim did not want her partner or ex-partner to be arrested they tended to shy away from in-depth discussions with the suspect about his alleged behaviour.

8.2.3 Information and advice

Despite the undisputed low reporting rate, many abused women do come into contact with the police at least once, and often several times. Even if there is a prosecution, the police often remain the agency closest to the victim. The police should, therefore, be aware of the specific needs of each victim, as they are best placed to guide those victims towards the appropriate sources of help. Women need moral and practical support in order to make informed decisions about what type of criminal justice intervention is appropriate to their situation and needs (Brownlee, 1990). Over three quarters of the women interviewed in the thames valley study, regardless of any other desires, stated that they wanted advice and/or information about their short-term and long-term options in response to their victimisation. They wanted someone to talk to about their problems, someone with whom to share their experiences who would be non-judgemental and who would not insist on taking any action which the

wanted.

woman was not ready for.

The Thames Valley Police Service policy in place during 1993 recommended that victims be kept informed of their options, their legal rights and the availability of practical and emotional support. However, whilst a few women were happy with the advice and information provided, most did not feel that the police provided adequate information for them to make crucial decisions regarding prosecution. They felt that the officers did not spend enough time with them, listening and discussing their problems: "They didn't have the time to talk - they weren't here for long", "The PC didn't have time or the patience to sit listening to me". They also complained about not being kept informed during the later stages of the prosecution process. As one woman explained: "I get no information on how the case is progressing. He (her ex-partner) is still in touch - he lets me know what's happening in court". Similarly, one woman complained: "I don't understand the system. They (the police) didn't explain it all to me. I don't know what is meant to happen at each stage" (the police failure to provide adequate information to victims of domestic violence is explored further in chapter nine).²¹⁴

²¹⁴Maguire and Bennet (1982) study of burglary victims found a similar problem with communication during the investigation and prosecution process.

8.3 Victim evaluation of the police response

Whether a victim regards the police response as appropriate or not may depend on how she conceptualises domestic violence and how she perceives her ability to take effective action to deal with it. Also what she knows about the available support and how she thinks that the criminal justice system functions, and will respond to her complaint, will impact on satisfaction levels. Unfortunately it was not possible in all cases, given the limitations on time,²¹⁵ to ascertain the victims' knowledge about available support, and the criminal justice options. However, it was possible to gather views on their expectations about the police response.

The women were, of course, generally satisfied if their expectations were met. In other words, dissatisfaction generally resulted from a discrepancy between what victims wanted and what they got. Most women had fixed expectations of the police. They knew what they wanted the police to do (as discussed above, this was usually to provide immediate protection, to warn the perpetrator and/or give information and advice), and over a half of the 39 women were satisfied with the police response ("The police were wonderful", "I couldn't fault them at all.", " No complaints, they were really good and helpful.", "The police handled it very well. I was very

²¹⁵It was not the researcher's time which was limited, but the interviewees. It was not considered acceptable to take up more time than was absolutely necessary and whilst some women were eager to talk for a long time others had practical constraints on their time.

satisfied"). When asked if there was anything that they had hoped for that the police had not done, 40 per cent of victims said no. However, whilst some women with low expectations were pleasantly surprised at the police response, (one woman, for example, who declared herself to be very pleased with the police response explaining: "I thought that they wouldn't take him away. I guess I had low expectations"), half of them felt that there had been a discrepancy between what they wanted and what they got. One woman who had previously "had a lot of faith in the police" had been disappointed when her expectations were not met and her ex-partner was not arrested.

Whether an arrest occurred or not was unrelated to level of satisfaction. It was not the case that more punitive responses resulted in more satisfied victims. Women who wanted their partners to be arrested were satisfied if this was done but those who were looking for some other type of assistance were left feeling very disappointed when the police arrested the suspect without providing information or advice. As one woman said:

The police should reassure a person before they leave because I was left feeling very vulnerable. There was no support for me after he was arrested. I would have liked more support. I felt guilty for calling them.

Women were satisfied when the police provided what they wanted or needed, rather than proceeding with their own agenda. Thus, writers who assume that victims of domestic violence will only be satisfied if their assailant is arrested and charged

(Pahl; 1985, 1982; Binney *et al.*, 1981) are being insensitive to the range of complex dilemmas facing women who are subjected to either psychological or physical violence by their partners or ex-partners. One woman, whose partner had been arrested and kept in a cell overnight, expressed disillusionment with the criminal justice system. She wanted advice and information about sources of help not a punitive response:

I've done it all before, the punishment isn't worth the effort ... we need help and the system doesn't help people it only punishes them. ... They told me about the refuge, but that's not worth it either. I tried to get in touch with relate before but they had a two month waiting list. The WPC was sympathetic but too busy. I wanted someone to talk to.

This woman's partner was also interviewed. He was not angry that the police had arrested him: "I knew they'd nick me - it's the usual thing they do. I was too drunk. I think I might have given her a smack (he had broken her nose). I needed to cool off in a cell". However he was surprised that no-one had spoken to him about the violence, offered any advice or told him to seek help. His wife had refused to make a statement and so he had been released with no warning, official or otherwise. Twenty four hours after the incident neither the victim nor the aggressor felt that they had gained any long-term benefits from the police intervention.

Sixty five per cent of the women felt that the officers had been sympathetic, and just over half thought that the police had understood how they felt. Sometimes what might seem to be a relatively insignificant act of kindness was sufficient to please the complainant. One woman, for example, who had wanted the police to arrest her husband was satisfied even though he had not been arrested because "they were

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sympathetic - they held my daughters hand". Another woman was happy because the officer had arranged for a locksmith to mend her door. Another factor which impressed women was the speed of the response. Immediate protection typically requires a quick response to a call for help and those officers who arrived at the scene in what the victim considered to be a short period of time were appreciated for taking the request for help seriously. As one woman put it: "The police were fantastic - they came in minutes".

The majority of those who said that there had been a discrepancy between what they wanted and what they got felt that the police had failed to provide adequate advice and information. Women were most likely to declare themselves satisfied when the police had given them sufficient information both at the scene and, where necessary, as the case progressed. As one woman said:

The police did not 'rubbish' the incident. They said they'd keep calling round, keeping me informed. I worried that I was wasting their time. The refuge had told me the police had improved and it's true.

One woman who had wanted the police "to control the situation ... to calm (her husband) down" was satisfied even though they had arrested her husband and she had initially hoped that they could "restore the peace without him having to go to the station". The officers had listened to her; discussed the problems which had led to the incident; explained their course of action; offered her advice and information about other agencies who might be able to help them; and contacted her about releasing him from custody. Not only had they fully communicated their intentions

with the woman but they had also explained their response to the man once he had sobered up.

The police response may, in some cases, determine the likelihood of the woman calling the police, should she be involved in a similar dispute in the future. However, only three of the 39 women interviewed by the researcher (all in Oxford) said that they would not call the police again (two others did not know whether they would or not). All were dissatisfied because of the discrepancy between what they expected and what the police delivered. One explained that the ineffectual response had left her vulnerable: "I've not got much faith in the police now. I don't think they can do much". She said she would not bother to call them again in the future. The majority of the women said that they would call the police again regardless of their satisfaction with their response to that particular incident.

It can take numerous examples of good practice for the police to break down negative pre-conceptions. One woman, who had always thought that the police did not treat domestic violence seriously, deliberated over contacting them when her ex-husband was trying to break into her new home. Eventually she telephoned the station but told them that she was being harassed by a stranger: "I didn't tell them that it was my ex at the door. I didn't think they'd come if it was just my ex". The police did come and arrested the perpetrator, leaving the woman surprised and "very satisfied". In conversation with the researcher she spoke of previous episodes of physical and sexual abuse which she had not reported, believing that the police would not respond.

This incident had increased her confidence in the police to the extent that she declared:

In future when he bashes me about or threatens to kill me I'll call the police and get him done.

Although she added:

I don't know about the sex though (there had been four acts of rape and numerous other serious sexual offences) I don't see that they could do him for that. We were married for years you know.

Satisfaction with the police was, in part, related to the aggressor's response to the police intervention. The few women who had experienced retaliatory violence were, not surprisingly, less satisfied than those whose partners had ceased being disruptive or violent as a result of the police visit. One woman wished that she had not called the police because:

After they (the police) left I barricaded myself in the bedroom but he pushed his way in and carried on humiliating me. It was like he now felt he had the police's permission to harass me further.

She was the most dissatisfied of all of the victims.²¹⁶ A handful of women who felt that the police attendance had had a positive impact on the relationship, ("He's improved since that day", "Everything was fine after they left", "It made him calm down - he was shocked", or "It taught him a lesson. I've not had any problems since. It worked - the arrest did the trick.") were very satisfied.

²¹⁶In half of those incidents where the police presence had aggravated the situation the suspect had been arrested and in half he had not.

Satisfaction with the police was greater in Milton Keynes than in Oxford.²¹⁷ More victims in Milton Keynes were satisfied (there was a 29 percentage point differential, with almost three quarters of the victims in Milton Keynes being satisfied), felt that officers were sympathetic (there was a 44 percentage point differential, with 85 per cent of the victims in Milton Keynes saying that the officers were sympathetic) and understood them (there was a 46 percentage point differential, with three quarters of the victims in Milton Keynes saying that the officers were sympathetic) than in Oxford. Similarly over two thirds of the women in Oxford said that they had expectations which the police had failed to meet, compared to only a half in Milton Keynes.

Comparing the levels of satisfaction reported in Oxford with those in Milton Keynes suggests that the domestic violence initiative, which was in place at the time of the fieldwork, had a positive effect on service provision. The poor response to the letter and leaflet sent to a selection of victims had led officers to believe that the letters were serving no purpose and were not welcomed by victims. This undoubtedly accounted for the declining use of the follow-up letters during the fieldwork period. However the project might have made a positive impact on victims' levels of satisfaction in two separate ways. Firstly, in a direct way, the few who did receive

²¹⁷Victims in the Thames Valley study were far more satisfied with the police response than agencies perceived them to be. The survey of statutory and voluntary agencies in Oxford and Milton Keynes (see chapter three for a description of this study) found that only four of the 21 agencies believed that the victims with whom they have contact are satisfied with the police response. Although a third of the agencies acknowledged that the police response had improved over the last few years.

a letter were impressed with the effort to provide some type of follow-up service; and, secondly, in an indirect way, the initiative was part of a wider concern within this division (under the command of a charismatic Chief Superintendent) to ensure that all officers improve their response to incidents of domestic violence and this probably had positive repercussions on the initial response of officers. The initiative almost certainly raised the officers' general awareness of the issue and provoked a certain amount of reflection on how they were dealing with the disputes. This reflection, as the previous chapters have shown, had no bearing on the arrest or prosecution rates, which are determined largely by factors beyond the control of the officers (evidential criteria and victims' wishes), but the evidence seems to suggest, it did result in a more sympathetic and a more helpful response.

8.4 The different goals of different actors

As the above section has shown, victims' dissatisfaction arose out of a discrepancy between what they wanted and what they got. This disjunction between desires and outcome can be explained in part by the very clumsiness of the criminal justice system as a tool for solving domestic disputes and in part by the disparity between the goals of the officers and those of the victims.

The disparity between the officers' and the victims' perceptions regarding prosecution is not a product of confusion on either side. Rather, it is a product of two groups of

people coming together to find a solution but with different goals in mind. When victims choose to withdraw their support for prosecution it is not that they are being uncooperative *per se*, it is simply that they are not motivated by the same organisational goals as police and prosecutors.²¹⁸ The police powers and rules pertaining to arrest, detention and prosecution are determined by evidential criteria. As was discussed in chapters seven and eight, the police often, in cases of domestic violence, arrest and detain for 'social service' rather than prosecution purposes, but in cases where there is evidence of an offence they believe prosecution to be the appropriate goal. Victims who do not cooperate with this aim are necessarily deemed to be hostile. However, the desires of these victims often relate to social and domestic needs and desires. Hence, in practice, the police have to respond to two different sets of needs and criteria (their own and the victims) and this can cause tension and sometimes inconsistency.

Further tensions are created by the fairly recent recognition of victims' needs and rights. The idea that services should respond to victims' needs has been established over the last decade (Shapland, Willmore and Duff, 1985; Maguire, 1985) and formally recognised in the Home Office circular 20/1988 on Victims of Crime and the victims' charter (Home Office, 1990b), and government policy in general, all of which require the police to respond to the needs of victims whenever possible, rather than to pursue their own agenda or that of the feminist or political advocates of

²¹⁸See chapter six for a discussion of these organisational goals which both push and pull officers in certain directions.

criminalisation.

Some advocates have assumed that criminalisation and a punitive response will meet the needs of victims of domestic violence. Thus, Edwards begins her consideration of prosecuting domestic violence cases from a normative stance, arguing that "It is still the case that too few cases proceed to a prosecution" (Edwards, 1995: 145). She and other feminists have assumed that victims are dissatisfied because they want their aggressors arresting and prosecuting and the police do not do this enough. Consequently these writers have demanded tougher and more punitive measures from the police and criminal justice system. However, it has been shown that this was not what many victims wanted because the burden was so onerous and the outcome often perceived as unhelpful. To respond to victims' actual needs and desires could, in some cases, challenge a criminal justice philosophy which prescribes responding to offences.

The police are generally the first, and often the only, agency to intervene in incidents of domestic violence. But when the police intervene there is considerable evidence that their intervention is not always framed by the interests of the victim (Mawby and Walklate, 1994). They are highly dependent on victims to provide evidence in order that they can pursue their goal of prosecution. However, focusing on issues of criminality can mean that their style of intervention is inappropriate. Sometimes they do not provide the services which the victims expect, for example, feedback on the

progress of their case²¹⁹ or information on other service providers (Newburn, 1989; Shapland and Cohen, 1987).

As with any other dispute, the police when responding to domestic disputes either maintain order or enforce the law, or both. It has been shown that these can both be effective short term management resolutions. However, neither are seen by the victims as doing much for the long term problem; their response is rarely thought to address the future stability of the relationship. At the end of the day, the criminal justice system, as it stands, is regarded by victims of domestic violence as an exceptionally clumsy and ineffective tool.²²⁰

²¹⁹A variety of studies have found that victims are not kept up to date on developments in their case, and that this is a major source of resentment (see Shapland, Willimore and Duff, 1985; Newburn and De Peyrecave, 1988).

²²⁰The effectiveness of the criminal justice system in responding to victims of domestic violence will be considered in chapter ten.

CHAPTER 9

Responding to Victims' Needs

Surveys have shown just how important victims are as informants and witnesses for the prosecution (Hough and Mayhew, 1985). But when victims perceive that the criminal justice system is insensitive to their own interests and needs, they are less willing to participate in the process (Joutsen, 1987). The previous chapters have shown that victims' cooperation is perceived to be crucial to the successful prosecution of perpetrators of domestic violence. Indeed, the police and CPS rarely consider it worth proceeding with a prosecution if the victim will not cooperate. Yet victims often refuse to make statements or testify in court. They fail to see the point in cooperating with a criminal justice system which cannot meet their needs or even address their concerns (in particular, it cannot prevent further violence in the future). Nevertheless, despite their frustrations with the system they continue to report incidents of violence to the police. They do this because they want immediate protection as well as advice and information. Chapter eight argued that the police were relatively good at offering immediate protection and yet not so useful as a source of information or as a point of access to help. Having established that the criminal

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justice system is, at best, only a partial solution and, at worst, wholly unsuitable, this chapter will consider further the needs of victims of domestic violence and their families and assess how well these needs are being met within the community.

It will be argued that victims need attention from a wide range of agencies but that in the Thames Valley during 1993 this was rarely forthcoming and that their attempts to improve their immediate or long-term situation were sometimes frustrated by a perceived lack of credible options and actual gaps in the network of voluntary and statutory support agencies. This chapter will draw on the relevant literature as well as data from the Thames Valley study (interviews with 39 women who had recently been victims of domestic violence and police officers who responded to 387 such incidents, conversations with women residing in two Women's Aid refuges and a survey of the voluntary and statutory agencies in Oxford and Milton Keynes).²²¹

²²¹The opinions of 12 agencies in Oxford and nine in Milton Keynes were gathered. See chapter three for a description of this study and of the interviews with victims.

9.1 The expressed needs of victims and agencies' responses

Interviews and less formal conversations with victims enabled me to construct a fairly comprehensive list of these victims' needs. Between them victims mentioned the following:

- Security - to feel safe again.
- Non-judgemental crisis support.
- On-going emotional and practical support.
- A secure temporary refuge from abuse.
- Permanent affordable and suitable housing.
- Contacts - help in re-building or establishing a support network.
- Advice on community facilities and resources.
- Representation with other agencies.
- Information and advice regarding legal (civil and criminal) rights.
- Drop-in centres.

The agency survey revealed that all of these needs could, in theory, be met by the available sources of help within both Oxford and Milton Keynes. In other words, at least one of the voluntary or statutory agencies could have responded to any of these requests for help. These various 'needs' fall into two basic requirements: somewhere else to live and someone to talk to.

9.1.1 "I'd like to leave but I've got nowhere to go"

Some women stayed in violent relationships, a decision which most felt precluded them from supporting the prosecution of their partners, because they felt that they had

no chance of securing alternative, affordable accommodation. Mooney's (1994) study found that 26 per cent of women did not leave violent relationships because they thought that they had nowhere to go.

It is difficult to be non-judgemental about women who stay in violent relationships. However, consideration of the options available to them suggests that this might sometimes be a rational choice. Several studies have suggested that approximately a third of all abused women who report to any agency seek help from housing departments (see, for example, Dobash and Dobash, 1980; Hanmer *et al.*, 1989). Indeed, local authority homelessness officers are, at times, the first point of contact for these victims. Under part III of the Housing Act, 1985, a woman with children escaping violence has the right to be permanently re-housed by her local authority.²²² Women do not need to report their victimisation to the police in order to be eligible for re-housing or other benefits because the evidence of health professionals is acceptable to housing departments and courts. Apart from re-housing women can receive other benefits from the housing department. For example, they can get a travel warrant from social services to go to a safe location.²²³

There are, however, women for whom the housing department is not a helpful option.

²²²Part III of the Housing Act, 1985, embodies the Housing (Homeless Persons) Act 1977.

²²³In addition, a Crisis Loan is available, through the Social Fund from the Benefits Agency, to meet basic emergency needs on the day a woman leaves an abusive relationship.

Women without children do not have a statutory right to be re-housed under this Act, although housing officers are encouraged by a Code of guidance to consider them for re-location.²²⁴ Also, the statutory duty imposed by the Housing Act omits cases in which the perpetrator is not officially resident or where he has residency rights elsewhere. It is therefore no help to women who are abused by ex-partners or boyfriends with whom they do not live. In the recent Islington survey over a third of women experiencing domestic violence were not living with their partner or were not in a current relationship with him (Mooney, 1994). Similarly, in the Thames Valley study almost 40 per cent of the women were separated or divorced from their violent partners, and, therefore, no longer sharing accommodation. Women without permanent residency status put themselves at risk of deportation if they alert the authorities to their victimisation and choose to leave a violent partner.²²⁵ This might, in part, explain why Mooney (1994) found that only one in ten foreign nationals from certain ethnic minorities reported their victimisation.

²²⁴According to section 59 of the Housing Act a woman must be in priority need before the Local Housing Authority has a duty to provide accommodation rather than just give advice and help with finding accommodation. There are four ways of being in priority need: (a) if you are pregnant; (b) if you are a person with whom dependent children reside or might reasonably be expected to reside; (c) if you are vulnerable because of old age, disability or handicap; (d) if you are homeless as a result of natural disasters e.g. floods. Many battered women will come under category (b). Women without children are not mentioned in the Act but the accompanying Code of Guidance states that Local Authorities should consider women without children who are at risk of violence as vulnerable (Code of Guidance para. 2:12 (c) (iii)).

²²⁵Women who come to Britain on a temporary visa have the same rights to claim welfare benefits as other British residents. However, if such women leave their husbands within the period of a one year temporary visa and claim benefits or rehousing it may be used as justification for refusing them permanent residence at the end of the year long period.

Many of the victims in the Thames Valley did not know about their entitlement to permanent secure accommodation. Indeed, only one woman had spoken to her local housing officer and, despite appearing to meet the criteria detailed in the housing act, she was told that the council would not be able to re-house her. She did not seem to know why and was, of course, very disappointed. Mooney had also found that women were dissatisfied with the response from the housing department, particularly those who had contacted them recently. Even the women who had a right to be rehoused were frequently told that the housing waiting list was full, that it would be years before they could expect to be rehoused, and that their only option was bed and breakfast accommodation. This finding was supported by anecdotal evidence gathered from the Oxford Women's Aid refuge, where staff complained that there were too many women put into bed and breakfast accommodation after leaving the refuge, rather than being found suitable permanent housing.

Women's Aid refuges, to which access can usually be gained 24 hours a day, directly or through the Samaritans and the police, provide temporary relief for women and their children fleeing violent relationships²²⁶. Women use refuges for different periods of time - some stay for a few days, whilst others remain for several months.

²²⁶In the United Kingdom there are about 290 local refuge groups of which some 200 are affiliated to one of the four national coordinating bodies - Women's Aid Federation England (WAFE), Welsh Women's Aid, Scottish Women's Aid and Northern Ireland Women's Aid. There are over 110 Women's Aid groups in England, and the majority of refuges in this country are affiliated to WAFE. Each year refuges in England provide help and refuge for over 45,000 women and children seeking escape for domestic violence (a further 100,000 are given help and support) (Ball, 1994).

Whilst research indicates that they are used only as a last resort when more informal support options have been exhausted (most women who eventually enter a refuge have been systematically beaten for years), the majority of women are satisfied with this service (Mooney, 1994; Pahl, 1982; Dobash and Dobash, 1980; Horley, 1988). The women interviewed in the Oxford and Milton Keynes refuges spoke of the benefits of staying in the refuges, which included safety, support (for themselves and their children), information and self-esteem. Indeed many saw their experiences as providing a turning point for their lives. Some had found the courage to break away from abusive relationships whilst others entered the refuge to show their partners that they were not prepared to accept any more violence. Despite the overcrowding and the rules residents must obey, women preferred the refuge to other temporary accommodation because it encouraged the recovery process by providing contact with other agencies and supportive friendships. These impressions are supported by a vast literature on women's experiences in refuges in the United Kingdom and in America and Northern Ireland (Pahl, 1985; Bowker, 1983; Binney *et al.*, 1981; Sedlak, 1988; Mooney, 1994; McWilliams and McKiernan, 1993).

However, for some women the refuge was not an option. Some simply did not know of its existence, whilst others were unsure about how to secure such assistance (see also, McWilliams and McKiernan, 1993; Mooney, 1994). Two of the victims had tried, in the past, to move into the local refuge only to be told that there were no available places. Much of the literature on the refuge movement has been critical of the serious under-funding of refuges and of the inadequate supply of refuge

accommodation (Binney *et al.*, 1981; Clifton, 1985; Wilson, 1983). The demand for this particular service, despite the low proportion of the total number of victims who actually seek shelter, clearly exceeds the supply. As far back as 1975, the Parliamentary Select Committee on Violence in Marriage recommended that there be at least one family place in a refuge per 10,000 of the population. Even by the end of 1992 there were still fewer than one third of this recommended number of places (Barron *et al.*, 1992). In 1990, London Women's Aid advice centre, which coordinates referrals to London refuges, reported that they were only able to make refuge placements in 40 per cent of over 5000 requests received that year (Victim Support, 1992).

Refuges have, in the past, had financial assistance from the manpower services commission or from urban aid, but not all have benefitted from this help and many who have previously obtained money from these sources are now without funding. And, despite the duties imposed on local authorities by the Housing Act 1985, many housing departments still refuse to provide Women's Aid with suitable properties to set up refuges. Where housing is provided, commentators have noted that it is typically of poor quality and nearly always overcrowded (Barron *et al.*, 1992; Clifton, 1985; Binney *et al.*, 1985). This is not the case in Australia or Canada where, according to the literature, there is a much more serious commitment to the refuge movement (Smith, 1989).

Because Women's Aid is seriously underfunded and, consequently, under-resourced,

some women cannot find shelter within their county (although most refuges who cannot accommodate women in a crisis will attempt to find a bed within another area). Many refuges, the Oxford refuge included, do not have sufficient staff to enable them to admit women out of 'normal working hours'. Therefore, when women flee their homes in the middle of the night they have to rely on the emergency housing department, another source of assistance which suffers from inadequate resources, to meet its obligations. In addition to resource problems, the refuges cannot accommodate disabled women, women with severe psychiatric problems and women dependent on drugs or alcohol (although they provide an outreach service for these groups). Women's Aid also excludes boys over the age of 15. The unavailability of refuges for mothers with adolescent boys means that some women need to make the difficult decision about whether to live apart from their sons or to continue to live with violent abuse.

9.1.2 "I'd like someone to talk to"

Women's Aid refuges provide more than accommodation and support for their residents: they provide telephone and one-to-one advice and assistance for victims who do not need or want to move into a refuge. However, the majority of the women in Oxford and Milton Keynes did not know that this service was available to them. Whilst police officers sometimes told them about refuge accommodation, they rarely mentioned that they provided help for non-residents.

Victim Support might seem like an obvious source of help for victims of domestic

violence,²²⁷ and yet none of the victims in the Thames Valley study had received help from this organisation. Whilst Victim Support can offer information, advice and practical and emotional assistance to a victim of any crime, traditionally it has been concerned primarily with burglary victims (who still account for the majority of referrals from the police). During the 1980s victims of other types of theft and assault were helped by volunteers but few victims of domestic violence were supported, largely because the majority of Victim Support schemes around the country believed that they were not qualified to deal with them, and so shied away from the responsibility. An attempt was made to change this stance on domestic violence when the national association of Victim Support schemes convened a working party on the multi-agency response to domestic violence. This working party, which reported in July 1992, recommended that *all* of the relevant agencies (including Victim Support) should improve their services to victims as well as establishing effective communication channels with each other in order to provide the best service for victims with diverse needs.

As a result, Victim Support now provides thorough training on domestic violence for a few volunteers who are considered appropriate for this type of work, as well as

²²⁷Local Victim Support schemes were established in the 1970s. Interest was spurred by Government encouragement and eventually Government money. In 1979 the Home Office made its first grant and now each year the Government provides increased sums to fund local schemes. During the 1980s the police confidence in the expertise and professionalism of the organisation grew and they began to refer victims. Today over 10,000 volunteers are involved, as voluntary workers or on management committees, and there are over 350 schemes, covering most of England and Wales, compared with just over 250 five years ago.

domestic violence awareness training for all volunteers. But as it consists merely of a few hours, this training is necessarily superficial. Indeed, three of the agencies surveyed argued that Victim Support needed to improve their training of staff or volunteers regarding domestic violence. Some Victim Support volunteers and branch co-ordinators remain ignorant about the dynamics of domestic violence and the options available to women, as well as being sceptical about their role in responding to this problem .²²⁸

The Victim Support schemes of Oxford and Milton Keynes provide, in the main, examples of good practice concerning domestic violence. Both schemes are willing to take all of the referrals from the police (Victim Support policy states that coordinators can only contact domestic violence victims who have been asked by the police for permission to refer them). However, the Thames Valley officers rarely mentioned this source of help to victims of domestic violence (see table 3, s. 9.2). Hence any efforts by Victim Support to improve their service to such victims are largely thwarted by poor inter-agency communication and cooperation.²²⁹

Mooney (1994) found that 20 per cent of a sample of domestic violence victims had

²²⁸I am both a Victim Support volunteer and a member of the Management Executive Committee of Victim Support Oxford and District. Attendance at Victim Support conferences and volunteer and management training sessions has provided opportunities to discuss the Victim Support response to domestic violence with volunteers, staff and management executives.

²²⁹ In another survey only two per cent of the domestic violence victims had received any help from Victim Support (Mooney, 1994).

taken time off work, 40 per cent had difficulty sleeping, over half felt worried, anxious or nervous and almost a half felt depressed and suffered from diminishing self-confidence, all as a direct result of domestic violence. In addition to this, many women reported having had nervous breakdowns, suicidal thoughts and a few had even attempted suicide. A recent study of domestic violence in northern Ireland found that eight of a sample of 56 victims had taken overdoses or cut their wrists (McWilliams and McKiernan, 1993), and a few women spoken to in Oxford and Milton Keynes admitted that they had considered suicide. Because of these psychological, as well as the more obvious physical, symptoms of abuse the first, or only, practitioners many women consult are medical professionals (Pagelow, 1992).

During the 1980s various studies estimated that anything between a half and four fifths of domestic violence victims consulted doctors about the abuse (see, for example, Binney *et al.*, 1981; Dobash and Dobash, 1980). Whilst different methodological approaches means that comparison between the results of these studies is difficult the pertinent point is that a great many women alleged to have sought help from their doctors. Yet when general practitioners were interviewed during the same period of time the doctors claimed to encounter patients suffering from marital violence only infrequently (Borkowski *et al.*, 1983). A more recent study, which is probably more reliable than the refuge based studies of the early 1980s, has estimated that only a quarter of women visit their doctors as a result of domestic violence (Mooney, 1994). There is no recent equivalent of Borkowski *et al.*'s research by which to judge the opinions of general practitioners regarding visits by victims, but

it would not be controversial to suggest that there is probably still a discrepancy between women's attempts to communicate with doctors and doctors' perceptions of victims' help-seeking practices. The literature suggests that this discrepancy is due to victims seeking medical services for physical injuries without discussing the causes of those injuries. The bulk of current research points to the non-identification of victims of spouse abuse and to medical practitioners focusing, not on the causes, but on women's psychological responses to family violence, such as depression, drug abuse and suicide attempts (Pagelow, 1992).

Although many women are forced, by the severity of the injuries they suffer from abusive partners, to attend emergency units, the causes of their injuries are rarely accurately recorded. It seems that medical staff regularly failing to identify domestic violence when the symptoms indicate some sort of abuse (Kurz and Stark 1988; Warshaw, 1989; Randall, 1990).²³⁰ Other studies have suggested that health visitors similarly fail to recognise battering and instead treat women as having psychological problems (Stark and Flitcraft, 1988). Spouse abuse is clearly under-detected in a number of in-patient and out-patient settings. Doctors seem to find it easier to prescribe tranquillizers than to address the roots of emotional trauma, leaving victims dissatisfied with the medical service (Borkowski, *et al.*, 1983; Dobash

²³⁰Stark and Flitcraft (1988) argue that failure to diagnose abuse may further a victim's sense of entrapment and thereby contribute to victimisation.

and Dobash, 1980; Binney et al., 1981).²³¹ A number of the women spoken to in Oxford and Milton Keynes said that they had spent some time on medication. One commented that "all doctors ever do for you is stick you on pills - what I need is someone to talk to".

Studies suggest that abused women expect doctors to initiate discussions about domestic violence and that they would happily respond to questions about abuse if they were dealt with in a sympathetic and non-judgemental way (Friedman et al., 1992). But all the evidence seems to suggest that most women feel that they cannot talk to their doctors and, in addition, medical practitioners are inadequate as a source of information about other services available (Mooney, 1994; Pahl, 1985; Borkowski et al., 1983). In particular, hospital staff are very poor at referring victims to more appropriate sources of help, even when there is assistance available within the hospital itself. For example, they are rarely referred to hospital social workers (McWilliams and McKiernan, 1993; Shepherd, 1990).

Various estimates have been made regarding victims contact with social workers (it is thought that between one in ten and one third of victims of domestic violence contact a social worker at least once - see Pahl, 1985; Bowker, 1983; Hanmer et al., 1989; Mooney, 1993). Social workers can provide victims with information on the

²³¹It has been suggested that victims using tranquillizers are at an increased risk of suicide and drug or alcohol abuse. Further, such drugs may limit women's alertness or hamper their decision making processes which could leave them vulnerable to further abuse (Dobash et al., 1985).

law, or the department of social security benefits system, or refer them to other counselling and supportive agencies. Social workers can help women who have entered a refuge to find permanent accommodation (Pahl, 1985; Bowker, 1983). Local authority social services do not, however, have statutory responsibility for domestic violence victims. Therefore, their involvement is likely to come about through the duty system in the area and hospital teams, or as a result of family intervention on other grounds (often with reference to suspected child neglect or abuse) (McGibbon *et al.*, 1989).

Many women fear the involvement of social workers, worrying that they might lose custody of their children if, having fled a violent relationship, they cannot secure 'suitable' accommodation (Buel, 1988; Hammersmith and Fulham Council, Community and Police Committee, 1989; McWilliams and McKiernan, 1993). One couple in Milton Keynes were told by a police officer that if they kept arguing they would be put before the magistrates court and would risk having their child put into care. This officer was informally interviewed about the victim's concern. He admitted that he was worried about the victim's addiction to drugs and had indeed alerted social services regarding the welfare of her child. The victim told me that she was terrified before each visit from the social worker. However, a number of the staff at the agencies in Oxford and Milton Keynes felt that social services should be even more involved in violent families, and, in particular, should be more sensitive to the effects of domestic violence on children. The charities NSPCC and NCH Action for Children have recently conducted research and raised awareness of this

issue.

Advice and support for couples is necessary in cases where women do not want to break up the family, but want the violence to end (see chapter eight). Relate can offer marriage guidance counselling but, as with many other services, relate is under-resourced and victims are unlikely to be seen at the crisis stage. One victim in Milton Keynes was told she would have to wait two months before she could be seen by a relate volunteer. Expressing her frustration, she argued that there should be more support for couples who want to save their relationships but stop the conflict (a sentiment that was echoed throughout many of the interviews). Other women wanted simply a support network:

I wish there were people like me that I could be put in touch with - like a support group run for battered women.²³²

When women sought out solicitors they were looking for more than someone to listen. They were looking for practical advice and assistance. Women can contact a solicitor for advice or action on separation or divorce proceedings or child residency orders. Most women experiencing domestic violence, however, use a solicitor to get an injunction. The Domestic Violence and Matrimonial Proceedings Act 1976 gives county courts powers to grant non-molestation injunctions, and exclusion or 'ouster'

²³²Only now is there such a support group available to victims in Oxford. Beginning in April (1996) a youth project, 'Lifechances' (funded by Save the Children), will run a group for young women who are victims of domestic violence. The group will aim to teach women practical skills as well as hold stress management, assertion, relaxation and self-awareness courses. It seeks to help women to help themselves and each other.

injunctions from the family home. Emergency or 'ex-parte' injunctions are obtainable quickly from duty judges in the county court, even out of office hours. If the judge is satisfied that violence has occurred, or may re-occur, powers for police to arrest may be attached to these injunctions. A person who breaches an injunction can be apprehended for contempt of court.

The Domestic Proceedings and Magistrates' Courts Act 1978 relates only to wives who have experienced actual or threatened violence (unlike the 1976 Act, co-habitees are not provided for). Wives may obtain personal protection orders (similar to non-molestation orders but limited to actual or threatened violence); exclusion orders (limited to the family home and not covering surrounding areas); and expedited personal protection orders (men cannot be excluded from the home under these orders which last only 28 days). A power of arrest can be attached to the protection orders and exclusion orders but not to the non-molestation orders. Courts may also, instead of attaching powers of arrest, ask the respondent for an undertaking that he will not assault the woman. In these cases the woman is not required to give evidence, and she is not required to accept the undertaking.

One fifth of the abused women in Mooney's study (1993) had talked to a solicitor and most found them to be unsympathetic and dismissive while some had given bad advice. All those who had applied to a court for an injunction found the experience to be very distressing and, once in place, the injunctions had a limited effect - they were either ignored or provoked further violence. The victims interviewed in the

thames valley expressed similar dissatisfaction with the efficacy of the civil law. Many encountered difficulties finding a solicitor who would deal with domestic violence (a problem shared by many practitioners).²³³ Most of those who managed to find a solicitor were then quoted costs far beyond their means. Injunctions, which typically last only three months, can cost up to, and sometimes above, £500. One woman had contacted the solicitor recommended by Women's Aid and had been quoted £800 for an injunction. Interviewed a few months later, she explained that she had 'given up trying' and had resigned herself to staying with her violent partner. At one time legal aid covered people on low incomes as well as those who were unemployed. Now it is only granted to those claiming state benefits.

Two of the women interviewed had managed to secure the services of a solicitor and injunctions had been served on their ex-partners. However, both were disappointed and frustrated by breaches which the police had failed to act on. They had been told that without a power of arrest attached to the injunction the police could do very little. Clearly an ouster or a non-molestation order without a power of arrest provides little protection for the majority of victim (see Farrell *et al.*, 1993). With such a power the police can arrest for breach and put the perpetrator before the

²³³Indeed, during the time of the fieldwork for this project the refuge in Milton Keynes was in the process of advertising for a sympathetic solicitor with experience in working in the area of domestic violence to take all of the referrals. They eventually managed to locate one! And more recently injunction networks have been established in both areas to help victims and practitioners alike (in Oxford an injunction telephone 'hot-line' now provides victims with valuable advice as well as recommending sympathetic solicitors).

county court where a two or three month custodial sentence can be imposed. However, in the Thames Valley study only one man - out of seven put before the court for breaching an injunction - was given a custodial sentence (three months). These women had not known that without a power of arrest the injunction was of limited use. Furthermore both were unaware that there was a time limit, after which the injunction was ineffective, and neither knew what their partners had been forbidden from doing - whether it was coming near their home or physically assaulting them. Their solicitors had clearly spent insufficient time and effort explaining the orders to them.

9.2 The problem of poor communication

Abused women may require a wide range of agency intervention from the police, general practitioners, social services, the housing department, and informal support groups. It is clear, however, that, despite the good intentions of many workers in the statutory and voluntary sectors, there is not a unified and effective strategy for dealing with all victims of domestic violence. Insufficient resources, ignorance, apathy and organisational problems all contribute to the relative failure of many agencies to meet victims' needs. However, inadequate communication between victims and agencies, in addition to poor communication amongst the various agencies, can, to a large extent, explain the chasm between victims needs and the community response.

There are essentially three ways in which a victim of domestic violence can make, or is put into contact with one or more agency: she can be referred by the police; referred by another agency; or she can refer herself directly. In order for women to approach directly any agency they need to know of its existence and to understand how to make contact. Victims in the Thames Valley study did not know about many organisations and did not, in the main, know if they had any rights to assistance. Further, when they were told about relevant sources of help they sometimes were unsure about how to approach a particular service. Consequently, many failed to approach the appropriate sources of help directly.²³⁴

Each agency was asked to describe how successfully they interacted with the various other agencies. This allowed me to assess the likelihood of victims being put into contact with all of the relevant agencies should they initially have contact with one. The majority of the agencies surveyed said that they maintained a very good relationship with Women's Aid (which was considered to be a good source of information and support for the other agencies as well as for victims). Many had frequent contact with social services but some criticised social workers for ignoring the issue of violence against women in the home. Solicitors similarly attracted a lot of criticism for being unsympathetic with victims and uncooperative with the other agencies. The local housing authorities were also considered to be sometimes uncooperative. Victim Support was praised as a useful source of information but

²³⁴Some did have contact with Women's Aid and, because of the nature of the sample drawn, all had had recent contact with the police.

doctors and the probation service were rarely mentioned as a point of contact, showing the minimal involvement of these services at the time. The majority of the agencies reported a good relationship with their local police, although many mentioned that certain officers could be more helpful and some argued that improved relationships and liaison with the police would, more than anything else, benefit victims of domestic violence.

The information gathered on inter-agency communication is a fairly crude gauge of the each agency's effectiveness as facilitators for victims. However, it does suggest that whilst there is some cooperation between some agencies (Women's Aid in particular seems well connected within the community) not all agencies were communicating with each other as effectively as they might and, therefore, were unlikely to be proficient mediators between victims in need and the available resources.

The police, as the agency most likely to be in contact with victims at a crisis point, are potentially very useful facilitators and yet, as was discussed in chapter eight, they were found to be poor sources of the information, advice, and contact with other agencies that victims expected.

Edwards' study suggested that during the 1980s the police were inadequate as a source of relevant information for victims of domestic violence. She highlighted the lack of basic knowledge of police officers about local agencies and the lack of inter-

agency communication (1989). The 60/1990 Circular addressed this concern, recommending that officers provide advice and information on the various sources of help. Since then, training on domestic violence had improved (modules teach officers how to provide victims with helpful information and how to facilitate victims' communication with the relevant people). Most of the officers who were interviewed thought that they did provide an adequate service to victims. They frequently claimed that they told victims about 'the available options', in particular, about their criminal and civil legal rights. Table 1 shows that, according to officers, advice was offered to victims in seven out of ten cases.²³⁵

Table 1

Number of Victims Advised (according to police officers).²³⁶

	Oxford	M. Keynes	Total
Advice	68% (106)	71% (165)	70% (271)
No advice	32% (50)	29% (66)	30% (116)
Total	156	231	387

If the officers were correct, this still left almost a third of victims without advice from the police. Of course, in a small number of cases advice was either not

²³⁵Control room operators were interviewed about advice given to callers on the telephone. The majority said that they rarely gave advice or information to callers in cases where they decided not to dispatch an officer to the scene.

²³⁶There was very little difference in the levels of advice offered to victims when the suspect was arrested from when he was not.

necessary or was firmly resisted by the victim. At times the police were called by a neighbour to a dispute which sounded more serious than it actually was and where no form of intervention or advice was necessary. There were also addresses to which the police were called repeatedly over a short period of time and, having advised the disputants on the first visit, further advice was considered redundant. This still leaves many women who might have benefitted from advice without it. Furthermore, whilst officers claimed to have advised 70 per cent of victims, less than a third of the victims interviewed said that they had received relevant advice about what to do (only three victims in Oxford and nine in Milton Keynes). There are two possible explanations for this discrepancy. First, police officers might have exaggerated their services to victims, and, secondly, officers might have offered advice in such a way that it was difficult for a victim (especially a distressed victim) to retain.

There is clearly a need for printed literature on the available options which could be distributed to all victims (this is particularly relevant to very distressed victims). In Milton Keynes some victims were sent 'follow-up letters' a few days after the police had attended a dispute.²³⁷ The letter recommended further communication with the police should the woman require information or assistance, and an information leaflet was enclosed.²³⁸ Patrol officers were also expected to distribute these leaflets when

²³⁷Only a few women had responded to these letters and most officers were sceptical of their benefit.

²³⁸This service was dependent on the cooperation of patrol officers, and less than half of them completed the proformas which identified victims who might require further contact.

attending any domestic dispute.

Although the leaflet was poorly written, it did provide relevant information on the agencies in the area.²³⁹ However, only a handful of victims received it. Officers were reluctant to distribute the leaflet because they were worried about causing further disputes. Yet I interviewed only one victim who had been angry at the arrival of the leaflet (it had caused a further row with her husband) but she admitted that she had hidden it in a safe place for when she might need it again. Another woman who had received the leaflet was very impressed: "I felt like someone cared". Officers claimed that they told most of the victims they advised about the agencies referred to in the leaflet, and yet table 2, which details the agencies officers said they recommended to victims, shows that officers rarely recommended Women's Aid although this is perhaps the most useful source of support for victims of domestic violence.

²³⁹Having criticised the leaflet for being badly written and poorly produced, I was asked to help senior officers to write an alternative leaflet.

Table 2.

Agencies Recommended to Victims who had Received
Advice from Police Officers²⁴⁰

Agency	Oxford	M. Keynes
Total number	106	165
Solicitor*	34 (32%)	52 (32%)
Victim Support	8 (8%)	18 (11%)
Women's Aid	12 (11%)	18 (11%)
Doctor	9 (8%)	3 (2%)
Citizens Advice Bureau	5 (5%)	3 (2%)
Relate	5 (5%)	4 (2%)
Social Services	9 (8%)	2 (1%)
Other types of advice**	24 (23%)	65 (39%)

Note:

- * The majority of these were recommended to get an injunction.
- ** This tended to be personal advice about the victim's particular situation and did not involve any recommendations about other agencies.

Table 2 shows that almost a third of the victims were recommended to see a solicitor

²⁴⁰This information was gathered from the police officers who were interviewed.

and to take out an injunction.²⁴¹ Table 3, however, shows that the majority of victims interviewed reported that they were not given such advice, and less than half could not recall receiving information about *any* source of help.

Table 3
Agencies Recommended to Victims by
Patrol Officers (according to the victims).²⁴²

	No info.	Vic.Sup	W. Aid	Relate	Sol.	Total
Oxford	10 (55%)	2 (11%)	5 (28%)	1 (5%)	-	18
M. K.	11 (52%)	2 (9%)	4 (19%)	2 (9%)	2 (9%)	21

It is interesting to compare the alleged recommendations of officers with the advice recalled by victims. Whilst officers stated that they recommended solicitors to a third of victims, less than one in ten of the victims in Milton Keynes could recall such a recommendation and none of the Oxford victims thought that they had been advised to see a solicitor. Conversely, officers thought that they had recommended Women’s Aid in only 11 per cent of the incidents and yet approximately a third of victims recalled being advised to contact this organisation. It is likely victims often did not understand *why* they should contact a solicitor or what ‘civil remedies’ or

²⁴¹This was also the advice most likely to be given out by control room operators when they recommended other agencies or sources of help (although, as stated above, they rarely gave any advice).

²⁴²Only one woman was given the telephone number of an agency.

‘injunctions’ were. Police officers on patrol were observed casually telling victims to ‘consider the civil options’ or ‘get an ouster order’ without explaining what these were or how they could be acquired. Whilst these expressions are part of officers everyday language, they can be meaningless to the lay person. Some officers seemed to have forgotten this. Women’s Aid, however, is more likely to be familiar to many victims and, consequently, women are more likely to recall advice to seek assistance from a refuge.

Officers were usually quite helpful in assisting the victims to make contact with the refuges and sometimes transporting them and their children. There were, however, examples of bad practice, where incorrect advice was given. One woman claimed that when she asked the police if she could go to the refuge she was told that she would not be admitted as she had not suffered from any physical violence. She was then told that she should go to stay with her family. When she rejected this option the officers suggested that they should take her back home to see if they could ‘sort it out’ with her husband. In this instance everything turned out fine - there were no further problems after the police had left. However, it could have turned out quite differently.

In summary, the police did not effectively facilitate access to the various sources of help for victims. Indeed, it seems that many police-victim interactions were characterised by a distinct lack of communication, as victims were sometimes unaware of the reasons for an officer’s course of action or even of what action had

been taken.

9.3 The way forward: how to improve the provision of advice and information

There has been, over the last two decades, a critical rediscovery of the impact of crime on the victim. The notion of providing help to crime victims originated in the grassroots efforts of the 1960s and 1970s to assist victims of sexual assault and domestic violence. The 1980s saw more widespread attention to their needs and rights and the production of the Victims' Charter (1990) and the Citizen's Charter (1991) during the early years of the present decade provide further proof of this concern. The victims' movement in the United Kingdom and in the United States is now well established, and the improved status of the victim has been acknowledged by many academics and by practitioners within the criminal justice system and the other statutory and voluntary agencies whose task it is to assist victims of crime (Shapland *et al.*, 1985; Maguire, 1985).

However, despite this improved status, victims of domestic violence are clearly not getting a satisfactory service from the community. This, it has been shown, is largely a result of inadequate resources to meet the ever increasing demands on services and of poor communication and cooperation between all agencies: specifically between the

police and victims. Almost a decade ago Mawby and Gill (1987) argued that victims were kept in a subservient role - as the recipients of services from a few caring agencies or individuals. They claimed that services responded (some of the time) to victims' *needs* whilst they should have offered victim *rights*. They suggested four areas where victims' rights needed strengthening: the right to play an active part in the criminal justice system; the right to knowledge; the right to financial help; and the right to advice and support. In 1993 these rights were still out of reach of the majority of victims of domestic violence. Despite the improved status of victims in general it has been shown that the victims in Oxford and Milton Keynes did not get sufficient advice or information about the services available. Further, there is evidence that victims' rights to financial help (in particular from the local council housing department) are being ignored. In addition to many not being re-housed, few are likely to be financially compensated for crimes of violence in the home.²⁴³

The Home Affairs Committee, reporting in 1993, acknowledged that Women's Aid has inadequate resources to provide the level of support and advocacy required to enable women *safely* and effectively to use the police (my emphasis) (Home Office, 1993a). This is a very important point but it is pertinent to all community agencies,

²⁴³The 1988 Criminal Justice Act made required courts to justify not giving compensation to victims of crime. However, compensation is discretionary, and the board must be satisfied that victims of domestic violence are no longer married to, or living with, the offender before they can be compensated. This is so that the offender does not benefit from any compensation (although courts are only too willing to fine offenders for violence against women they are still living with).

not just Women's Aid. Women call the police during a crisis. They want immediate protection but many do not want the perpetrators to be prosecuted. Some need information in order that they can make crucial decisions about what to do in both the short and the long-term, whilst others also need a safe place to stay (temporary or permanent). The police can usually give women immediate protection by arresting suspects but if the victim does not want the suspect to be prosecuted, or if there is insufficient evidence of a criminal offence on which to prosecute, the suspect can only be kept away from the victim for a few hours. In other words, the police cannot provide long term protection for victims. Given that many victims are vulnerable to further retaliatory violence when they have called the police, it is at this point that the wider community needs to provide protection. Victims need access to practical and emotional support at any time of the day. Without this, as the Home Affairs Committee appreciated, they might, rather than benefitting from contact with the police, find themselves in more danger. Improved communication amongst the various agencies would necessarily result in ever increasing demands on the available resources which are already inadequate. Women's Aid and local councils would, in particular, need extra funding in order to cope. Whilst there would probably always be a gap between demand and supply, facilitating access to services for more women and improving funding of agencies would result in a more victims receiving necessary support.

This chapter has identified two main requirements for an improved service to victims of domestic violence: first, victims need a better service from the police and,

secondly, they need improved access to information and referrals from the various other community agencies. The remainder of this chapter will explore how these needs might be met by area beat officers, or crisis intervention teams and domestic violence inter-agency fora.

9.3.1 Area Beat Officers

The police will usually be the first emergency service for victims of domestic violence and therefore need to look for ways of improving their response. The question of what the role of the police should be needs to be addressed. Most importantly, the idea that they are about only a criminal justice response needs to be challenged in order that they can explore their social service potential, in particular their provision of information and advice and their efforts at helping victims to gain access to support services.

The present demands of reactive policing mean that unless a fundamental change in policing style is effected (away from shift policing towards a community, problem-solving approach) patrol officers will never be able to adequately provide this service, despite improved training and new policies. Whilst patrol officers must be encouraged to provide relevant information at the time of their initial visit, the data presented above suggests that some victims will not be able to retain such information and some might not understand the advice given. The use of printed information would be of some help but a follow up visit by an officer the following day, or at least within a few days, would be of great benefit. The majority of the victims who were

interviewed said that they would have appreciated a visit from a police officer the following day, or even a few days later, to see if they were o.k, if they wanted more information about the choices open to them and to talk about the incident and their decisions about criminal or civil action. They thought that it would be "sensitive", "show that [the police] care", "... that they were taking me seriously". One woman who had refused to make a statement, in spite of the officers encouragement, argued that had an officer returned the following day she might have been more receptive:

If i'd had more help and someone had come round the next day I could have been persuaded to press charges. I wouldn't make one there and then. The officer wanted me to make a statement. I needed time to think and the right advice when I was not so shaken up.

Patrol officers rarely made such follow up visits. However, interviews conducted with 23 area beat officers (12 men and one woman from Oxford, and eight men and two women from Milton Keynes)²⁴⁴ suggested that these officers could take some responsibility for the provision of advice and information to domestic violence victims.²⁴⁵

²⁴⁴It was not possible to interview all of these area beat officers, as they invariably worked different shifts to the patrol officers, who were the primary focus of the empirical study, and, because of the nature of their work, they were rarely at their station and hence not easily accessible. Therefore, some of these 23 respondents were given the interview schedule to complete themselves, in their own time (see chapter three).

²⁴⁵The role of the area beat officer (ABO) was established following the Police Act of 1965. This Act aimed to combine the best of two types of policing: the traditional 'bobby on the beat' with the urban officer who was increasingly mobile due to the modern communications systems being introduced into the police force and the provision of more cars. Police sub-divisions were divided into 'home beats', each the responsibility of a 'home-beat' or 'area-beat' officer'. The idea was that these officers could establish links with the community through community organizations,

It was aimed to discover the extent to which ABOs were already being encouraged to establish links with victims of domestic violence. Just over half of the twenty three ABOs who were interviewed were never asked by a Sergeant or Inspector, and just over a quarter were *never* asked by a patrol constable, to make a follow up visit to a victim of domestic violence (see table 4).

Table 4

Fequency of Requests by Other Officers for ‘Follow-up Visits’

	ABO asked by an Inspector or Sergeant				ABO asked by another Constable				
	never	rarely	often	T	never	rarely	s/times	often	T
OX	7	5	1	13	2	5	4	2	13
MK	5	3	2	10	4	1	2	3	10
Total	12	8	3	23	6	6	6	5	23

Whilst very few were *often* asked by *any* officer to make a follow up visit, some took the initiative themselves and visited such women, often taking details from the command and control system.²⁴⁶

schools, local businesses, and local residents. It was thought that by building bridges between the police and the local communities, they could assist investigatory work by gathering intelligence on local ‘problems’ and on local criminals at the same time as assuring the public that they had a friendly, visible and approachable police service. This ideal is still as pervasive today as it was then (see Weatheritt, 1983).

²⁴⁶See chapter five for a discussion of how the computerised command and control system operates.

Almost half felt that this was a role that they would feel happy performing. In the main, they acknowledged the benefits of using ABOs to offer advice and information as they tended to enjoy good relations with the various community agencies. As one argued:

If they needed to get out of the home, because of violence, I could pull a few strings for them -with housing and help them with their benefits.

Although a few said that they would need better training about the services available:

If I knew of all the agencies and organisations I'd be prepared to liaise with them, to refer people to them - to be like a middle-man.

A few remarked that women sometimes came up to them voluntarily in the street and asked for advice pertaining to their domestic situation. One officer added: "Some of these women feel comfortable coming and talking to me because we know one another". The ABOs are uniquely placed to discuss the 'options' with victims as the majority know the families in their area fairly well, and some had established relationships based on trust with the citizens on their beat. The majority said that they were aware of the families in their area who regularly had domestic disputes:

Only an ABO can get to really know a family, its members and its problems. On my estate there are lots of women with kids from lots of different men. You've got to be very careful what you say. You need to learn quickly who's who, and to listen to everyone's point of view.

Some of the ABOs expressed reservations about adopting a more proactive role with victims of domestic violence. A few were worried about the time involved in making

such visits, although they admitted that their more flexible timetables meant that they were better placed than shift officers to provide this service. A few were concerned that their presence might provoke more violence or problems. However, one officer explained: "Each situation is different - we have to suss it out to see if further contact would be beneficial or provocative". A few were concerned that the disputants would think that they were being "nosey and pushy", whilst others thought that such work "could be dangerous". Others were concerned about "where [they should] draw the line - do we go and visit after any type of domestic or only if someone had been injured".

Despite these reservations the majority said that they would be happy to carry out this role. They would, of course, need improved support systems in order to adequately fulfil such a role. At present the work of ABOs is not supervised as closely as that of patrol officers, as the police service does not seem to take their work as seriously as other types of policing. Shapland's High Wycombe study found that ABOs felt isolated and without sufficient training and guidance. That they needed a considerable set of skills which were not being included in probationer training:

ABOs must ... acquire the right contacts and use them in the right way ... and ... attempt to solve long-running problems involving several agencies (1987: 91).

To do so would require some investment in their skills. This would, almost certainly, be worth it as far as domestic violence victims are concerned. To argue for a more imaginative use of ABOs is not to make a plea for a return to the 'Dixon of Dock Green' romantic ideals of the 'bobby on the beat'. It is a plea for an effective,

efficient use of resources. It is widely accepted that intelligence gathering is the way forward for building up profiles of suspect communities and targeting offenders. Hence, even a cynic would appreciate that the abo going into homes to advise or assist women and children who live in violent households could be a good source of intelligence on the area.

9.3.2 Crisis intervention teams

Since the late 1960s North American researchers have considered how to improve officers' communication abilities by effective and sensitive crisis intervention (Dutton, 1995).²⁴⁷ The most sophisticated crisis intervention techniques were initiated in 1972 in London, Ontario, where a family consultant service was established to help officers trained in intervention techniques to deal with family dispute calls. By 1976 the scheme was considered so successful that the consultant service was established as a permanent civilian branch of the police force to provide mediation, counselling and referral services to both victims and offenders. This scheme was not operated as an alternative to the criminal justice response but as a support to it. It recognised that victims' needs go beyond the legal machinery and that the criminal law is rendered largely ineffective if not supported by an integrated response from the community as a whole.

²⁴⁷Bard (1971, 1977) developed an experimental programme with the New York Police Department in 1967 that was designed to diminish iatrogenic violence (violence accidentally triggered by the police presence).

Victoria, in Australia, established a crisis support unit in 1989. It brings together police knowledge of the law and experience dealing with violence, with counsellors knowledge of effects of trauma, assessment skills, and awareness of social networks for ongoing support (Magretts 1991). It performs the tasks of immediate face to face assessment, intervention and, if necessary, appropriate referral for follow up. By providing an 'after hours outreach' response, it redresses the deficiencies in other services.

Evaluation research of crisis intervention units is fairly sparse and, for the most part, contradictory because most of the studies have used different measures of effectiveness, however most studies agree that such schemes increased the use of referrals to community agencies (see Dutton and Levens, 1977; Bard, 1977), although there was no evidence that they produced any long-term reduction in violence (Pearce and Snortum, 1983; Buchanan and Chasnoff, 1986). Whilst this is not the place to consider how such a unit could operate in the United Kingdom, it would not be beyond the capabilities of domestic violence units to facilitate such an approach (see chapter ten). It would need some funding but could make use of voluntary workers who could be recruited via other specialist agencies such as Women's Aid.

9.3.3 Multi-agency fora

During the 1980s inter-agency co-operation became a key feature of crime prevention in general, as well as policing in particular, reflecting a concern to broaden the responsibility for crime and crime prevention. The Home Office Circular of 1984,

Crime Prevention, insisted that crime was a problem for the whole community to address. The Safer Cities initiative introduced in 1988, and the implementation of the Home Office's 'five towns initiative' in 1986/7, reinforced this stance. In 1990 the Home Office released the 44/1990 Circular and in 1991 the *morgan report* was published. These two documents, especially the latter, were widely publicised, and were drafted to facilitate multi-agency crime prevention in local areas (Liddle and Gelsthorpe, 1994).

Until fairly recently this inter-agency approach focused on either the technology of crime prevention, or on the control of offenders. Violence against women in the home was not considered an appropriate problem for the initiators of inter-agency work (Blagg *et al.*, 1988), even though as far back as 1975 the Report of the Select Committee of Violence in Marriage advised such co-operation to provide a link between medical and social welfare services.²⁴⁸ Over the last few years, however, there have been a number of locally based initiatives concerning domestic violence which developed from a concern to raise awareness, coordinate policy responses and increase co-operation between specific agencies for the benefit of victims of domestic violence. One of the first of such fora was developed in West Yorkshire. Since then fora have been established all around the country (for example, projects in Kirkby, Liverpool; Bolton, Manchester; and Wolverhampton). This move towards domestic

²⁴⁸The Committee advocated the establishment of "family crisis centres" to provide a 24 hour a day emergency service to victims of family violence. Fifteen years later the Home Office Circular 60/1990 re-emphasised the need for an inter-agency response to domestic violence.

violence fora was further encouraged by a the National Inter-agency Working Party on Domestic Violence, convened by Victim Support which recommended, amongst other things, that organisations should be better coordinated, at both a national and local level to improve their practice and formalise their policies.²⁴⁹

The Report of the Working Party on Inter-Agency Response to Domestic Violence (Victim Support, 1992), and the resultant press interest, stimulated the coordinator of Oxford's Victim Support to develop an inter-agency forum in Oxford at the end of 1992. The original members of the forum comprised the local police, probation services, Women's Aid, rape crisis centre, social services and Oxford city council. The domestic violence multi-agency group in Milton Keynes is a sub-group of a 'Violence Against Women and Children' working party which was established five years ago and comprises the same agencies as the Oxfordshire forum. In both fora there are now representatives from all of the relevant agencies.

The fora have done much good work. They have identified gaps and cross-overs in service provision; raised local awareness of domestic violence; provide a united response to government legislation considered to be against the interests of abused women; shared training, practical tasks, resources, and skills; and encouraged relevant organisations to produce a domestic violence policy. There has been a

²⁴⁹Representatives from the Police, Women's Aid, Victim Support, Relate, the Probation Service, Social Services, and the legal and medical professions had co-operated in formulating the report (Victim Support, 1992).

greater distribution of information; the establishment of common aims within the two areas and undoubtedly an overall improved response from all agencies.

In Milton Keynes all of the relevant agencies have been involved in training the police. They have used their 'collective muscle' to raise awareness and challenge changes which would be to the detriment of victims, such as the reduction in legal aid. This united pressure group has also helped to bring about changes in policing domestic violence in the area, through its training and lobbying (see the establishment of domestic violence officers in chapter ten). The Oxford forum has had more success in implementing actual policy changes. It had input on the housing policy for the whole authority, and also it helped to formulate the local probation service policy on domestic violence. It has written a domestic violence leaflet for victims and has lobbied local M.Ps, pressing them for a change in legislation regarding the publication of the electoral register by allowing victims to have their names excluded from the register if they fear harassment by ex-partners. It has just launched the Zero Tolerance campaign, a national awareness campaign on domestic violence (unfortunately the Milton Keynes forum cannot secure the financial support for such a campaign).

It seems that the Oxford forum has been more successful in getting things done. This is almost certainly to do with the tremendous support from the county council's chief executive's office. The council provide the financial and administrative backing which allows the talk in meetings to be turned into action. This does not seem to

happen in Milton Keynes where, as one representative said, "the pulling power is not so great.". This same member argued that the forum was a "talking shop, a dog with no teeth", with no authority and having no implications in practice. This criticism might seem unfair because the efforts, described above must have had an impact on victims of domestic violence. However this impact is only indirect - by improving the coordination between agencies and by improving the knowledge base of each agency the victims will no doubt benefit, but neither the Oxford nor Milton Keynes fora attempts to directly benefit victims. This has been done by other fora. Walsall forum, for example, (with a grant from the Home Office development unit) set up two groups: one to support women who are still in destructive relationships, to enable them to consider the options open to them, and to gain the self-confidence to make positive decisions; and the other group to support women who have recently left such relationships.

Just as the police could use ABOs more effectively as a direct source of information for victims, so too could domestic violence fora be a more direct resource for victims to draw upon. The fora in Oxford and Milton Keynes have certainly improved the response of all community agencies as well as the opportunities for inter-agency liaison. Now they need to look towards establishing support groups for victims along the lines of those developed in walsall. Interviews with victims in the Thames Valley certainly established a need for such support, and the survey of the statutory and voluntary agencies as well as the observational work with the Oxford forum proved that the interest and expertise is already in place.

The three suggested measures for improving the provision of advice and information to victims of domestic violence discussed above are remarkable for their simplicity. The frameworks for their establishment are already in place and they would incur little extra expense. It seems that it is crucial for all agencies, especially the police, to communicate more directly with victims. In particular, victims need to be listened to in order that communities can respond to their needs and desires effectively.

CHAPTER 10

Conclusion: Recognizing the Role of the Victim

Feminists in the 1970s, on recognising the enormity of the problem of domestic violence, were outraged at the State's apparent disinterest. However they were concerned not only, or even primarily, with the inadequate response of the criminal justice system, but with the causes of domestic violence - the unequal power relations between men and women, and women's political and economic subordination. Their main goal was empowerment, encouraging women to work collectively to take control of their own lives and to avoid further victimisation - hence the establishment of refuges run by women for women. Whilst some campaigns centred around legal reform, emphasizing, in particular, that domestic violence is a criminal rather than a private or a civil matter, the law was not the only institution which pressure groups attempted to reform.

Throughout the 1980s, however, the original aims of the women's movement receded. Although some 'grass-roots activists' continued to lobby for the broader agenda of women's rights, critics focused on the criminal justice system. This shift in attention from the wider issues to the rules and operation of the justice system, and in particular the police, is understandable. After all, it is easier to fight for specific law reforms than to tackle the fundamental basis of a patriarchal social order.

Traditionally domestic violence had not been regarded as 'real' police work, either in the UK or the USA, and the police avoided making arrests in order not to get involved in what was regarded as a private matter. Campaigns were thus centred around 'improving' the police response which soon came to mean more police powers with the goal of higher arrest and prosecution rates. In the United States women's advocates used litigation, legislation and research to press for the increased use of arrest. Approaches predicated on the assumption that crime could be reduced by arrest and sentencing policies aimed at deterring potential offenders began to be widely approved.

Feminist writers and activists who had normally aligned themselves with progressive groups on the left, fighting for empowerment and assuagement, joined with the political right and embraced agendas of punishment at the expense of other

alternatives.²⁵⁰ As Nelken recognised, it is paradoxical that feminists discussing violence against women should position themselves on the 'right side' of the law and order lobby, "arguing for more rather than less use of the criminal law" (Nelken, 1987: 108). Some feminists have also expressed concern with this developing hunger for law reform, arguing that social problems such as domestic violence can only be tackled effectively through ideological and structural change. The formal law, they have argued, does not affect women's lives very much and, therefore, should not be thought of as a panacea (see Smart, 1989, 1995; Mathiesen, 1990; Stang Dahl, 1986). Further, they have questioned whether or not reforms actually protect women or prevent men's violence in the first place; whether they empower women, regardless of race or class, or reinforce dependency and victimisation; and whether they enhance or marginalise feminist understandings of the causes and solutions to men's violence. As Currie has argued:

As a public discourse, wife battery has been transformed from a critique of patriarchal power to demands for protection from male power. While the latter is a documented real need, the problem is that its satisfaction has been equated with justice for women (1990: 88).²⁵¹

²⁵⁰"Left realist" groups, which emerged in the 1980s, also called for policies that 'take crime seriously'. They emerged partly in response to right-wing electoral victories and partly to the failures of so-called 'critical criminology' to recognise the pain and injury inflicted by crime on the poor and the powerless (Lea and Young, 1984; Kinsey *et al.*, 1986).

²⁵¹On a more practical level, some have questioned the amount of public funds directed towards increased criminalisation whilst refugees are battling to meet an ever increasing demand for support.

Feminist campaigns which have embraced further criminalisation have legitimised the growing emphasis on coercive control, incapacitation, and punishment at the expense of amelioration of the underlying problem. In the main, their approach has been based on simplistic assumptions about the way that civil and criminal justice processes function and an inadequate evaluation of the effectiveness of the present criminal justice response. If the police attend a dispute and a woman has been assaulted some feminist critics assume that the police have failed in their duty if they do not arrest the perpetrator. They adopt this normative stance because they believe this to be the proper police response to this crime (although this might not be their view of the proper response to crime in general). The findings of this study regarding the needs and expectations of domestic violence victims and the police response to them present a challenge to feminist interpretations of non-arrest by police as a 'failure' to respond adequately to domestic violence.

This chapter will argue that although areas of the police response need improvement, the discretionary approach of judging each case on its merits was and is appropriate for domestic disputes; and that the demands of some feminists for pro-arrest policies are misguided - a case of the pendulum swinging too far the other way. It will be argued that not all women who call the police want their violent partners prosecuted and that before the police and the prosecution services adopt pro-arrest and pro-charge policies we need further research to understand what women want from the police as well as the other criminal justice agencies. In particular, we need to understand why women do not presently embrace prosecution and what they might

want either as an alternative to prosecution or as an alternative to the present sanctions imposed by the courts.

10.1 Responding to domestic violence in 1993: the Thames Valley study

The fieldwork conducted for this thesis was carried out in 1993, three years after the home office Circular 60/1990 recommended that the police arrest perpetrators of domestic violence where there is evidence of an offence. The force policies which followed the publication of this Circular should have impacted on the attrition rate for incidents of domestic violence. There is no previous Thames Valley study with which to compare the data on the arrest of perpetrators of domestic violence reported in this thesis. However, there is no reason to believe that Edward's study does not provide a legitimate point of comparison. Edward's research conducted in London found an arrest rate of two per cent of all recorded incidents in 1984 (Edward, 1989). If, as one must assume, the arrest rate in the Thames Valley was similar to this, it has risen quite dramatically over the past decade to 18 per cent in 1993 (see figure 1 Appendix 1). However, this increase is not as significant as one might have expected given the pro-arrest ethos of the 1990 Circular. This study shed light on the factors which prevented a substantial increase in the arrest rate. It was found that this could be explained partly by reference to the role of the victim (in particular the frequency

with which victims withdraw their statements) and partly by reference to the perceptions of victims, police and prosecutors of the effectiveness of the criminal justice system in dealing with domestic disputes. Many police and prosecutors felt that for the majority victims prosecution would not be a good solution: that the outcome, in particular, would not be worth the process. As far as the victims were concerned, these two points (their willingness to cooperate with the criminal justice system and their perceptions of the helpfulness of that system) are inter-related. They will both be referred to in this chapter.

The Thames Valley Police became aware of domestic violence incidents in the same way that they became aware of most other criminal incidents: that is, through a report by a civilian, usually the victim. They responded to all but four per cent of the reports by sending one or two uniformed officers, either immediately if it was thought to be an emergency, or in any case very quickly. As chapter four shows, the practice of 'cuffing' calls (refusing to dispatch an officer to the scene), once so prevalent, was very rare. These incidents usually, but by no means always, involved allegations of criminal offences. Regardless of who had initially called the police, they all involved "something that ought not to be happening and about which someone had better do something *now!*" (Bitter, 1974: 30, cited in Reiner, 1994). They required the police to perform various functions - crime control, social service and order maintenance.

The responding officers had to judge whether there was sufficient evidence of an offence on which to make an arrest or to base a charge, but even if this was their

assessment they still had complete discretion over both these decisions. Indeed, they did not always arrest assailants where there was evidence of an offence. This discretion, it was found, was not exercised randomly nor was it greatly influenced by individual officer attitudes towards domestic affairs. Rather, it was structured according to evidential criteria and informal working rules established by police officers 'on the ground'. These working rules, such as those relating to the role of the victim or the seriousness of the offence, were influenced by organisational factors, the force policy, procedural law, recent training initiatives, and the sub-cultural norms and values of the police service.

It was found that clear, incontrovertible evidence of an offence often led to an arrest, not because the police pursued rigorously all cases where there was evidence of an offence, but, rather, because evidence facilitated police action when the working rules pointed towards an arrest. In other words, when the police had other reasons for wanting to arrest someone, either, for example, because the suspect had challenged their authority or because the victim wanted him arrested, or was in further danger, and they felt that it would be to her benefit, evidence of an offence allowed them to do this. Most decisions regarding arrest were arrived at during a process of negotiation with the disputants and any other witnesses. The control room operators, whilst influencing how quickly the officers arrived, were not found to have had any impact on their decision making processes at the scene of disputes. Cases were, in the main, 'constructed' at the scene of the incident by the officers and disputants.

The existence of evidence of a breach of criminal law did not always lead to arrest; on the other hand, the absence of evidence did not always preclude it. Temporary solutions were achieved by officers using their public order powers to arrest for breach of the peace. In these circumstances arrests were often used as a coercive means of managing disputes. Most of these arrests did not result in a criminal charge because prosecution was not the intention of the arresting officers, nor, typically, of the victims, and because there was often insufficient evidence of any crime. The police used their public order powers as a resource to impose 'law and order', to assist the victim, and, to some extent, to issue summary punishment (see chapters six and seven).

Only a third of the victims in the study wanted the officers to arrest the suspect and many of these did not want the police to proceed any further. Thus, arrests often did not result in a charge being laid because in many cases the victim withdrew her support for a prosecution. Officers responded to victims' wishes. Their decisions arose from a consideration of the various options available to them in each case. Their discretionary powers allowed them to decide on a course of action in consultation with the victim. This was appreciated by the majority of victims who did not want to pursue a prosecution. Both police and prosecutors' decisions regarding appropriate action were very highly correlated with victims' wishes. This was partly because there was little prospect of a successful conviction in many cases where the victim would not co-operate (although this was by no means always so), and partly because of a genuine desire to respond to the apparent wishes of the victim.

Superficial examination of the high discontinuance rate suggested that the CPS were independent from the police and rigorously scrutinising their decisions. However, an understanding of the working rules of both agencies showed that the CPS made their independent discretionary decisions based on the same working rules as guided the police. Prosecutors dismissed the cases where the victim had withdrawn her complaint, cases which would have been dismissed by the police had the victim withdrawn her support at an earlier stage.

Three main reasons for victims not pursuing the complaint emerged. First, some women did not want to break up the relationship or the family; secondly, some chose to stay with their partners because they hoped that by doing so they would avoid the retaliatory violence which frequently results from attempts to leave or to support a prosecution; and, thirdly, some felt that the sanctions imposed would be inappropriate or undesirable. Whatever the reason, it was found that many calls for police assistance from women who could not envisage long-term separation from their partner (which included some women temporarily resident in the refuges) were likely to be requests for immediate help to halt a particular incident, rather than an attempt to get the perpetrator prosecuted (see chapter eight).

The CPS, like the police, recognised that there were various reasons for victim non-cooperation, and spoke sympathetically about the problem of witness intimidation in these cases. However, when making their decisions about prosecution they did not seem to discriminate between cases where they thought that the witness had

withdrawn because of fear and cases where they thought that she withdrew for other personal or familial reasons. They were just as likely to discontinue cases where they suspected that the victim had withdrawn as a result of intimidation as they were when the victim had chosen freely to withdraw because of reconciliation with the suspect. The CPS compelled none of the witnesses to testify, although they had legal powers to do so. It was found that police and prosecutors shared a genuine consideration for the problems that compelling a witness to testify might visit on that witness and they were worried that attempts to coerce such victims would give out a negative message to the wider victim population (see chapter seven). Like many of the victims interviewed they believed that victims' interests are not always best served by a prosecution and that the criminal justice system is often an extremely clumsy tool for managing domestic violence (see chapter eight). An examination of the sentences imposed on those suspects convicted of criminal offences lent some credence to these opinions. Hence, victims, police and prosecutors were all aware of the inability of the criminal justice system to respond effectively and appropriately to those cases of domestic violence which were put before a court. Across these three groups there was widespread dissatisfaction with the sanctions imposed by the courts.

To summarize, much previous research has started from the premise that victims of domestic violence who call the police seek arrest and prosecution, that withdrawal of complaints represents some kind of failure on the part of the police and this would be remedied if the police as a rule arrested and prosecuted wherever possible. Implicit in this approach is the assumption that the criminal justice system, as it

presently operates, is capable of responding effectively to the needs of victims of domestic violence. The research reported in this thesis threw some doubt on the validity of these assumptions.

10.2 Recent developments in the policing of domestic violence: a move from victims' wishes to victims' interests

The research conducted for this thesis suggests that many victims do not want their partners or ex-partners to be prosecuted. That whilst they want to be able to use the police service for immediate protection and would like officers to offer them support and advice, they do not consider the present criminal justice sanctions to be worth the trauma and inconvenience of supporting a prosecution. In 1993 it was possible for victims to call the police for help without committing themselves to the prosecution process. Their wishes were, in most cases, paramount and their ability to withdraw their support at any time in the criminal justice process, whilst infuriating to some police officers and prosecutors, appeared to give them the control they wanted. Since 1993, however, there have been changes in the local, as well as national, police response to domestic violence which aim to take this control away from the victims in order to act in their interests. These changes relate to the use of domestic violence officers and the adoption of pro-arrest policies. Thames Valley Police Service has implemented pro-arrest policies in two of its 12 territorial divisions and established

domestic violence officers in all.

10.2.1 Domestic violence officers

The 60/1990 Circular encouraged forces to set up dedicated domestic violence units (DVUs) or to appoint officers to deal specifically with domestic violence cases. Domestic violence officers (DVOs), the Circular argued, would "perform a more active role in supporting and reassuring the victim and helping her to make reasoned decisions, and [in] coordinating the work of the welfare and voluntary agencies" as well as providing support for uniformed officers and ensuring that they are aware of their powers of arrest.²⁵²

The Thames Valley Police initiative faces the same problems as many other forces: there is no overall coordination or monitoring of units (Home Affairs Committee, 1993); DVUs are under-resourced (Grace, 1995); and are marginalised from mainstream policing (Home Affairs Committee, 1993; Morley and Mullender, 1994). However, despite these criticisms, victims experiences of dvos in other areas have been generally good. Many receive a great deal of support and help, and prefer this service to that provided by the uniformed officers (Grace, 1995; Hanmer, 1990). DVOs appear to play a valuable role in linking the police with other agencies (Morley and Mullender, 1994; Barron *et al.*, 1992; Hanmer, 1990; Grace, 1995) and as the

²⁵²By 1993 just over half of the forces in England and Wales had at least one specialist unit with some responsibility for domestic violence (Home Affairs Committee, 1993; Grace, 1995).

Thames Valley Police Service has needed to improve its information provision and liaison roles this initiative will almost certainly reduce the police-victim communication problems identified by this study.²⁵³

However, there is some evidence that DVUs are concentrating on their law enforcement functions rather more than their social service functions. Some studies have suggested that they are focusing on increasing the arrest and prosecution rates (Edward, 1989; Hanmer and Saunders, 1991). Certainly in Oxford and, to a lesser extent, Milton Keynes the emphasis is on how best to dissuade victims from withdrawing their complaints (personal communication with the DVOs). With the recent implementation of pro-arrest policies the trend towards increasing criminalisation, and towards ignoring victims' wishes in order to respond 'in their interests' might gain even more momentum.

10.2.2 Pro-arrest policies

An increasing number of English forces have recently adopted policies encouraging arrest. In two Thames Valley divisions (Oxford and Slough) where there is evidence of a prosecutable assault, officers are now supposed to arrest regardless of the wishes

²⁵³The establishment of a DVO in Oxford has already made an enormous difference to referrals and inter-agency communication. For example, the local Victim Support scheme has had more than four times as many domestic violence referrals since the officer has been in post.

of the victim.²⁵⁴ The CPS are then asked to advise and, again, prosecution decisions are taken on the basis of evidence and not the wishes of the victim.

Pro-arrest or mandatory arrest policies emerged from a belief in the individual deterrent effect of arrest.²⁵⁵ An American police foundation study in 1976 established that men who seriously assaulted their wives or cohabitees or who were responsible for their murder, were often men who were already known to the police for violence against partners in the past. This suggested that early police intervention could interrupt the escalating chain of violence which the authors found to be typical of most of these cases (Edward, 1989). Various studies supported these data and yet none had identified whether one particular form of police response was more effective than another (Jolin, 1983). It was this precise question that Sherman and Berk (1984) set out to answer in their experiment conducted in Minneapolis between 1981 and 1982.

The Minneapolis research suggested that arresting offenders reduced repeat victimization and so the authors recommended a presumptive arrest policy, whereby for misdemeanour domestic violence offences "an arrest should be made unless there are good, clear reasons why an arrest would be counterproductive" (1984: 270).

²⁵⁴In other Thames Valley divisions the approach taken to domestic violence cases has not changed, and the views of the victim are paramount.

²⁵⁵Pro-arrest policies encourage police to arrest for domestic violence under certain circumstances. Mandatory arrest policies, used less frequently, *require* officers to arrest.

They did not, however, recommend that arrest be mandatory because they were aware of methodological problems with the experiment which might have affected the validity of their findings and urged caution and delay in implementing its recommendations (for a discussion of these methodological problems see Sheptycki, 1993, Buzawa and Buzawa, 1990).

When Sherman and Berk first went public with the findings of their initial Minneapolis project they created substantial media interest which put pressure on policy makers, as well as practitioners and activists. Of course their work was not the only variable in the impetus for change. The case of *Thurman v. City of Torrington*²⁵⁶ and the *Final Report of the Attorney General's Task Force on Family Violence*, both in 1984, spurred law enforcement executives to reject the traditional police response to domestic violence cases (see Morley and Mullender, 1992). Hence, continued pressure from feminist critics and campaigns for an effective legal response to domestic violence meant that many American states during the mid 1980s reassessed their laws on violence in the home and gave police officers more powers of intervention (see Morley and Mullender, 1992).

More recent research has, however, cast some doubt on the findings of these studies. The national institute of justice funded replications of the Minneapolis experiment in

²⁵⁶ S95 FSupp 1521.

six other cities.²⁵⁷ Arrest was found to be associated with reduced domestic violence in some cities, amongst certain (employed) people and in the short run, but associated with increased violence in other cities, amongst certain (unemployed) people in the long run (Sherman *et al.*, 1991). Clearly, as acknowledged by the researchers, these subsequent experiments did not provide unambiguous support for the innovation of preferred arrest which was the conclusion to the original Minneapolis experiment (Sherman, 1992). One can neither conclude that arresting domestic violence perpetrators generally deters them from further abuse nor that it generally causes them to retaliate with additional, and possibly increased violence. Despite their complex and unpredictable impact, pro-arrest policies they have spread widely through North America, and, as already mentioned, there has been pressure to introduce them in the United Kingdom (Morley and Mullender, 1992). Such advocates have been extremely influential in promoting change.²⁵⁸

Critics have argued that without coordinated action from other sectors of the criminal justice system to control the perpetrator, and without adequate support and protection for women in the community, arrest not only may fail to deter violent men, but may also result in further violence in the shape of reprisals from men angry at having been arrested (Davis, 1988; Horley, 1990a). Also, fear of losing control over the

²⁵⁷In the replication studies, as in the original, there were many design weaknesses and inconsistencies both within and between studies.

²⁵⁸The influence of the Minneapolis study can be seen in Metropolitan Police reports and in the 60/1990 Circular (Morley and Mullender, 1992).

decisions regarding the prosecution of violent partners, might deter some victims from repeat reporting. Data from Detroit suggested that the number of calls for assistance decreased following the implementation of an aggressive arrest policy (Buzawa and Buzawa, 1990). Similarly, anecdotal evidence from Slough (Thames Valley Police) suggests that since they recently began to apply a pro-arrest and pro-charge policy some women who previously were regular repeat victims have stopped calling the police for assistance. The domestic violence officer calls this 'going underground' and is concerned about the effects of the policy on such women (personal communication with the Slough DVO).

The net result of both pro-arrest policies and, to a lesser extent, domestic violence units, will be an increase in arrests and probably also in prosecutions. The CPS, like the police are moving away from responding *to victims' wishes* to responding *to their perceived interests*. For example, the 1992 CPS Code (which was in use when the fieldwork was carried out) warned prosecutors to consider the reliability of witnesses who have a relationship with the accused in assessing the evidential strength of a case. In practice this meant that if the victim of domestic violence did not wish to proceed with a prosecution the presumption was in favour of discontinuance (based on the evidential difficulties of prosecuting without a witness). It explicitly referred to the "attitude" of complainants. In 1994 the Code was revised and the cautionary note about 'unreliable' witnesses was omitted. The onus was on prosecuting cases (including domestic violence cases) where this was thought to be in the victim's interest.

Within most of the literature to date the failure to pursue a complaint has been framed in conventional terms. But conventional terms - the police usually refer to this as a failure to support police action - conceptualise the issue from the perspective of the criminal justice system. It might be that some women do not regard prosecution as a good means of managing domestic violence. They may want their partners to be arrested but do not necessarily want prosecution as a consequence of arrest.

Taking his cues from studies which found that victimised women can be active help-seekers, Ford (1991) looked at how some victims file but then drop criminal charges against their partners as a 'rational power strategy' for determining the future of their relationships. Ford argued that a threat of intervention by the criminal justice system has the potential to empower victims by providing criminal sanctions as leverage to prevent further abuse. For example, women can use the threat of arrest and prosecution to bargain for arrangements satisfactory to their wishes and to deter their partners from repeated violence without having to support a continued prosecution. In this sense, Ford moved away from the accepted 'wisdom' that victim 'non-cooperation' is a problem.

McGillivray (1987) also maintained that women employ a variety of strategies to gain protection by the state without ending their relationship, including calling the police and then obstructing the prosecution process, even in jurisdictions with tough police and prosecution policies. This might be because the batterer has control over the victim, but, as McGillivray conceded, it may equally be because the victim recognises

the destructive consequences of a decision to terminate the relationship. Whatever the reason, if the aim is to empower women perhaps we should respect their immediate concerns and wishes because, as Cretney and Davis have recently noted, whilst the public interest will always be in favour of prosecution of domestic violence offences, the victim's interest may be equivocal:

One cannot assume that a "successful" outcome, that is to say conviction and sentence, is in the woman's interests (1996: 172).

"No-drop" policies²⁵⁹ represent the "consensus between reformers and the state that social interests are to take precedence over immediate interests of the victim" (McGillivray, 1987: 31).

Of course pro-arrest policies do not necessarily have to be followed by "no-drop" policies. As chapter six made clear, by removing the aggressor arrest provides the victim with immediate protection. Friedman and Shulman (1990) have argued that, because arrest guarantees immediate safety to the victim and takes control away from the offender, the police should arrest perpetrators even if the victim does not wish this and will not sign a complaint. Once arrested and held in custody for a few hours these suspects could be released without being charged. Victims in the Thames Valley seemed to appreciate these 'resource arrests'. Indeed, some appeared to use the system as a tool to manage conjugal abuse in the same way as Ford's victims did. As mentioned above, the large number of arrests for breach of the peace provided

²⁵⁹"No-drop" policies mean that the decision to charge, once taken, will not be reversed because the victim withdraws her support for prosecution.

some evidence to suggest that patrol officers actively helped victims to use police powers of arrest as a power resource.

In the light of the findings of this thesis and the changes in the police and CPS response a critical debate about the role of the victim, and the influence that she can and should exert over the criminal justice process, is crucial.

10.3 The role of the victim in the criminal justice system

Two conflicting arguments emerge from a consideration of the role of the victim in the criminal justice system. First, the line taken by many feminist writers, and now, increasingly, by the police and prosecution service, is that control of prosecution decisions should be taken away from victims in their own interests as well as those of the criminal justice system and the wider society. The second argument is that the views of the victims themselves should be paramount, to help them maintain control of their own relationships, even if they are considered to be acting contrary to their own interests.

The second approach challenges conventional criminal justice philosophy which prescribes responding to offences on the basis of objective seriousness and evidential sufficiency. It would put the criminal law at the service of the victim in the same way that the civil law is at the service of the victim, in the form of injunctions,

separation orders and so forth, to use (or not) as she wishes. This only sounds remarkable because 'criminal' and 'civil' law are usually placed in separate boxes and rarely considered as inter-related.

Up until the mid 1980s the police generally regarded domestic violence exclusively as a civil matter. But the civil law appeared largely ineffective in preventing the reoccurrence of violence.²⁶⁰ Pro-arrest policies regard domestic violence as an exclusively criminal matter. Yet neither the civil nor criminal approach takes account of the complexity of domestic violence. Domestic violence is of societal interest - society should condemn and punish violence between intimates just as it should violence between strangers. As such it requires a criminal law response. However, domestic violence is also of civil interest. Any justice system should be able to ensure that violence ceases whilst relationships continue if this is what partners and their children want. The move from the 'hands off' response of the criminal justice system in the 1970s to the 'arrest whatever the victim wants' stance adopted recently ignores the possibility of an holistic approach to the problem. As Edward (1989) argues, the division of available remedies into civil and criminal law symbolically reinforces the public/private dichotomy as well as creating practical problems of access for victims. The separation confuses and sometimes frustrates victims who tend to need 'packages' of remedies, the contents of which should be tailored to the

²⁶⁰Family courts, where most applications for injunctions are heard, focus exclusively on individual or familial problems rather than on societal reaction to abusive behaviour. Nor do these courts help women who do not want to end the relationship.

particular needs of each victim and her family.

Domestic violence should be considered as a matter for *both* civil and criminal law working in harmony with, of course, the various other statutory and voluntary agencies. This has been recognised to a limited extent: the Law Commission has recommended that the police be able to apply for injunctions on behalf of battered women; and police domestic violence units have a multi-agency liaison role. Further, current legislative proposals would make mediation compulsory (as a condition of securing legal aid) for couples intending to divorce. Putting criminal law as much at the service of battered women as is civil law would therefore extend existing arrangements rather than introduce a completely new approach. This does, however, raise the question of whether there is a need for an integrated 'family justice' system in which artificial civil and criminal distinctions are eradicated.

There are apparently successful experiments which can act as partial models. For instance, in Dade County, Florida, a court which deals only with domestic violence hears both civil cases and criminal misdemeanour cases. It offers, for first time offenders, pre-trial diversion (including intensive therapeutic programmes). The court can also issue injunction orders and impose bail conditions as further protection for victims. In Winnipeg (Canada), a family violence court has been in operation since 1990 (Ursel, 1994), and in Minnesota a 'domestic abuse intervention programme' coordinates the intervention of the criminal justice system, including court-mandated counselling for batterers, with welfare services and advocacy programmes (Morley

and Mullender, 1992). There is no obvious reason why such intervention measures could not be experimented with in England and Wales.

To return to the question raised above: should victims of domestic violence have a choice over the prosecution of 'their' cases? The research reported in this thesis suggests that unless, or until, the criminal justice response to domestic violence makes serious attempts to reduce domestic violence by effective criminal and civil intervention many women will continue to want to withdraw their support for prosecution. Unless decision makers listen to their needs and respond accordingly, a 'no-drop' policy will be regarded unfavourably by many victims. It could be argued that a system which fails the people for which it is meant to provide a service should not demand their support. However, decisions regarding the future of pro-arrest and pro-charge policies should be based on further empirical enquiry.

10.4 The need for further research

The research reported in this thesis discovered some of the reasons why some women do not want their partners or ex-partners to be prosecuted. However, there is no recent in-depth rigorous study of English women's decisions regarding arrest and prosecution: in particular, the extent to which victims' decisions are the product of police preferences, their own wishes to direct the outcome of domestic disputes, or manipulation by violent partners. In America, Shulman (1991) has argued that the state should prosecute perpetrators of domestic violence regardless of the victim's

views because victims are intimidated by the offenders. But there is no empirical evidence to show how many victims withdraw through intimidation and how many withdraw for other reasons. It is important to discover to what extent women are currently agents of their own destiny and to what extent their decisions are the products of other agents with their own agendas. This is especially important to understand if pro-arrest and pro-charge policies are to be pursued. Also pro-arrest practices will need to be monitored to ascertain how they affect victims' choices regarding prosecution and alternative options.

Some research on domestic violence has now taken place in areas where DVUs operate (eg, Edward, 1989; Hanmer, 1990; Barron *et al.*, 1992; Mavolwane and Radford, 1992; Grace 1995), although very few studies focus on the way they operate. In particular, none examined the extent to which DVUs or DVOs influence victims decisions regarding arrest and prosecution, how they 'manage' hostile witnesses, or the extent to which arrest and prosecution takes place with the approval of the victim. If, as seems to be the case, domestic violence units are to adopt a law enforcement goal and try to persuade victims to pursue criminal justice sanctions it will be important to identify the impact of this on victims.

It seems that there is a need to re-think the way that the police response to domestic violence is assessed. Take the attrition rate of incidents. Critics have tended to assume that if arrests do not result in prosecutions the police have failed the victim. However, this could be a sign that the police and/or the victims used the law in order

temporarily to defuse a dispute even when they had no realistic prospect of getting a prosecution. If Ford, writing of the American criminal justice system, is correct in arguing that victims use the criminal justice system as a power resource to achieve their own aims then mandatory arrest and prosecution policies or even simple pro-arrest policies deny women the chance of managing the abuse and trying to stop the violence whilst staying in the relationship.²⁶¹

If Ford's findings are generalisable, there are some important implications for policy. First, understanding how and why women make certain decisions with regard to prosecution of violent partners (in particular the decision to drop charges), could perhaps alleviate the problems and frustrations of service providers (most notably the police) who sometimes feel that they are wasting their time with, and failing, victims who withdraw their support for what the providers feel to be the best solution. Police officers and prosecutors could benefit from a broader understanding of the assistance that can be given to victims. Second, if pro-arrest policies impact adversely on victims we might expect them to refrain from reporting repeat victimisation to the police, as seems to be the case in Slough (see above). Only further research, though, will enable us to answer these questions.

²⁶¹This is, of course, to presume that such policies would translate directly into practice. As discussed in chapter five, this congruence is not easily achieved. There will always be some police discretion, and whilst this is structured according to working rules, pro-arrest policies will never be implemented in all cases (see, also Buzawa and Buzawa, 1990; Stanko, 1989). Indeed, in an informal interview with the domestic violence coordinator in one of the two Thames Valley Police divisions pursuing pro-arrest policies it was suggested that there was still a certain amount of discretion being exercised.

The changes in the police response, discussed above, are based on an unquestioning belief in the benefits to be gained from a prosecution. But, as many police officers and prosecutors in the Thames Valley study expressed concern that the criminal law and the prosecution system are too blunt and uncompromising to achieve a balance between society's interest in securing the prosecution of crimes and the wishes of many victims to preserve their families and personal relationships or to secure amelioration. What happens once a case goes to court is, of course, largely out of the hands of the police. However, the sentences imposed by magistrates, judges and juries do have an impact on the police and prosecution response. As mentioned above, if these agents do not think that the process is worth the outcome - that the sanctions imposed by the courts neither deter offenders nor assist victims - they might be less inclined to charge suspects and persuade victims to cooperate with the process. This is another area for empirical enquiry. It is important to know *why* the police and prosecutors believe that the criminal justice system is a clumsy tool for dealing with domestic violence. If the sentences were more severe (more custodial sentences for example) would they be more inclined to press for prosecutions, or would they be more keen if they perceived the sentences to be more constructive (probation programmes and mediation, for example)?

There is a need for research which addresses the question of what women want from the criminal justice system. On whether, for example, they would like a treatment approach which attempts to rehabilitate violent partners. It could be that if the sanctions imposed by the courts were perceived by victims to be more appropriate to

their needs they would be more willing to support the prosecution of their violent partners. For example, if restorative and reparative models of justice (Burnside and Baker, 1994), making effective use of the probation service, were introduced victims might favour the prosecution of their partners as a means of reducing the frequency and/or severity of the violence.

Batterers' programmes, like pro-arrest policies, have been introduced into Britain directly from North America (Morley and Mullender, 1992). Whilst such programmes are new and exploratory in Britain, self-help men's groups appear to be spreading quite rapidly²⁶², usually facilitated by organisations such as 'Survivors' (Morley and Mullender, 1992). The first two batterer's programmes linked to the criminal justice system in Britain were Change (based in Stirling) and the Lothian *domestic violence probation project* (located in Edinburgh). Both are court-mandated programmes, using counselling as a sentencing option rather than as a pre-trial diversion - men are referred as a requirement of a probation order, following screening for suitability. They are based on 'profeminist models', working towards eliminating violence and intimidation from the men's relationships with women.²⁶³

²⁶²The proliferation of such programmes could be facilitated by the increased and imaginative uses of the probation order (under section 8(2)(i) of the Criminal Justice Act 1991 and schedule 1A, para. 2(1) of the Powers of the Criminal Court Act 1973). This legislation would enable a court to attach to a probation order a condition that the defendant attend a counselling course (Conway, 1994).

²⁶³The profeminist stance sees violence as an intentional behaviour chosen by men as a tactic or resource associated with attempts to control and dominate women. By contrast, therapeutic discourses usually ignore the violence or see it as an irrational act of emotional ventilation emerging from forces beyond the control or

These programmes might be thought to be particularly useful to domestic violence perpetrators because they tap into gender-specific aggressive behaviour. They challenge misogyny and confront the masculine characteristics which, if they do not cause domestic violence, certainly help to perpetuate it (Dobash and Dobash, 1992). It is claimed that programmes can teach skills to enable the offender to control violent impulses and reduce violent responses (see Dutton, 1995, for a full discussion of the treatment of wife abusers).

Critics of work with domestic violence offenders (see Horley, 1990b) have argued that its efficacy is as yet unproven and that it deflects resources away from support for women. The first point is valid but is not a reason for stopping programmes. What is required is rigorous evaluation and dissemination of results. The second criticism raises a false dichotomy: should 'something be done' for victims *or* for offenders. Of course more needs to be done for victims (see chapter nine) and this involves, amongst other things, making increased grants available to local housing authorities and increased funding of Women's Aid. Moreover, doing something for men, in the form of batterer's programmes, if successful, would ultimately do something for victims. It is naive to see this as an 'either/or' issue. Furthermore, if these programmes do reduce the incidence and/or severity of domestic violence they would, in the long-term, be cost-effective.

comprehension of violent men. (For a good explanation of the differences between profeminist and traditional therapeutic programmes see Dobash and Dobash, 1992).

Research should also be carried out on the potential effectiveness of mediation programmes. For the victims in the Thames Valley study who wanted help to eradicate the violence without losing the relationship and breaking up the family, mediation might be a sensible alternative to fines or conditional discharges which offer no hope of assuagement. Domestic violence, more than most other offences, points to a need to consider relationships damaged by crime, in particular those between the parties directly involved, but also between those parties and any children who may witness the violence or may be caught in the crossfire. Mediation, as defined by Baker (1994:72) is "the intervention of a third party to help two (or more) parties in conflict to communicate and, where possible and appropriate, resolve their differences and achieve a settlement". In cases of domestic violence this would not have to mean reuniting the parties on a permanent basis, it could also mean facilitating their divorce without violent reactions. Mediation encourages responsibility - it is more likely than traditional court appearances to make the offender realise the impact of his crime on the victim (Marshall, 1991).

Mediation and reparation are embodied in a relatively new approach to restorative justice - 'relational justice' (see Burnside and Baker, 1994). Relational justice regards crime primarily as a breakdown in relationships (even when the offender does not personally know the victim) and only secondarily as an offence against the state and its laws (Schluter, 1994). It highlights dysfunctional relationships as both a significant contributory cause of crime and thus as an important focus for any prevention strategy. Because the central relationship created by crime is between the

offender and victim, the damage will persist if the breakdown has not been addressed even though the offender has been punished (Baker, 1994). Although not yet considered as a means of preventing further abuse in relationships damaged by domestic violence, Baker's approach seems more applicable to domestic violence than to any other type of offence.

This thesis has shown that the police and CPS response to domestic violence is not a simple matter of cultural prejudice or of patriarchal institutions ignoring violence against women in general and 'non-influential' women in particular. It is, rather, a more complicated matter of the police adopting certain informal working rules in order to make difficult decisions where the law affords them great discretion. Previous studies have underestimated the role of the victim in these decisions and, therefore, have assumed that police and prosecutors rarely wish to prosecute cases of domestic violence. The Thames Valley study has shown that victims rarely wish to proceed and, furthermore, that their choices impact greatly on the decisions made by criminal justice agents. Further research is now needed to understand fully *why* victims of domestic violence so often withdraw their complaints.

The present criminal justice response towards domestic violence is moving towards increasing criminalisation. Critics of the traditional approach by the police and prosecutors now see arrest and prosecution as a panacea. They argue that the courts should respond punitively towards this group of offenders and that criminal justice agents should take the decisions away from the victims: in particular, they should not

be allowed to withdraw their complaints. This is both unrealistic and at odds with developments in restorative justice elsewhere in the system. The research undertaken for this thesis suggests that pro-arrest and pro-charge policies could do more harm than good. It would appear that the best way to police domestic violence is to respond to the wishes of the victims. To some extent, this is what the police were doing in 1993, although they had to bend the rules to do so. There is, therefore, a need to address the failings of the criminal justice system as it operated during the fieldwork for this study and to explore alternative approaches. But I would argue that this should not be in the direction of greater punitiveness. Rather, it should be to enable the criminal justice system to respond to the varied needs of individual victims.

APPENDIX 1

Figure 1 Disposal of Oxford and Milton Keynes Incidents:
February 1 - August 31, 1993.

Figure 2 Disposal of Milton Keynes Incidents:
February 1 - August 31, 1993.

Figure 3 Disposal of Oxford Incidents:
February 1 - August 31, 1993.

Figure 1

Disposal of Oxford and Milton Keynes Incidents:
February 1 - August 31, 1993.

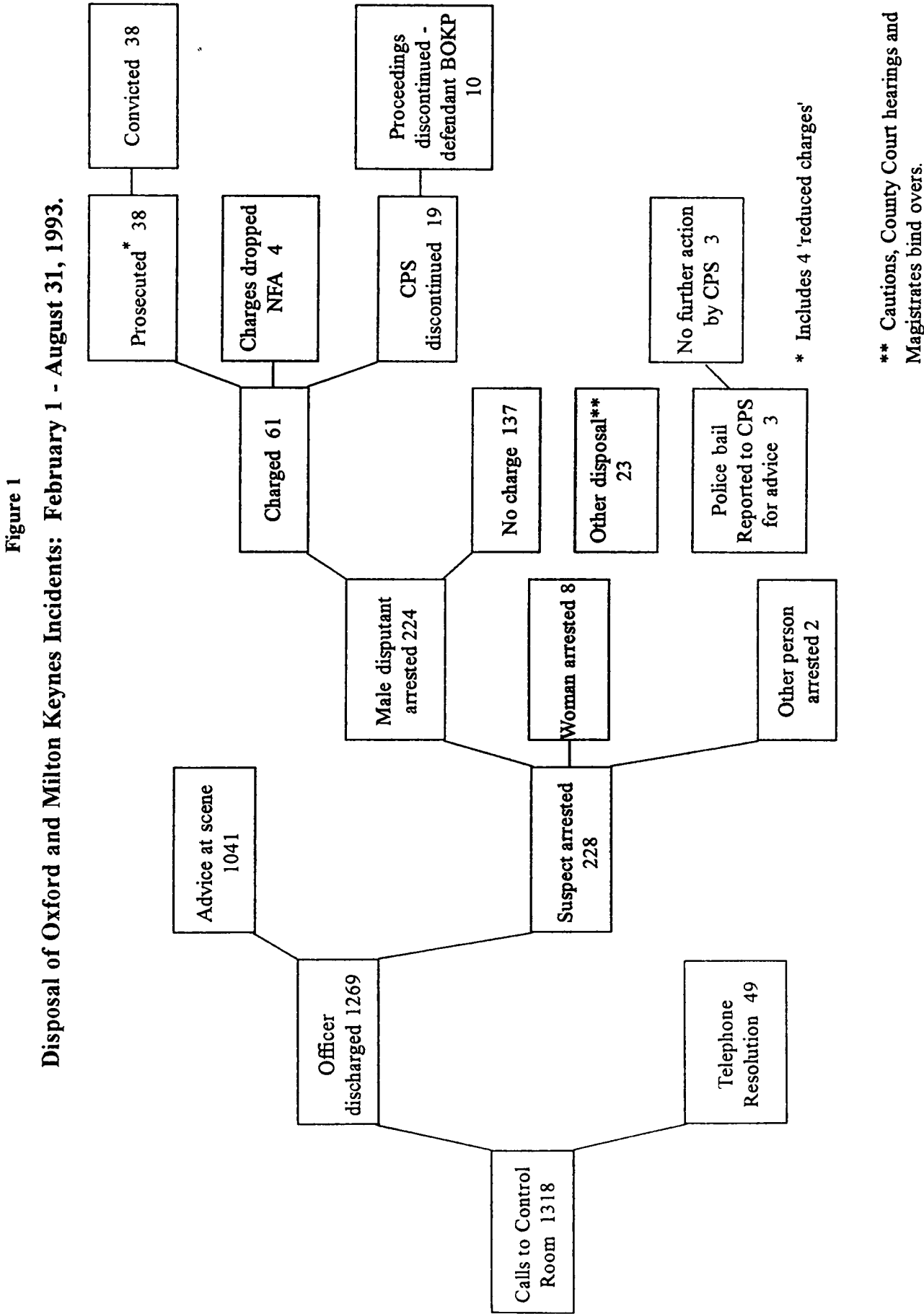


Figure 2

Disposal of Milton Keynes Incidents:
February 1 - August 31, 1993.

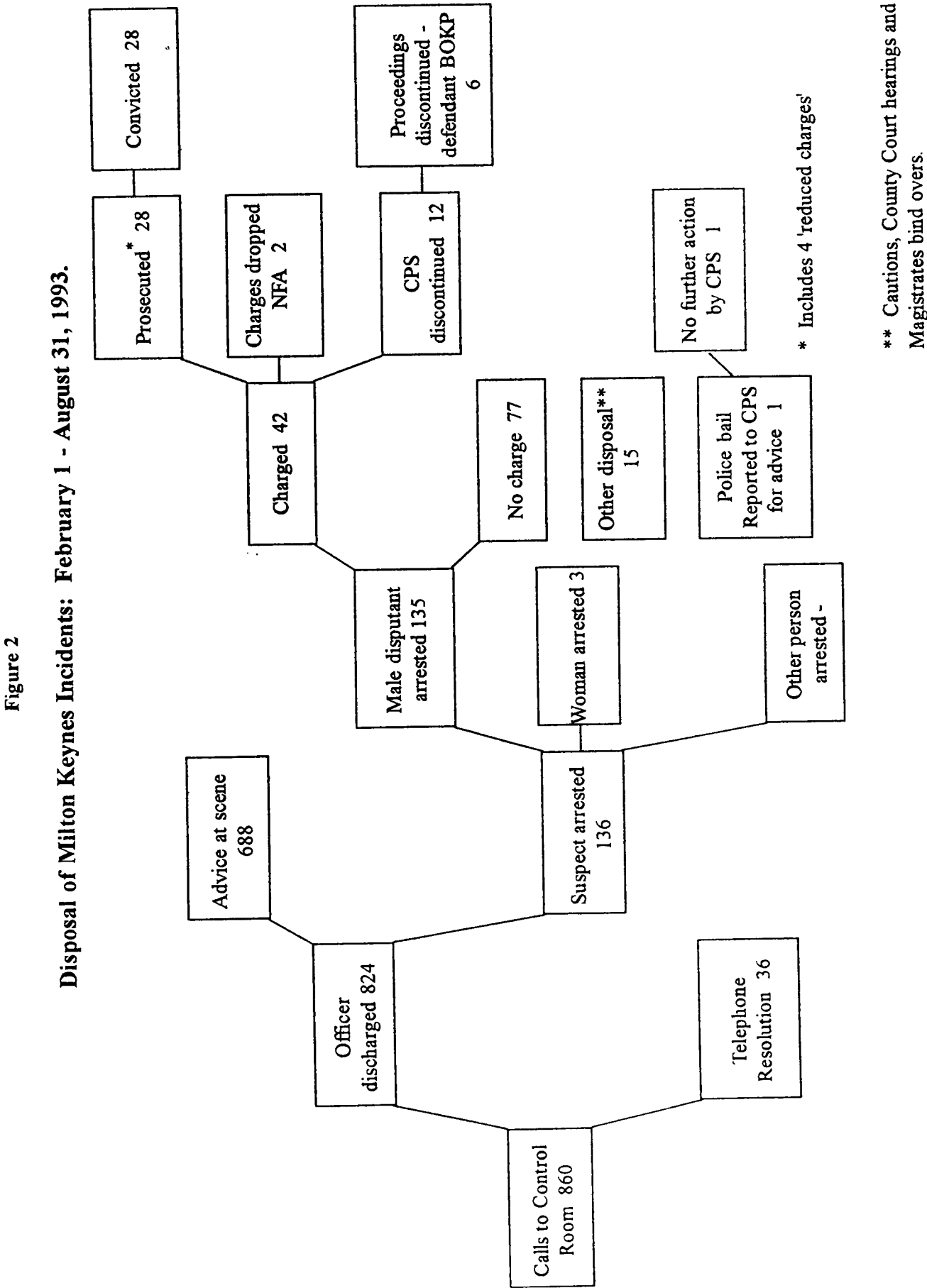
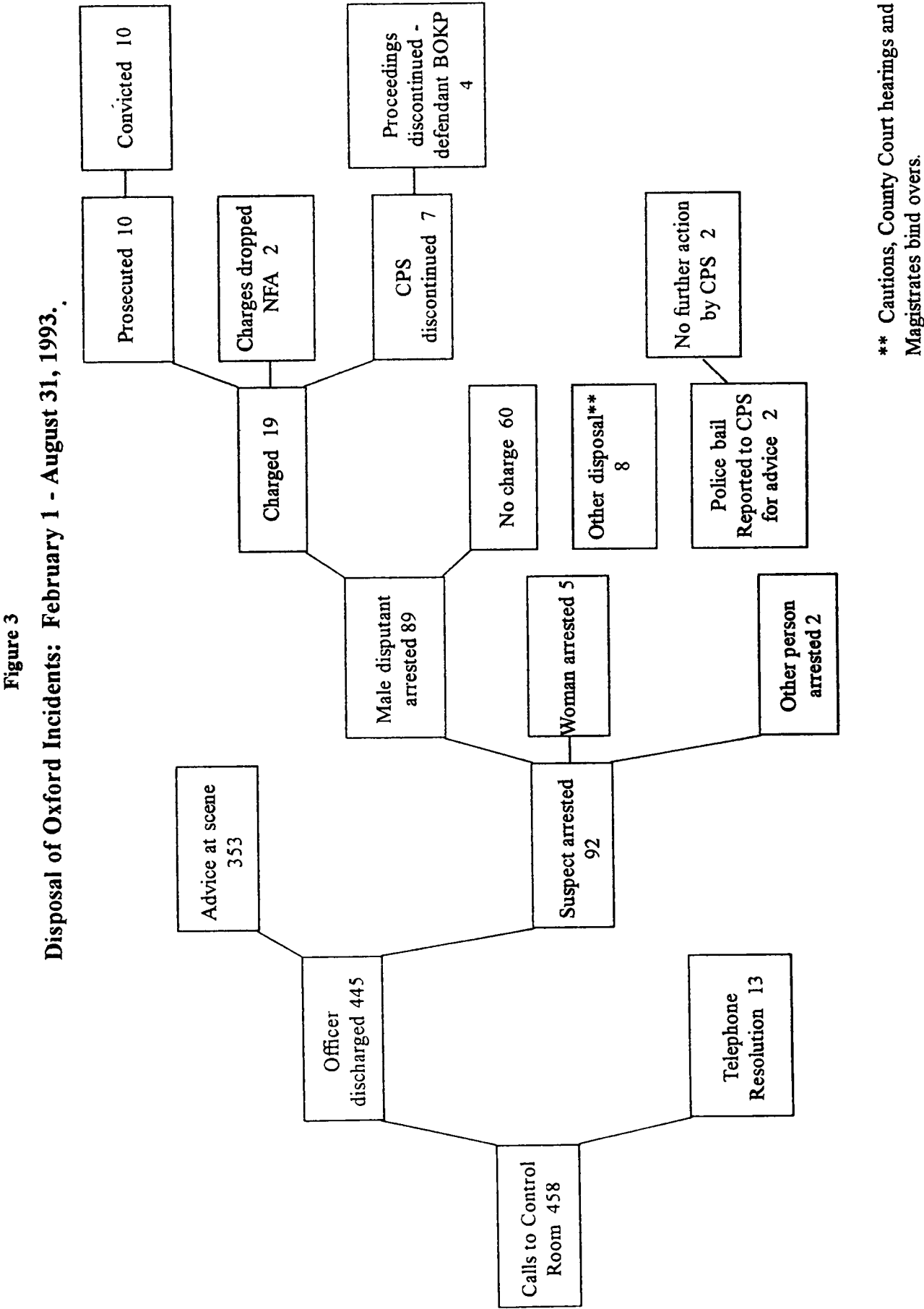


Figure 3

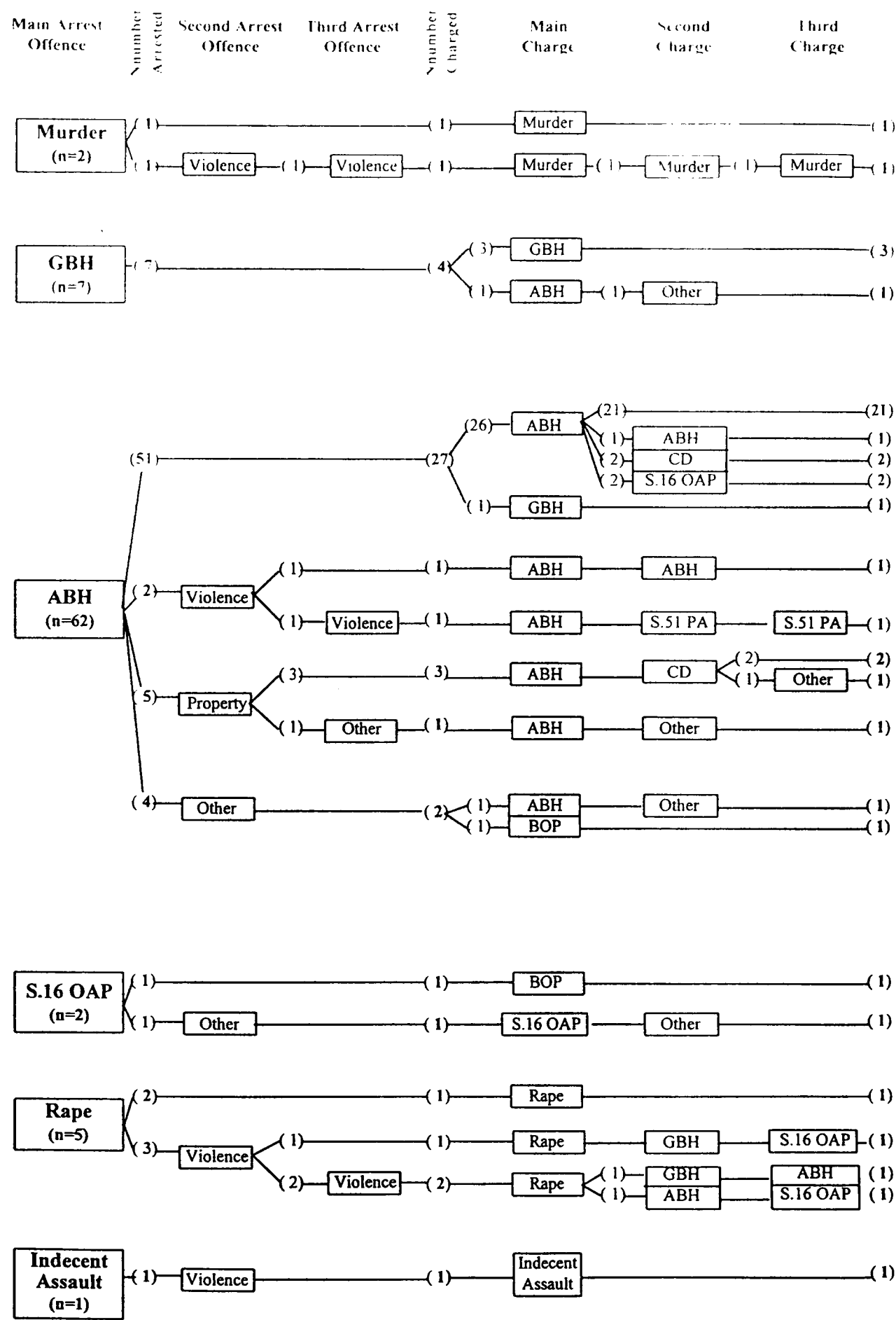
Disposal of Oxford Incidents:
February 1 - August 31, 1993.



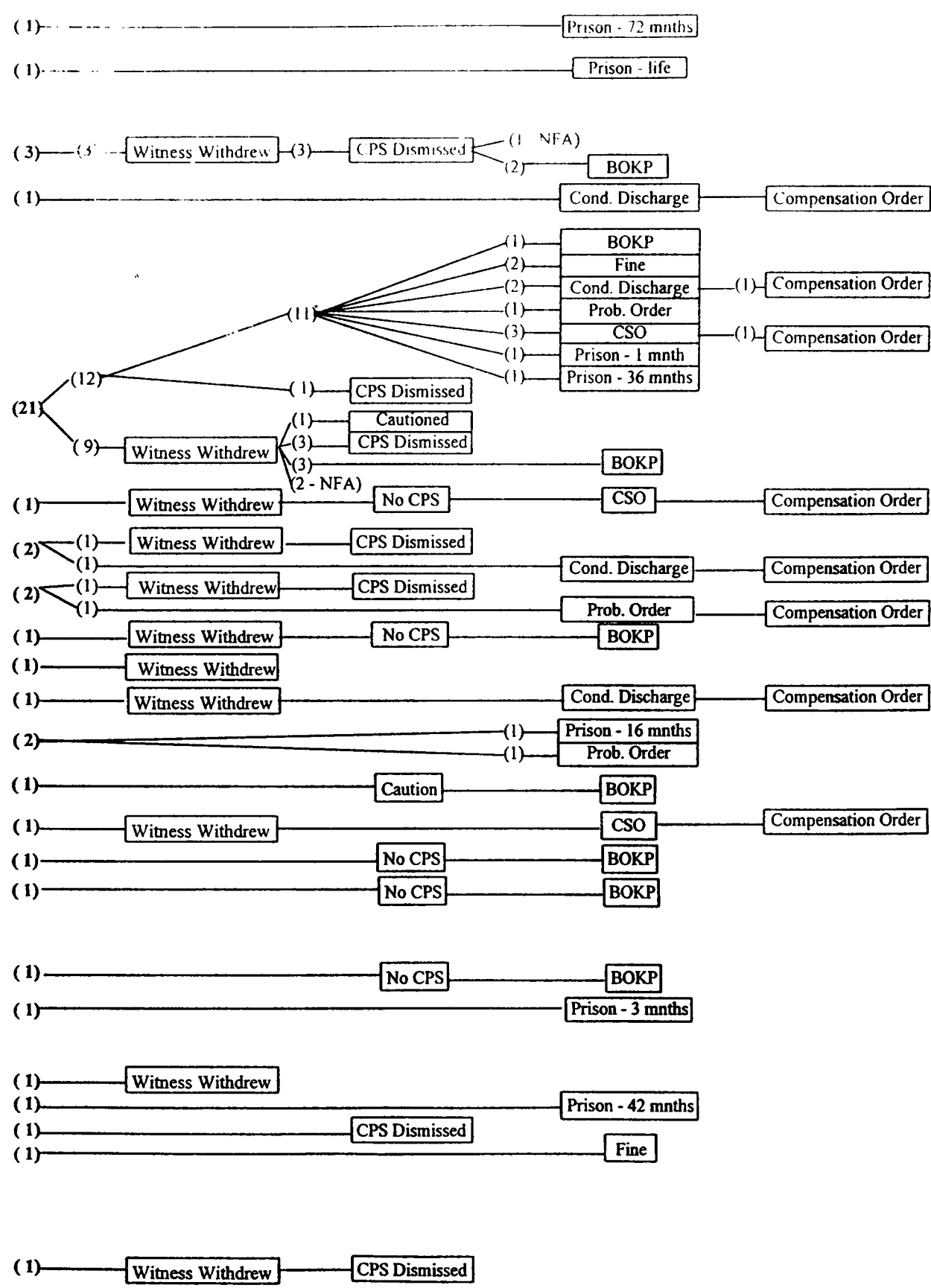
APPENDIX 2

Figure 4	Flow Chart of ‘Violent’ Cases from Arrest to Disposal
Figure 5	Flow Chart of ‘Non-Violent’ Cases from Arrest to Disposal

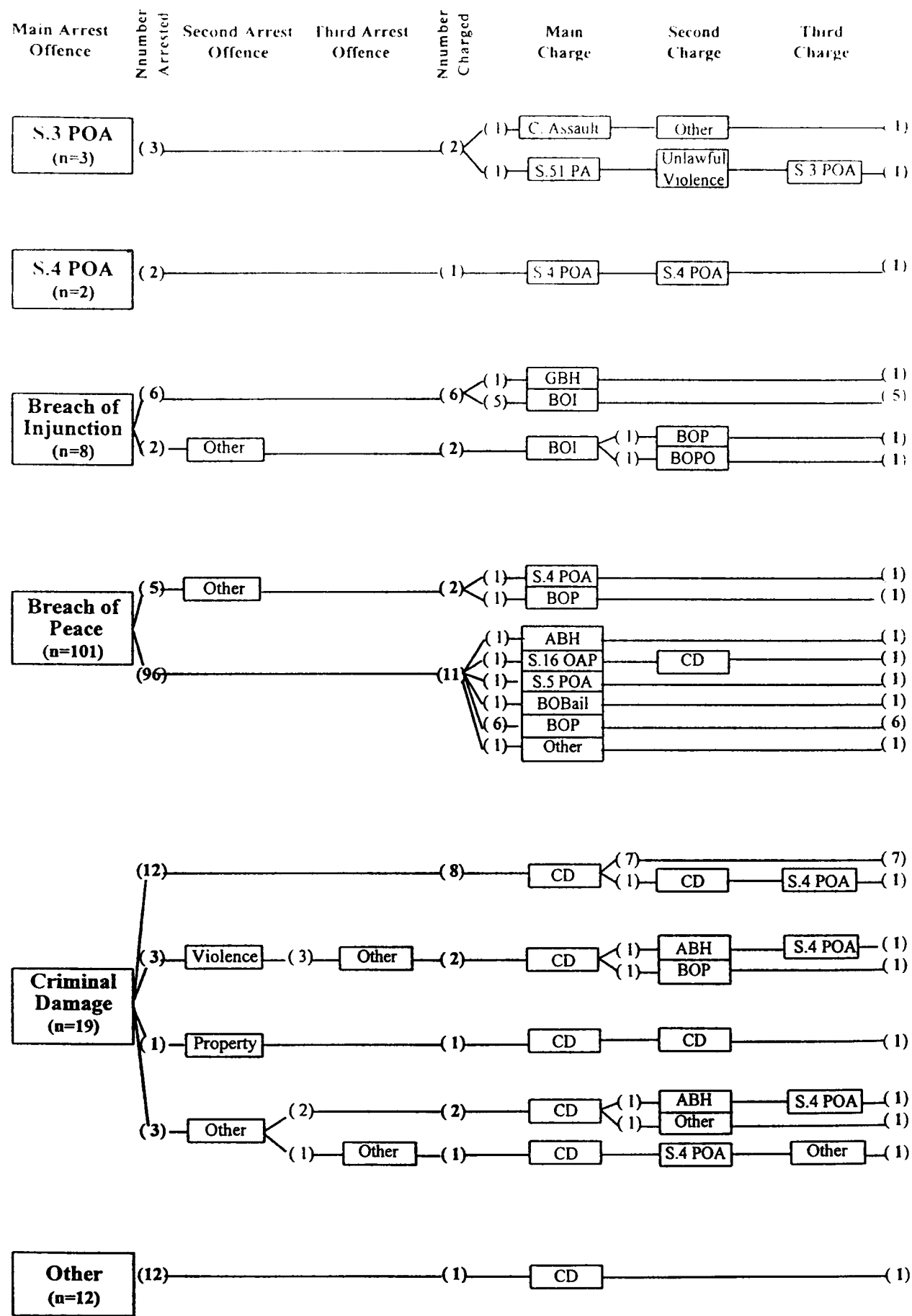
Flow Chart of ‘Violent’ Cases from Arrest to Disposal

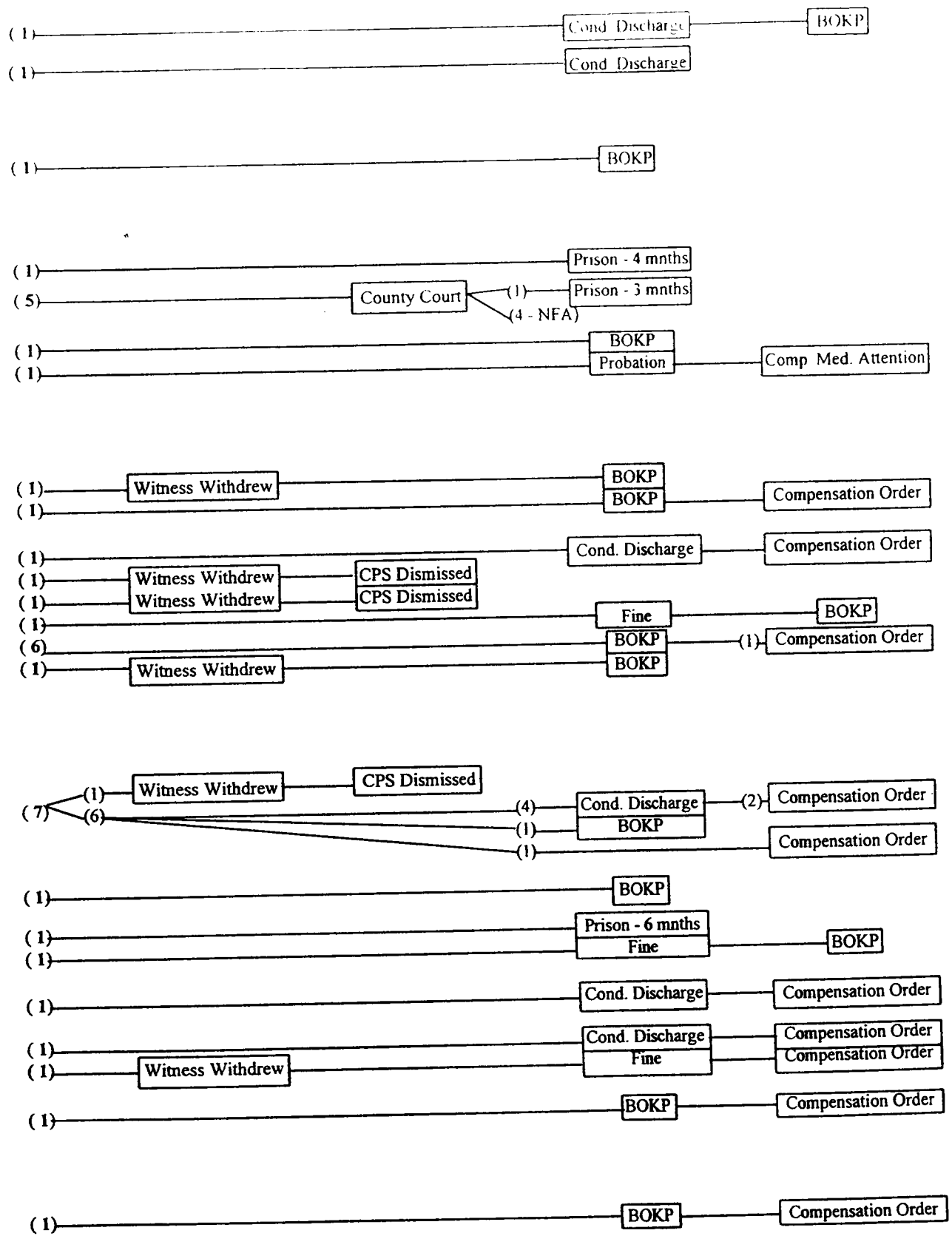


Appendix 2



Flow Chart of ‘Non-Violent Cases from Arrest to Disposal





APPENDIX 3

Interview Schedules for Patrol Officers in Cases which Resulted in an Arrest and Cases which did not Result in an Arrest

1. INTERVIEW NUMBER:

--	--	--

2. CASE NUMBER:

--	--	--	--	--

3. DATE OF INTERVIEW:

--	--	--	--	--	--

INTERVIEW AFTER AN ARREST

tick boxes and add detailed notes to the right of each page

DETAILS OF OFFICER
BEING INTERVIEWED:

4. GENDER:

Male

--

Single

--

5. AGE:

--	--

6. MARITAL STATUS:

Married

--

Cohabiting

☐

Separated/Divorced/Widowed

☐

Single

☐

7. YEARS IN SERVICE:

--	--

8. RANK OF OFFICER:

PC/ WPC

☐

Sergeant

☐

DETAILS OF OTHER ATTENDING OFFICER (when relevant)

9. GENDER:

Male

☐

Single

☐

10. AGE:

--	--

11. MARITAL STATUS:

Married

☐

Cohabiting

☐

Separated/Divorced/Widowed

☐

Single

☐

12. YEARS IN SERVICE: .

--	--

13. RANK OF OFFICER:

PC/ WPC

☐

Sergeant

☐

14. GRADED RESPONSE:

Immediate

☐

Routine

☐

15. CLOSING CLASSIFICATION:

GENERAL OPENING STATEMENT:

"I would like to talk to you about domestic disputes."

Comments:

present incident log of relevant dispute and ask officer about what had happened and how he dealt with it

16. DESCRIPTION OF THE ALLEGED OFFENCE AND THE OFFICER'S RESPONSE:

[to be supplemented with data taken from the crime complaint form and witness statement(s) and custody record]

description contd'

MENTION OF ALCOHOL

17. Suspect

18. Victim

☐

19. Children present at incident

☐

20. Aggressor still at scene of incident

☐

21. Who was the caller?

Victim

☐

Suspect

☐

Anonymous

☐

Neighbour

☐

Relative

☐

other -----

22. Did the dispute take place within a private home or in a public place?

Private

☐

Public

☐

23. What was the relationship between the parties involved?

Married

☐

Cohabiting

☐

Separated from marriage

☐

Separated from cohabiting

☐

Divorced

☐

Don't know

☐

24. Were the couple living together?

Yes

☐

No

☐

Don't know

☐

25. What was this man arrested for?

26. Has he been charged?

Yes

☐

No

☐

26b. IF YES: What has he been charged with?

27. Do you agree that this is the right offence for the suspect to be charged with?

Yes

☐

No

☐

27b. If NO: Why not?

28. Do you know if there is a history of domestic disputes in this family?

Yes

☐

No

☐

Don't Know

☐

29. Were there any allegations of sexual violence?

Yes

☐

No

☐

30. Details:

31. How did the suspect respond to you (what was his demeanour)?

Calm/resigned

☐

Negative



Other



31b. Details:

[illegible]

32. What was the victim's state of mind when you first arrived at the scene?

Hysterical



Angry



Afraid

☐

Distressed

☐

Calm

☐

Other

☐

33. How did the victim respond to your arrival at the scene?

Positive

☐

Negative

☐

Other

☐

34. Why did you decide to arrest the suspect?

35 Minor injuries sustained by the victim

☐

36 Serious injuries sustained by the victim

☐

37 To ensure the immediate safety of the victim

☐

38 To ensure the safety of the children present

☐

39 The suspect was drunk/under the influence of drugs

☐

40 The suspect was still showing signs of aggression towards the victim

☐

41 The suspect was verbally/physically aggressive towards a child

☐

42 The suspect was verbally/physically aggressive towards a police officer

☐

43 The suspect was verbally/physically aggressive towards another person

☐

44 Victim was becoming aggressive and threatening retaliation

☐

45 Victim wanted the suspect to be arrested

☐

46 Suspect was already known to the police for domestic violence

☐

47 There was an injunction (with a power of arrest attached)

☐

48 Dispute was in a public location (breach of the peace implications)

☐

49 A crime had taken place

☐

50. Had the victim sustained any injuries

Yes

☐

No

☐

Don't Know

☐

51. IF YES: How serious were the injuries?

Minor

☐

Serious

☐

52. What do you think the victim wanted you to do?

53. Remove suspect from the scene

☐

54. Restore the peace

☐

55. Arrest the suspect

☐

56. Advice her

☐

57. Advice the suspect

☐

58. Did you offer any other advice to the victim?

Yes

☐

No

☐

59. Details of advice offcered:

60. Do you think that the victim will continue with her complaint or do you think that she might withdraw at some stage?

Continue

☐

Withdraw

☐

61. Comments on the issue of victim withdrawals:

62. Do you think that the CPS will prosecute?

Yes

☐

No

☐

Don't Know

☐

63. Comments on the CPS and the prosecution of domestic violence offences:

COMPLAINT WITHDRAWAL
(To be completed only if the complainant withdraws)

64. Stage of the proceedings at which the complaint is withdrawn:

65. Why do you think that the complainant withdrew her statement?

66. How do you feel about her withdrawing?

67. Did you consider continuing the case without her support?

Yes

☐

No

☐

68: Why did you decide this?

CLOSING RESULT:

69. Final stage of proceedings:

70. Result:

1. INTERVIEW NUMBER:

--	--	--

2. CASE NUMBER:

--	--	--	--	--

3. DATE OF INTERVIEW:

--	--	--	--	--	--

INTERVIEW WHEN THERE HAD BEEN NO ARREST

tick boxes and add detailed notes to the right of each page

DETAILS OF OFFICER
BEING INTERVIEWED:

4. GENDER:

Male

--

Single

--

5. AGE:

--	--

6. MARITAL STATUS:

Married

--

Cohabiting

☐

Separated/Divorced/Widowed

☐

Single

☐

7. YEARS IN SERVICE:

--	--

8. RANK OF OFFICER:

PC/ WPC

☐

Sergeant

☐

DETAILS OF OTHER ATTENDING OFFICER (when relevant)

9. GENDER:

Male

☐

Single

☐

10. AGE:

--	--

11. MARITAL STATUS:

Married

☐

Cohabiting

☐

Separated/Divorced/Widowed

☐

Single

☐

12. YEARS IN SERVICE:

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13. RANK OF OFFICER:

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Sergeant

☐

14. GRADED RESPONSE:

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☐

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☐

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description contd'

MENTION OF ALCOHOL

17. Suspect

☐

[to be supplemented with data taken from the crime complaint form and witness statement(s) and custody record]

description contd'

MENTION OF ALCOHOL

17. Suspect

☐

18. Victim

☐

19. Children present at incident

☐

20. Aggressor still at scene of incident

☐

21. Who was the caller?

Victim

☐

Suspect

☐

Anonymous

☐

Neighbour

☐

Relative

☐

other

22. Did the dispute take place within a private home or in a public place?

Private

☐

Public

☐

23. What was the relationship between the parties involved?

Married

☐

Cohabiting

☐

Separated from marriage

☐

Separated from cohabiting

☐

Divorced

☐

Don't know

☐

24. Were the couple living together?

Yes

☐

No

☐

Don't know

☐

Had either of the parties involved in the dispute sustained any physical injuries?

25. VICTIM:

Yes

☐

No

☐

26. If yes:

Minor

☐

Severe

☐

27. OFFENDER:

Yes

☐

No

☐

28. If yes:

☐

Minor

☐

Severe

☐

29. Were there any allegations of sexual violence?

Yes

☐

No

☐

30. Details:

31. Do you know if there is a history of domestic disputes in this family?

Yes

No

Don't Know

32. How did the alleged aggressor respond to your arrival at the scene?

Calm/receptive

☐

Negative

☐

He was not present at the scene

☐

Other

☐

33. How was the alleged victim’s state of mind when you first arrived at the scene?

hysterical

☐

distressed

☐

angry

☐

calm

☐

afraid

☐

other

☐

34. How did the alleged victim respond to your arrival at the scene?

Positive

☐

Negative

☐

Other

☐

35. What do you think the victim wanted the police to do?

36. remove all. aggressor from the home

☐

37. advice victim

☐

38. restore the peace

☐

39. arrest the offender

☐

40. warn the offender

☐

41. Did you give any advice to the alleged offender?

Yes

☐

No

☐

42. Details:

43. Did you give him an official caution or warning?

Yes

☐

No

☐

44. Did you give any advice to the victim?

Yes

☐

No

☐

45. Details:

46. Why did you decide not to arrest the alleged offender?

47. Evidential insufficiency

☐

48. Expected that the victim would not support police action

☐

49. No offence had taken place / no evidence that an offence would take place

☐

50. Common law assault, private prosecution recommended

☐

51. She was not a 'respectable' victim

☐

52. He was not a 'real' criminal

☐

53. Explanation referring to 'appropriate' conduct

☐

54. Explanation referring to family ideologies

☐

55. Both parties were equally to blame

☐

56. Neither victim nor aggressor wanted us to intervene

☐

57. All that was necessary was to calm the parties

☐

58. All. victim did not want police to take legal action

☐

Has the incident been recorded?

59. CoCo

☐

60. Pocket book

☐

61. Other

☐

62. Did you inform anyone else in the police force or any other organisation about this incident?

Yes

☐

No

☐

63. Details:

Appendix 3

APPENDIX 4

Figure 6 Distribution of All Incidents Across Areas

Figure 7 Distribution of Sample Incidents Across Areas

Figure 6
Distribution of All Incidents Across Areas

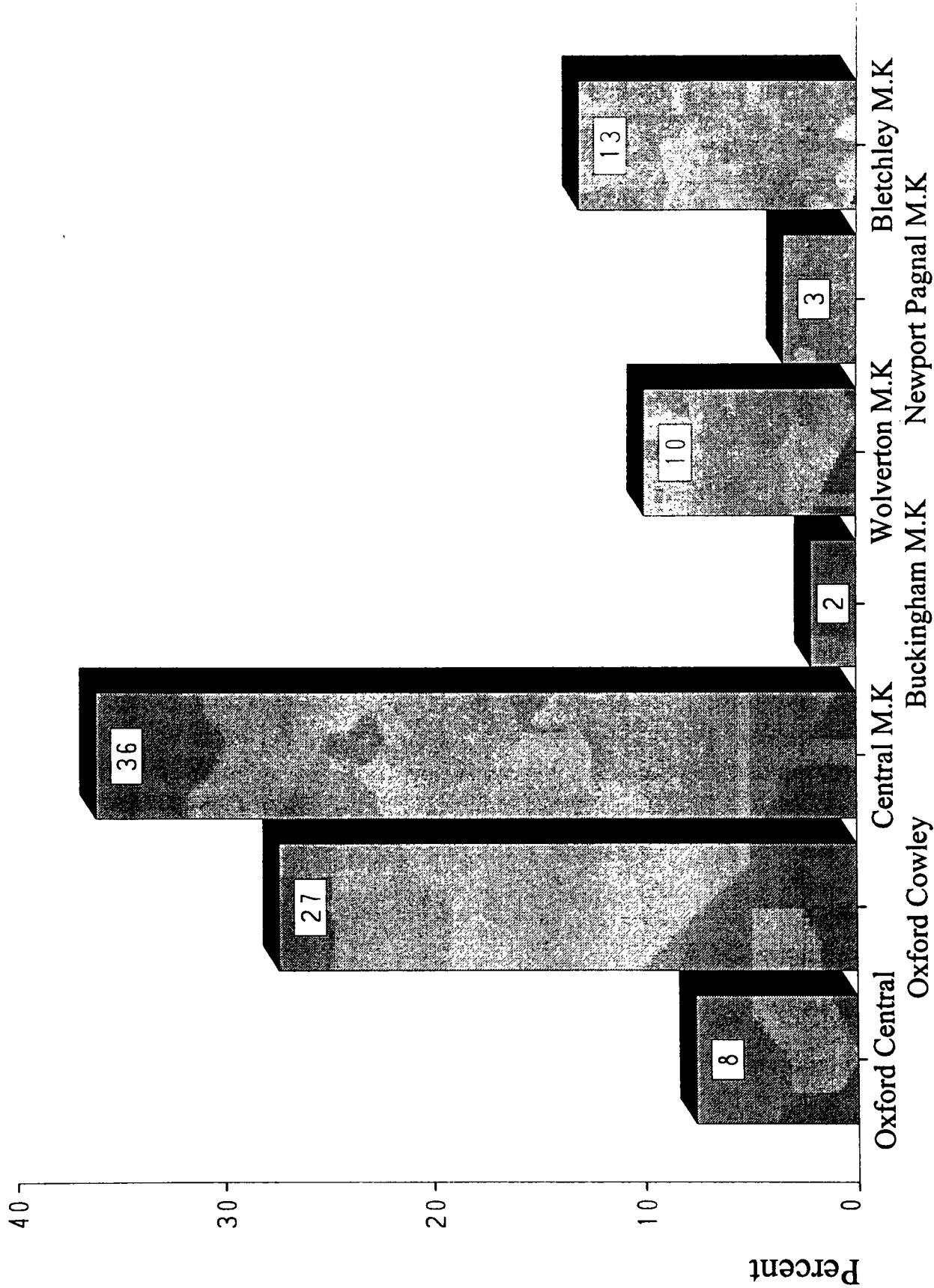
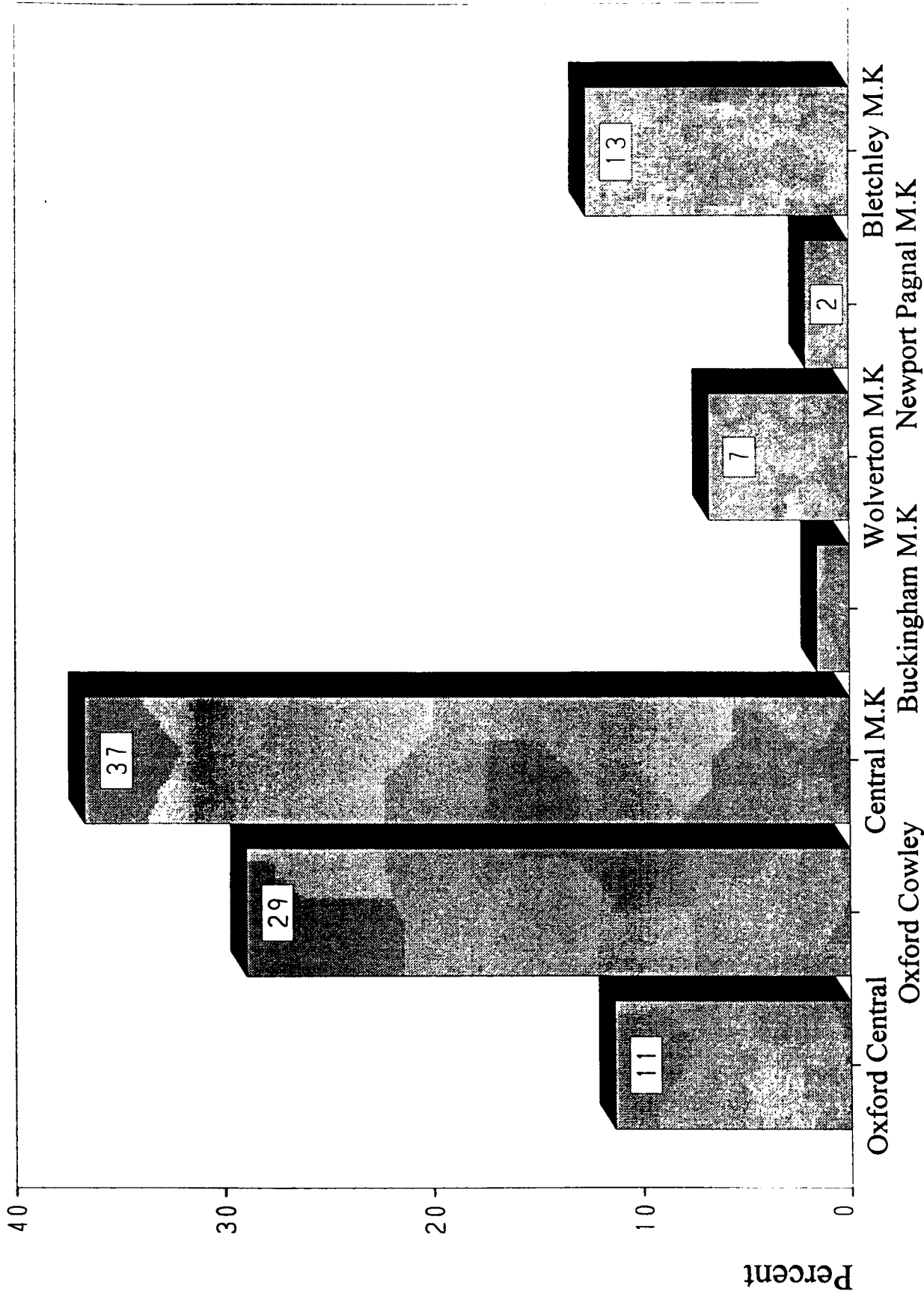


Figure 7
Distribution of Sample Incidents Across Areas



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