

**POLICING BEYOND VAWIR POLICY:
CRIMINAL HARASSMENT, PRO-ARREST AND THE PRACTICE OF
DISCRETIONARY POWER**

by

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**We accept this thesis as conforming
to the required standard**

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ABSTRACT

Relevant policy dictates that only particular interventions are to be employed when police are handling incidents involving violence against women in relationships. The objective of this study is to examine the way police officers describe their practice when investigating cases involving women victims who are criminally harassed by intimate or formerly intimate partners. This study inquires into the influence of this policy as well as the influence of other situational and organizational factors in the specific area of policing criminal harassment. In-depth interviews took place with 20 Vancouver police officers and qualitative analysis was employed. The data shows that the officers in this sample see themselves as highly discretionary in their practice and that their decision-making is influenced by the way in which they construct a number of situational and organizational factors. It was found that the vast majority of police in this sample constructed the victim, the crime of criminal harassment, and the criminal justice system in such a way so as to justify not following the protocols outlined in the Violence Against Women in Relationships Policy. Furthermore, it is argued that the attitudes which inform their discretionary practice can be seen as reflective of the attitudes embedded in police subculture as well as in dominant society. The implications of this research point to a need for further exposure and, perhaps, parameters around police practice so as to limit the negative effects of the patriarchal police subculture on women victims of violence.

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CHAPTER 1

The Project

When the battered women's movement of the 1960's and 70's brought violence against women into the public realm, the police came under significant attack for failing to provide women victims with adequate protection (MacLeod 1987; Hannah-Moffat 1995). Feminists argued that victims of intimate violence were often subjected to an inadequate legal response to their request for protection. Furthermore, it was argued that this deficient response reflected a social tolerance of violence against women (Hilton 1993). Since this time, the relationship between women victims of violence and the criminal justice system has undergone dramatic changes. Today, the issue of violence against women in relationships is, for the most part, considered a social, public, and criminal justice issue. As Dobash and Dobash (1987) point out, these changes have been hailed a major success of the liberal feminist battered women's movement.

Although the criminalization of violence against women was largely deemed a "feminist" victory, many women have argued otherwise. Current debates within feminism emphasize that relying on the criminal justice system is a double-edged sword. On one hand, the liberal feminist perspective continues to argue that treating violence against women as a criminal justice issue should provide protection for women and convey an important social recognition of this problem (Stark 1996). It is thought that a society that takes a "crime control" approach to violence in general should not apply a double standard to violence against women in relationships. On the other side of this debate, questions are raised about the overall potential for a patriarchal institution, such

as law, to advance feminist and anti-racist objectives (Currie 1998). Postmodern socio-legal theorists, such as Smart (1995), and many Aboriginal and anti-racist feminists have argued that law is a “hegemonic process,” which reproduces unequal social relations. From this perspective, the law is seen as not only difficult to transform, but also as an ineffectual tool for achieving emancipatory objectives (Lacombe 1997; Smart 1995).

As an institution, the criminal justice system is criticized as being ideologically driven and structurally and procedurally flawed (MacLeod 1995; Snider 1998). It is argued that, in practice, a uniform and aggressive policing approach does not adequately consider the problematic relationship between many marginalized women and the criminal justice system. Women from racialized, low-income, and otherwise marginalized populations, whose perspectives were largely excluded from the early battered women’s movement, have indicated that they are subjected to discriminatory practices and often revictimization by police (Flynn and Crawford 1998). MacLeod (1987) has argued that overall, the proliferation of criminal justice interventions has failed a key test, and that is the test of battered women’s realities (Currie 1998).

The pressure for stronger criminal justice intervention into violence against women has resulted in a number of substantial changes within Canadian law and policy. One key example is the implementation of “pro-arrest” policies across Canada. In British Columbia, where the current study took place, a pro-arrest policy was enacted in 1984, and is now known as the Violence Against Women In Relationships Policy (VAWIR) (BC Ministry 2000). This pro-arrest policy was implemented on the premise that violence against women in relationships was to be treated by the state as a “crime control” issue (Stark 1996). More specifically, the stipulations of VAWIR emerged from the finding

that police and victim discretion were major causes of non-arrest in cases involving violence against women in relationships (Dekeseredy and MacLeod 1997).

The focus of this study is to contribute to the existing knowledge on police practice under VAWIR policy. Beginning from the standpoint of police officers, this investigation will provide an analysis of the way, and degree to which, officers feel guided by this pro-arrest policy. However, the scope of this study is narrowed somewhat by the fact that the focus is on one specific form of violence against women in relationships: criminal harassment of women by intimate or ex-intimate partners. This research explores the question: how do police officers describe their practice and decision making processes when handling criminal harassment cases that fall under VAWIR policy? To answer this research question, this study inquires into the influence of this policy but also must consider the other situational and organizational factors that impact on their decision-making when policing criminal harassment.

By drawing together the knowledge, behaviours and experiences of officers, this study will reveal perspectives on policy and practice that are essential to further understanding the policing of criminal harassment. In addition, this analysis will inform broader areas of research on policing violence against women in relationships, police discretion and subculture. A socialist feminist framework informs the current analysis. The strengths of this framework lie in its recognition of the social and material inequalities that shape women's experiences and needs. In addition, this framework does not demand an outright rejection of existing institutions, nor does it see these institutions as instruments of social justice. This theoretical orientation allows for critical

perspectives on the criminal justice institution, while never the less accepting that we must be willing to work within existing social structures.

In terms of my personal interest in these issues, I have a background as a researcher with the Vancouver Police Department (VPD) and in a number of community organizations working to end violence against women. I have a strong interest in women-centred research on the police response to intimate violence, which is what has driven me to ask this research question. In my work experience, I have been exposed to the range of opinions regarding pro-active policing. However, I am personally undecided as to whether VAWIR policy should remain in its current form. In Chapter 2, I outline the ways in which this pro-active policy has been shown to have certain beneficial effects. On the other hand, even with this evidence in mind, I cannot be in total agreement with VAWIR policy given that so many women have identified its potentially negative consequences for victims.

My purpose in this stage of the discussion is to identify that, in many ways, I identify with the arguments made by critics of pro-active policy and this certainly has had an impact on my research. It is the reason I am asking this research question and the reason behind my firm belief that the debate around pro-arrest policy should be continuously revisited. However, I expect that my confusion surrounding this issue resonates throughout this thesis, and so my hope is that by thoroughly exploring the two sides of this debate, I will give adequate representation to both perspectives while also identifying that my criticisms of pro-active policies have led me to this research question and approach.

Following the upcoming discussion on research methodology, Chapter 2 will explain in greater detail the importance of research that specifically focuses on policing criminal harassment. Background information and a review of the literature will be interwoven to provide a context for this study and will introduce the following topics: the criminalization of violence against women; pro-arrest policing; police subculture theory; constructions of victims of violence; and criminal harassment. With this understanding of the background and context, the intentions of this project and its importance become apparent.

After the chapter on background and literature, the subsequent chapters present the findings and analysis. In these chapters, I will argue that the police are not significantly influenced by VAWIR policy. These chapters will therefore examine what factors are central to these officers' discretionary decision-making processes and how they justify acting outside of the policy's stipulations. This analysis will begin in Chapter 3, which will explore police perspectives on female victims' circumstances, needs and decision-making power. On the basis of the data, it will be argued that the policy does not seem to be successful in its attempt to limit the degree to which officers engage in a rigorous process of evaluating victims and make subjective decisions about whether or not to grant a victim decision-making power. Associations are drawn between particular comments about victims and the race and gender demographics of the officers.

In Chapter 4, the discussion focuses on the way in which many officers point to failures in the criminal justice system as a justification for non-arrest. The analysis points out that this theme was particularly common among higher-rank officers. Concerns are raised about officers using their criticisms of the criminal justice system as a reason to

not pursue charges on a victim's behalf. The third set of findings is presented in Chapter 5, where the overarching issue of police discretion is addressed. This analysis examines the way in which police justify their use of discretion through a particular understanding of "policing expertise." It is also argued that the use of discretion is justified through the way these officers construct the offence of criminal harassment. Many officers describe criminal harassment as demanding a unique type of policing from that employed in cases involving other forms of violence against women in relationships. The outcome of this line of inquiry is an exploration of the ways in which these officers describe and justify their policing practice when it is outside of the parameters set by VAWIR policy. These findings are then looked at in terms of implications for police discretion, police culture, and pro-arrest policy.

Methodology

To achieve the objectives of this study, I employed a qualitative research approach; specifically, semi-structured, in-depth interviews. The methodological design is modeled on the "Fourth Generation Evaluation" developed by Guba and Lincoln (1985, 1989) and the feminist sociology of Dorothy Smith (1987). By applying these alternative methods of inquiry, I have tried to avoid many of the limitations of conventional sociology. Feminists have long sought a framework that is freed from the flaws of traditional sociology. As Smith (1987) has identified, within conventional sociology, a white male perspective "comes to be seen as natural, obvious, and general and a one-sided set of interests preoccupy intellectual and creative work" (20).

Guba and Lincoln's (1989) methodology is rooted in the naturalist-constructivist paradigm, which challenges the dominant objectivist and positivist epistemology in its assertion that "there exist multiple, socially constructed realities ungoverned by natural laws, causal or otherwise" (Guba and Lincoln 1989:86). This subjectivist epistemology is consistent with my objective as a feminist researcher. My interest is to explore the commonalities and differences among the subjective perspectives of the research participants as they interact with my subjective viewpoint, as the researcher. The naturalist-constructivist approach does not separate the inquirer from the "inquired into" and continuously considers the way the interaction of these subjectivities leads to a unique set of "findings" or construction of the data (Guba and Lincoln 1989).

Within this epistemological framework, the current study was also informed by the feminist sociology developed by Dorothy Smith (1987, 1999). Smith is hailed as having radically shifted our understanding of sociological inquiry because of the way in which she exposed the construction of knowledge as a reflection and perpetuation of the interests of the dominant social class. Although my methodology deviates in many ways from that proposed by Smith, her work has provided an important conceptual framework. As Smith (1987) argues:

To enlarge our understanding as women of how things come about for us as they do, we need a method beginning from where women are as subjects. As subjects, as knowers, women are located in their actual everyday worlds rather than in an imaginary space constituted by the objectified norms of sociological knowledge built upon the relations of the ruling apparatus and into its practices. (153)

Smith challenges the conventions of traditional sociology by suggesting that we begin our inquiries from the standpoints of women positioned in their everyday lives. At the core of this methodology is a commitment to valuing and preserving participants' voices, which

is an important aspect of this study. This standpoint approach sees women participants, who have not been traditionally viewed by sociologists as “experts,” as having unique and expert knowledge into particular aspects of the social world.¹ The task for the researcher is to “write a sociology” that will inform a problematic from the position of the research participants as expert knowers (Smith 1987:106). Through this approach, it is possible to access a perspective that has been excluded from the space where knowledge has been traditionally constructed and given authority.

Despite the strengths of Smith’s approach, my study deviates from her methodology in several ways. This study does not solely involve “marginalized” voices, such as those of women victims, as informants. Based on the gender, race, class, ability and sexual identities of the participants involved in my project, many of the police participants can be described as members of the dominant culture occupying positions of power. Despite this positioning, I would still argue that this is a feminist sociological project guided by Smith and so I will clarify why the focus is on the police standpoint and not the standpoint of women victims.

To approach this question through interviews with victims would be a truer Smithian (1987) approach. Drawing on victims as “expert knowers” would access information about how women construct their experiences and the way in which they would like to utilize the criminal justice system. The reason why I have selected police officers as informants or “expert knowers” is because they have a particular standpoint that is endowed with substantial authority unattainable by any other means. As Pence (1996) argues:

¹ Smith notes that along with gender, there are other forms of exclusion such as race and class.

The judicial system in any community is a collection of agencies with ties to different levels of government. Decision-making power is not centralized in any one agency or person... Making changes in procedures or policies in this network is complicated by the multiple sites or decision making. (44)

Among these multiple sites of power, I would argue that police officers are in a key position in relation to the victim's experience of the criminal justice system. Officers make the initial decision of whether a case becomes a criminal justice matter or is ignored and they are in a position of mediating and interpreting most of the different situational and structural factors involved in the criminal justice process. Consider the entire process from the point of contact between victim and 911 up until the appearance in court. The police officer is the only criminal justice professional who interacts with each of the following: the victim, the crime setting, the perpetrator, the prosecution, the defence, and the judiciary. The police officer makes the first and potentially most critical decision of whether or not to pursue charges. She or he translates the information to crown and appears in court thereby creating a "text" that mediates the relationship between women and the criminal justice system. On this basis, the police clearly have a perspective that is critical to this research question.

On the other hand, despite the fact that they are granted substantial power, a number of officers in this sample can be seen as having "marginalized voices," particularly within police culture. By including female, male, non-Caucasian, Caucasian, inexperienced, experienced, low and high-rank officers, I have access to both "dominant" and "non-dominant" standpoints. Although these officers have significant authority granted to them by their occupation, it can be argued that the perspectives of a number of individuals in the sample are marginalized within society overall, but even more so within the institution of policing. This study is informed by Smith's (1987) analysis at its

starting point, where the inquiry begins from the participants' perspectives on their lived experience and recognizes them as key "knowers."

Drawing from Smith, this research is able to look at these participants as existing in a socially organized world, where they operate within existing unequal social relations. This social context shapes and organizes the experiences and standpoint of the officers as well as my own. Both Smith (1987) and Guba and Lincoln (1989) provide an important analysis of the relational organization within which sociological work takes place. Individual perspectives are influenced by social location, which then influences the dynamic between researcher and participant. In this study, I am institutionally and socially located, as are the participants and so a self-reflexive and Smithian analysis of social relations is key in understanding the way in which social location influences the data and analysis. This issue will be examined in the upcoming section entitled "Method of Analysis."

Accessing Police Perspectives

The study involved in-depth interviews with twenty police officers from the Vancouver Police Department (VPD). Two introductory notices, one from myself and one from the Inspector in charge of the Major Crimes Section, were sent to fifty randomly selected officers from each of Vancouver's four policing districts. Interviews were scheduled based on the sequence in which the officers responded and their availability. The twenty interviews took place over a four-month period. Participants were asked to dedicate one hour to the interview, although many of the participants voluntarily exceeded this time allowance. Guba and Lincoln (1989) recommend ensuring

a natural and comfortable setting for the interviews. The interviews took place in private interview rooms at the VPD Patrol Centre at 2120 Cambie Street, and the Police Station at 312 Main Street, two settings that are entirely familiar to the participants. In all cases, the participants were on day shift.

Consistent with the methods prescribed by “Fourth Generation Evaluation” (Guba and Lincoln 1989), purposive sampling was used to access diverse participants. At the outset, I established specific objectives in terms of the composition of the group. The study aimed to have diversity in terms of gender, race, and age as well as various work-related factors. I sought individuals who were from a variety of districts and professional ranks and varied in terms of years of experience in policing. However, Guba and Lincoln (1989) recommend sampling in a “hermeneutic-dialectic circle” whereby the researcher returns to the participants who were interviewed in the early stages of the data collection process to address themes that emerged in the later interviews. This process was not an option given the timeline of this project. I was allocated a particular amount of time with each officer and under the research agreement, was not able to re-interview.

The resulting sample of twenty officers was diverse in many ways. Women were over-represented in this sample. Seven women participated, making up thirty five percent of the sample, which exceeds the provincial statistics where female officers currently make up seventeen percent of the total officers in the province (Dunphy and Shankarraman 2000). Five participants were non-Caucasian (three women and two men) making up twenty-five percent of the total sample. No First Nations officers volunteered to participate, which can be identified as a limitation of the sample. There was variation among the ranks of the participants. Thirteen constables, four detectives, two sergeants

and one inspector were interviewed, each offering diverse perspectives as they fulfill different roles in the investigation process. They ranged in age from twenty-nine to fifty-five years old and in policing years from one to thirty-two years' experience. Non-visible disabilities and sexual orientation were rarely revealed and this factor was not pursued for reasons of "professionalism." I had the sense that keeping the discussion "professional" and not "personal" would provide a more informative and revealing interview. Other than vision problems, there were no visible disabilities among the participants. The limitations of this sample largely reflect the reality of under-representation of many social groups in policing.

The semi-structured interview schedule functioned as a "guide" (Kvale 1996) and involved open-ended questions. By engaging in open-ended questions, the expectation was that this method would "yield stretches of talk that 'express' the social organization and relations of the setting" (Smith 1987:189). The questions were initially developed out of my preliminary knowledge of the field, which was gained through my previous work with the VPD Domestic Violence and Criminal Harassment Unit (DVACH). At the outset, key topics were identified and pursued in the first interviews. Through a process of "responsive focusing," participants' responses guided the focus and themes of the subsequent interviews (Guba and Lincoln 1989). This process demands that data collection and analysis are simultaneous processes; therefore new questions and themes are able to evolve and emerge throughout.

After introductory questions addressing professional and educational background and experience, the participants were presented with a vignette. In the vignette, they were read the following fact pattern.

In the first scenario, you are attending a criminal harassment call at a victim's residence at 6:45 p.m. The victim has contacted the police because she was frightened by the fact that she saw the suspect outside her workplace that morning, and then one-hour later at the location where she regularly eats lunch. He did not approach her, but at each location he stared at her for several minutes. You inquire about the victim/suspect relationship. The background information given by the victim is that they were in a common-law relationship for 2 ½ years. The victim ended the relationship after this time, mostly due to his drinking and drug use. It has been a total of 4 months since the break-up. Ever since their separation, the suspect has been continuously phoning the victim at home and at her work. Initially, after their separation, the suspect demanded to see the victim, and she agreed on several occasions. But after a month or so of these meetings, the victim states she terminated all contact as she saw that there was no potential for a relationship of any kind. Since that time, the suspect has phoned the victim between 4-6 times per day at work and sometimes up to 10 calls to her home. She says that he is currently unemployed and she states that he is "bored and lonely." The victim recalls one memorable incident, where the suspect showed up at the victim's apartment door crying and begging for her to let him in and reconcile with him. When she refused, he got progressively more upset to the point where he was crying, yelling and banging on the door and windows. He eventually left when the neighbours intervened. She does not know how he was able to get into the apartment building. Since this time, she says he has been getting increasingly angry and has said that they are "meant to be together" and that she is "nothing without him." He has accused her of being with another man, which makes her feel nervous about dating. The victim states that there was no previous violence, except that he "has quite a temper" and has, in the past, "broken things around the house to let off steam." She states it was "no big deal." When asked if he has threatened her, she states that he has not, but that she is afraid of losing her telemarketing job and/or getting evicted. She does not want him arrested, as she states that he has enough problems already, she just wants the harassment to stop.

The vignette was designed in this way to fulfil several criteria. First, the fact pattern needed to be one that could likely occur within a typical workday or the "everyday world" (Smith 1997) of a Vancouver police officer. This quality was ensured through a comparison with official police reports but also within the interview process where participants were asked if the vignette was a "realistic scenario." All respondents agreed that, based on their experience, it was realistic. Second, the fact pattern had to provide adequate evidence for criminal harassment charges to occur. This criterion was ensured through a similar review process using police files that resulted in charges and also

through discussions with contacts in the VPD Domestic Violence and Criminal Harassment (DVACH) Unit. Third, the vignette should present a scenario where the potential for a charge was evident, but the victim requested a lesser intervention, thus presenting the respondent with a clear dilemma.

This vignette was included in the interview process in order to achieve several goals. First, the vignette provided an important means of comparison. Each participant was required to determine which intervention they would employ given the fact pattern, and describe the way in which this decision was made. This method provided an important and concrete answer, regarding the specific intervention they would use, which could then be used to form categories among the respondents and draw conclusions based on these categories. Additionally, the use of a vignette provided a clear and familiar way to initiate the discussion. The themes that followed were both pre-determined but also, as previously stated, guided by participants' responses. In all interviews, the following pre-determined themes were discussed: possible interventions, assessing risk, victim discretion, police discretion, and the utility of the applicable laws and policies. Interviews were recorded through audiotaping and field notes were constructed throughout the interview process as well as from memory.

Method of Analysis

As a result of the selected methodology, it is clear that the analysis presented in this thesis is a result of the interacting subjectivities of the "inquirer" and the "inquired into" (Guba and Lincoln 1989). During the interview, when active dialogue is taking place, a range of factors influences the course of the interview. Once the interview is

complete and the researcher reviews the transcribed data, the process is influenced by yet another set of factors. As feminist researchers such as Smith (1987) and Stanley and Wise (1990) have argued, self-reflexivity is critical in our attempt to understand the context within which data were produced and interpreted. As Smith describes, the use of self-reflexivity is not intended to turn the investigation into a study of the relationship between researcher and participant. The purpose is to “display the relational organization within which the sociological work goes on” (111). Therefore, it is critical that the relation of researcher and participant, as well as the factors influencing the interaction between researcher and data, be thoroughly investigated before the analysis can be given any meaning.

Skeggs (1995) argues that, as feminists, our research is produced from the position of “the female embodied social subject.” “Our modes of existence, of being and doing, our thinking are produced through social-political-cultural-economic locations and processes” (Skeggs: 7). As a woman and feminist, I relate to the research participants as a socially and institutionally situated subject. As I have previously described, as a result of my lived experience of the social world, I have particular concerns about pro-active policy. These concerns have led me to this research question and guided my approach and analysis. In addition, I am unable to completely abandon my specific belief about the patriarchal nature of the institution of policing and my ability to identify in particular ways with the experience of women victims of violence. As much as I attempted to maintain “neutrality,” this outlook obviously guided my approach and analysis. As a result of my identity or approach, the participants may have felt influenced to deliver what they perceived to be the “right” answer. Particularly given the political nature of the

issue of violence against women, the participants may have felt a “victim-centred” response would be well received. However, as I will show in my findings, the participants did not seem compelled to give a victim-oriented or policy-compliant response.

It is important to identify that both the participants and myself occupy institutional positions that have been assigned significant social, political, cultural, and economic privilege and authority. With this fact in mind, it is important to consider the complex dynamic that could occur in the context of an interview between a university-based researcher and a police officer. In many ways, both parties may feel some level of intimidation in the process. I may feel uneasy given that they are officers in uniform, we are in a police station, and I am a “civilian.” Conversely, they may feel intimidation based on the academic context within which I am located. There were very few signals that pointed to any concerns regarding my academic position; in fact, many of the participants held bachelor degrees, and one officer had a Master of Arts. However, one officer remarked on how he felt he was understood in comparison to those with a “formal” education.

You could tell they had their stereotypes of what we were and it was offensive, 'cause, you know, basically they felt that we were sort, of course, undereducated, beer-swilling cowboy types and it really came across that way and I thought, you know, come and watch me work cause I think you'd be surprised at what I deal with... and not only myself in a sergeant's role but what the constables do, whether they have formal education that meets everybody's requirements or not, [they are] really bright skilled people. (Participant 9, Caucasian male)

Another male officer remarked about the concerns he felt regarding representations of police within the academic world and his experience as a college student.

Academic world has a pretty funny notion of the police world... don't they? The rest of the world doesn't understand the police world...I went there and what I learned

in studying academia was that in school you deal with the ideal and you deal with notions and you deal with what ifs and circumstances invented. And I didn't, I found that disillusioning. I wanted to deal with the real world. I wanted to deal with the real as opposed to the ideal. (Participant 3, Caucasian male)

These statements point to the fact that the officers may have felt some fear about being stereotyped or misrepresented in my research, or their words taken into the realm of the “ideal.” Despite this possibility, my experience was that the interviews maintained a relaxed atmosphere and many officers expressed that they enjoyed the interview and benefited from the process. I believe that one reason for the seemingly comfortable dialogue was the fact that I have somewhat of an “insider” status having been a contract employee by VPD’s DVACH Unit. This experience was explained at the outset and seemed to strengthen my credibility while also giving me useful preliminary knowledge of some of the institutionally organized procedures and discourse.

It is possible that any pressures that participants experienced, as a result of the circumstances of the interview, may have limited their freedom to express their concerns about the interview process itself. It is basically impossible to know how participants felt about the process, but certain conclusions can be drawn based on statements that were made. Out of the twenty interviews, only three participants expressed concerns or comments about issues of confidentiality. Interestingly, all of the three participants with confidentiality concerns were women. As one female officer stated:

I mean, my concern is just...things that I say getting back to work. Not, that I'm going to say anything...Out of line... or anything like that. But it's... policing is a very funny... culture. (Participant 13, non-Caucasian female)

As another female officer stated:

I wouldn't say that if this was going to have my name on it, there's no way. You can't. (Participant 20, Caucasian female)

This issue will be revisited later in the analysis. What these women officers may have been pointing to was their statements about the oppressiveness of policing culture and the institution itself. The other seventeen officers either seemed disinterested or made overt statements regarding confidentiality issues. One male officer simply responded, “*Like I care anyway*” and another described how he was not concerned about confidentiality, nor did he feel coerced.

*Well, you know what... I [have a lot of] seniority in this department, been here for [so many] years, and I'm... we call it fire proof... not [feeling coerced] in the least.
(Participant 2, Caucasian male)*

This gender division was directly related to both the content of their interviews as well as their sense of security in their professions, which will be revisited later in the analysis.

Overall, “Fourth Generation Evaluation” (Guba and Lincoln 1989) has informed my process of data analysis. “Emergent category designation” involves coding all of the interview data according to themes. This process occurs throughout the data collection. In the “dialectic” stage, themes and constructions are compared and contrasted across the data set. Throughout the hermeneutic interpretive analysis, the findings are acknowledged as being a reflection of my subjective interests and perspectives. My interpretation of the data is clearly one possible representation of the information, and the way in which the themes are organized and interpreted is a unique construction that is influenced by my perspective and theoretical orientation (Erlandson et al. 1993:118).

Terminology

Despite its legal context, this study is clearly a sociological project. The language and terminology will, therefore, be sociological in origin and terms that have legal

implications will be avoided as much as possible. However, certain vocabulary is employed on the basis of its applicability to policing. First, the terms “victim” is employed instead of the term “survivor.” Many feminists have advocated for the use of the term “survivor” as a more empowering reference to women who have experienced violence. Despite the fact that it is a highly problematic term, I will be referring to “victims” in my discussion of women who have experienced criminal harassment for two reasons. The first reason is I feel that the term “survivor” implies that the danger has passed, which is not usually the case for women involved in the criminal justice process. The second reason is that in this study police always made use of the term “victim.” In addition, the term “criminal harassment” is employed instead of the term “stalking.” “Stalking” is a more evocative and commonly used term, however, in order to maintain consistency with the discourse of the research participants and VAWIR policy, the term “criminal harassment” was appropriate. I have attempted to include the exact statements made by officers as much as possible. In order to highlight excerpts from the interviews, these statements appear in italics.

Limitations

There are several limitations of this study. The analysis presented in Chapters 3 to 6 is primarily focused on themes relating to the victim and the criminal justice system. This focus is reflective of my central interest in police practice as it relates to victim’s needs and experiences. It is for this reason that I do not focus on issues relating to the perpetrator, such as a perpetrator’s demographics, behaviour, and history. Despite the fact

that this subject not a focus of this thesis, research on police practice in relation to perpetrators of criminal harassment is also an important research endeavour.

The second limitation relates to sampling methods. It is important to acknowledge that a study of this sort, particularly when occurring within a setting such as Vancouver, should aim to have Aboriginal representation in its sample. Given Vancouver's Aboriginal population, and the dramatic overrepresentation of Aboriginal men and women in the Canadian criminal justice system, it is critical that Aboriginal women and men have a voice in this debate (Monture-Agnus 1996). Had I properly engaged in purposive sampling, this representation could have occurred.

A third limitation arose from my data collection method. As previously stated, I deviated from the "hermeneutic-dialectic circle" proposed by Guba and Lincoln (1989) and as a result, themes that arose late in the data collection process were not addressed in the earlier interviews. Since a large proportion of female officers were interviewed towards the end of the data collection process, data on gendered experiences of policing did not significantly emerge until this time. As a result, the issue of gender and policing was not explored as fully with the male participants.

CHAPTER 2

Background

The upcoming discussion provides an important contextualization for this study. It will consider a number of organizational, cultural, and situational factors that influence policing practice. In this chapter, “organizational factors” refer to the institution, the laws, and the policies under which the officers operate. In order to analyze the officers’ perspectives on these factors, it is helpful to have knowledge of the history and purpose of these regulating structures. In terms of “situational factors,” this study looks at issues relating to the offence of criminal harassment and the victim.¹ The following discussion will begin with the literature on the criminalization of violence against women and will look at pro-arrest policing, police subculture theory, social constructions of victims of violence, and current research on criminal harassment.

In order to appreciate the way in which officers construct these organizational and situational factors, the analysis that follows in Chapter 3 attempts to extract these factors from the institutional discourse of “police-talk.” By drawing on a feminist and social constructivist framework, it is believed that important insights are gained when these factors are analyzed as ideologically and socially constructed. In the analysis, it is argued that stereotypical assumptions about gender and race are reflected in many officers’ narratives and that these assumptions are perhaps supported and strengthened within their police subculture.

¹ Other situational factors relate to the perpetrator but, as described in the introduction, issues relating to the suspect are outside of the scope of this study.

Violence Against Women as a Crime Control Issue

It has been argued that the Canadian government did not formally recognize violence against women in relationships as a political issue until a 1982 report was submitted to the House of Commons on the nature, dimensions, and impact of violence against women (Light and Rivkin 1996). As a result of this report and other public pressure, by 1985 every province and territory had instituted policy initiatives with the aim of increasing protection for women and imposing stronger sanctions on men who assault their partners. The British Columbia Ministry of Attorney General's policy was entitled the Violence Against Women In Relationships (VAWIR) policy. VAWIR is generally perceived as a "woman-centred" policy due to its acknowledgement of the gendered nature of intimate violence, and its demand for a rigorous criminal justice approach to violence against women. However, that interpretation of VAWIR is controversial. VAWIR is subject to ongoing debates surrounding the specific directives of the policy, as well as broader criticisms regarding the criminal justice system's capacity to address feminist concerns (Currie 1998; Radford and Stanko 1996).

The VAWIR policy developed out of a particular set of beliefs about how to police incidents of violence against women in relationships. It has been argued that the policy's founding principles emerged as a result of what Barnsley (1985) labelled the "institutionalization" of the liberal feminist movement, where we see the "appropriation of feminist discourses to existing dominant practices" (Currie 1998). Feminist objectives, surrounding the promotion of women's sense of support, safety and autonomy, were incorporated into the discourse of "crime control."

VAWIR policy is based on the premise that police discretion leads to inadequate police intervention in cases of violence against women. On this basis, the policy is designed to substantially reduce discretion in police practice by directing officers to arrest in all cases where evidence of an offence is available and it is in the public interest. This directive is labelled "pro-arrest," and places a number of restrictions on police practice.

The policy states:

Police officers, when there are grounds to believe an offence has occurred, should always arrest when it is in the public interest as set out in s.495 of the Criminal Code, including when it is necessary to secure the accused's attendance in court, or prevent the repetition of the offence or the commission of other offences (including interference with the administration of justice and intimidation of witnesses). (BC Ministry 2000)

Police officers are mandated to conduct a full and thorough investigation into every case involving violence against women in relationships. In addition, if the evidence indicates that an offence took place, officers are directed to arrest and submit a Report to Crown counsel (RCC). Crown counsel is directed to press charges and prosecute the case, regardless of the wishes of the victim. Clearly this policy does not eliminate police discretion completely, but it limits the ability of an officer to avoid arrest if there are grounds to believe an offence has taken place.

The concept of the "pro-arrest" policy arose from feminist research and lobbying, which argued that police discretion is a major cause of insufficient law enforcement in intimate violence cases. Both feminist and mainstream criminological research has explored this claim. In the mainstream literature, the following situational factors are articulated as reasons that police choose to not arrest: domestic violence is perceived as a civil matter; the police feel the case will fail in the prosecutorial stages; victims expressing a preference against arrest; and the officers' concern for their own personal

safety since “domestics” are among the most hazardous for police (Sherman 1992). These factors, which are stated as “situational” determinants, become far more revealing when looked at through a feminist and sociological lens.

Feminist analyses of police practice examine the broader societal structures and ideologies that inform police practices (Rigakos 1995). Decisions based upon “situational” factors are viewed as influenced by preconceived notions about gender, race and class. Through this type of analysis, the patriarchal ideologies that appear to inform the individual thought processes of police can be seen as entrenched within the subcultures of the police as well as society overall.

Theorizing Police Subcultures

Academics such as Reiner (1992) have argued that policing is, in fact, not greatly shaped by criminal and procedural law. He argues that the laws do not shape policing practice because they leave enormous gaps to be filled by discretionary decisions. From this observation, researchers have sought to explain what influences police and their discretionary decision-making (Hoyle 1998). Academics have argued that individual beliefs and perceptions shape police practice, and that these beliefs are informed by the occupational culture of the police. Banton (1964) and Skolnick (1966) are cited as two of the earliest researchers to have investigated the existence and nature of police subculture. Skolnick's developed the notion of the “working personality.” He proposed that as police are confronted with the difficulties that are intrinsic to their profession, they develop a common “culture” or “personality” in their struggle to resolve these problems. Skolnick revealed a number of themes that characterized aspects of police culture. The two that are

particularly relevant to this research are notions of “internal solidarity,” where officers have a high level of commitment to supporting one another, and “conservatism,” such as traditional notions about family and society.

These early researchers were not attentive to issues of gender and race in their analyses of cultural norms and values. More recent research by Smith and Gray (1983) addressed issues of gender and race. These researchers expand the notion of the “working personality” to say that police culture is imbued with a “cult of masculinity.” In their study of police officers in London, UK, Smith and Gray found a culturally entrenched notion of masculinity, which involved such behaviours as heavy drinking, physical tests of courage and the exclusion of female officers who challenge the subculture. Smith and Gray revealed the prevalence of racism, sexism and homophobia within police culture and claimed that these elements are key components of the masculine code of behaviour among police.

Chan (1997) has greatly contributed to the body of knowledge through her work on “police racism” and the problematic relations between police and racialized populations. By “police racism” Chan is describing:

The process whereby police authorities stigmatise, harass, criminalise or otherwise discriminate against certain social groups on the basis of phenotypical or cultural markers or national origin through the use of their special powers. (17)

Chan challenges the research that views police culture as monolithic and unchanging. Chan examines police culture as arising from “the interaction between the social and political context of police work... and the institutionalized perceptions, values, strategies and schemas” (1997:92). Racism is embedded in both the cultural and structural

organization of police work and so strategies for change must target the institution of policing at both the cultural and structural levels.

Vancouver and many other North American police departments are currently undergoing a “diversification” process (VPD Diversity Relations Unit 1999). It is assumed that this process will inevitably shift gender and race relations within police forces. Chan argues that expecting a significant change in police culture through changes in recruiting and training is a flawed strategy when employed on its own. On the other hand, simply “tightening the rules” is also insufficient, since clearly rules are often ignored or undermined. However, given these changes in police demographics, it is likely that current research is able to access a diversity of perspectives that would not have been found among police forces when research on this issue began. In light of these changes, as Prenzler (1997) argues, research must avoid the tendency to exaggerate the homogeneity of police forces, and so research must take into account the existence of police “subcultures.”

Social Constructions of the “Typical” Victim of Violence

The “police subculture” debate also looks at representation of women victims within the perceptions of individual officers and within the police culture overall. In general, feminists have spent a great deal of energy deconstructing harmful assumptions about battered women. Feminists have not only challenged the constructions of victims as “weak” or “deserving,” but they have also challenged the assumption that there is one single characterization, or a “typical victim.” As Mahoney (1994) articulates:

First, the abuse of women and its consequences must be explained without defining the woman herself by the experience of abuse; second, the woman’s

perceptions and the context of her life must be explained- defending the reality of *this woman's* experience- in a way that locates her experience within patterns of systemic power and oppression. (59)

However, feminism has evolved into this understanding. It can be argued that early feminist thinking contributed to essentialist notions of “woman’s victimhood.” This discussion will briefly consider some early feminist theory on violence against women with the intention of problematizing the essentialist constructions of victims that were generated.

One example of early feminist thinking was the theory presented by Lenore Walker (1979) in her influential text, *The Battered Woman*. Walker’s text is a key example of a highly influential yet problematic account of the experience of victims. In *The Battered Woman*, women who have experienced intimate violence are defined as helpless, damaged victims. Constructed in this individualizing way, there is, “no sense of negotiation, or resistance, or of help seeking-behaviour... on the part of the abused woman” (Comack 1997). This representation may facilitate compassion for victims, but they are also denied any agency or acknowledgement as an active survivor. Walker’s theory has a homogenizing effect, bringing all women into one psychological category that overlooks issues of race, class, and ability. It can be argued that Walker’s conceptualization fueled the perspective of pro-arrest policies, which were established on the premise that powerless victims are often incapable and should not have to make decisions about the level of criminal justice intervention they receive.

More recent feminist thought has struggled to strike a balance between acknowledging structures and experiences of oppression while also recognizing women’s resistance and agency within that experience. “Several factors in law and popular culture

combine to make it difficult to portray both oppression and struggle in women's experiences" (Mahoney 59). Despite this conflict, feminist thought, to a great extent, has shifted towards a theoretical framework that contextualizes women's experiences within unequal social relations that impact their lives. The experiences of women victims are understood as shaped by the violence in their lives, which occurs in the context of intersecting forms of oppression such as racism, classism and sexism (Crenshaw 1994). This thesis argues that this shift exemplifies one that must also occur within mainstream constructions of women victims of violence, which still involve essentialist and stereotypical assumptions.

Police officers inevitably judge a victim's conduct through the prism of their own beliefs. Buzawa and Buzawa (1996) argue that a key component of policing is to make rapid value judgements in circumstances where the "facts are unclear." As Rigakos (1995) points out, in making these judgements, police operate under "exaggerated patriarchal notions of women, marriage, and family that are conservative; blame the victim; point the finger at other institutions; foster images of women as manipulative; and produce a fictitious narrative of battered women." (227). Considering this "fictitious narrative," the literature points to two central ways police construct notions of women as victims of violence. The first is the notion of the "reluctant" victim (Hart 1996; Jaffe 1993; Rigakos 1995). Notions of victim reluctance can be seen as parallel with Walker's (1979, 1989) characterization of victims as dis-empowered and fearful of the ramifications of engaging the criminal justice process. On the other hand, the reluctant victim is criticized for refusing to testify and being hostile towards the criminal justice process. This hostility points to a second aspect of this "fictitious narrative," whereby

victims are often seen as “deserving” of abuse. A victim’s demeanour, the social and material conditions of her life, or her actions towards her abuser are often cited as justifications for blaming victims for their experience of violence (Dobash and Dobash 1998; Rigakos 1995).

The understanding that women can be significantly dis-empowered by the violence in their lives is embedded in VAWIR policy as it states:

It is important that criminal justice system personnel recognize the power imbalance and the dynamics which operate to prevent a woman from taking steps to end abuse. A rigorous approach to arrest, charge and prosecution, as promoted by this policy, is necessary to help eliminate violence within relationships. (BC Ministry 2000)

Based on the notion that many women are not in a position to take steps to end abuse, as well as evidence which highlighted victim discretion as a cause of diminished prosecution (Davis and Smith 1982), VAWIR policy mandates the removal of all decision-making power from victims. In fact, this policy stipulation was not a new regulation. It simply reiterated and enforced what was already legislated, which is that officers are supposed to act in the interest of public safety. Victims of criminal harassment, or of any other type of violence, were never meant to have control over the decision to arrest and charge but the reality was that, in practice, they did. Therefore, the policy was implemented in order to reinforce this legislation. This aspect of the policy has led to substantial debate, due to its founding principle that it is appropriate to remove discretion from *all* victims on the basis that *some* victims are not in a position to initiate police action.

Eliminating Victim Discretion

The attempt to prohibit victim discretion is based on a number of assumptions about women victims of violence. As the policy states:

Suspects and victims should be advised that the justice system has adopted a proactive position in the prosecution of cases involving violence within relationships and that it is the responsibility of police and Crown counsel, not the victim, to lay and pursue criminal charges. (BC Ministry 2000)

It has been argued that this mandate is based on the assumption that decision-making is a burden for all women, regardless of their particular circumstances. Davis and Smith (1995) provide reasons why many women have difficulty with the decision of whether or not to charge their abusers.

Victims are often torn by the decision to arrest or prosecute abusers for a variety of complicated and often interrelated reasons. These reasons may include victims' fear of reprisal; hope that their relationship can be salvaged; financial dependence on abusers, lack of self-worth and ability to support themselves; concern for their children; and isolation from supporting family and friends. (542)

Clearly these conditions constrain many women and it is important that the system attempts to free them from this oppression. However, it is also argued that not all women are dis-empowered by their circumstances in this way and yet these women are deprived of the power to choose.

A second core assumption in VAWIR policy is that criminal justice intervention is in the best interest of all women. This argument is made at the individual level, where all women are seen as potentially benefiting from this process, or at the societal level, where the policy is given symbolic value (Snider 1995). The notion of symbolic value comes from the claim that rigorous criminal justice action conveys a strong social condemnation of violence against women, benefiting women on the whole. On this basis,

pro-arrest policy has been hailed as a feminist success. However, it has also been significantly criticized by feminists who argue that it is based on essentialist notions of the “best interest of women” (Currie 1998; Flynn and Crawford 1998). As Snider argues, proactive policing has decreased the options available to women victims, and can work “to dis-empower women and extend social control over their lives” (Kachuk 1998:15). On this basis, the criminal justice process is shown to be “a double-jeopardy” for many women, particularly women from marginalized populations (Jiwani and Buhagiar 1997:4).

Evaluating Pro-Arrest Policies from a Feminist Perspective

On one side of the criminalization debate, feminists have argued that the focus on police response has paid little attention to the contextual realities of both policing and battering (Ferraro and Pope 1993). For women who are subject to discrimination on the basis of race and class, their relationship with the criminal justice system can be complex and problematic; the consequences of pro-arrest policies are therefore different in comparison to the consequences for Caucasian or economically privileged women.

Opponents claim that universal mandatory charging and no-drop prosecutorial policies, blanketed uniformly across different cultures, are ineffective, lead to underreporting and even increase violence against visible minority women. (Flynn and Crawford 1998:93)

The body of literature addressing the particular concerns and experiences of marginalized women - particularly women of colour, low-income women and women in the sex trade - is extensive (Currie 1998; Hart 1996; Laroque 1995; Martin and Mosher 1995). For these women, criminal justice intervention may lead to economic instability, alienation from their communities, or child apprehension (Dekeseredy and MacLeod 1997). It is argued

that for many First Nations and racialized women, their “understanding of law, courts, police, judicial system, and prisons are set by lifetimes defined by racism” (Sugar and Fox 1990:475 cited in Currie 1998). This experience is not only defined by personal interactions with the system, but also a history of colonization and cultural genocide (MacGillivray and Comaskey 1999). In addition to the direct effects on marginalized victims, it is argued that pro-arrest policies will be disproportionately punitive towards Aboriginal, racialized and low-income men.

As always, individuals caught in the net of formal social control will not be representative of abusers; they are likely to be those men with the fewest resources and least ability to resist labelling and prosecution. While poor men and Aboriginal peoples are the “typical” criminal found in Canadian prisons, they are not the only, or even the most serious, offenders. (Currie 1998:47)

As Snider (1995) argues, reliance on the legal process results in the mobilization of class and racial biases, which is an “unconscionable strategy” (Currie 1998).

Kachuk (1998) outlines a counterargument to these critiques. Her research points out that concerns about the victimization of non-dominant men by the criminal justice system should not be used as a reason to ignore their acts of violence against women. Kachuk refers to the argument set out by Flynn and Crawford (1998).

While Canada’s criminal justice system is clearly racist and needs revamping, we reject the simplistic deduction that mandatory charging should be dropped because black men will be brutalized or prosecuted differently... Too often, black women’s ‘private’ claims of domestic victimization are accorded secondary importance next to black men’s ‘public’ claims and fears of racial victimization. (95)

Kachuk argues that the justice system must be transformed from a patriarchal and racist institution to one that offers justice to all of society. However, the fact that this objective has yet to be achieved does not mean that the system should be exonerated of its responsibilities to protect women victims.

Quantitative Outcome Evaluations of Pro-Arrest Policies

In providing a context for this research, both feminist analyses and empirical evaluations of pro-arrest policies offer important insights. Moving on from the feminist analyses, this discussion will now examine the empirical and quantitative research carried out to evaluate pro-arrest policy. Evaluation research has been primarily focused on measuring certain quantifiable factors regarding the outcomes for offenders, such as rates of arrest, rates of prosecution, and risk of repeat violence, as determinants of policy effectiveness (Davis and Smith 1995; Schmidt and Sherman 1996; Sherman 1992). Based on this research, proponents of the criminal justice system have, for the most part, deemed proactive policies as a “success” (Buzawa and Buzawa 1996).

Looking retrospectively, there were several significant stages where pro-arrest policies gained support. The “Minneapolis Experiment,” which was the first randomized controlled experiment to look at the impact of arrest, has been recognized as having sparked the interest of policy makers who were looking for ways in which the criminal justice system could respond to violence against women (Kachuk 1998). Research by Sherman and Berk (1992) found that, in comparison with “sending the perpetrator away” from the victim without an arrest, immediate arrest followed by incarceration for a night was two and a half times more successful at reducing the risk of repeat violence. Sherman’s summarized these findings in the phrase “arrest works best.”

This research has been criticized in terms of its methodology and scope. The internal validity of the Minneapolis experiment has been questioned because of flaws in randomization, biased victim reporting, and inadequate sample size (Sherman 1992). It

has been argued that what was found in this study is not generalizable to other communities. What is particularly relevant to this discussion is the fact that the Minneapolis study and the replication studies that followed were based on a limited notion of "success." As Snider (1998) argues that in this study and other evaluation studies:

Interpretation of the 'evidence' provided by dozens of empirical mandatory-arrest evaluations are contradictory and hotly disputed. However, this debate revolves narrowly around whether or not arrested men get reported for re-offending, not whether criminal justice intervention was desired by the victim, or whether her life, or her children's, improved following intervention. (146)

In the Minneapolis experiment, and many replication studies that followed, an arrest followed by a short period of non-recidivism was deemed a "success" within the context of criminal justice objectives and in terms of victim safety and satisfaction (Bowman 1992).

The research that emerged from Canada found a clear increase in arrests after the implementation of the provincial pro-arrest policies. Research in London, Ontario, showed a 2500 percent increase in the rate of arrests following a new mandatory arrest policy (Jaffe et al. 1986). Vancouver Police Department statistics have also shown a significant increase in arrests (Sabourin 1996; Pacey 1999). However, these arrest statistics cannot be interpreted without the consideration of other contextual factors. First, the number of arrests must be compared with the total domestic violence calls. In the Ontario study, the authors point out that this increased number of arrests still only represented 9 percent of the total domestic violence calls (Buzawa & Buzawa 1996; Jaffe et al. 1986). The second factor to consider is that the arrest stage is only one step in the total criminal justice process, and is limited in terms of what insight it provides into the

outcome of the case. The third point is that measuring discretion in terms of the rate of arrests does not take into consideration the other stages where police discretion could come into play, such as during report writing, evidence gathering and the victim-officer interaction.

Quantitative evaluation research on pro-arrest policies in Canada has found that overall arrests increased substantially after policy implementation. Lerman (1992) suggests that research will provide greater insight if it takes into account a number of factors about the victim, such as:

[T]he context in which the arrests take place, and which factor in as variables: the victim's wishes and conduct, other pending legal action, the behavior of officers upon responding, whether and how the cases are prosecuted, and what if any sanctions are imposed. (219)

In terms of victims' experiences, the current literature is lacking in volume and does not offer consistent results. For the most part, researchers have overlooked victims' perspectives, but several studies shed some light on the issue. For example, through interviews with victims, Jaffe (1986) and colleagues found an increase in victim satisfaction as a result of the pro-arrest approach. However, these findings could not be solely attributed to pro-arrest, since the community had recently established a comprehensive coordinated response to violence against women (Kachuk 1998).

Jaffe's conclusion is challenged by more current research by Alisa Smith (2000), which found a significant proportion of victims were not supportive of pro-arrest policies, and that these policies would deter them from reporting. As previously highlighted, the strongest opposition has come from the perspectives of women of colour, Aboriginal women and low-income women who have argued that marginalized populations will suffer additional negative consequences. However, the notion that support of pro-arrest

policy is lower among women of colour is also disputed by Smith's findings. In her study, women of colour were significantly more supportive than white women. What these contradictory findings highlight is the diversity of interests among the category "women victims of violence," and the difficulty that a blanket criminal justice policy will have in trying to meet all of their needs for safety and autonomy.

Research in this area is also deficient in terms of looking at VAWIR in relation to specific types of offences. In 1996, criminal harassment became one of the offences in VAWIR policy. Since this time, there has only been one study, produced by the RCMP, which examined the implementation of pro-arrest measures in criminal harassment cases (Wood 1998). The "Wood Report" based its conclusions on two prominent murders in British Columbia that involved stalking patterns. It was concluded that these murders could have been prevented by more aggressive police measures. On the basis of this conclusion, Josiah Wood argued that pro-arrest measures should be strictly followed in all cases involving criminal harassment by intimate or ex-intimate partners. Whether or not these findings are, in fact, generalizable to all women is contentious. In the following discussion, the background and literature on criminal harassment will be reviewed, and the specific reasons for this study's focus on criminal harassment will be clarified.

Locating "Stalking" within the Criminal Code

It has been argued that the enactment of section 264, Criminal Harassment, into the Criminal Code of Canada was consistent with the continual emphasis on a criminal justice approach to violence against women (Cairns Way 1994). In 1993, what was

commonly referred to as “stalking” became a formal part of Canadian criminal law.

Section 264 reads:

264 (1) No person shall, without the lawful authority and knowing that another person is harassed or reckless as to whether the other person is harassed, engage in conduct referred to in subsection (2) that causes that other person reasonably, in all the circumstances, to fear for their safety or the safety of anyone known to them.

(2) The conduct mentioned in subsection (1) consists of

(a) repeatedly following from place to place the other person or any one known to them;

(b) repeatedly communicating with, either directly or indirectly, the other person or anyone known to them;

(c) besetting or watching the dwelling house, or place where the other person, or anyone known to them, resides, works, carries on business or happens to be, or;

(d) engaging in threatening conduct directed at the other person or any member of their family.^{2,3}

The passage of this law occurred as a result of a combination of pressures including: a strong feminist lobby; the release of American statistics revealing alarming rates of stalking; and a series of murders of Canadian women by ex-partners. As Cornish (1999) and colleagues argue, prior to the establishment of this law, the Crown was forced to rely on an array of less serious offences in an attempt to capture the totality of harassing behaviour. Due to the frequency and potential risk associated with criminal harassment of women by their ex-partners, in 1996 the BC Ministry of Attorney General made criminal harassment one of the offences directed by VAWIR policy.

It is important to acknowledge the factors that distinguish criminal harassment as serious and/or violent in comparison with harassing behaviour that is more an annoyance or inconvenience for the victim. The main difference lays in the specific requirement that criminally harassing behaviour “causes that other person reasonably, in all the

² R.S. 1985, c. 27 (1st Supp), s. 37; 1993, c.45, s. 2; 1997, c.16, s. 4.

³ Criminal Code, R.S.C. 1985, c. C-46, s.264. (hereinafter Code)

circumstances, to fear for their safety” (Code). Therefore, one of the major differences lies in the victim’s experience of the behaviour. Clearly from a feminist and victim-centred perspective, this element of “reasonable fear” can be problematic given that what constitutes “reasonable” is open to interpretation. However, it is important at this point to acknowledge that the victim’s experience of fear is key to this offence. Therefore, within my feminist framework, this legal element characterizes criminal harassment as a form of violence against women.

Prevalence data on criminal harassment has recently been released by Statistics Canada. Drawing from police reported data, it was found that between 1996 and 1999 the number of stalking incidents reported to the police rose 32 percent. In terms of demographic factors, criminal harassment is a crime predominantly committed by men against women victims. The most recent figures state that 84 percent of accused are male and 77 percent of victims are female. Female victims reported being stalked by men, with whom they had previous intimate relationships, in 58 percent of cases and in 25 percent of cases, by men who were “casual acquaintances.” While many incidents do not involve physical injury, many victims who are stalked by ex-intimates experienced violence in their relationships. Furthermore, most homicides of women by ex-intimates occurred after a period of stalking (Hackett 2000).

The existing research on stalking has two main focuses. One focus is the psychology and pathology of stalkers, and the second is legal information for police and lawyers. A great deal of research energy has been spent within the field of psychology to develop “typologies” of men who are violent and research on criminal harassment is no different. Stalking behaviour has historically been associated with erotomania and other

pathologies (Kurt 1995). As a result, the research has a significant psychological and forensic focus, and is directed towards the creation of “typologies” of stalkers and the development of “clinical risk assessment techniques” (Wright and Burgess 1996; Meloy 1997; Meloy 1998). It has been argued that this focus is a reflection of the fact that stalking has not been commonly viewed as a dimension of violence against women in relationships (Kurt 1995). Furthermore, this focus can be seen as reflective of a general trend, where attention is being shifted away from women victims and moves towards increasing our knowledge about violent men (Hamby 1998).

I would like to highlight several studies that attempt to not only create a typology of the perpetrator, but also of the victim. Coleman (1997) conducted interviews with 141 women with this objective in mind, but the research did not produce a clear demographic profile of the “typical” stalking victim. What this author did conclude was that women who were stalked were more likely to have experienced violence in their relationship. Mustaine and Tewksbury (1999) had similar research objectives. These researchers employed “routine activity theory” in their attempts to develop an understanding of how victims’ behaviour might precipitate criminal harassment. It can be argued that, insofar as understanding the perspectives of victims of criminal harassment, attempting to construct a “typical” victim of criminal harassment is a potentially harmful objective and do not contribute useful knowledge to this area of inquiry. In fact, such approaches can be seen as detrimental since they can perpetuate negative stereotypes and assumptions about women victims of violence.

There is minimal academic research that examines women’s perspectives on police interventions in criminal harassment cases. Studies that are available either look at

police intervention without being specific to criminal harassment (Buzawa, Hoteling, and Klein 1998; Coulter et al. 1999), or they specifically address criminal harassment but not in relation to women victims or policing (Emerson, Ferris, and Gardner 1998). Despite these limitations, I would like to highlight several findings in the studies. Tjaden, Theonnes, and Allison (2000) found that, in comparison with legal definitions of stalking, prevalence estimates increase when respondents are allowed to self-define the term "stalking victimization." Many women felt they were stalked, yet felt that they failed to meet the legal definition. On this finding alone, it can be argued that victim perspectives on law are in need of far more exploration.

The legal literature tends to be supportive of criminal justice interventions and focuses on the stipulations of the criminal harassment law more than on police-level practice (Bernstein 1993). However, several Canadian studies look at police-level practice and criminal harassment. Gill and Brockman's (1996) publication is the only reported Canadian study of police perspectives on criminal harassment. These researchers conducted a review of 601 criminal harassment cases across Canada and found that 58 percent of cases were stayed or withdrawn before reaching trial. Furthermore, only 35 percent of the accused were convicted and, of those convictions, only 25 percent received a jail term. These authors also conducted a series of interviews with police officers and found that:

Some officers treat criminal harassment as part of the criminal justice response to violence against women, while others tend to view it as just another charge they can use. This difference, they say, can have major implications for the way criminal harassment cases are investigated. On the positive side, an officer who understands the context of spousal abuse will tend to collect better, more relevant evidence and will be more likely to probe beyond the obvious circumstances of the cases. On the negative side, some officers are reported to have a sceptical view of cases involving spousal violence or harassment... As a consequence, they

may be reluctant to enter into a lengthy investigation on a harassment charge unless it appears quite serious to them. (63)

Gill and Brockman found a range of police perspectives on how and when to intervene in criminal harassment cases, leading to concerns about consistency and quality of practice.

The authors concluded that criminal harassment cases are encountering both policing and prosecutorial challenges. As Kachuk (1998) argues:

It would appear from its inclusion in the 1996 VAWIR policy and this special Crown policy to implement it, that criminal harassment is to be treated as a serious crime against women in BC. The reality is, however, that this offence is not being treated seriously by the criminal justice system, here in BC or elsewhere in Canada. (21)

Consistent with the findings presented by Gill and Brockman, a Vancouver Police Department report reviewed police files to assess levels of non-compliance among Vancouver police officers and revealed that criminal harassment investigations are unlikely to result in criminal charges. In this study, only 37 percent of criminal harassment cases led to a report to Crown counsel recommending charges (Pacey 1999). This rate is extremely low in comparison with assault cases, where 78 percent of assault cases led to charge recommendations. Such a dramatic disparity draw attentions to the fact criminal harassment suspects are being arrested and charged much less often than perpetrators of assault. However, because research has not uncovered an explanation for this disparity, it is clearly an important area of inquiry. The current study proposes to increase our understanding of the police perspective on arrests and charging in criminal harassment cases with the hope of shedding some light on why criminal justice intervention is less rigorous in criminal harassment cases than in cases involving other forms of violence against women in relationships.

Intersecting Law and Policy

This thesis argues that there is vital information missing from the literature on criminal harassment and pro-arrest policing. The data presented from two Canadian studies clearly illustrate that, despite the implementation of VAWIR policy to regulate and create consistency in police practice, it is highly unlikely that criminal harassment cases involving intimate or ex-intimate partners will result in charges or a guilty verdict. An important question has not been answered by the literature, and that is: are police abiding by policy stipulations when handling criminal harassment cases and if not, what factors are influencing their decision-making processes?

This thesis specifically examines police perspectives on two key directives found in VAWIR: the significant reduction of police and victim discretion. As explained in the above review, these directives were intended to increase the rate of arrest. The statistics show that arrest rates are significantly lower in criminal harassment cases in comparison to other forms of violence against women. It is critical to determine whether this is because the police are practicing a level of discretion that is above and beyond that which is permitted by VAWIR policy, and if so, what factors are influencing their decision-making. The second component of this research question enquires whether police are allowing for victim discretion, and if so, how this discretion affects police practice. This review has extended beyond the literature on law and policy because this study will argue that police are operating outside of the stipulations of the policy that is intended to direct their actions, as it operates in combination with the Criminal Code.⁴ Therefore, it is

⁴ Specifically Criminal Code Section 495 which states that police officers cannot arrest unless it is in the public interest.

critical to explore the theories on cultural norms and values of the police culture, as well as mainstream society.

CHAPTER 3

Working Outside the Policy: Cultural and Situational “Determinants” of Victim Discretion

You are there with the best interests of that person at heart, you know, that's why you are there. But you have different roles. You go and investigate really horrific crimes but you can't get emotionally involved in it. [Victims] have to understand that your role is to gather evidence, prevent crime, you know, help the person feel secure. But that's your role and you're not on their side. You are neutral... that's what we are striving to be but we're also there to help, to give assistance. I think people have to understand what the role of police are... some of them are not in an emotional state to accept that. (Participant 9, Caucasian male)

Violence against women is often framed within criminal justice discourse in ways that support, sustain and reproduce stereotypical assumptions about women victims of intimate violence (Edwards 1987). Victims are subject to assumptions that are embedded in legislation, policy and the discretionary practices of criminal justice professionals. Edwards (1987) argues that the state and its practices operate to uphold patriarchal objectives.

The state, through its treatment of victims of rape and victims of domestic violence, reinforces the expected and desired acquiescence, passivity, total conformity and subjection of women to men and their corresponding acquiescence with the appropriate gender role. (152)

These negative representations of women often inform the perspectives and judgements of police officers. Feminist researchers have argued that policing violence against women has been highly problematic as a result of sexist, racist and classist attitudes influencing practice. Recent policy and educational efforts have attempted to shift the consciousness

of police officers towards an increased understanding of the dynamics of violence against women. This study therefore endeavours to provide insight into whether change in the representations of victims by police has occurred. Beginning from the standpoint of research participants, I will examine the way women victims are constructed. The analysis looks at whether these constructions draw on or deviate from the conventional stereotypes about victims that have been extensively documented in the literature and reviewed in the last chapter. This analysis will primarily focus on the group of officers that made the most apparent generalizations.

Essentialist Notions of the “Typical” Victim: “They’re just a born victim in a way.”

In this study, officers were given various opportunities to discuss their expectations or understandings of women victims of criminal harassment. These statements emerged as a result of questions about victim-related topics such as victims participating in the criminal justice process and socio-economic diversity. The participants were never directly asked to generalize about victims. Never the less, over half of the participants made generalizing statements about victims. Statements were considered “generalizing” when participants made use of the phrase “many victims” or “most victims,” and then specified a particular characteristic or demeanour. These statements were distinguished from more case-specific or individual statements, such as, “I dealt with this one victim that was...” Through reviewing these statements, the most prevalent portrayals were those that characterized the victim as “powerless.” In order to

achieve greater detail, these generalizing statements were subdivided into the following analytical categories: "caregiving," "weak," "willing," and "deserving."

The first and most commonly occurring characterization was that women victims are typically "caregiving" individuals. The "caregiving" category is comprised of statements that make reference to victims as having an undue commitment to the well being of their abusers. These victims were constructed as having a greater concern about the impact of the arrest on the perpetrator than for their own safety. This characterization generally arose in relation to questions regarding victims' reluctance to initiate criminal charges. In many interviews, women victims were described as "caregivers" both in the context of their abusive situation as well as in the context of their overall lives. In the following excerpt, a male officer illustrates the typical experience of a victim as she is torn between improving her own safety and keeping her ex-partner out of the criminal justice system.

They're hesitant to become involved with the police because of fears that involve the aspects of this particular scenario, because she doesn't want him to get in trouble. Quite often in situations like that they don't want to have the police involved but, not because they aren't being harassed, they want to stop it. They don't want to cause further problems with the ex or they don't want to have anything to initiate or be harbouring more bad feelings towards her. (Participant 19, Caucasian male)

This belief that victims are trapped by their lasting feelings of love or concern can be linked to the early literature on victims who are powerless and caught in the cycle of violence. "Many battered women believe that they are the sole support of the batterer's emotional stability and sanity... they feel responsible for his well-being" (Walker 1979:45). In addition, officers also characterized victims as caregivers in the context of their lives overall. A male officer articulates this point in the following statement.

Many, many victims of criminal harassment are what I call 'givers.' In this world there are 'givers' and 'takers.' They're 'givers' and they continue to give. Caregivers are just 'givers,' they give of themselves. (Participant 3, Caucasian male)

This perspective could be seen as a compassionate one, but it is problematic in it may highlight an underlying assumption that women victims are completely dis-empowered, which does not leave room for acknowledgement of victims' agency.

Another group of officers commented that women victims in general tend to have a "weak" disposition. Participants described this type of victim as one who is a victim in almost all aspects of her life and is accepting of this fate. One male officer stated:

They're a victim in their personal lives...and they almost accept it. (Participant 9, Caucasian male)

Certain officers described this as seemingly innate, as though a woman could be "born a victim." These officers seemed to feel that these women were psychologically unfit.

The "weak" victim was also often characterized as a "willing" victim. These victims are described as having the same opportunities and choices as everyone else, but for whatever reason they have chosen to accept their victimhood. One male officer stated:

You have to decide whether, you know, you can be a victim of a crime but there's a huge jump to being a willing victim of a crime. And this is the kind of thing you're, you're talking about, how far into it does a [victim] feed? (Participant 9, Caucasian male)

A female officer describes her frustration in dealing with "weak" or "helpless" victims.

A lot of, and it kills me, a lot of women just play the helpless victim. And of course, they're the ones that get targeted a lot for the criminal harassment anyway because they just weren't able to take care of themselves or have set boundaries. (Participant 6, Caucasian female)

Based on my interpretation of these statements, a “willing victim” is considered to be a woman who wants to be a victim, who is accepting the abuse, and who is not adequately protecting herself by establishing boundaries.

Blaming the Victim: “Have you done anything?”

I would like to pay particular attention to the way in which victims were constructed as “deserving” of the harassment they are experiencing. In comparison to the other three categories, “deserving” came up the least frequently, but it provides important insights into certain police attitudes. In these statements, victims were described as behaving in a way that warranted abusive treatment by the perpetrator. As one male officer stated:

The real question, whether somebody goes to jail or not, whether they go before the courts is, have you done anything to contribute to the problems that happened here? And that's not a judgemental thing, but you ask yourself...have you done anything? (Participant 9, Caucasian male)

The message in this quote is that victims must look seriously at whether they have “asked for it.” As Edwards (1987) argues, women victims of violence in the criminal justice process “are monitored for the extent to which they have provoked their own demise” (159). From a victim-centred perspective, this attitude is problematic because it shifts the focus from the behaviour of the perpetrator onto the behaviour of the victim.

There were several cases where the officers did not directly comment that a victim was deserving of abuse, but this message could be interpreted from their statements. The first example was in the cases where participants raised the issue of women perpetrators of violence and harassment. There were instances where I raised this issue through the interview questions, and there were instances where a participant raised

this issue in reaction to the interview's focus on women victims. The following excerpt illustrates a female officer's perspective on "mutual battering."

I mean everybody's been drinking, everybody's been doing drugs, everybody's been smokin' each other, you know, beer bottles. Everybody's been fighting ... so one may finally get the worse end of the stick or the slap, or the beer bottle but they've been giving as good as they've been getting. (Participant 6, Caucasian female)

This officer's intention is to demonstrate that you cannot enter the scene of a crime with a pre-conceived and gendered assumption that the woman is the victim and the male is the perpetrator. Within the larger political context, feminists have argued that one of the main strategies used by anti-feminists to challenge the battered women's movement is to say "but women do it too," or "but men are battered too" (Renzetti 1994; Stanko 1995). I cannot conclusively say whether or not officers raised this issue as a form of backlash against the violence against women movement although, at times, this was the sense that I was left with. I would like to highlight that, in making these statements, many officers asserted that they consciously resist the assumption that women are predominantly the victims in incidents of violence. Such statements can be seen as exemplifying the way in which officers strive for a sense that they are "neutral" interveners. I would argue that many of the officers in this sample seemed to be operating under a false or exaggerated sense of their own potential for objectivity, which will be discussed further in Chapter 5.

The second way in which I understood officers as characterizing women as "deserving" of harassment was in regards to the termination of contact between the victim and the perpetrator. Participants stated that section 264, the Criminal Harassment section of the Criminal Code, requires that officers establish that the victim was clear in terminating all contact with the perpetrator. In cases where a woman inadequately

terminated the relationship or ineffectively rejected a perpetrator's advances, a perpetrator's actions were considered somewhat justified.

So I would need to know how, if that was made very clear to [the perpetrator] or if it was open to his interpretation. A judge might reasonably find that there was some invitation to continue contact. If she were able to establish with me that no, it was absolutely clear, this is what I did, I phoned him or I wrote him a note or I sent him an email or I went with a friend or I had a friend do it and you know he was told very clearly she didn't want any contact then that would be fine. (Participant 15, Caucasian male)

Another officer expressed that she often doubts victims when they claim to have adequately terminated the relationship.

It turns out that she was also phoning him, bringing him over, meeting with him when she wasn't drunk or, she wasn't trying to get rid of the contact. She just wanted to dictate the contact while it lasted. (Participant 6, Caucasian female)

Officers stated that they have to make a discretionary judgement about whether the victim was strong enough in her termination of the contact with the perpetrator. If she were not clear and final in the termination, then she would be warranting the behaviour. This is an important issue and will be examined in further detail in Chapter 5, which looks at police discretion.

As previously mentioned, feminist and criminological research has shown that many attitudes held by police officers negatively impact women victims of violence. To counter this problem, policy and educational programs have been implemented over the past two decades to both raise awareness and limit discretion. What these data show is that, despite these efforts, many of the same attitudes towards women victims prevail. Few officers offered positive comments on victims' empowerment and the police role in supporting victims. In addition, this research will show that these officers felt that, when determining whether or not to give victim's decision-making power, the policy was rarely

a consideration. The following stage of this discussion will look at the demographic characteristics of the group of officers that described victims as “powerless” and “deserving,” and then look at the implication that these attitudes appear to have on their practice.

Demographics of Officers: “As long as you have the balls.”

The subgroup of officers that characterized victims as “powerless” or “deserving” consisted of exclusively Caucasian male officers and one Caucasian female officer. Based on the racial and gender homogeneity of this group and their corresponding statements about victims, it is possible to speculate that, as a result of their racialized and gendered experiences, these officers may have a different outlook or relationship to victims of criminal harassment. By looking at the data in more depth, as well as other literature in this area, certain insights emerge.

The data in this study show that the women officers perceived themselves as having a gender-specific approach and experience of their profession. As Stanko and Radford (1996) argue, “the very inclusion of women within the police force, for instance, is grounded within the belief that women are best able to deal with women and their protection” (73). Based on statements about their experiences, several important points can be made about gender and policing. First, many officers stated that there is a role specifically assigned to women officers when responding to “domestics.” Most of the female participants in this study were partnered with a male officer; when responding to calls, they were prescribed a gendered role.

It's typical that I go with the female [victim] and my male partner goes with the male [perpetrator]. Yeah, it's always interested me in the beginning, but you

know it works because the woman is more likely to tell me what happened...Well, I assume that she is, maybe she's not. But there is an assumption that the woman is more likely to say what happened to me than to a male officer. (Participant 20, Caucasian female)

In addition to this gendering of police duties, it was explained by several officers that, more often than not, domestic violence calls are dispatched to patrol teams that have a female member, again reinforcing this gendered division of labour. The assumptions about female officers embedded in this practice may directly affect the way these female officers perceive their strengths and attributes. It clearly shapes their work experience.

With this in mind, how do these female officers feel about the assumption that, by virtue of their gender, they have a superior ability to work with women victims or conversely, an inferior ability to handle male perpetrators? With only one exception, all female officers in this sample asserted that in some way they feel they are better at communicating with and supporting the victim as a result of their gender. A female officer illustrated this perspective in the following statement.

Because I work with [a female partner] we both go in and...I think it's so much easier for us because we're both women...So, in a way, I think we kind of show that not all police are assholes; six foot four brutes... that's the good side of it and then you know we get the other side of it where, they don't want, you know, females. I think they probably view us as more compassionate which I think we probably are because we understand a bit more about how it is being a female and how it is feeling vulnerable. And things like that...and I think as women we're better listeners than, than men. (Participant 17, non-Caucasian female)

Female officers acknowledged that there are exceptions where women victims do not respond well to them or wish to speak to a male officer but that this was their overall sense.

Looking at the female officer who differed from the others on the issue of gendered police work, her sense was that being female did not increase her ability to

communicate or relate to a victim of violence. Interestingly, she was also the only female officer to fall into the pre-dominantly male group of officers who describes women are generally powerless. This female officer stated:

I always thought that women would respond better to women, men would respond better to men... Depending on the scenario... The first thing you learn is that is so wrong...you're either hated... or really liked for absolutely no apparent reason. They may think you're a lesbian, they may just hate you're short... you do get the ones where she wants to speak to the female and you get the ones where, no, she wants to speak to the male... it's amazing, you have no idea who they want to speak to. (Participant 6, Caucasian female)

This officer also argued that women and men were equally likely to be compassionate or “outstandingly bad” at relating to victims. It is important to mention that, despite these statements, many female officers mentioned that were resistant to being characterized as different from their male counterparts as a result of their gender. Their resistance to constructing police practice as gendered is, in part, due to the fact that women officers, and any traits that are deemed “female,” are severely degraded within the institutional culture. The women officers also made the point that, for their male counterparts, their “masculinity” was not a justification for being insensitive to victims.

These findings are consistent in certain ways with other research on officer demographics and police practice in cases involving violence against women. Stalans and Finn (2000) conducted a study on gender differences in officers' perceptions and decisions about cases involving violence against women in relationships. They found no difference in arrest rates between male and female officers, which is consistent with this research, which found no gendered differences in the actual interventions that officers stated they would employ. However, Stalans and Finn found that women officers assigned more importance to the victim's wishes to manage her situation without criminal

justice intervention. In addition, female officers are more likely to provide victims with information about shelters and support. In terms of the demeanour of officers, Homant and Kennedy (1984, 1985) found that female officers were described by their male counterparts as softer, more uncertain, weaker, more passive, slower and lazier. In this same body of research, female officers described themselves as feminine, non-violent, and passive. Although these characterizations are more extreme than those found in my study, the nature of the characterizations is the same as those expressed above.

Given that all of the participants in this group were Caucasian, obvious questions arise about the race of police officers and policing practice. Chan (1997) found in her study that officers operated under stereotypical assumptions about criminality in specific ethnic groups. The data in this study did not focus so much on perpetrators, but it is able to provide some insights into the perspectives of non-Caucasian and Caucasian officers on non-Caucasian victims. What emerged from this study is that non-Caucasian officers were not unique in terms of the types of interventions they chose; however, they were distinct in terms of their narratives. In contrast to Caucasian officers, non-Caucasian officers were highly unlikely to mention race or culture as a factor to be considered when evaluating a violent situation or working with a victim. In the one case where a non-Caucasian officer mentioned race, she was illustrating the sensitivity required due to language barriers. In comparison, for Caucasian officers, their mention of race or culture often demonstrated generalizations and assumptions about particular populations.

In addition, non-Caucasian officers were not among those participants who characterized victims as "powerless" or "deserving." Other research has argued that non-Caucasian officers present markedly different operational patterns (Buzawa and Austin

1993; Chan 1997). My analysis will show that the different perspectives represented in the sample have implications in terms of practice, since officers who characterized victims in this way were also very unlikely to give them any decision-making power. Issues of race will be explored again in the following stage of this discussion, which will illustrate the way in which many Caucasian officers involved race or cultural identity as “situational determinants.”

In summary, the analysis of these data reveals that the most common characterizations of victims were as “powerless” or “deserving.” When the officers who made these statements are grouped together, questions of race and gender become apparent because this group was comprised of all Caucasian officers who were predominantly male. The conclusion drawn from this data is that an officer’s gendered and racialized experience can potentially inform and influence their practice in many ways. With this information in mind, the next stage is to look at the way in which these characterizations of women victims as “powerless” and “deserving” seem to inform policing practice.

The Influence of Stereotypical Assumptions on Police Practice: “I wouldn’t be swayed by her decision.”

One objective of this study is to describe what factors influence whether police officers allow for victim discretion in criminal harassment cases. These data show that the VAWIR policy itself, which attempts to eliminate a victim’s influence over the decision to arrest or prosecute, does not appear to have significant influence on these participants. What seems to have significant influence is the way in which the officers

construct the “typical” victim of criminal harassment. As described above, a significant number of participants stated that they characterize many or most victims of criminal harassment as “powerless.” By looking at this result in relation to their perspectives on the issue of victim discretion, an important connection emerges. Among those participants, only one officer stated he was willing to allow a victim’s request to have any bearing on his actions. This result points to the conclusion that, although not directly stated, the participants in this study who characterized victims as “powerless” saw this powerlessness as a reason to limit a victim’s influence over the criminal justice process.

It has been argued that the criminal justice system’s removal of victim’s decision-making power is a further means of dis-empowerment and could be experienced as a re-victimization (Currie 1998; Martin and Mosher 1995; Snider 1998). To gain some insight into this issue, it is important to explore what factors persuade these officers to remove all decision making power from victims, particularly when they have already deemed most victims as “powerless” women. Three possible explanations emerged from this study. The first possibility is that these officers may be among the rare few who are strict about abiding by the “rules,” and who see themselves as compliant with any policy that they are directed to follow, including VAWIR. The data show contradictory findings in this respect. On one hand, three officers stated that they agree with the application of VAWIR policy to criminal harassment and all offences involving violence against women in relationships. However, several of these officers also stated that they are discretionary in their own decision-making processes, which contradicts the conclusion that they are completely compliant with the policy.

A second possible explanation is that the participants' characterization of victims as powerless leads them to the conclusion that these victims are incapable of effective decision-making. This conclusion is supported by the data, such as in the following excerpt where a male officer describes the limited abilities of certain victims.

It's pretty much a 50/50 split and I don't know whether it's attributable to lack of sophistication, you know from an educational background and life styles/life skills background. You know you've got some very sophisticated people out there who fall into the victims' shoes. Then you've got some very unsophisticated people who just don't know how to deal with any aspect of their life. They're just a 'born victim' in a way. (Participant 11, Caucasian male)

With regard to the "powerless" victim, two conditions were described as reasons for limiting a victim's decision-making power. The first condition mentioned was that "often the victim doesn't know how much danger she's in." The perspective that victims tend to minimize danger was given as a reason for taking away a victim's discretion. The second condition for limiting a victim's decision-making power concerns her credibility. With only one exception, all participants in this sub-group mentioned victim credibility as a factor requiring consideration when assessing criminal harassment cases. In many ways, this is an expected finding given that assessing credibility is a key aspect of police work.

It is useful to examine this issue further and describe processes of assessing credibility. Perspectives varied on this issue. Certain officers stated that credibility was only something that was questioned if there was some reason, such as a history of false complaints or allegations by the perpetrator. Other officers began from a position of doubt, arguing that credibility must be demonstrated. Finally, it was also mentioned that credibility is an extremely subjective assessment based on intuition or a "gut feeling." They did not draw direct connections between characteristics of powerlessness and

credibility concerns, but the officers who mentioned one were also very likely to express concerns about the other.

Social Constructions of Race and Class: “Maybe the behaviour is a product of their culture?”

From a feminist perspective, the construction of victims as “powerless” and “deserving” is highly gendered. However, it is clear that in many cases this construction was informed by intersecting assumptions about race, class and gender. By looking at the statements of Caucasian officers, it is possible to better understand the associations between race, class and the “typical” victim construct. The fact that Caucasian officers were the only participants that made generalizations about racialized groups and generalizations about powerlessness gives this analysis a useful focus.

All officers were asked about the experience of policing in different districts. Each of them remarked that there are obvious socio-economic differences, and they generally stated that they did not vary their approach on this basis. However, a number of Caucasian officers expanded this response by making specific comments about which race or ethnic populations are predominant in each district. They elaborated further to explain the way in which they saw violence against women as unique to that cultural or ethnic group. As one officer stated:

There are certain cultural groups, where... most complaints are... not considered... to be abnormal. It's acceptable in the culture. (Participant 2, Caucasian male)

Statements such as this one highlight the construction of violence against women of colour as a “cultural problem.” This analysis both ignores the gendered nature and

universal reality of violence against women. It further perpetuates racist stereotypes. I would argue that many of the Caucasian officers in this study have defined the issue of violence against women as culturally specific.

In this case, there is substantial risk that racialized victims will receive differential and inadequate interventions. The data from this study do not directly show that officers say they will intervene in different ways when working with racialized victims. However, what the study does show is that women from racialized populations are associated with different characteristics or stereotypes, such as powerlessness, which then influences police practice. The following excerpt from an interview with a Caucasian male officer gives an example of how these assumptions operate.

And then you've got the other sub-group that goes into ethnicity. Native Indian women comes to mind... predominantly they've, they've got a really, really low self-esteem a lot of them. They've been in bad relationships, they've been involved with guys who are criminals, and they've been involved with drug and alcohol problems. And their self-esteem is so low... They literally think of themselves as somebody's personal punching bag. Extreme difficulty getting them to go ahead with anything. (Participant 11, Caucasian male)

With preconceived notions about the self-esteem of Aboriginal women, and the belief that they will not want to "go ahead" with the criminal justice process, it is not difficult to imagine that women of colour may receive differential treatment. The risk is that the police understanding of the cultural context within which an incident of violence takes place may lead to the use of stereotypical assumptions as opposed to cultural sensitivity.

Most officers attempted to qualify their race or class-related statements by stating that despite the differences they have observed, they do not vary their practice. In the following quote, a non-Caucasian male officer illustrated this argument.

I wouldn't handle the situation any differently. If it was the West End of course, you know you have a higher concentration of homosexuals ... I would treat them

the same. You know, the same way: District Two, higher concentration of Native Indians; [District] Three, East Indians; [District] Four, the rich. I would treat them all the same. That's the way it should be... I think. (Participant 7, non-Caucasian male)

However, other officers clearly argued that individuals from marginalized populations receive differential treatment. As this female officer stated:

Oh yeah, it's definitely different. You know, and it might not necessarily be conscious but people get treated differently because of their socio-economic status. I can't speak for all of us but a lot of us try not to do that. (Participant 8, Caucasian female)

Looking at the issue of class, the only time that officers acknowledged a variation in their practice in relation to specific populations was in the case of the community in District 2, Vancouver's infamous Downtown Eastside, and in the case of victims who are under the influence of drugs or alcohol.

The Difference in District 2: "You come and see us tomorrow when things are a little clearer."

Many officers commented on the high prevalence of social problems in District 2, the Downtown Eastside. Examples such as drug use and dealing, the sex trade, panhandling and theft were mentioned as illustrations of criminalized activities that victims are often engaged in. Many stated that, when officers receive a call in this district, they are operating under the assumption that in addition to addressing the harassment incident, the problem may be complicated by the victim's participation in criminal or otherwise problematic activities. As one officer stated:

District two, it is really complex. Because, I mean you've got drugs everywhere but you have a tremendous mix of, of people with mental or emotional problems and then substance abuse, so yeah, you've got, you've got some, some real problems. When you're dealing with criminal harassment cases, I don't know,

it's, they're gonna really vary. Do, do the people in district two deserve the same quality of policing as everyone else? Absolutely. And, in fact they cost way more to police because they need more intervention from us. So they, they probably get a lot, an awful lot more but they need an awful lot more. (Participant 9, Caucasian male)

Clearly the experiencing of policing in District 2 is different than elsewhere in Vancouver due to the public health emergency that the community is facing (Wood et al 2000). This raises important questions about women victims of criminal harassment, who are living in poverty or are involved in criminalized activities. According to the officers in this study, the conditions of the lives of these women affect their relations with police. Unfortunately, this research does not directly inform this issue, although it can be supposed that these women might not be given a high level of decision-making power, as they would be seen as quite powerless within the context of their lives.

Many officers mentioned that in this district, there is an expectation that alcohol or drugs will be involved. The issue of substance use by victims arose frequently in the sample overall, and when it did, many officers acknowledged that they will approach the situation differently.

I mean some people are more difficult. If somebody's, you know, extremely intoxicated. You know... if that person's really intoxicated while we're, we can't do anything then in that situation until the person, you know, sobers up and they leave them a card and tell them to give us a call you know the next day and, and if the situation's changed then the situation's changed. (Participant 10, Caucasian male)

Contrary to this practice, VAWIR policy states that:

The consumption of alcohol or use of drugs by the suspect or victim should not prevent charges being recommended, unless the victim has no recollection of events and there is no other evidence on which to base a charge. (BC Ministry 2000)

The implications of this non-intervention approach are potentially dangerous for the victim. Many things could take place during the period of time that she is left to “sober up,” including a violent incident or the victim having second thoughts about going to the police.

The Case for Victim Discretion: “Sometimes you need to give victims choice.”

To provide a comparison, the analysis will shift its focus to the officers that did not present generalizations about victims being “powerless” or “deserving.” Most of these officers did not present generalizing comments about the character of the victim. However, this fact alone was not associated with victims being given decision-making power or not. Many officers still refused victims any say, even if they did not demonstrate assumptions about the “powerless” or “deserving” victim. There seemed to be a number of factors that can be pointed out as potentially having led certain officers to give victims decision-making power.

Several officers felt that many women victims were dis-empowered as a result of the harassment by their ex-partner. There are clear similarities between these officers and those who made generalizations about the “powerless” or “deserving” victim. However, a difference lay in the narratives themselves, where these officers did not state that “many” or “most” victims are in this state. In addition, for these few officers, allowing for victim discretion was seen as a means of empowering her.

I think that women need to be empowered, they need to be in a place where they are able to take responsibility for their lives, and for their safety and to be given the support so that they may gather the courage to do some of the work necessary to move on and to get themselves out of that cycle of violence. (Participant 13, non-Caucasian female)

A number of officers in this group saw the victim as in need of support, at which point she would be able to make important decisions for herself.

Other officers supported victim discretion specifically in criminal harassment cases because, as opposed to victims who are still in an intimate relationship, criminal harassment victims have most often separated from their partners.

She's not in a cycle of violence that she can't get herself out of and that we need to take this away from her. She is clear, I want this to go away, this is what I am willing to do, yes I accept your advice that maybe an 810 is appropriate or I accept that if you go and warn him off and document that and put it on the system that that may be effective and that we should give that a try. I don't want victims deterred from reporting because some victims have been because they do know the policy now that it's out there because they think that its going to snowball out of their control. (Participant 15, Caucasian male)

This argument will be addressed in greater detail in Chapter 5, because it arose as a fundamental difference between criminal harassment and violence against women by men with whom they are still intimately involved. Many officers in the sample described women in relationships as far more powerless than women who are separated from an abusive partner. While this may be true in many instances, it is not generalizable to the broad population of women victims of violence. As Mahoney (1994) argues, "we often treat 'staying' [in an abusive relationship] as identical with victimization" (74). She argues that this perspective sets up a false division between women who are in relationships and those who are not.

The final way in which officers stated they gave victims decision-making power was on the basis that they felt they could not press charges without the victim's participation. This issue will also be explored further in Chapter 5, but at this point it is important to point out the possibility that these officers were confusing or combining two different approaches. The first approach that they could employ would be to respect her

wishes and factor them into the final decision. The second approach could be to comply with a victim's wishes on the basis that the prosecutorial process and laws of evidence depend, to a large degree, on her participation and testimony. The logic in this second approach is that if there is not a high chance of a "successful" prosecution, then there is little point in pressing charges in the first place.

Victim's Responsibility for "Crime Prevention": "It's almost like throwing the crime back at the victim."

With respect to the role of victims in the decision-making process, the final point I would like to acknowledge is the issue of victims being responsible for their own safety. It was stated that victims have a responsibility towards ensuring their own safety by taking a number of precautions. Precautions ranged from ones which, depending on a victim's circumstances, might not be hugely demanding, such as tracing calls and keeping written documentation of time and location of incident, to those requiring time, energy and financial and personal resources. Examples were given such as getting a victim to change her home phone number, change her locks and get a home alarm system, alert family, friends and neighbours of the situation, move in with family, friends or a transition house for a period of time, or even leave town.

Attitudes about placing these types of demands on a victim varied among individuals in all categories, and were not associated with any particular demographic characteristics. It was found that those who believed strongly that a victim has a high level of responsibility for her own safety were also found to be the ones who would not allow the victim any decision-making power. This attitude places a double burden on

women, where they are in the position of being responsible for their safety, but then cannot determine how they would like the criminal justice process to act on their behalf. The following is a particularly lengthy excerpt from an interview with a female officer, but it effectively illustrates the judgemental attitudes of certain officers towards victims.

I would just like more realization by the victim to know that she also has to change. The number of times I've gone to one of these and she's like "Great he's been arrested, he can never phone me again." Well... you know, he still knows where you live. You also have to make changes and it's just this huge unwillingness, it always has to be the other person doing the changing, the other person has to be inconvenienced. The number of victims who are like, I'm not changing my phone number because I'd have to give the new number to everyone. Oh, come on! Or you know go to a safe house for a week, so you'll have to bring some clothes over and the kids will have to, you know, make some changes. "No, I don't want to do that, it's too hard." Come on! You know, as much safety things as we throw at them, so many of the victims just [say] "I'm not making changes now, you make him go away." And that's so frustrating, absolutely frustrating. They don't want to do anything themselves. And it's almost like throwing the crime back to the victim. But everybody has to have a role in this. Everybody, you were part of it to start, you're going to be part of it at the end and they just don't want to take responsibility sometimes... And it kills me, a lot of women just play the helpless victim and of course, they're the ones that get targeted a lot for the criminal harassment anyway because they just weren't able to take care of themselves or have set boundaries. I mean this would never have happened really to you or I simply because we wouldn't have put up with so much of this. So it's the same problems with the victims. Just not coping with anything that you're being asked to got them to do. So ... I would wish for victims to have to do a lot more for their safety. If you're so worried for your safety, then why are you still living in a ground floor apartment still? Move, I know it's going to be a pain, but move. (Participant 6, Caucasian female)

In contrast, other officers resisted placing demands on a victim who has very likely had to make significant sacrifices already. In the following excerpt, a female officer demonstrates this rarely mentioned perspective.

*So I'd get them to give me dates, times, etc. You know, if you've got phone calls, I tell them about *57 [call trace]. And alternatives such as, you know, you can change your phone number which a lot of people don't want to do and I, sometimes, I'm kind of reluctant to suggest that just because I don't think that women should have to move or change their numbers, but sometimes that's the*

only option, so I just let them know that that option exists. (Participant 8, Caucasian female)

This second quote was from an interview with an officer who did not see victims as powerless and did want to give them some agency in the process. These statements reinforce what Garland (1996) labelled a “responsibilization strategy” for managing crime. Stanko (1997) gives this argument a gender dimension as she argues that women are accorded a specific role in crime prevention, where they are instructed on self-disciplinary techniques for preventing violence. As Stanko argues, and as seen in the discussion of the “willing” victim, “lurking within our safety talk is an acknowledgement of blame...if (or when for some) they get it wrong” (489). This “responsibilization strategy” seems to be present in the data, where women were blamed for not taking control of their lives.

Conclusions

The intention of this chapter is to explore the way that the race, class, and gender identities of both victims and officers may influence their perception of victim discretion. What this research has found is that police are less affected by VAWIR policy than one would expect. The degree to which officers gave decision-making power to victims was far more influenced by the assumptions they held about these victims. These assumptions can be seen as informed and driven by the ideologies and social constructs of the dominant patriarchal culture and the institution within which they operate (Edwards, 1987).

In this study, the most common way that male Caucasian participants constructed victims was as “powerless,” “caregiving,” “weak,” “willing,” and “deserving.” These

findings support the existing literature on stereotypical social perceptions of women victims of violence (Meyers 1997). Furthermore, the stereotype of the powerless victim was constructed out of assumptions based on gender, race and class. These findings support other research in this area, which argues that racialized and low-income women are receiving differential treatment by the criminal justice process, alternatively, that if women from these populations are receiving the interventions defined by the VAWIR policy, perhaps they are not being treated in a way that accounts for the specificities of their lives (Currie 1998; McGillivray and Comaskey 1998,1999; Snider 1998). In addition, the race and gender homogeneity of the officers in this group raises the question of whether the “diversification” of police forces will result in a change in police culture. This issue will be addressed in detail in the final chapter in relation to the experiences of women officers in the sample and the relevant literature.

The group of officers that employed these characterizations provided evidence that these negative stereotypes can be associated with a reduction in women’s decision-making power. Related to the issue of character, participants provided several related rationales for limiting victim discretion. In several cases, officers felt that it was important to comply with VAWIR, and perhaps agreed with the principle embedded in the policy, which argues that dis-empowered victims should not have the burden of deciding whether or not to arrest. More often, officers stated that when working with victims, they do not want to give them decision-making power because credibility is a concern or they felt that victims are incapable of adequately assessing the level of danger present in their situation. Many officers understood this to be an extremely subjective

assessment, but as will be shown later, many officers saw subjectivity as influenced by intuition and job experience, not ideological or social constructs.

CHAPTER 4

Flaws in “The System”: Structural “Determinants” of Police Action/Inaction

They're concerned about 'what's the guy going to get anyway.' He'll be out the next day...Now incited, pissed off even more. The system can't protect them. We're not going to have a twenty-four hour guard on her... The system really can't do much for her and they're right, they're right...A little piece of paper saying don't go ... don't talk to this lady, don't phone her, don't be in contact with her... It's not going to stop some guy who really wants to get her... It will not stop these guys from going out and killing these women. (Participant 7, non-Caucasian male)

In this chapter, I explore the way in which officers came to decide on one particular intervention as the measure they would most likely employ given the facts of the vignette. In the previous chapter, I showed that victims are often denied any input into this decision. In addition, the data clearly show that the policy has very little influence over these officers' decision. What emerges as a significant influence is the level of confidence that they have in the criminal justice system overall. In many cases, officers who stated that they would not arrest also stated that this was, in part, a result of their critical perspective on the criminal justice process. This chapter looks at the “structural determinants” of their decision-making: specifically factors related to the criminal justice system within which these officers operate. This analysis reveals insights into the way in which each officers' construction and evaluation of this system leads them to believe that it does or does not have something to offer women victims of criminal harassment.

As discussed in Chapter 1, the interviews were organized around the presentation of a predetermined vignette or fact pattern. Subsequent questions were guided by the themes defined by the research objectives, but also by the themes raised by the participants. The participants' descriptions of their investigations were generally complex and detailed. However, their analyses of the vignette also produced specific and definitive conclusions, as a result of the fact that each officer was asked to specify exactly which intervention they would use. Each officer demonstrated knowledge of the following possible choices: arrest and recommend a charge under section 264 Criminal Harassment; initiate a section 810 Peace Bond; warn the perpetrator to stop the harassing and file an investigation report not requiring follow-up; or no intervention at all.

For this analysis, the officers were categorized into two major groups. Officers who said they would arrest the perpetrator that I described in the vignette were grouped together. A second group was comprised of officers who stated they would execute an 810 Peace Bond or warn the perpetrator. The sample was divided in this way so as to provide a comparison between those who were policy "compliant" and those who were "non-compliant" in their choice of intervention.¹ An important note is that no officers stated that they would choose "no intervention." This finding will be discussed in further detail because a number of female officers highlighted that "dismissing calls" is a common occurrence.

The result of this classification is that seven officers fell into the "compliant" group, while thirteen officers fell into the "non-compliant" group. Before looking at the factors that influence police compliance, it is important to look at the demographics of

¹ Labelling these officers as compliant or not compliant is only in relation to their intervention in this one scenario, and not any other aspect of their practice.

each group. There were no particularly notable trends in terms of the gender or race of officers in each category. However, looking at professional rank reveals that the high-rank officers in this sample were less likely to arrest than the lower-rank officers. The data reveal the way in which “expertise” was constructed by these officers as a qualification for making decisions that “break the rules.”

“Old School” Officers and Policy Compliance: “They were raised before the charter.”

The overwhelming majority of high rank officers stated that, faced with the given fact pattern, they would act in such a way that would contravene the VAWIR policy. The first possible explanation for this trend is that perhaps the high-rank officers do not know the way in which the policy impacts patrol-level practice. In the interview, all participants were asked to assess to the vignette as though they were the patrol team responding to the call. Given their non-patrol functions, as sergeants, detectives and inspectors, perhaps they were simply unaware of what constitutes compliant practice when on patrol. Looking at the data, this possibility is not supported due to the fact that these officers demonstrated a full understanding that the policy was applicable in criminal harassment cases and further, showed a comprehensive knowledge of policing practice under this policy.

Another explanation is that these higher rank officers are likely to have had lengthy policing careers and considered part of the “old school.” “Old-school” officers were described by younger officers as especially resistant to the loss of discretion that occurred when VAWIR was implemented. It is possible that these “old-school” officers

were demonstrating their resistance to the restrictions placed on them by the policy. Many of these officers articulated that they want more discretion and felt that it is more suitable in the hands of those officers with greater experience and expertise.

It's interesting in that new officers have been brought in...trained in the criminal harassment policy, you know, family violence, all that kind of stuff. Unfortunately, they're so junior, they don't have the experience to make really good discretionary calls... and then you have these senior officers who've seen everything, done everything. (Participant 6, Caucasian female)

On the other hand, several findings challenge the view that resistance to the VAWIR policy is primarily an "old school" attitude. In this sample, younger officers were equally as likely to state that they desired increased discretion or did not approve of the policy itself. This latter point is consistent with what Hannah-Moffat (1995) found in a study of officers' attitudes. She found that younger officers were more resistant to the loss of discretion. Another reason to believe that resistance to VAWIR is not specific to "old school" officers is that there were many lower-rank officers with equally lengthy careers that appeared in the "compliant category." The officers are not generalizable by age, but this analysis seems to suggest that there is a trend of non-compliance among the high-rank officers sampled. Issues of policing experience and discretion are addressed in Chapter 5 where it is argued that "expertise" is a common justification for non-compliant practice. At this point in the discussion, it is important to note that higher rank officers in this sample were particularly likely to articulate that they make non-compliant decisions on issues such as whether or not to bring the victim into the criminal justice system. Furthermore, their decision of whether or not to arrest seems largely affected by the way they evaluate the system itself.

Police Perspectives on The Failures of the Criminal Justice System: "It's not going to stop some guy who really wants to get her."

Looking at the interviews of the thirteen "noncompliant" officers, insights emerge regarding their decision-making processes. It is clear that a number of my assumptions about this group were mistaken. One false assumption was that, given their non-compliance, these officers would also state that they do not agree with the policy itself. This was not the case. A significant proportion of these officers stated that they agreed with the application of the policy. In addition, the fact that these officers chose a non-compliant intervention does not indicate they are considering the request of the victim. There are a number of different ways that they described their decision to not arrest, but the policy and victims' wishes were rarely a factor. For many officers, it was stated that this decision had to do with not wanting to bring the victim into the criminal justice process.

In general, the police officers in this study were likely to blame an inadequate legal system for women's difficulties accessing protection and safety. However, more than half of the "non-compliant" officers communicated that their concern is so strong that they would prefer to give the perpetrator a warning or instigate a peace bond. In comparison with "arrest and charge," these interventions would demand less involvement of the victim and perpetrator in the criminal justice process, and specifically, the courts. A large proportion of officers expressed concerns about the many stages of the process that fail to adequately protect victims. Examples are: the point at which a perpetrator is released immediately on ineffectual bail conditions; the time- and resource-consuming court process; and inadequate sentencing. Overall, the attitudes of many officers were

that the criminal justice system is too lenient on offenders and needs to "get tough on crime." As one male officer argued:

A simple solution for an eighty percent reduction in the crime rate is to put those four percent assholes in jail. (Participant 9, Caucasian male)

The officers in this group expressed that these flaws were part of the reason why they did not want to feel compelled to arrest and force a victim's case into the criminal justice process. These findings are consistent with a study carried out in a policing district outside of Vancouver. In a study of protection orders, Rigakos (1995) found that, "police rationalize their inaction when protective orders are breached by citing bureaucratic or technical impediments to obtaining a conviction" (235).

A common concern was the perpetrator's immediate release on bail conditions. After being arrested and then released, many officers believed the perpetrator would simply return to the victim to continue the same harassing behaviour. In a worse case scenario they thought that the perpetrator might be aggravated by the fact that the police became involved, thereby increasing the possibility of danger to the victim. As one male officer stated, the possibility that arrest may escalate the perpetrator's anger has a significant influence on his decision.

[The risk of aggravating the perpetrator] certainly plays a big part. ... It sometimes plays a part in the ultimate decision whether or not to arrest, charge or let him go with a warning and see if he continues. But it does, it factors into it and certainly and you do need to advise the victim of that. You know that, 'hey, there's a potential here that he may come back to you.' (Participant 7, non-Caucasian male)

Officers who acknowledged this concern drew two subsequent conclusions. First, if the perpetrator is going to be released on conditions then the officer must be particularly cautious about choosing whether or not to intervene at all. Although the research has

argued otherwise, many officers highlighted the possibility of escalating the risk as a rationale for non-arrest and non-intervention (McFarlane et al. 2000).

The second conclusion was that the victim must be adequately informed of the fact that the perpetrator will probably be released and should therefore make a “safety plan” to increase her own security. Officers often commented on a victim’s responsibility for her own safety under these circumstances. As discussed in Chapter 3, officers often engage in a “responsibilization strategy.” As these officers explained, this strategy may be the result of their lack of faith in the system. However, as Stanko (1997) argues, it may also illustrate a method of placing the burden of responsibility on the victim.

As a result of their critical perspectives on the system, a number of officers stated that they would use their discretion to judge what was in the “best interest of the victim.” Several female officers expressed that they would use their discretion to avoid seeing a case mismanaged by the courts. Seeing the courts handle a case poorly was described by these officers as a personally frustrating and defeating experience that could have a potentially dangerous outcome for the victim.

You have a situation where a guy goes and assaults his partner and then has conditions and then he assaults her again so then he goes back for another one, the new charge and also a breach UTA, undertaking charge so what do they do, they release him. So I, I’m so frustrated with the court system. (Participant 20, Caucasian female)

Another female officer described her sense of helplessness:

Well I mean, in every arrest you have, you know they are going to be on the street. Unless it’s like a murder. And sometimes they go on the street. So, I sort of, I feel helpless almost. (Participant 16, Caucasian female)

These officers stated that, even if the woman is not hesitant about engaging in the criminal justice process, they consider the potential problems that it may cause in her

situation. These officers undertake a process of weighing the benefits and the disadvantages of the criminal justice approach. This evaluation seems largely based on their experience with the process, as well as their perspective on what is in a victim's best interest. Many officers argued that the benefits are very short term; often only lasting the first night after arrest, when the perpetrator is in jail and the victim is protected for a twelve to twenty-four hour period. The disadvantages that were mentioned were: the significant possibility of inadequate protection after the first day of incarceration; inadequate protection in the long-term; and the potential that the level of danger might escalate.

Many officers in this study highlighted the disjunctures that they feel exists between police, crown, and judiciary and felt that their assessments in high-risk cases were not given enough weight in court. Research into the attitudes of the judiciary has shown that violence against women in relationships has generally been handled differently than other crimes. Judges have been noted as likely to minimize or disproportionately dismiss cases and believe that most cases involving violence against women in relationships cannot be significantly helped by the full prosecution of a perpetrator (Dobash and Dobash 1979; Palmer 1999; Parnas 1973). It has been argued in the literature that many of the ideological and attitudinal factors that make the policing of violence against women problematic influence the prosecutorial and judicial levels as well. The issue of judicial insensitivities to violence against women cannot be informed by this study except to say that many officers stated that they feel the prosecution and judiciary do not take their recommendations for charges or for detainment seriously and, in addition, do not take a stringent approach to perpetrators.

Variations in Officers' Constructions of a Flawed Criminal Justice System:

"I'm adamant that the system fails."

Looking further into the group of non-compliant officers, the officers can be divided between those who stated that they themselves are typically critical of the criminal justice process, and those who stated that they are aware that victims are critical of the process. The difference is subtle yet significant. Their comments emerged from a question that focused on the perspective of a reluctant female victim who does not want to initiate the criminal justice process. One group of officers discussed this issue at length, maintaining the focus of the discussion on the victim's perspective. On the other hand, a second group of officers shifted from the standpoint of the victim to describe their own standpoint where they provided an explanation of their own construction and criticisms of the criminal justice process. These two approaches present different ways of constructing a reality about the criminal justice system. One approach is from the officer's perspectives, the other from the officer's construction of a victim's perspective. The reason for this distinction is that it seems to be associated with different views on policing practice.

The officers that shifted the discussion to illustrate their own perspective were not necessarily contradicting that of the female victim, but their description changed the nature of their statement. It became less focused on issues of violence against women, as they understood it from a victims perspective, and more focused on the system in general as seen through a police lens. Their criticisms arose from a number of possible experiences. First, certain officers' perspectives were informed by personal experience,

having been victims in some way and feeling that the system had inadequately served them. As one male officer described, the sentencing decision in his attempted murder case left him feeling devalued and with a lack of faith.

My attempt murder case, a gangster tried to kill me with a knife, I sustained minor injuries but, you know, the intent was there. It was plea-bargained to a common assault and a probationary period was given. The person had previous convictions for violence and weapons offences. How do I feel about it? I'll, I'll tell you how I feel about it. I was pissed that that was the value that our system puts on my life. So you know, I'm adamant that the system fails and, you know, and I've been not only involved as a police officer watching these cases, but I've been personally involved. (Participant 9, Caucasian male)

Alternatively, certain officers were coming from a professional standpoint, describing how it feels to have to work with a flawed system, but not as victims themselves. A male officer expressed his lack of faith in the judiciary to illustrate this point.

In a lot of cases [the judges] sure do [drop the ball] 'cause their world is in a courtroom, they don't live in, in my world where I get blood splatter... they don't live in that world. (Participant 15, Caucasian male)

In the interviews, personal and professional experiences emerged as influencing these officers' level of confidence in the criminal justice process.

Other officers constructed an understanding of the criminal justice system through what they believed to be a "victim lens." In these narratives, the officers stated their understanding of the causes of victim reluctance. Then they would typically determine whether they agreed with a victim's criticisms of the system, and finally, whether or not they would take a victim's perspective into consideration. One female officer described her understanding of victims' perspectives.

So yeah, I can see a lot of times where they think the system is not going to give [the perpetrator] any penalty or they're worried about retribution. Once they put this [process] in motion the police are knocking on this person's door. They are going to get hurt as a result of that. So they have some very valid reasons to think, what are you going to do for me? So retribution, not a lot faith in penalties,

hostility with police, whatever other situations they've had where it's been the authority and nothing's happened. (Participant 18, non-Caucasian female)

In terms of how these two approaches affected police practice, those who expressed their criticisms of the system from the perspective of the victim were far more likely to state that they would give victims some decision making power in determining the intervention. Those who were critical of the process based on personal experience were not likely to take a victim's wishes into consideration.

The observations of officers can be related to the feminist research on the reluctance of victims to report violence to the police and testify (Morley and Mullander 1994; McGillivray and Comaskey 1999). The officers described a number of flaws in the system, but they did not account for the way in which the criminal justice system may be more problematic for women from marginalized populations. Women's experiences of the criminal justice process is clearly a gendered one, but equally as important is the way in which issues of race and class also mediate this relationship (LaRoque 1995; Snider 1998; Flynn and Crawford 1998; Martin and Mosher 1995). Only one officer mentioned issues of language as a barrier between women and criminal justice protection.

Other Reasons for Non-Arrest: "It's going to be ultimately our decision."

To complete this analysis of the subgroup of non-compliant officers, this analysis must address the fact that several officers did not mention flaws in the criminal justice process as a reason for non-arrest. One explanation for their decision is that they stated that they consider the victim's wishes. In other words, the victim may have influenced their decision not to arrest. It is possible that these officers were committed to giving victims a large degree of authority in the selecting of interventions. However, even if this

is the case, it is important to remember that the officer's perspective ultimately takes precedence. Officers undertake a process of weighing a number of perspectives, which, as this male officer illustrated, can be a confusing process.

I mean... at this point, I don't think [her reluctance] would sway my decision, at this point. Then again, it's her decision as well... I mean... people call us to help them and you try to do the best you can to help them out, I think what she wants has weight, quite a bit. Unless I think she's at-risk... if I would think she's at risk for some reasons...I would explain that to her. I'd explain to her why I think she's at risk...There's some instances where even though she doesn't want to and he's stopped... to go ahead with the charge, because I don't feel comfortable. If I can't go home at night and not think about it, you know, sleep well. (Participant 4, non-Caucasian male)

The policy is intended to remedy such confusion, but clearly officers who operate without the guidance of the policy must go through this "weighing of perspectives" on case-by-case basis. The conclusion that can be drawn from these points is that even though several officers expressed that they genuinely consider the wishes of the victim, it is impossible to say the level to which her perspective is really influential, illustrating how subjective and changeable discretionary practice really is.

Victim Non-Participation as a Method of Control: "It's damn tough to do it without the victim."

The data reveal that many officers consider victims to be influential in other ways. Despite the policy's guidelines, a number of officers mentioned that they feel they cannot submit a strong case to crown without the victim's cooperation. VAWIR policy states:

The fact that a victim does not provide a written witness statement should not prevent the submission of an RCC [recommendation for charges]. The victim should be encouraged to provide a written statement at a later date and the officer must follow up, which may be more effective after a referral to victim services or other support services. (BC Ministry 2000)

However, many officers were inclined towards non-arrest when dealing with a victim who was unwilling to participate. The following excerpt shows the way in which this officer sees the victim's participation as essential.

Initially, you know, I'll do everything I can to convince her that her cooperation is imperative. It's totally necessary if she wants to see the prosecution. You know, a successful prosecution. If she doesn't want to cooperate in the future and if she can't be compelled, really, it would be up to her. And then if it does go... try and keep 'em, keep 'em on-board that they have to go through with it, it's in their best interest. (Participant 7, non-Caucasian male)

This attitude was particularly apparent in this subgroup of non-compliant officers. However, a closer look at the sample as a whole reveals that for many officers, a victim's willingness to participate was highly influential over the decision of whether or not to pursue charges.

Clearly, officers were influenced by this factor to varying degrees, since certain officers mentioned they would still pursue charges despite having a reluctant victim. The degree of influence depended on the officer's opinion of what level of participation was required. For some, participation involved simply giving a statement, but for others it involved the victim being willing to testify in court. Overall, most officers stated that they felt that it is very difficult or virtually impossible to gather adequate evidence without the victim's statement or testimony. As one male officer stated:

In criminal harassment cases, you have to prove that the victim has a reasonable fear for her safety. And it's damn tough to do that without the victim. It's really tough. Um... and usually the tough part is proving that, proving that, even though she's cooperating. I can't remember a single case where we were able to do without her. (Participant 2, Caucasian male)

A female officer gave the opposing viewpoint:

That's fine. She doesn't have to [want to participate]... just with that evidence of what she has told me, I would go ahead with charges providing of course I got his name and, you know, identity wasn't an issue at that point. I would put it forward

*because it would just be negligence on my part to ignore all the evidence.
(Participant 6, Caucasian female)*

Certain officers stated that the belief that police and crown can press charges and prosecute successfully without the victim's participation is a myth embedded in the policy. It was argued that the laws of evidence make it very difficult to provide proof without a victim's cooperation, thus illustrating an incompatibility between the legal process and the policy.

However other officers did not agree, arguing that section 495 of the Criminal Code clearly overrides the policy. It reads:

A peace officer may arrest without a warrant (a) a person who has committed an indictable offence or who, on reasonable grounds, he believes has committed or is about to commit an indictable offence.²

If an officer has not witnessed an offence while it is taking place, Section 495 demands that an officer have reasonable grounds to make an arrest. Among these participants, it seemed that the reliance on victim cooperation would vary, depending on an officer's legal interpretation. If an officer acknowledged the need for reasonable grounds, it is likely that they would be more rigorous in the collection of evidence and would place more importance on the victim's participation. Furthermore, an officer's reliance on victim cooperation would vary from context to context, depending on the availability of other physical evidence and witnesses. One final conclusion is that many officers saw non-participation as a means for victims to undermine the process, which they have little control over otherwise.

² Code s. 495.

Arresting/Compliant Officers: “I am gonna make your problem go away.”

Looking at the “compliant” group of participants, many of these same themes arose, although clearly affecting their decisions in different ways. Somewhat perplexing is the fact that also within this group one of the most commonly emerging themes was a concern about the flaws in the criminal justice system. Clearly, their concerns about the flawed system were not strong enough to cause these officers to not arrest. However, the following question must be addressed: if these officers are aware of ways in which the criminal justice system is potentially detrimental to victims, why do they feel it is appropriate to override their wishes and pursue charges? What can be highlighted are the factors that seemed to outweigh their “lack of faith” in the criminal justice system, leading these officers to arrest.

There was a general agreement among these officers that they should not consider the victim’s wishes when making their determination about suitable interventions. This finding is understandable, given that these officers’ decisions to arrest go against the wishes of the victim in the vignette. Based on the fact that the elimination of victim discretion is consistent with the stipulations of VAWIR policy, it raises the question of whether the policy was influential in their decisions to arrest. This does not seem to be the case since the data show that only four of these seven officers stated that they agreed with applying VAWIR policy to criminal harassment cases. It is possible that, for these four participants, the decision to arrest was based on their belief in the merits of the policy and their belief that they have adequate evidence. The other three officers claimed that even though they saw the system as flawed in many ways, they felt that a victim is

still better off for having engaged this process. Even if the process is flawed, as police officers, they can still try to “*come through for her*” in any way they are able.

Dismissing Criminal Harassment Calls: “I’m just gonna slough it off.”

To complete this discussion of the “structural determinants” of police actions, this analysis will return to the initial classification of officers as “compliant” and “non-compliant.” Among the possible “non-compliant” responses, there was the option of stating that they would choose “no intervention.” However, no respondents chose this option. Several participants did comment that they know that “dismissing a call” is an overly common occurrence, particularly when that call involves violence against women. A point of interest is the fact that only female officers mentioned this issue. One female officer stated that:

Yeah, no one really comes out and says, anything specifically but you know that when you into a domestic it's gonna be time consuming. And a lot of officers try to avoid that. So I think, in fact, I think are lazy. They go to a scene where I might charge but they won't. They'll sort of write it off some how. I've seen that because they're lazy it's time consuming and they'd rather be catching guys, stolen cars or whatever, you know. They don't wanna, 'cause emotionally it's time consuming, because they're emotional. You know, write out the statement. Maybe you have to write out the statement. So it is, yeah, very consuming. (Participant 16, Caucasian female)

With this point in mind, it is important to remember that this sample may not be representative of the range of officers policing in Vancouver, nor is it necessarily a true reflection of these officers' practices when they are “on the streets.” Despite all of the accountability measures put into place to avoid this occurrence, according to these female officers there are still multiple ways to ignore a call or minimize it so severely that no intervention occurs.

Conclusions

The aim of this analysis was to explore the ways in which these officers were critical of the criminal justice system and to see if they were cognizant of the ways in which women victims have described the system as problematic. Looking across the entire sample, almost all of the officers mentioned at some point that the system was flawed. The degree to which they saw these flaws as influential over their decision is difficult to measure and would change depending on the circumstances of the case. However, these findings show that a number of officers clearly stated that they took the failures of the system into consideration when they determined whether or not to arrest. It was argued that in these cases, the officers are making discretionary judgements, where they are weighing the benefits and limitations of the system and determining what they see as in the best interest of the victim. These officers demonstrated a limited understanding of a victim's experience of the system. For the most part, the critiques were "generic" in that they were not based on women's needs or experiences, or specific to the challenges faced by women from racialized and otherwise marginalized groups.

In the final chapter, these findings will be re-examined in relation to the study conducted by Rigakos (1995). His study of another British Columbia police force found that police officers used their criticisms of the criminal justice process as justification for not enforcing protection orders. He argued that the officers in his sample used a number of strategies to critique the system, such as criticizing crown and the judiciary, misrepresenting protection orders as unenforceable, and arguing that protection orders are dispensed too liberally anyways. Rigakos called these "obstructionist tactics" and argued

that police are simply “finger pointing.” The final stage of my analysis will argue that these officers can be seen as engaging in this same strategy, and that their sense of the failures of the system is an inadequate justification for subverting the laws and policy that state that they should arrest if they have adequate evidence and it is in the public interest. However, it is important to mention that many of their criticisms are consistent with those of feminist criminologists who have argued that the court system fails women victims of criminal harassment (Gill and Brockman 1996; Kachuk 1998).

CHAPTER 5

Constructing The “Expert”: Justifications For Police Discretion

I trust my discretion and my views on people and what they tell me and my instincts and what have you...and you can explore where they are coming from, what their fears are, what the other persons desires are...I like having the discretion and be able to use it because I think it gives me the control of whether this family is brought into the system, because right now we have the system or nothing. (Participant 14, Caucasian male)

It is clear that police officers consider a number of “situational” factors as influential over their decision-making processes. This analysis has offered a way of looking at these situational factors as ideologically and socially constructed. However, the degree to which an officer’s culturally constructed assumptions affect their policing is dependent on their level of discretion and vice versa. Both mainstream and feminist research has argued that police practice is not determined by the set of relevant laws. Police operate under their own discretionary powers, which are granted by the “gaps” in law and policy (Hoyle 1998). The officers in this sample were explicit about the fact that they both wanted and practiced more discretion than is permitted by VAWIR policy when policing criminal harassment cases. They constructed a social reality that justified police discretion, even though they knew that this was contrary to the action prescribed by VAWIR policy.

This analysis draws from officers’ direct statements about discretion or their statements describing discretionary practices. Several themes emerged as producing conditions where police discretion is acceptable or necessary. Specifically, a number of

themes related to the way the officers' construct "professional expertise." Examples of factors contributing to "professional expertise" are policing experience, risk assessment, and intuition. The second way in which officers justified their use of discretion was in their understanding of the situational factors present in a criminal harassment. Criminal harassment was constructed as characteristically different from "domestic violence" and thus requiring alternative interventions. These factors will be explored in the following two stages of this chapter.

Identifying Discretionary Practice in Self-Reported Data: "I trust my discretion."

Discretion is a complex concept because every individual's understanding is subjective and changeable, and its definition varies from context to context. In this study, both a general and policy-related definition is employed. Discretionary practice is defined as decision-making made through individual choice and subjective judgment. In relation to the law and policy, discretionary practice is further defined as decision-making on issues that are not legislated or, if they are legislated, this legislation is disregarded in their decision. The latest version of the VAWIR policy (2000) mandates that an arrest should always occur when there is evidence that a violent crime has taken place, in the context of an intimate or ex-intimate relationship. Clearly this policy leaves room for some police discretion, but not if evidence of an offence is available. In this study, the participants were clear that we were discussing discretion within these parameters set by VAWIR and the Criminal Code of Canada.

Despite VAWIR's relatively clear instructions, the extent to which each officer interpreted this directive as limiting her or his discretion varied substantially. As this male officer illustrates, many participants felt that the policy leaves room for police discretion.

With a policy there's probably more consistency in how things are dealt with but there is so much room for not only discretion but also what a person's perception of the events are. (Participant 9, Caucasian male)

Conversely, other officers stated that, when handling cases involving violence against women in relationships, they have no discretion at all.

When we are going to a domestic, and what I mean by that is husband and wife fighting, and he hit her, I have no discretion, I always arrest, always. (Participant 16, Caucasian female)

Among participants in this study, there were large discrepancies in the interpretations of the policy. However, the degree to which they felt VAWIR policy is intended to limit their discretion did not appear to substantially affect their practice. What was significant was whether or not they felt they should be permitted to make discretionary decisions. These officers stated that they act in accordance with their personal sense of what is right, as opposed to how the policy directed them to act.

Despite an obvious association, it is important to keep the officers' perspectives on VAWIR and their perspectives on discretion as separate factors. The reason for this distinction is that the data showed that an officer who supported police discretion would not necessarily be in opposition to VAWIR, as would be expected. In many cases, this incongruity can be explained by the fact that the officers trusted their own use of discretion but not the discretion of their colleagues. A second explanation is that many

officers had mixed feelings about the policy, stating that there were elements they supported and those they did not.

As mentioned above, police discretion is a difficult issue to measure. When asked about this issue, participants' initial responses were often succinct and clear. They stated yes or no, and then provided an explanation for their response. However, when their response is viewed in relation to subsequent statements, on issues such as VAWIR policy and actual practice, latter statements are often conflicting with the initial response. What these contradictions suggest is that police perspectives on whether discretion is appropriate cannot be characterized simplistically by "yes" or "no." Each officer's perspective is situated somewhere on a spectrum, ranging from those who feel officers should have very little discretion at one extreme to those who feel officers should have a large degree of discretion at the other. Furthermore, their location on this spectrum is changeable depending on the context of the crime and of their individual lives. What this study offers is an analysis of the conditions under which these officers felt justified in taking a greater level of discretion than what is permitted in VAWIR policy.

Policing Experience as "Expertise": "Been on the job for 27 years so he knows his stuff."

The most common way police discretion was justified was on the basis of "expertise," which many officers saw as achieved in two ways: through policing experience and professional intuition. Referring to "policing experience," a significant number of officers stated that discretion is appropriate for those officers who have accumulated knowledge through years of policing. Younger officers were described as

not having the experience-based knowledge necessary to make effective discretionary decisions and needed significant guidance. The following quotation illustrates this view as a male officer describes his concerns regarding young officers having too little guidance.

There's a lot of naiveté and unless those are spelled out to them black and white or something they... they don't know where to go. (Participant 18, non-Caucasian female)

The participants that highlighted this factor were also among the most “senior” officers in the sample and, in many ways, their views reinforced their own strengths as officers.

The participants associated both advantages and disadvantages with policing experience. As described earlier in the study, officers with extensive policing experience were granted a certain prestige. They were seen as having an experience-based knowledge that was often described as giving these officers the ability to foresee outcomes based on similar circumstances they had previously encountered. In the following excerpt, a female officer describes the generational change occurring and the resulting loss of experienced officers.

New officers have been brought in, trained in the criminal harassment policy... family violence... Unfortunately, they're so junior... they don't have the experience to make really good discretionary calls... and then you have these senior officers who've seen everything, done everything. (Participant 6, Caucasian female)

Many officers demonstrated that they draw on past experiences to inform their current practices. As Hoyle (1998) argues, these experiences develop into a set of “working assumptions,” or unwritten rules, that inform future practice. The greater the level of experience, the more of these working rules and assumptions they will have to draw on.

On the other hand, as described in the Chapter 3, experienced officers were also criticized on the basis of age or experience. Several officers argued that “old school” officers are often fixed in their ways and not adaptable to new approaches in policing.

The perception of [police discretion] has changed, especially with a lot of older police officers leaving, getting out of patrol function, going elsewhere, retiring and new people coming into the occupation, and this is the way it is, they do not know any other way. It's much more accepted. (Participant 11, Caucasian male)

Within this subgroup, each officer presented the perspective that experience is highly advantageous and, at times, a prerequisite for good discretionary decision-making. The only time that these benefits were questioned was when “old school” officers were described as not being able to adapt to new methods of policing. Although this attitude was prevalent in the data, other studies have found that officers with greater experience are more likely to support limits on police discretion (Hannah-Moffat 1995).

In light of feminist insights into the patriarchal notions embedded in the individual and cultural belief systems of the police, it is not surprising that many feminists would have a distrustful view of officers drawing on past experience to inform current day practice. The data from this study provide evidence that this doubt may be warranted. In the interviews, officers seemed to introduce case examples when they felt it was appropriate to highlight a specific point. Officers with more years in policing were more likely to give more examples in their interviews, perhaps demonstrating this reliance on past experience. However, what is more revealing are the contents of the case examples, which were qualitatively different between the less- and more-experienced officers.¹ What was found was that more experienced officers racialized the victims in their case examples, whereas younger offices did not define race characteristics. Second,

more experienced officers used case examples to demonstrate their reason for doubting victim credibility. This finding raises the issue that, by drawing on past experience, officers may be employing racialized assumptions about the victims or beliefs that certain characteristics signal a lack of trustworthiness. Clearly, such assumptions could be highly problematic since officers may not be sensitive to the specificities of a victim's situation, or may impose pre-conceived and stereotypical judgments.

I would like to acknowledge observations made about the nature of the interviews with these "experienced" officers. In my field notes, I noted that their construction of victims and their approach to policing violence against women exhibited "condescension" and "paternalism." Based on both the content of their interviews, and their tone and language, these participants became categorically known to me as individuals who asserted that in all cases the "cop knows best." Drawing on my earlier findings, these officers were also in the group that characterized most women victims as "powerless." Based on my observations, I would argue that these officers gave their own evaluation significant priority over any other factors, especially the perspective of the victim or the guidance of the policy. The following quote illustrates the confidence that one officer held with regard to his ability to make a superior and effective decision.

I would try and explain to the victim that we're gonna do the best thing here, we're gonna do what's right here... I've been doing this for a long time. And I've dealt with hundreds of these cases. (Participant 3, Caucasian male)

Another male officers illustrated his certainty:

He has to be taken to task and shown that he can't do this. You want it called off, you need it called off, let's do it now and do it properly. Vis-à-vis you're at risk, lady, whether you believe it or not. (Participant 11, Caucasian male)

1 Newer officers were considered those with less than ten years on the job, and older officers were those with greater than ten years.

When confronted with a discrepancy between the victim's wishes and the policy-mandated approach, these officers seemed to rely on their expertise to make the determination.

Acting on Intuition: "This is an art, not a science."

The second factor relating to policing "expertise" and discretion was the importance of "intuition." Many officers described professional intuition as central to the "art" of policing.

I mean that's basically what police work is really, is your gut feeling as time goes on. There's no crystal ball to see how everything is going to turn out. I mean, all you can do is on previous experience. [Intuition and experience] come together, yeah. You have to rely on that. That is your best investigative tool. It may not be your most reliable, but to me it's your best. (Participant 12, Caucasian male)

Most officers constructed their intuition as a natural and innate sense that guided practice. It was described as essential in the early stages of an investigation where an officer may have yet to assemble the facts and evidence. In the following excerpt, a male officer describes the level of trust that he places in his intuitive ability.

A lot of the time you are just going on your gut feeling. Something just tells you, boom! There's something wrong here, there is something wrong with this person or this story just doesn't jive. And that you're really not sure what it is. And this is not good for court. This has nothing to do with court. That's totally different. Court is pretty well black and white. I'm just talking about that investigative tool. I mean I've had some interviews, but I've talked to people who do polygraphs and real good interviewers from sexual offence squad and their skills are just honed. They can pretty well tell if that person is lying or not lying... And every police officer gets to do that just some are better at it. Its never going to be one hundred percent accurate and you are not going to charge someone on gut feeling or impressions but it just gives you a path to follow. (Participant 12, Caucasian male)

Officers never questioned the naturalness of their "intuition." They seemed to feel that a "strong intuition" points towards some kind of absolute truth about matters of guilt,

credibility, or capacity for violence. Referring back to the content of their case examples, it can be argued that what they see as innate intuition is in fact a judgment, informed by past experience and ideology, which are based on immediate impressions.

Two specific aspects of the investigation were described as requiring police discretion: determining how much decision-making power should be given to the victim, and in the risk-assessment of the perpetrator. Clearly, officers in this sample observed and considered the request of the victim to varying degrees. Many officers stated that their decision of whether or not to consider a victim's wishes was, in part, a result of their sense of her credibility.

As you're dealing with people you get a feeling that they're telling the truth or they're not telling the truth. And, so that comes into play, you know, a little bit of discretion comes into play. (Participant 10, Caucasian male)

Officers articulated that their initial impression of a victim's credibility would direct their actions. Suspicion of unreliability would lead an officer to do a background check to see if she had a history that would signal a lack of credibility. These findings are consistent with research by Hannah-Moffat (1995), which showed that officers employed their discretionary power as a check of the "irrationality of the victim."

Despite confidence in their own intuition, many officers stated that you couldn't rely solely on this "instinctual" feeling, in part, because it is clearly not a formal assessment and, in part, because it cannot be used as evidence. For example, in the case of an impression of a guilty offender, the court obviously required evidence to verify the officer's assessment and the crown's charges. However, the courts do not always provide follow-up of police decisions. For example, an impression of a perpetrator's innocence or of a victim being untruthful could result in an officer dismissing a call. In this case there

would not necessarily be any verification, and “informal values and practice norms escape formal scrutiny and accountability” (Chan 1997:225). This example illustrates one way in which initial discretionary judgments can be potentially harmful to victims.

The “Science” of Risk Assessment: “The less science you have the more art you use.”

All officers highlighted characteristics of a perpetrator that were considered a “red flag.” However, it was only the more experienced and higher rank officers who labelled this process as risk assessment. This points to a third aspect of “policing expertise,” which is the alleged ability of officers to conduct risk assessments of perpetrators. In many interviews, “risk assessment” was constructed in opposition to intuition: dichotomized in the way that the art versus science debate has traditionally occurred and with many of the same results. Knowledge of risk assessment techniques, being the “scientific” approach, was given a high degree of privilege and trust among these officers.

I would just say that the less science you have the more art you use... but without training in specific risk assessment techniques they might be missing things, they might be missing the cumulative effect of certain things. (Participant 15, Caucasian male)

Another perspective was offered by this officer, who argued that risk assessment techniques are useful in that they can reinforce an officer’s intuitive sense.

They’ve gone through and done studies and shown that – that these things increase the risk of recidivism and increase the risk of violence and those are very helpful in providing tangible information for Crown and for the judge to argue against someone’s release. So if you feel that someone is a danger, you can’t go in there and say well, you know, I got this really horrible feeling from this guy, he gave me the creeps. And you think he’s a slime bucket and he’s going to go out and kill her. You have to be able to say why...you have to be able to articulate

that and that's when the... documented risk factors come in very, um... very handy. And it is like writing a uh... writing a paper, you go – go in and you cite your argument and then you cite information to support that argument.
(Participant 13, non-Caucasian female)

Officers positioned risk assessment as both in opposition to intuition and as complementary to the use of intuition. However, in both cases, the ability to use formal risk assessment techniques was presented as a justification for police discretion.

Many factors that are deemed risk factors are clearly contentious. Assessing an individual based on factors such as employment status, poverty and alcohol or drug abuse creates the possibility for unfair treatment based on socio-economic factors and other social and personal conditions. The “science” or “technology” of risk assessment has been the centre of significant interest within the field of critical criminology. Risk assessment implies a norm to which individuals are compared; a norm that can be argued as reflective of the interests of the dominant culture. As Castel (1991) argues, “the new strategies dissolve the notion of a subject or a concrete individual, and put in its place a combinatorial of factors, the factors of risk” (281).

Distinguishing Criminal Harassment from Domestic Violence

Many of the officers in this sample clearly differentiated criminal harassment from “domestic violence.” Unlike the way I have defined criminal harassment as one form of violence against women by intimate partners, these officers highlighted a number of reasons why they see it as unique and demanding a different policing approach. Many officers argued that they use discretion in light of a number of factors that they saw as unique to criminal harassment. Looking at these factors leads to insights into the police perspectives on what circumstances require police discretion, and conversely, how they

construct those circumstances that do not. Furthermore, this discussion brings into view these officers' understanding of the relationship between victims and pro-arrest policing.

Constructing the “Empowered” Criminal Harassment Victim: “She’s not in a cycle of violence.”

The first way in which criminal harassment was characterized as distinct from other forms of relationship violence was due to the fact that, in the vast majority of cases, the victim and perpetrator have severed their intimate relationship. Statistical research has shown that this is true (Hackett, 2000). In the majority of criminal harassment cases, an intimate relationship has been severed and the male partner is struggling for reconciliation or to maintain control over his ex-wife or girlfriend. A female officer illustrates this point as she stated:

I think in criminal harassment though, ... you more often see that the relationships already over and it's perhaps the result of sort of one person not letting that sink in. And so... I don't think you have as much difficulty as... in a traditional domestic violence situation where your partners may still be together. Where you have that... dimension to deal with as well. But I think, particularly in this case... they haven't been together for four months. She's been quite clear with him, saying that she does not want to see him any more. So the system, generally, would offer effective tools to deal with the situation. (Participant 13, non-Caucasian female)

This officer argues that when an intimate relationship is terminated, the dynamics of that relationship may be significantly altered. In domestic violence incidents, the victim and perpetrator will likely be deeply involved in each other's lives in intimate, financial, emotional, or legal ways. Officers argued that in criminal harassment cases involving separated parties, the victim may have a greater level of independence and choice.

In order to contextualize this argument, it is useful to look at it in relation to VAWIR policy. VAWIR and other pro-arrest policies evolved from the belief that a

victim who is trapped within the cycle of violence may not be empowered to initiate an arrest and charge against an abusive man she is intimately involved with. The following reasons have been stated as potentially preventing a victim from pursuing charges; residual feelings of love, financial and emotional dependence, lack of self-esteem, child custody issues, intimidation, and fear of escalation (Davis 1995; Johnson 1996). From the argument put forward by these officers, they believe that a woman who is no longer in an intimate relationship is no longer subject to the power and controlling behaviour of her ex-partner.

Are women who are experiencing criminal harassment by ex-partners immune from the complicating or dis-empowering factors mentioned above, simply by the fact that they are separated from their partner? As Mahoney (1994) argues, victims who are in an abusive relationship and those who have left are not always as different as is commonly perceived. This raises the broader question of whether or not victims should have this decision-making power taken away from them at all, and if so, where does the line become drawn between empowered and not? From the data, the conclusion can be drawn that many officers constructed criminal harassment victims as characteristically different than victims of domestic violence and they used this reasoning to warrant increased police discretion. However, this factor was rarely seen as warranting increased victim discretion.

Criminal Harassment Investigations as More Complex: “It’s more like investigating a large conspiracy.”

A second reason why the police felt increased discretion was needed was because the details of a criminal harassment case are seen as more complex and difficult to access than an assault case. A male officer stated that criminal harassment cases are challenging because:

Dealing with criminal harassment or stalking, you’ve got multiple events and multiple places with different witnesses. And, so it’s more like doing a large conspiracy than a normal police investigation. (Participant 2, Caucasian male)

Officers described certain factors as making criminal harassment investigations a significant challenge. In comparison to assault, they argued that in criminal harassment cases: physical evidence is less accessible; the perpetrator must be located; and there must be evidence that the victim was experiencing a “reasonable fear,” which means you need a victim statement. As one male officer stated:

Unlike an assault where you have again witnesses or physical evidence, in criminal harassment cases, you have to prove that the victim has a reasonable fear for her safety. And it’s damn tough to do that without the victim. (Participant 2, Caucasian male)

Again, the issue of victim participation re-emerges. The involvement of the victim is seen as necessary for successful evidence gathering in criminal harassment cases. In terms of physical evidence, previous research has shown that the level of physical injury to the victim will influence a police officer’s response (Bachman and Coker 1995). If officers carry an assumption that violence against women involves a physically violent act, it could cause them to negate or minimize the psychological abuse involved in criminal harassment scenarios.

Terminating the Relationship: "I can not see you anymore, period!"

Many officers also mentioned that they had to ensure that the victim has adequately communicated to the perpetrator that she wanted to terminate all contact. Under criminal harassment section 264 of the Criminal Code, the perpetrator must be committing harassing behaviour, "without lawful authority and knowing that another person is harassed or recklessly as to whether that person is harassed" (Watt and Fuerst 2001: 408). In simpler terms, this means is that the perpetrator must be aware that the behaviour is unwanted. As one male officer identified:

It said that she had continued to see him a bit but then terminated it completely. So I would need to know how, if that was made very clear to him or if it was open to his interpretation. A judge might reasonably find that there was some invitation to continue contact. If she were able to establish with me that, no, it was absolutely clear, this is what I did, I phoned him or I wrote him a note or I sent him an email or I went with a friend or I had a friend do it and you know he was told very clearly she didn't want any contact then that would be fine. If it was somewhat ambiguous then that's where I would probably say, well if I were pursuing criminal harassment charge I would say we need to do something to make it absolutely clear so that he can't claim that he didn't know that she didn't want contact. I've had many times where the victim felt in her mind that she'd made it clear and the suspect honestly felt, in his mind, that it wasn't clear and was able to cite instances where a person might reasonably believe. So that would be an issue that I would want to establish. (Participant 15, Caucasian male)

In the minds of certain officers, one can insufficiently communicate that they do not want to have contact, and thus tacitly consent to the attention. The issue of "terminating contact" is a reminder of the debates regarding definitions of "consent" within Canadian sexual assault law. Recent amendments to the sexual assault law redefined the meaning of consent to mean:

[T]he voluntary agreement of the complainant to engage in specific sexual activity at a specific time, rather than, for example, whether she offered a sufficient degree of resistance or whether she consented on a previous occasion. (Busby 1999: 270)

My point is that, based on the statements of many officers in this study, it appears that victims are expected to show that they have adequately resisted the perpetrator's advances. As the officer quoted above stated, what constitutes adequate resistance is, to a certain extent, left up to his interpretation as well as the interpretation of the judiciary.

One officer described a victim's rejection of the harassing behaviour as needing to be "black and white." Certain officers felt that if the victim could not attest that she had provided total clarity, then the appropriate intervention is to "warn him off": meaning to tell the perpetrator that his behaviour is unacceptable. If the perpetrator continues to harass, then he is arrested immediately. Two points arise from this finding. First, a subjective judgement takes place, on the part of police and judiciary, with regard to the degree to which the victim refused contact. Clearly, this element could shift the focus of the investigation from the harassing behaviour of the perpetrator to the behaviour of the victim. If this were the case, false assumptions about victims' character and credibility could inappropriately influence an officer's assessment. The second point is that an "unclear termination" was described as a significant reason to downgrade the level of intervention used in a criminal harassment case from arrest to a warning. These points raise important questions about how police interpret the "intent" requirement of this law.

VAWIR as a Protective Measure for Police?: "Cover Your Ass"

Before concluding this argument, an interesting point emerged in favour of regulating police discretion. Many officers articulated that the policy was important because they distrusted their colleagues' discretionary decision-making.

Some guys are just too damn lazy and they don't want to do their reports and they don't give a shit. And they're hoping the person survives just long enough for the

issue to die and their tracks to be covered. So that if she does die, gets killed a month later, you know, the policeman's tracks are covered. So much of a period of time has lapsed. So I don't want to see the police discretion increased. (Participant 7, non-Caucasian male)

However, a number of officers expressed their support for limiting police discretion. They argued that VAWIR policy limits the degree to which they can be held responsible for the decision to arrest or, alternatively, will not be held responsible if something goes wrong as a result of the arrest. On this basis, a number of officers labelled VAWIR a "C-Y-A" policy, meaning it's there to "cover your ass."

I don't particularly like [the policy] either, but I am still glad its there, because I know that sometimes an officer will not do the things he's supposed to do you know because he doesn't see it and you know, if you are just not seeing it, then it's nice to have something there to just cover you up, to make sure if you made a mistake, then something else falls into place to help you out, because we are only human, we get tired, we can make mistakes, we do things incorrectly sometimes. 'Cause we are only people, we aren't always right. (Participant 14, Caucasian male)

On the basis of these statements, officers could be seen as misinterpreting the stated objective of the policy, which is to protect victims, as intended to protect the officer. Conversely, perhaps these officers are identifying an implicit and undeclared objective of this policy, which is to protect officers from allegations of negligent practice.

Conclusions

Two dominant themes emerged as justifications for police discretion. The first theme relates to policing "expertise." In officers' statements, "policing experience," "intuition," and "risk assessment techniques" seemed to be attributes that elevated an officer beyond VAWIR policy. In other words, officers did not need the guidance of the policy to make effective decisions. Officers rarely acknowledged the subjectivity inherent

to their practice when using these skills. These skills seemed to be characterized as leading these officers towards some definitive “truth” about guilt, credibility and potential for violence. This analysis is not meant to demean their professional expertise but instead to highlight the way in which it was seen as rooted in objectivity, as opposed to being largely a product of their socialization and institutional training.

Officers also articulated that criminal harassment cases have typical characteristics and, as a result of these characteristics, police require discretion in order to intervene effectively. Overall, officers argued that VAWIR policy only permits two interventions: arrest or file a potentially inconsequential report. Many officers argued that the complexities of criminal harassment cases demand that they have access to a range of interventions. In the following chapter, these findings will be examined as a whole, leading to implications for VAWIR policy.

CHAPTER 6

In Conclusion

The objective of this study was to explore officers' perceptions of their policing practice and their compliance with VAWIR policy when handling criminal harassment cases involving intimate partners. The research looked at how these officers construct a reality within which they feel justified in their compliant or non-compliant practice. As this discussion draws to a close, it becomes clear that this study may raise more questions than answers about how to effectively police criminal harassment and whether pro-active policies are appropriate. What has been shown is that among these officers there was a high level of non-compliance in relation to VAWIR policy: the term "non-compliant" meaning that officers employed a high level of discretion and did not see their actions as guided by the policy. On this basis, it was necessary to look at the situational and organizational factors that officers described as "determinants" of their practice, thereby informing their discretionary decision-making. The findings of this study reinforce what other researchers have argued, which is that police practice is more defined by individual and cultural norms than it is by policy and law (Reiner 1992; Chan 1997, 1998).

Before reviewing the findings, I would like to highlight the concept of "police objectivity," which is traditionally believed to be a key element of police work. This analysis has shown that many officers represent themselves as neutral interveners that are trustworthy, fair and able to maintain a high level of objectivity in their practice. As a result, situational and organizational factors related to policing criminal harassment were deemed "determinants" or "facts" that lead directly to predetermined and objective

“outcomes” in the form of police interventions. Officers rarely acknowledged these factors as socially and ideologically constructed, or their assessments as subjective. What this analysis attempted to do was take these situational and organizational factors out of the institutional discourse of policing, where they are deemed “legal factors,” and examine them as socially constructions. The following discussion will review the situational and organizational determinants discussed in this study prior to commenting on the broader implications of this research.

Chapter 3 examined one of the principal objectives of VAWIR policy, which is the elimination of victim decision-making power. Perspectives varied among the participants, making it clear that this objective has not been uniformly adopted or accepted by police. A number of officers stated they allow victims to have significant decision-making power, thereby acting in contravention of VAWIR as well as the existing principle that police should act in the public interest. On this basis, one might wonder if they did so in order to empower victims with options. In certain cases, officers stated that victim satisfaction was an important factor and that they acted in such a way that might contribute to a victim’s empowerment. However, their statements also reveal that they were motivated by a less “victim-centred” notion of success. “Successful police work” was defined in many cases as investigations that result in a successful prosecution, meaning a guilty conviction and jail time. Few officers employed a “victim-centred” notion of success, which would involve considering victim satisfaction, safety and autonomy. Those officers who did were mostly female themselves.

One group of officers stated that they disallowed victim discretion and did so on the basis that they felt that granting victims decision-making power is problematical.

Victims were generally constructed by these officers as “powerless” or “deserving” of abuse and not suited to determining their own best interest. I have argued that the notion of the “powerless” victim which many officers subscribed to is embedded in the VAWIR policy itself. In this way, these officers could be seen as consistent with the tenets of the policy. In addition, these officers came to a “policy compliant” conclusion, which was to refuse victims any say in the criminal justice process. Despite their compliance with the policy’s demands for the elimination of victim discretion, these officers were not all in agreement with VAWIR policy, in principle or in practice, within the context of criminal harassment investigations. In addition, the attitudes of these officers were challenged by other officers who argued that women who have separated from their abusive partner have a higher level of personal “empowerment.”

I have argued that, overall, most of these officers are not operating with the stipulations of the policy in mind. Instead, many officers are engaged in a rigorous process of evaluating the victim on the basis of situational and demographic factors, and therefore subjecting women victims to pre-conceived and stereotypical assumptions. From my feminist and social-constructivist perspective, it is argued that their perceptions are reflective of the societal, institutional, and subcultural norms that shape and support gendered and racist attitudes towards women victims of violence. Based on these judgements, women victims are deemed unfit to decide how they would like their cases to proceed. I have argued that, from a feminist perspective, invoking assumptions about women victims, as a method of determining when and how a woman should be able to make decisions about her life, is an unacceptable practice.

Despite the fact that many officers did not support victim discretion, and despite the fact that many officers argued that victims are mostly dis-empowered, many of these officers communicated that the victim must take "*responsibility for her life*." Suggestions ranged from fairly minor safety precautions to substantial life changes. This "responsibilization strategy" was presented by officers as one of the consequences of a flawed criminal justice system (Garland 1996). On the other hand, many of these comments can be linked with the construction of the "deserving" victim: a victim who does not take the precautions outlined by an officer can be easily blamed when something goes wrong.

This analysis may seem to present itself as arguing for increasing victim discretion, and this is not my intention. There are powerful arguments on both sides of this debate, as was outlined in Chapter 2. What this study offers is insight into the fact that women victims are rarely given decision-making power, as directed by the policy, yet many officers are empowering themselves with discretionary powers. These findings highlight a grave problem: officers are able to make critical decisions on the basis of gendered and racist assumptions about women victims of violence. Victims are faced with a situation where officers are relatively unregulated by the policy, whereas victims are controlled by the policy as well as by police attitudes. This research does not provide a resolution to this debate, but increases the understanding that eliminating a woman's right to make key decisions about her life is, at times, highly problematic.

I argued in Chapter 4 that flaws in the criminal justice system were identified as reasons for non-arrest. Officers argued that, for a number of reasons, engaging this process might not be in the best interest of women. When police officers criticize the

criminal justice system for its failures, Rigakos (1995) calls this "finger pointing." He argues that complaints about "the system" are a pastime of police officers and are used as a rationalization for police inaction. As a result, "we must question the legitimacy of police rationales that serve to deflect attention away from their failure... Such attitudes may amount to what Taylor (1993) views as 'obstructionist' tactics" (Rigakos 1995:236). It can be argued that the statements of these Vancouver Police officers provide support that, when police point to flaws in the other stages of the system, they are engaging in obstructionist tactics. The officers in this sample took their criticisms of the system into consideration when determining whether a woman victim is better off handling criminal harassment from outside the criminal justice system or through diversion measures such as a warning or 810 Peace Bond. This is a decision that is not meant to be in the hands of police. It is important to point out that I am not arguing that police officers are inaccurate in their criticisms. However, given their professional responsibilities and the policy stipulations, it is not meant to be within an officer's power to decide what crimes should and should not be legally addressed.

With regard to critical assessments of the criminal justice system, these officers described a process of "weighing perspectives." Certain officers stated that they imagine the system from the standpoint of a victim who is "hostile" or "reluctant" towards the system and, at times, will respect her wishes. For others, a victim's reluctance was seen as "powerlessness" and her decision-making power was revoked. A third set of officers stated that they have had negative experiences themselves as victims or as criminal justice professionals, and on this basis they are selective about which cases to engage in the process. The decisions made by this third set of officers seemed to have little to do

with the victim's wishes. This process of "weighing perspectives" seemed to be occurring in an entirely subjective way, completely disregarding the directives of the policy. Overall, there was no consistency between each officer's processes, other than the fact that the police perspective would always eventually prevail.

Although victims were often given minimal or no decision making power, there was one way in which women were seen as able to subvert the criminal justice process. Many officers argued that when a victim refuses to be involved with the investigation and prosecution, officers are unable to pursue charges due to lack of access to evidence. In certain cases, by refusing to give statements or evidence, victims could "obstruct" the criminal justice process. Again, the effectiveness of this strategy would entirely depend on the investigating officer, since a number of officers stated they would arrest and pursue charges regardless of the victim's willingness to participate. Certain officers framed this argument as pointing to a contradiction between the law and policy, where the policy states that the fact that "a victim does not provide a written witness statement should not prevent the submission of an RCC [recommendation for charges]" (BC Ministry 2000), and the law, which says you must have evidence to charge. Other officers did not see this as a conflict. Again, discretionary decision-making comes into play where the policy states it should not.

In Chapter 5, it was argued that police justify their discretionary and subjective decision-making through a construction of policing "skill" or "expertise," which seemed to elevate them to a position where they did not require policy guidance. Specifically, past "policing experience," "instinct," and "risk assessment skills" were identified as reasons why officers are able to make effective discretionary decisions. Policing

experience was constructed as a mental "data-bank" whereby officers collect facts and examples from past incidents and use this information to inform current practice. This "data-bank" seemed to be perceived as giving officers some kind of predictive skill, which was seen as reliable and valuable. They did not express any concerns about the ways in which using previous fact patterns to inform current-day interventions may be problematic. For example, those officers who offered case examples that involved stereotypical assumptions about victims could be doing a disservice if they use their stereotypical assumptions from these past scenarios to make judgements about a current incident. I have argued that a similar point can be made regarding the use of intuition given that officers rarely mentioned the way in which their intuition may be ideological or social in origin, nor did they discuss bias in policing practice. I have argued that this inflated sense of "objectivity," which officers used to justify their discretionary practice, presents potential risks for women victims of criminal harassment.

Looking at these findings overall, what becomes clear is that these officers take advantage of a number of opportunities to empower themselves with decision-making freedom. This analysis has argued that officers do not develop their perceptions in isolation. Their perceptions are reflective of the societal, institutional, and subcultural norms that shape and support gendered and racist attitudes towards women victims of violence. This chapter will now look at the broader implications of this analysis in terms of a number of issues. Beginning with the issue of police subculture, this final discussion will describe the way in which my analysis contributes to the existing body of knowledge. The practical implications of these findings relate to the diversification process that the Vancouver Police Department is currently undergoing, and its potential

towards shifting police culture. The discussion will then look specifically at what this analysis concludes about policing criminal harassment under VAWIR policy.

Police Subculture

This study has highlighted a number of ways in which policing continues to be entrenched in patriarchal notions of violence against women. In many ways, the statements of these officers reinforced the theories put forward by other criminologists who have highlighted police subculture as a “cult of masculinity” (Smith and Gray 1983) operating under gendered and racist assumptions about victims and perpetrators (Chan 1996, 1997). Many participants in this study demonstrated ways that the values and norms embedded in their institutional context inform their discretionary decision-making. It was found that among officers in this sample, the policy seems to be relatively ineffectual in its attempt to reduce the level to which these socially and institutionally entrenched assumptions influence police practice.

These issues raise the question: if it is in fact possible, how can police culture be transformed into a pro-feminist and anti-racist environment where discretionary practice may not as problematic? One strategy, explained in Chapter 2, is the ongoing initiative to “diversify” the Vancouver Police Department. This initiative has a number of honourable objectives. In terms of generating race and gender equality, this is clearly an important initiative. The motivation for this process rests, in part, on the assumption that a diverse police force will reduce the problematic relations between police and marginalized communities by transforming the existing attitudes among police. However, a great deal

of uncertainty lies in whether or not this recruiting initiative alone can eliminate the patriarchal norms and values within this institutional culture.

A study by Brogden and Shearing (1993) examined gender and race relations between police and communities. They questioned whether or not policing methods would change as a result of demographic changes in the police force. These authors suggest that diversifying police forces is not a complete solution because, in terms of gender, they found that:

[W]omen recruited into male-dominated police forces adapt either by embracing the male police culture, and thus becoming 'defeminised' into police-women; or by taking on a more traditional, service-oriented role, and thus becoming 'deprofessionalised' into police-women. (Chan 1997:61)

With regard to racial diversity, Cashmore (1991) has argued that non-Caucasian officers, recruited into predominantly white police forces, become committed to the status quo set by culture of the dominant Caucasian officers (Chan 1997). These arguments can be examined in relation to the findings of this Vancouver study.

The analysis in this current study informed the issue of gender representation in police forces. In terms of practice, it was found that female officers were only slightly more likely to consider a victim's perspective when determining whether or not to arrest. Gender differences became apparent were in the way female and male officers constructed victims. The analysis shows that female officers were far more likely to engage an "empowerment" discourse when discussing victim discretion, which I see as a more constructive outlook. These female officers also offered important insights into the "gendering" of police work. Consistent with the statement from Chan (1997) mentioned above, the data identify both a "deprofessionalization" and a "defeminization" of policewomen's work. The data showed that women were "deprofessionalized" by being

relegated to specific gendered roles. Dispatch would most often call on teams of officers with women members when sending officers to incidents involving women victims of criminal harassment. Upon arrival at these calls, women officers would most often work with the victim. This role involves tasks, such as working with victims, which are considered “non-law-enforcement” characteristics. This task was described as having a “social work” dimension, which draws on attributes that have been characterized as typically “feminine,” such as sensitivity and good communication skills. It has been noted in the literature that police are socialized by their occupational culture to not value “social work” roles (Bard and Zacker 1974; Buzawa and Buzawa 1996). As this female officers stated:

I feel that women are tolerated but underneath all that there's still this feeling that it's a guy's job that it's a guy's world. (Participant 20, Caucasian female)

By relegating women officers to certain degraded tasks, women officers become “deprofessionalized.”

Brogden and Shearing (1993) also brought to light the notion of “defeminization,” whereby women officers may take on the patriarchal status quo. In this analysis, it appears that a process of defeminization may be occurring among these officers. One female officer, who self-identified as feminist, demonstrated what I would consider to be an incredibly high tolerance of male officers’ sexist comments.

[Male officers are] talking about ‘the fucking bitch at the call’ and ‘I can’t believe how fucking ugly she is’ and ‘who’d like to fuck that cunt?’ whatever, things like that. Again, it’s pretty minor. (Participant 20, Caucasian female)

It could be argued that a number of women officers in this sample demonstrated a desensitized attitude towards sexist and racist attitudes among their colleagues. It could

also be argued that the tolerance they expressed was a result of the fact that, due to power relations within the institution, they feel unable to present a challenge.

I've never complained about any sort of harassing remarks... but that's because I feel like it wouldn't do me any good and that's very worrisome too because I'm a confident person and I usually say what's on my mind so if I'm not saying anything, who else isn't saying anything... I wouldn't say that if this was going to have my name on it, there's no way. You can't. And let me talk about sexual harassment policy in the workplace or harassment policy period... your sergeant will look at you and say 'you'd complain if you felt uncomfortable, wouldn't you?' And you're thinking 'no I wouldn't.' You can't. If you're junior you can't, and if you're junior and you're female you certainly can't. And if you're junior and female and pregnant there's no way you'd say anything right? (Participant 20, Caucasian female)

At times, women officers' statements reflected patriarchal notions embedded in their occupational culture. At other times, they were critical of the patriarchal culture in which they are situated, but felt that are not in a position to present an effective challenge to the status quo.

Will there be a dramatic shift in police culture as a result of new recruiting measures? As Chan (1997) argues, it is clear from the literature that, "strategies aimed as changing culture mostly produce the appearance rather than the reality of change"(63). This analysis of Vancouver officers has argued that women not only experience oppression, degradation, and silencing but they may also internalize the culture within which they operate. Consistent with the research of Brogden and Shearing (1993), it can be argued that certain female officers may have demonstrated ways in which they are forced to embrace the existing "male" culture, a culture that they may have previously thought they would consciously challenge. I agree with Chan's conclusion that the weaknesses of "diversification" processes do not mean we abandon these strategies. However, this initiative must be seen as one part of a broader strategy to increase

representation of all populations on police forces, change the cultural assumptions held by police, and affect change in the political and organizational conditions of police work.

Criminal Harassment

What are the implications of this study on our understanding of criminal harassment? For the most part, the existing literature has made criminal harassment into a mental health and legal issue. However, as I have outlined, the legal literature has not addressed the way in which officers, who are regulated by pro-arrest policy, put criminal harassment law into practice. The data in this study clearly highlight that these officers see criminal harassment of women by intimate partners as distinct from all other forms of violence against women, which I have argued is, in many cases, a false distinction.

One of the most revealing findings was that many officers in this study granted a different status to women victims who are separated from their abusive partners. As Mahoney (1994) states "The cultural preoccupation with exit from violence relationships is reinscribed in law through the preoccupations and expectations of legal actors" (65). With regard to victims' "empowerment," there was an inconsistency and circularity in these officers' explanations. There seemed to be some unspecifiable point at which women gained an "empowered" status in the minds of these officers. One possible conclusion is that certain officers in this study labelled women victims as "powerless" and "deserving" until they proved themselves otherwise. Whereas for other officers, such as those who created the generalizations described in Chapter 3, women victims of all forms of violence are irreversibly dis-empowered individuals. With regard to the former argument, the implications of this perspective seems to be that women who have made

the decision to separate from their abusers should not be affected by the measure prescribed by VAWIR policy, which is clearly a controversial perspective.

A second factor was mentioned as differentiating criminal harassment from violence against women in relationships and that is the issue of physical evidence. A number of officers remarked that, in the first moments of an assault investigation, the visible wounds or destruction of property corroborates the victim's statement that violence has occurred, thus justifying an arrest. Criminal harassment, which has been described as "psychological terrorism" (Coleman 1997; Cornish et al. 1999), often does not provide physical evidence to corroborate a victim's allegations. A study by Coulter and colleagues (1999) surveyed women in a domestic violence shelter and found that, in comparison with reports of physical violence, the police response to those who reported stalking or emotional abuse was far less likely to involve arrest. I would conclude that my analysis shows that despite current knowledge that the period of time after separation can be the most high-risk (Wilson and Daly 1993) and that stalking occurring by an intimate partner has been shown to be potentially very high risk (Meloy 1998), the officers in this study seemed to not take criminal harassment as seriously as physical assault.

Coulter's conclusions are consistent with this Vancouver study, where the victim's statement about her experience was generally believed to be insufficient reasoning for arrest. Many officers stated that they require corroboration in the form of physical evidence or witnesses. These officers made this argument in order to highlight the fact that despite the statement in VAWIR policy that, "The fact that a victim does not provide a written witness statement should not prevent the submission of an RCC" (BC Ministry 13), that a lack of victim participation often makes it challenging to meet the

evidential requirements of the Criminal Code. The implications of drawing a distinction between criminal harassment and violence against women in general can be seen as demanding that VAWIR be reconsidered in terms of the appropriateness to criminal harassment. Many officers argued that women victims of criminal harassment do not need their decision-making removed and police require a discretionary period of time in order to gather adequate evidence for arrest.

Implications for VAWIR Policy

It has been shown that many officers in this study saw policing criminal harassment as different than policing other forms of violence against women. Academic research, from the fields of psychology and criminology, has also made this argument. The criminal legislation also reinforces this distinction, by identifying criminal harassment through its own legislation. However, VAWIR policy does not make this distinction: criminal harassment and all other forms of violence against women are subsumed under the same set of directives. As a result of the findings presented in this thesis, and with the statistical knowledge that criminal harassment cases are subject to disproportionately low arrest and prosecution rates, it becomes clear that the intersection of this law and policy is a critical area of investigation.

As stated in the early stages of this paper, I do not wish to take a firm position on whether VAWIR policy should remain in place. There are strong arguments on either side of this debate. My support for the policy stems from the fact that police discretion is highly problematic and the impact of sexist, racist, and classist assumptions needs to be limited in some way. I also agree that in certain cases, women do not want to be burdened

with the decision of whether or not to arrest. On the other hand, the fact that women from many marginalized populations have expressed a strong disagreement with the policy presents a powerful challenge to its existence. Furthermore, in this study and in previous quantitative studies (Pacey 1999) the policy does not seem to be limiting police discretion in criminal harassment cases. Even with the policy in place, certain officers hold the perspective that criminal harassment, and perhaps other forms of violence against women, should be excluded from VAWIR policy.

This study is unable to answer the larger question: should pro-arrest policies direct the policing of criminal harassment, and violence against women in relationships in general? If the answer to this question were “yes” and we work from the premise that police discretion must be limited, then strengthening VAWIR could be an appropriate strategy. Brogden and Shearing (1993) identify this strategy as a “rule tightening” approach to changing police practice. From this perspective, the negative impact that police culture has can be limited and regulated through stiffening policy standards and increasing accountability within the police department. Chan (1997) argues that this approach, without a more comprehensive strategy, is flawed because, as we have seen in this study, control exercised from the top is often ignored or subverted. In this analysis, I have argued that a subversion of the rules can be seen among these participants, resulting in cases often being managed by the values and norms of police culture as it manifests itself through police discretion. Therefore, a shift in police culture and in general attitudes towards violence against women is required in order to provide significant change.

As outlined in the initial stages of this thesis, at the core of this debate is the question of whether the legal system can ever effectively address feminist and anti-racist

social justice concerns. The existing criminal justice response to ending violence against women has clearly been identified as an important and yet highly problematic approach. In an attempt to understand the strengths and weaknesses of this approach, this study focused on the perspectives of police officers, as key members of the system. However, this study can be seen as only one part of a larger inquiry into the issues raised in this chapter. A more comprehensive examination of the issue of policing criminal harassment would demand an institutional ethnography that examined the entire system. Furthermore, I believe that an equal or even greater importance should be placed on the perspectives of women victims of violence and harassment. I would argue that victims' safety and empowerment should be the central objectives of any policy that specifically addresses violence against women in relationships. Objectives such as these demand an understanding of the diverse needs and experiences of women. An acknowledgement of their perspectives is the only way to effectively assess whether feminist objectives are being reached.

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Appendix I
Violence Against Women in Relationships Policy –
Introduction and Police Chapter

POLICY
ON THE CRIMINAL JUSTICE SYSTEM
RESPONSE TO

**VIOLENCE
AGAINST WOMEN
AND CHILDREN**

**Part 1
VIOLENCE AGAINST WOMEN
IN RELATIONSHIPS POLICY**

Updated: January 2000



Ministry of Attorney General

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Introduction

Updated January 2000

The Ministry of Attorney General recognizes the need to address the response of the justice system to a problem of escalating concern - violence against women and children.

In an effort to ensure a coordinated and effective response to this type of violence, a policy with three components is being developed. They are:

- Part 1 Violence Against Women in Relationships
- Part 2 Sexual Assault
- Part 3 Violence Against Children and Youth

Part 1 of the policy, Violence Against Women in Relationships, was developed in 1993 following a two-year consultative process to revise and expand the original 1986 Ministry of Attorney General Wife Assault policy. In 1996, the Violence Against Women In Relationships policy was updated again to reflect applicable changes to the *Criminal Code* and provincial legislation.

Since the 1996 update of the Violence Against Women in Relationships policy, a number of amendments have been made to the *Criminal Code* which impact on the policy:

- s.497, s.498, s.499 and s.503(2), *Criminal Code* – Release of Accused;
- s.515(4), (4.1) and (4.2), s.515(10) and (12), s.518(1), s.522(2.1) and (3), *Criminal Code* – Enhancement of protections for the victim on accused's release.

Representatives from the municipal chiefs of police, RCMP, Vancouver police department, Crown counsel, Corrections Branch and Victim Services Division have considered the intent of these legislative changes and prepared this Violence Against Women in Relationships policy update. The 2000 update substantially changes Police, section C, Response and Arrest and Crown, section C, Bail Hearing.

Violence Against Women in Relationships Policy

Introduction

The Violence Against Women in Relationships component of the policy on the Criminal Justice Response to Violence Against Women deals with a subject that poses ongoing challenges to officials in the justice system, to governments across Canada and to the general public — the abuse of women by their husbands or men with whom they have or have had relationships.

The policy directs the justice system to emphasize the criminality of violence within relationships and to take the necessary measures to ensure the protection of women and children who may be at risk.

This policy relates to the continuum of violence that occurs in relationships. It applies to a range of criminal activities from harassing telephone calls or mischief to aggravated assault. No matter which form it takes, the dynamics of abuse are the same.

In Canada during 1990, an average of two women every week were killed by their partners. Researchers and professionals working with assaulted women estimate that each year one in eight women, living in a relationship with a man, will be assaulted. In addition, research indicates that as many as 35 violent episodes may have occurred before a woman seeks police intervention.

In the past, the justice system response has been to consider “spouse assault” primarily a domestic or social problem, which is best handled outside the criminal justice system. In practice, that has meant criminal justice personnel often directed a couple towards counselling or conciliation services rather than dealing with the criminal nature of the assault. That approach has been ineffective in reducing the incidence of violence against women in relationships and has been inadequate in terms of protecting women.

As a result of a lack of understanding of the dynamics of wife abuse, the criminal justice system response has often created secondary victimization of women victims. In many cases which are reported to the criminal justice system women are blamed for the violence they experience — by the police because the woman may seem hysterical, violent or intoxicated; by Crown counsel because the woman may desire the husband back in the family home or may have failed to leave the situation; or by the court because the woman may refuse to testify.

The Ministry of Attorney General has expanded and improved upon guidelines for police, Crown counsel, corrections officials, justices of the peace and trial coordinators. The policy reinforces the Ministry of Attorney General's commitment to a multi-agency, coordinated effort, including cooperation with community agencies, in responding to a complex problem. The approach promoted within the policy emphasizes the need for arrest and rigorous prosecution of offences of violence against women in relationships, and attempts to balance the demands of the criminal justice system with the best interests of the victim.

Dynamics of Violence Against Women in Relationships

Violence is used by batterers to establish control over their partners. They use abusive tactics to control partners' actions. These tactics are often successful because of the fear and isolation a victim feels.

It may be difficult or impossible for a woman to leave the relationship because of love, cultural/religious values, socio-economic condition, fear or the denial of the violence in the relationship. Violence often escalates and may continue or worsen if the woman leaves the relationship. In addition, unique to the situation of violence in relationships, the accuser and accused usually reside within the same home, enabling the accused to further control or abuse the victim.

When abuse occurs, there is usually a power imbalance between the partners in the relationship. That power imbalance is perpetuated by societal and individual messages undermining the potential for women to gain control of their situations, and for men to be held accountable for their actions within a relationship. For example, a woman may receive constant indications from the abuser, and even family members, that it is inappropriate or futile for her to seek assistance from outside agencies with a "family problem". When police comply with the victim's wishes and do not recommend charges, or when Crown counsel refuse to approve charges because the victim is a reluctant witness, the abuser is reinforced in his belief that his behaviour is acceptable and more importantly, the false message that is repeatedly conveyed to the victim, that no help is available, is fortified by the inaction.

Accordingly, it is important that criminal justice system personnel recognize the power imbalance and the dynamics which operate to prevent a woman from taking steps to end abuse. A rigorous approach to arrest, charge and prosecution, as promoted by this policy, is necessary to help eliminate violence within relationships.

If a woman does become involved in the criminal justice system, her powerlessness must not be aggravated by failure to provide her with a full and sensitive explanation of the process. The importance of keeping her informed and supported throughout the case should not be underestimated.

Definition

For the purposes of this policy, violence against women in relationships is defined as physical or sexual assault, or the threat of physical or sexual assault of women by men with whom they have, or have had ongoing or intimate relationships, whether or not they are legally married or living together at the time of the assault or threat. Other behaviour, such as intimidation, mental or emotional abuse, sexual abuse, neglect, deprivation and financial exploitation, must be recognized as part of the continuum of violence against young and elderly women alike.¹

¹ The term "violence against women in relationships" encompasses common-law and dating relationships, and has been chosen after much debate and concern expressed over the use of gender neutral terms which fail to identify that the overwhelming majority of victims of violence within relationships are female. The term "spouse assault" is used in the British Columbia Crown Counsel Policy Manual and in most police policies. It is recognized that throughout Canada various terms are used, such as woman abuse, wife assault, family violence, conjugal violence, domestic violence and relationship violence.

In addition to addressing violence against women in heterosexual relationships, the policy is intended to prompt action to eliminate violence against males in homosexual relationships, against vulnerable males in heterosexual relationships, and against women in lesbian relationships. Therefore, this policy also applies where the victim of relationship violence is male or both partners are of the same sex and where the same dynamic described above exists.

Police

A. Introduction

Violence within relationships has distinctive dynamics not found in other violent crimes. The use of violence within a relationship is not easily prevented. Increased public awareness, however, coupled with a rigorous arrest and charge policy have been shown to reduce violence committed against women by their partners.

For the safety and security of victims, the arrest and prosecution of offenders is of paramount importance.

B. Enforcement

1. All "spouse assault" calls and calls relating to violence within a relationship, as defined in this policy, must be given priority, as the victim may be at risk.
2. The attending officer will conduct a complete investigation and ensure that the victim is provided with the attending officer's name or number, the case number and a contact phone number.
3. No-contact conditions of bail/probation orders, s.810 recognizances and civil restraining orders (e.g., *Family Relations Act* orders) provide the victim some measure of protection, so it is important that police respond promptly to reported breaches of court orders. Police action should include a recommendation that charges be laid for breaches of these orders when evidence is available.
- 3a. Prior to enforcing the provisions of a court order, police must ensure that it is valid and has not been amended or superseded. Police should use CPIC and the Protection Order Registry to confirm the validity and enforceability of court orders.
- 3b. On occasion, there may be a conflict between civil and criminal orders (e.g., Family Relations Act order allowing access to children and a bail order containing a no-contact condition). In such cases, the most restrictive terms must be obeyed (e.g., the no-contact order overrides the access order).

C. Response and Arrest

4. Police officers, when there are grounds to believe an offence has occurred, should always arrest when it is in the public interest as set out in s.495 of the *Criminal Code*, including when it is necessary to secure the accused's attendance in court, or prevent the repetition of the offence or the commission of other offences (including interference with the administration of justice and intimidation of witnesses).

5. Once arrested, an accused may be

- i) released on an appearance notice or a summons;
- ii) released by a police officer on conditions;
- iii) held for a bail hearing before a Justice of the Peace or Provincial Court Judge and released on conditions; or
- iv) detained.

In cases of violence against women in relationships, there are usually concerns regarding the safety and testimonial integrity of the woman, her children and sometimes her extended family. As such, there are grounds to justify conditions of release in almost every case.

i) Appearance Notice or Summons

In cases of violence against women in relationships, it is not usually in the public interest for police to release an accused on an appearance notice or a summons, as no bail conditions can be attached to his release.

ii) Police Release

When an arrest is made, the release provisions of sections 497, 498, 499 and 503 of the *Criminal Code* apply. The sections have been amended in June 1997 and December 1999 to empower the police to release an accused on conditions similar to those of a justice of the peace or a judge, without the necessity of taking an accused before one of them. However, these sections provide that police should not release an accused if they believe, on reasonable grounds, that it is necessary in the public interest to detain him in custody or to deal with his release through a bail hearing having considered the need to establish identity, to secure or preserve evidence, to prevent the continuation or repetition of the offence or to ensure the safety and security of any victim of or witness to the offence.

Release is accomplished by having the accused enter into an undertaking in Form 11.1 (Undertaking Given to a Peace Officer or an Officer in Charge) which contains, in preprinted form, all available conditions.

Cautionary Note

- Police officer release is not available if the offence is punishable by five or more years in jail.
- The wording of some of the conditions in Form 11.1 may not provide adequate protection to victims. According to case law, the "no-contact" order used by courts gives greater protection to victims than the "non-communication" condition in Form 11.1.
- Police have no power to impose a weapons prohibition (as distinct from a firearms prohibition). When a weapon (such as a knife) is used or threatened, serious consideration should be given to seeking a weapons prohibition through a bail hearing. A court can impose a prohibition order for firearms, but additionally can order a prohibition for cross-bows, prohibited and restricted weapons, prohibited devices or ammunition and explosives. Police can seek such an order either under section 111 of the *Criminal Code* or through a bail hearing.

Police-imposed Conditions of Release in Form 11.1

Some protection is provided to the victim and her testimonial integrity by imposing a non-communication order, an area restriction, bail supervision, a firearms prohibition, a drug or alcohol prohibition or any other condition that the officer considers necessary to ensure the safety and security of any victim of or witness to the offence. Therefore, in every case where the police officer is satisfied the grounds exist, the following conditions should be considered:

- a) the accused abstain from communicating, directly or indirectly, with any victim, witness or other person identified in the undertaking:
 - all such persons to be identified (using names whenever possible, or if the names are unknown, using an identifying description, e.g., "the family of Jane Doe including her mother, father, brother and sister");
 - consideration should be given to including the names of the victim's children and other family members, or any other person who may be subject to intimidation or undue pressure.
- b) the accused not attend the family residence, the victim's place of work or any other place where the accused knows people named in the non-communication order could be found;
 - all places to be specified either by an area restriction, e.g., "2 block radius of the 100 block of Any Street" or a specific address e.g., "123 Any Street";
 - use caution not to provide the accused with unknown information on the whereabouts of a victim or witness.
- c) the accused report to a bail supervisor at a designated location at specified times and as directed thereafter by the bail supervisor; and
- d) the accused abstain from possessing any firearms, surrender any firearms in his possession and surrender any authorizations, licences, registration certificates to acquire or possess firearms
 - if considering a firearms prohibition, police should review paragraph 7 of this policy first.

Police have the power to order the accused to abstain from the consumption of drugs or alcohol. Finally, police may have the accused comply with any other condition considered necessary to ensure the safety and security of any victim of or witness to the offence.

On completing Form 11.1, police should forward it immediately to the Protection Order Registry and submit it for entry to CPIC.

When an accused is released by police, the police officer should forward the Report to Crown counsel (RCC) to their office as soon as possible so that Crown counsel are able to address any attempt by the accused to change the bail conditions in court at or prior to the first appearance.

iii) Bail Hearing Before a Justice

The justice's ability to order an accused to have "no contact" with a victim provides more complete protection from advances by the accused than the "non-communication" condition available in Form 11.1.

A justice must consider prohibiting possession not just of firearms, but also of cross-bows, prohibited and restricted weapons, prohibited devices or ammunition and explosives, or all such things. A justice may consider a weapons prohibition for weapons such as knives.

(iv) Requesting Court Ordered Detention

In some cases, police may be concerned the accused will not obey conditions of release if they are imposed. The following are recognized risk factors for further violence, **especially in combination**:

- a history of violence within or outside the relationship
- a history of breach of court orders
- death threats
- recent threats of suicide
- escalating violence
- substance abuse
- recent relationship changes (separation and divorce)
- recent employment problems, and
- the use or threatened use of weapons

In such cases, police should usually hold an accused for court and recommend Crown counsel seek a detention order. S.518(1)(d.2) of the *Criminal Code* requires a judge to consider any evidence submitted regarding the need to ensure the safety and security of a victim or witness.

6. When the suspect has departed the scene prior to the arrival of police, the officer must assess the likelihood that the suspect may return and must act in order to protect the victim. That should be accomplished by trying to locate the suspect for the purpose of arrest or by completing a Report to Crown counsel and making an immediate request to Crown counsel for an arrest warrant.
7. The breakdown of a relationship can often result in extreme violence. The investigator should inquire of the victim whether the suspect has access to firearms. This information enables the police to:
 - i) take the necessary steps to remove firearms from the home;
 - ii) initiate action to revoke any firearms-related certificate, licence, permit or authorization, and to apply for a hearing to get a prohibition order;

- iii) consider releasing the accused on a recognizance with a firearms prohibition and certificate surrendering condition or provide information for the bail hearing; and
 - iv) log the incident into their departmental record keeping, so that the police can establish the history, frequency and pattern of violence over time.
8. If a suspect is released from police custody, police should make every effort to notify the victim of the suspect's release and of any conditions attached to his release in order to avoid situations where the victim is surprised by the suspect's return to the residence, especially at night. The arresting officer should always advise the releasing officer of the telephone number and address where the victim is located, in cases where the victim has consented to provide that information.

D. Investigation/Charge

9. A proactive charge policy is based on the assumption that police will conduct a complete investigation in every case, including those cases that do not immediately appear likely to proceed to prosecution. The officer will pursue the investigation with a view to obtaining sufficient evidence to proceed even without the cooperation of the victim. The evidence could include an admission by the offender, photographs of injuries, medical evidence, physical evidence, and a written statement by the victim and any independent witnesses.
10. Where there is evidence indicating an offence took place, the officer will submit an RCC recommending a charge even if no injury occurred and regardless of the desires of the victim or apparent willingness of the victim to testify in a criminal prosecution. Victims should not be asked if they want charges to be laid. An officer may record, on the witness sheet, his or her impression as to whether the victim will be a reluctant or hostile witness.
11. Suspects and victims should be advised that the justice system has adopted a proactive position in the prosecution of cases involving violence within relationships and that it is the responsibility of police and Crown counsel, not the victim, to lay and pursue criminal charges.
12. The consumption of alcohol or use of drugs by the suspect or victim should not prevent charges being recommended, unless the victim has no recollection of events and there is no other evidence on which to base a charge.
13. The fact that a victim does not provide a written witness statement should not prevent the submission of an RCC. The victim should be encouraged to provide a written statement at a later date and the officer must follow up, which may be more effective after a referral to victim services or other support services.
14. The history of violence, the accused's record and up-to-date information on the status of the accused must be included in the RCC, as well as any comments on the present fear of the victim for her safety and security. RCCs proposing charges, such as threatening, criminal harassment (stalking), mischief or harassing telephone calls, should also include information on the history of violence, the victim's fears, and whether a no-contact order is sought. These types of offences may be part of a continual pattern of violence perpetrated against the victim.

Appendix II
Ethics Review Forms

9. Principal Investigator / Faculty Advisor <hr/> Signature Date: _____	10. Co-Investigator / Student <hr/> Signature Date: _____	11. Department Head / Dean <hr/> Signature Name: _____ Date: _____
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12. Summary of Methodology and Procedures. Note: If your study involves deception, you must also complete page 7, the 'Deception Form'.

This is a qualitative research project which will involve a series of interviews with police officers from the Vancouver Police Department and the Royal Canadian Mounted Police. The interviews will be in-depth and semi-structured, and will be 1-2 hours in duration. The interviews will be face to face, unless the officer is from outside the lower mainland, in which case the interview will take place by telephone and written notes will be made. The interviews will involve a series of open-ended questions, beginning with several vignettes demonstrating same scenarios to further illustrate the topic area of interest. This will then move into exploratory questions, probing issues around methods of intervention, and the reasons for their responses given these scenarios. The only demographic information that will be gathered about the participant will be a general description of their role in the police force and their years of experience. The interviews will be tape recorded and then transcribed into text. All information will be coded and the coding form, which links the participants to the codes, will be kept in a locked filing cabinet and destroyed once the study is complete.

A introductory letter will be mailed out to one third of the police officers of the Vancouver Police Department, inviting their participation in the study. In addition to this, the researcher will attend RCMP training seminars, where she will introduce the research project to the attendees and distribute the introductory letter. These two settings will be the means of initial contact. The researcher will not have one on one contact with any individuals until they have chosen to contact her, via mail, phone or e-mail.

Once contact has been made, further details of the interview process will be stated, and the conditions for informed consent will be discussed. Given that these conditions are initially accepted, a meeting time and place will be set and then written informed consent will be established. The interview will take place at that time, will be tape recorded and written notes taken by the researcher, which will be transcribed into written text. The transcribed version will be made available to the participant.

Description of Population

13. How many subjects will be used? 25 How many in the control group? n/a

14. Who is being recruited, and what are the criteria for their selection?

All of the participants will be police officers from the Vancouver Police Department or the Royal Canadian Mounted Police. The criteria for their selection will be that they have been in contact with criminal harassment cases between 1996 and 2000 and that their role is as primary response officers or as detectives. They must be willing to give informed consent and have time to participate.

15. What subjects will be excluded from participation?

The subjects will be excluded if they do not meet the above criteria or can not give informed consent.

16. How are the subjects being recruited? If the initial contact is by letter or if a recruitment notice is to be posted, attach a copy. Note that UBC policy discourages initial contact by telephone. However, surveys which use random digit dialing may be allowed. If your study involves such contact, you must also complete page 8, the 'Telephone Contact' form.

A letter will be mailed out to one third of the police officers of the Vancouver Police Department, inviting their participation in the study. The first page of the letter will be drafted by the Sergeant in charge of the Domestic Violence and Criminal Harassment Unit, who has approved this study. The second page will be drafted by the researcher, noting all of the necessary details about the research objectives, the interview process, contact information, etc. In addition to this, I will be attending RCMP training seminars where I will distribute a letter inviting participants to contact me if they are interested in participating.

17. If a control group is involved, and their selection and/or recruitment differs from the above, provide details:

Not applicable.

Project Details

18. Where will the project be conducted (room or area)? **VPD "interview room" or UBC office**

19. Who will actually conduct the study and what are their qualifications?

Katrina Pacey is an MA student in the Individual Interdisciplinary Studies Graduate Program at UBC. She is rooted in the Centre for Research in Women's Studies and Gender Relations. She has been involved in qualitative and quantitative research on the topic of violence against women and policing for several years prior to returning to university for graduate work. Her coursework has included methodology courses in preparation for this study, and has conducted "trial interviews" in preparation.

20. Will the group of subjects have any problems giving informed consent on their own behalf? Consider physical or mental condition, age, language, and other barriers.

I can not foresee any particular challenges for this group to give fully informed consent.

21. If the subjects are not competent to give fully informed consent, who will consent on their behalf? **n/a**

22. What is known about the risks and benefits of the proposed research? Do you have additional opinions on this issue?

The only potential risk is that the data may reflect negatively on internal policy or management. Thus confidentiality is absolutely critical. Given the extent to which the interview data will be protected, this will not be a significant problem. Further to this, the participants will be able to request that the interview take place outside of the police department or by telephone, in order to protect their identities. This will be welcomed by the researcher, and alternative interview spaces made possible.

The officers may welcome an opportunity to express support or frustrations with specific policies and procedures or administrative issues. This will provide them with an opportunity to express these concerns.

23. What discomfort or incapacity are the subjects likely to endure as a result of the experimental procedures?

I have been informed that it is likely that the officers will be able to partake in this research while on-duty. If this is not possible, it may be challenging for them to take time away from their personal lives to participate. This will be obviously left to their discretion to decide.

24. If monetary compensation is to be offered to the subjects, provide details of amounts and payment schedules.

Not applicable.

25. How much time will a subject have to dedicate to the project? **1-2 hours**

26. How much time will a member of the control group, if any, have to dedicate to the project? **n/a**

Data

27. Who will have access to the data?

The Principal Investigator, Dawn Currie and the Reseacher, Katrina Pacey. The subjects will be able to have a copy of their interview transcript if requested.

28. How will the confidentiality of the data be maintained?

The identities of the participants will be coded and the code sheet will be kept in a locked cabinet and destroyed after the research is complete. The tapes will be heard exclusively by the researchers mentioned above and will be transcribed into text as soon as possible, at which point the cassetted will also be secured in a locked cabinet on UBC campus. All of the raw data will be securely stored for five years, at which time it will be physically destroyed.

29. What are the plans for the future use of the raw data beyond that described in this protocol? How and when will the data be destroyed?

There are no plans for this data beyond this study. The original data will be stored for five years at which time the tapes will be physically destroyed and the transcripts will be shredded.

30. Will any data which identifies individuals be available to persons or agencies outside the University?

No.

31. Are there any plans for feedback to the subject?

The participants will be offered a copy of the final draft of the report as well as a copy of their interview transcript.

32. Will your project use:

- ☐ Questionnaires (Submit a copy);
- ☒ Interviews (Submit a sample of questions);
- ☐ Observations (Submit a brief description);
- ☐ Tests (Submit a brief description).

33. Funding Information

Agency / Source of Funds: **none**

☐ Internal ☐ External

Funds Administered by: ☐ UBC ☐ VHHSC ☐ SPH ☐ BCWH ☐ BCCH ☐ BCCA

UBC or Hospital Account Number:

Status: ☐ Awarded ☐ Pending

Peer Review: ☐ Yes ☐ No

Start Date (YY-MM-DD): _____ Finish Date (YY-MM-DD): _____

Informed Consent

34. Who will consent?

☒ Subject.

☐ Parent or Guardian. (Written parental consent is always required for research in the schools and an opportunity must be presented either verbally or in writing to the students to refuse to participate or withdraw. A copy of what is written or said to the students should be provided for review by the Committee.)

☐ Agency Officials.

35. In the case of projects carried out at other institutions, the Committee requires written proof that agency consent has been received. Please specify below:

☐ Research Carried Out at a Hospital - Approval of hospital research or ethics committee.

☐ Research Carried Out at a School - Approval of school board and/or principal. Exact requirements depend on individual school boards. Check with Faculty of Education committee members for details.

☐ Research Carried Out in a Provincial Health Agency - Approval of Deputy Minister.

☒ Other - Specify: **Vancouver Police Department**

Questionnaires (Completed by Subjects)

36. Questionnaires should contain an introductory paragraph or covering letter which includes the following information. Please check each item in the following list before submission of this form to insure that the instruction contains all necessary items.

☐ UBC Letterhead.

☐ Title of Project.

☐ Identification of the Investigators, including a phone number.

☐ A Brief Summary that indicates the purpose of the project.

☐ The Benefits to be derived.

☐ A Full Description of the Procedures to be carried out in which the subjects are involved.

☐ A Statement of the Subject's Right to Refuse to Participate or Withdraw at any time without jeopardizing further treatment, medical care or class standing, as applicable. Note: This statement must also appear on explanatory letters involving questionnaires.

☐ The Amount of Time required of the subject.

☐ The Statement that if the questionnaire is completed it will be assumed that consent has been given. This is sufficient if the research is limited to questionnaires; any other procedures or interviews require a consent form signed by the subject.

☐ An Explanation of how to return the questionnaire.

☐ Assurance that the Identity of the subject will be kept confidential and a description of how this will be accomplished; e.g. "Don't put your name on the questionnaire".

☐ For Surveys circulated by mail, a copy of the explanatory letter as well as a copy of the questionnaire

VANCOUVER

POLICE DEPARTMENT

Terry E. Blythe
Chief Constable

May 6, 2000

To UBC Ethics Review Committee,

Re: Research Proposal of Ms. Katrina Pacey

The purpose of this letter is to acknowledge that the Vancouver Police Department's Planning, Research & Audit Section and Domestic Violence and Criminal Harassment Unit, are in support of the research that is being proposed by Katrina Pacey for the purpose of her Master of Arts thesis. We have agreed to assist Katrina by facilitating her access to research participants through the distribution of information letters to one third of our uniformed Patrol officers. We understand that through interviews with a sample of approximately 10-15 police officers, her study will collect information on effective interventions in criminal harassment cases, particularly those involving women who are stalked by their current or former intimate partners.

We understand that staff participation in this research will involve a 1-hour in-person on-duty interview, which will be tape-recorded, and that absolute confidentiality of participants' identities will be assured throughout the research process and in all resulting reports. Any information connecting the identity of the research participants to the data will be accessible to the principal investigator only, and will be destroyed upon completion of the study.

It should be noted that it is somewhat unusual that we would cooperate in these circumstances, due to the significant operational impact of conducting numerous on-duty interviews. Therefore, our assistance should not be seen as setting a precedent for future requests. However, we recognize there is a potential benefit to policing that could flow from this research. More importantly, Ms. Pacey has previously conducted paid research for the Domestic Violence & Criminal Harassment Unit in the area of

Appendix III
Interview Questions

INTRODUCTION

First off, I want to thank you for taking the time to assist in this research. You received the letter that briefly summarized the intentions of this project. So before we start, I want to ask you if you have any questions, comments or concerns you would like to express?

We have both signed the research/confidentiality agreement and you are comfortable with its content?

You are aware that you can stop the interview at any point, correct statements that you feel uncomfortable with, refuse to answer any of my questions, or turn off the recording device if you would like your statements to be "off the record"?

ICE BREAKERS

I would like to ask you a little bit about your history as a police officer.

- I1. How long have you been in the police force?
- I2. At what age did you join the force?
- I3. Can you describe your current position within the VPD/RCMP?
- I4. Has there been any changes in your position and if so, can you describe how your position has changed within the VPD/RCMP has changed over the span of your policing career?
- I5. Can you tell me a little about your early interest in a policing career and how this came about as a career choice?
- I6. Can you expand a little on?
Explore any mention of: goal/objectives/personal ambitions, attitudes towards crime, personal experience (criminal/familial/social observations), power or control issues etc.
- I7. Do you foresee this as a lifelong career?

I would like to begin to discuss the subject of policing practice as it relates to criminal harassment. To set the stage for this discussion, I would like to begin with a vignette. I constructed this vignette with several actual cases in mind that passed through the VPD. It will be followed by a series of questions. I have printed a copy for you so you can follow along and see the case facts that I have detailed.

Vignette A

In the first scenario, you are attending a criminal harassment call at a victim's residence at 6:45 p.m. The victim has contacted the police because she was frightened by the fact that she saw the suspect outside her workplace that morning, and then one-hour later at the location where she regularly eats lunch. He did not approach her, but at each location he stared at her for several minutes.

You inquire about the victim/suspect relationship. The background information given by the victim is that they were in a common-law relationship for 2 ½ years. The victim ended the relationship after this time, mostly due to his drinking and drug use. It has been a total of 4 months since the breakup. Ever since their separation, the suspect has been continuously phoning the victim at home and at her work. Initially, after their separation, the suspect demanded to see the victim, and she agreed on several occasions. But after a month or so of these meetings, the victim states she terminated all contact as she saw that there was no potential for a relationship of any kind. Since that time, the suspect has phoned the victim between 4-6 times per day at work and sometimes up to 10 calls to her home. She says that he is currently unemployed and she states that he is "bored and lonely".

The victim recalls one memorable incident, where the suspect showed up at the victim's apartment door crying and begging for her to let him in and reconcile with him. When she refused, he got progressively more upset to the point where he was crying, yelling and banging on the door and windows. He eventually left when the neighbours intervened. She does not know how he was able to get into the apartment building.

Since this time, she says he has been getting increasingly angry and has said that they are "meant to be together" and that she is "nothing without him". He has accused her of being with another man, which makes her feel nervous about dating.

The victim states that there was no previous violence, except that he "has quite a temper" and has, in the past, "broken things around the house to let off steam". She states it was "no big deal".

When asked if he has threatened her, she states that he has not, but that she is afraid of losing her telemarketing job and/or getting evicted. She does not want him arrested, as she states that he has enough problems already, she just wants the harassment to stop.

Vignette A – Related Questions

- A1. Do you need clarification or more information about any of the details of this case?
- A2. I would like to begin by asking you to comment generally on the vignette in relation to your experience handling stalking cases. Would you consider this case to be a realistic scenario?
- A3. As the responding officer, how would you begin to handle this case?

Investigation YES:

- A4. What further information would you get from the victim?
- A5. Based on this information, would you say that any criminal actions have taken place?

Crime NO:

- A6. What distinguishes this case as non-criminal?
- A7. Do you propose any alternative interventions?

Crime YES:

- A8. What are the criminal elements of the suspect's behaviour?
- A9. What do you see as the best way to proceed with this case?

Recommend Charges YES:

- A10. Can you identify what the key elements are in this case what to support prosecution?
- A11. Can you identify any elements of this case that could present potential problems for prosecution?
- A12. Given the scenario, do you know off the top of your head any of the specific policies that are relevant to the case?
- A13. In this case, what is the appropriate course of action as directed by these policies?
- A14. Do you see any differences in your personal perspective on the best form of intervention, and that of the policy?
- A15. At what point would your role in this investigation be concluded?
- A16. Are there any particular characteristics of this case that you would like to comment on?

I would like to finish off with some general questions about your impression of some of the law and policies that came up in our discussion today. I am interested in your opinions and your knowledge on several topic areas.

Criminal Harassment

- CH1. Do you remember when criminal harassment was brought into the criminal code?
- CH2. Can you describe how this legislation may have been helpful to you in the past in handling certain types of cases?
- CH3. Are there any problems with the contents of this law?
- CH4. Can you comment on any particular complexities in handling criminal harassment cases?
- CH5. Can you expand a little on....?

VAWIR

- V1. Can you tell me a little about the VAWIR policy?
- V2. Can you comment on your impression of the policy in terms of the victims' perspective?
- V3. Can you comment on your impression of the policy in terms of the suspects' perspective?
- V4. Can you comment on your impression of the policy in terms of policing practice?
- V5. Based on these three perspectives, do you have any comments as to the successes and failures of the policy?
- V6. Do you have any comments on how this policy affects your handling of criminal harassment cases?
- V7. Can you comment on the overall attitudes towards this policy that you see within the police force?

Question G8: How do you assess the degree of risk or level of threat?

Question G9: What constitutes adequate evidence? What factors affect witness credibility?

Question G11: Do you have any comments you would like to make before closing?

Appendix IV
Recruitment Letters to Vancouver Police Constables and Sergeants

Appendix V
Consent Form