

**THE POLITICS OF PROTECTION:
BATTERED WOMEN, PROTECTIVE COURT ORDERS,
AND THE POLICE IN DELTA**

by

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The Politics of Protection: Battered Women, Protective Court Orders,
and the Police in Delta

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ABSTRACT

Employing a feminist approach, this thesis investigates official attitudes toward civil restraining orders (s.36.1, Family Relations Act, R.S.B.C. 1982) and Criminal Code (s.810) peace bonds among police officers and justice officials in the Municipality of Delta, B.C.. Chapter One introduces the reader to the myriad approaches used by academics in addressing the phenomenon of violence against women in the home. It is argued that psychological and 'family violence' approaches are deficient but that sociological feminism provides an orientation that is appreciative of the structural and ideological inequities that collude to obstruct women from leaving violent relationships. Chapter Two sets out the context in which the research was conducted and the methods enlisted to obtain the data. In Chapter Three, the socio-legal setting is examined. It is noted that structural and operational factors conspire to inhibit women's access to protection in Delta. Chapter Four constitutes the 'findings and interpretations' section of the thesis.

Interviews with police officers and other justice professionals (N=26) and a questionnaire administered to the Delta police (N=45) reveal that while over 60% of Delta police officers believe protective orders are effective, they report arresting in only 21% of the cases where there is a breach of a restraining order (N=19), and in 35% of the cases where they are presented with a breached peace bond (N=29) at a 'domestic call.' Despite this, more Delta police officers report recommending women obtain a civil restraining order (62%) than a peace bond (53%). The police disclose that when they do arrest for breaches of protective court orders, there are signs of forced entry, a potentially

violent offender or signs of a struggle. A woman's plea that the police arrest is ranked sixth out of 12 situational variables inciting the police to arrest. In the opinion of the police, a woman who allows the offender onto the premises forfeits her right to protection.

Finally, the occupational culture of the Delta police cultivates conservative values towards women, family, and marriage which lead to the erroneous view of battered women as 'symbolic complainants' who are sometimes manipulative and often unreliable witnesses. The thesis concludes with the entreaty that police take these orders seriously.

For Sue

I am both a fan and a critic of policing in Canada. I have a great respect for the complexity of the role, and the dedication and the restraint shown by many in the police services. I do not for a moment harbour the utopian fantasy of a Canadian society without police. Rather, I espouse the objective of high quality, responsible policing, respectful of human rights in a democratic society, and possibly more aware of and responsive to the inequities which they, the police, have inherited, but which they have also sustained and reinforced (Forcese, 1992:viii).

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Introduction

For the average Canadian, home is considered a safe and nurturing nest -- a haven where the family can escape the dangerous outside world. The reality for too many Canadian women, however, is that home is a hazardous place to be (MacLeod, 1987). In 1990, the majority of women murdered in Canada died as a result of male violence in 'domestic settings' (Ontario Women's Directorate, 1990; Prairie Research Associates, 1990), -- at a rate of two femicides per week (Canadian Press, November 20, 1990). It is estimated that only one in 70 'wife assaults' ever come to the attention of the police (Dutton, 1988) and that women are 13 times more likely to be abused by an intimate than by a stranger in the streets (London Family Court Clinic, 1991). This brutality continues despite two decades of protest from feminists, and efforts at legislative reform throughout North America.

From the seventies to the present, jurisdictions throughout the western world enacted laws and set forth policies in an attempt to curtail the violence perpetrated by men against women within the 'sanctity' of marriage and family. Recently, feminists have begun to realize that much less depends upon legislative fine-tuning than on the everyday practices of the individuals women look to for protection (Dobash & Dobash, 1992; Edwards, 1989; Ferraro, 1989; Hanmer, Radford & Stanko, 1989a,b; Hatty, 1989; Pahl, 1985b; Stubbs, 1994). Stanko observes that "it is the street-level officer who is the major dynamic decision maker" (1989:47). Notwithstanding this small and growing body of feminist literature on the police, there remains much to be done.

This thesis adds to the feminist research on the police by focussing on the phenomenon of violence against women in the home, and more specifically, on the

enforcement of protective court orders meant to safeguard women from further harm. This study, therefore, not only augments other feminist field research on the police, but is also the first examination of peace bonds and restraining orders in the context of violence against women in Canada.

There are a number of reasons why protective orders and their enforcement need to be examined in Canada. First, seminal studies in Australia (Stubbs, 1989), England (Edwards, 1989), and the United States (Chaudhuri & Daly, 1992; Fagan, Freidman, Wexler & Lewis, 1982; Finn & Colson, 1990; Grau, Fagan & Wexler, 1984) are in some cases guarded about the 'success' of protective orders (e.g. Chaudhuri & Daly, 1992; Finn & Colson, 1990), and in one case, condemning of their ineffectiveness (Edwards, 1989). Second, one could hypothesize that with an increasing public sensitivity to wife and partner assault in this country, protective court orders might be used more frequently. Finally, anecdotal information in Canada seems to indicate that in many cases these orders are ineffective:

Police seem powerless to stop the stalkers: Manitoba murders show how ineffective restraining orders can be (Andre Ducharme case) (Montreal Gazette, January 30, 1993, A11).

Province to seek speedier peace bond process (after murder of woman by estranged husband) (Halifax Chronicle Herald, May 6, 1992, A1-2).

Victim's family cusses easy bail: Restraining order on husband no help as woman, 19, abducted, slain (Marilyn Jensen case) (Winnipeg Free Press, October 15, 1991, A12).

Women lack protection: Restraining orders prove ineffective (Calgary Herald, March 1, 1990, B2).

Restraining order no guarantee (Calgary Herald, June 14, 1987, A1-2).

Out on peace bond, he killed girlfriend (Toronto Star, February 2, 1986, A1,A8).

The approach of this thesis is different from much of the literature on policing in Canada. First, as mentioned earlier, a feminist perspective informs the analysis. In Chapter One, I reject the notion that battered women are 'helpless,' pathetic people who suffer from a syndrome (Walker, 1979, 1985, 1993). I also repudiate the notion that women are the antagonizers, or are equal combatants in 'domestic' fights (Straus, 1979, 1980b, 1983). Instead, this thesis proceeds from the well-supported premise that women are active agents making rational decisions in a social world that entraps them through the structural and ideological inequities of patriarchy (Bowker, 1993; Dobash & Dobash, 1992).

Acknowledging this, I am secondly interested in identifying the obstacles women must face in first obtaining, and then having the police enforce, a protective order. The methods I employ in this investigation are outlined in Chapter Two. These include both qualitative and quantitative approaches. In Chapter Three, I map the socio-legal context that women must navigate in order to obtain a protection order. Thereafter, interviews with key justice officials and police as well as data gleaned from a questionnaire administered to 45 Delta police officers forms the core of the analysis in Chapter Four.

Enlisting a sociological feminist approach to understanding police actions proves a fruitful enterprise as I link situational decision-making to subcultural mores and then these latter values to broader societal structures and ideologies supportive of patriarchal relations. Patriarchal structures are located in the operation of the family, and ideological, gendered constructions of women that are conservative and unflattering are

analyzed in the context of police perceptions and actions. The construct of 'privacy,' as it applies to violence against women, is also problematized as it serves to relegate women's suffering to the civil courts. While the site of this study is one small Municipality in the southern outskirts of Vancouver, B.C., the issues that are raised herein stretch far beyond the borders of Delta and link with the nascent, but powerful, feminist literature on the policing of violence against women in the home.

Before launching into an analysis of the data gathered in Delta or the method employed to obtain such information, a solid review of the various orientations used to study violence against women in the home is necessary. In the following chapter I provide a summary of the myriad approaches academics enlist to study the phenomenon of wife and partner assault. These orientations shape one's definition of the problem and therefore one's solution or remedy. It is argued that sociological feminism provides a preferred orientation to traditional psychological and 'family violence' approaches.

Chapter One:

**Approaches to the Study of Violence Against
Women in the Home**

Introduction

In the last two decades, the amount of published literature that focuses on violence against women in the home has risen dramatically. Thousands of academic journal articles and hundreds of scholarly books on husband-to-wife violence have appeared in parallel with growing public concern. 'Domestic violence' has become a prominent topic in academia, attracting researchers from various countries and disciplines.

These myriad approaches, when taken together, have resulted in the growth of the body of research that attempts to explain wife and partner assault in the home. Authors have been divided on both research technique (see Cain, 1990; Morgan, 1983 and especially Yllo, 1988) and theoretical orientation (e.g. Kurz, 1992, 1993; vs. Straus, 1993). These divisions reflect various academic 'camps' with different epistemological orientations. Much of the research, however, is eclectic, as some authors borrow from more than one perspective (e.g. Dutton, 1988; Gelles, 1993; Walker, 1979, 1985). Yllo (1993:43), for example, has argued that so long as perspectives include 'patriarchy' in analyses of 'domestic violence,' they can be seen as adequate in addressing the problem. Others have not been so inclusive, arguing that their approaches are superior to others (e.g. Kurz, 1992, 1993; Straus, 1993). So what are these varying approaches? How have they developed and where do they fit in?

The simplest way to understand these perspectives is to categorize them by discipline: psychological or sociological. Unlike sociology or psychology, feminism is not a discipline, but is a sufficiently separate and powerful orientation that it deserves specific attention. Feminism, like other political movements such as liberalism,

socialism, communitarianism and even neo-conservatism, straddles a number of social scientific disciplines from geography to gerontology. Thus, within sociological and psychological approaches to the study of violence against women in the home, there are both pro- and anti-feminist theories currently in use. Similarly, within non-feminist psychological and sociological perspectives there are an assortment of competing theories, many of which begin with significantly different assumptions. In fact, in his review of various sociological theories used to investigate 'family violence,' Gelles (1993) lists seven perspectives.

Differences within disciplines can be greater than those between them. Lenore Walker's (1979) development of the Battered Woman Syndrome (BWS) is at odds with much of the early psychological literature. Her earlier work is at the same time heavily influenced by feminist ideology and practice that identifies sociological/structural analyses such as patriarchy and socioeconomic status as central to understanding the phenomenon of violence against women. Although disciplinary boundaries can be hazy at times, they do provide an adequate frame of reference from which to begin.

Psychological Approaches

Psychological approaches, by definition, individualize problems for the purpose of treatment. Early psychological accounts of wife assault identified the wife's masochism as the cause of the phenomenon (Snell, Rosenwald, & Robey, 1964). When psychological approaches did not blame the victim, they pathologized the offender.

Leroy Shultz (1960) examined four cases of wife assault from a caseload of fourteen wife batterers. Shultz found that each of the men had a domineering mother,

from which he inferred that his clients were passive-submissive individuals. As a result of their training, these men would seek out wives who would provide the same type of dependency as their mothers. When they could not find it, their lament resulted in attacks against the objects of their frustration, i.e., their wives.

This type of psychoanalytic distortion might be expected in an American culture that has been described as the great 'therapeutic society' (Dobash & Dobash, 1992). The Dobashes report that there were only 12,000 clinical psychologists employed in the United States in 1968, but by 1982 their number had swelled to 40,000 so that today, about one-half of the world's clinical psychologists are located there (1992:215). In tandem with growing public concern about wife assault, the number of family therapists in the United States quadrupled from 3,000 to 12,000 between 1975 and 1985 (Dobash & Dobash, 1992:215). In 1979, survivors were subsumed within the categories of 'battered spouse' and 'battered woman,' which were added to the International Classification of Diseases: Clinical Modification Scheme. These labels entrench discourses that focus on the 'personal pathology' of women who are survivors of violence perpetrated by male offenders (Dobash & Dobash, 1992).

Based on such a construction, it is easy for psychiatrists such as Pizzey and Shapiro (1982) to view the 'battered woman' as suffering from emotional and mental illness requiring extensive institutional therapy. Accordingly, they observe that these women are 'violence prone' because of an 'addiction' caused by a traumatic childhood or embryonic experience. Pizzey and Shapiro claim that survivors are sexually excited when beaten so that "the ultimate orgasm is death" (1982:170). They argue that a craving

for this final act explains why survivors have a hard time leaving their husbands. Today, theories that attribute wife assault to the masochism of women survive in the work of Shainess (1984) and Norwood (1988).

Shainess (1984), for example, asserts that victims of violent crime actually trigger or exacerbate the violence committed against them by their husbands or partners. It is her contention that all women are afflicted with a 'sweet suffering' due to their masochism. Women who are subjected to violence by their male partners on a consistent basis, however, are particularly masochistic. As Dobash and Dobash point out, "[t]he entire book [by Shainess] is devoted to reinterpreting the common problems created for women living in a patriarchal society into evidence of masochism" (1992:222).

Similar arguments are made by Robin Norwood (1988) when she argues that women seek out violent men and violent situations because they "are highly attracted to drama." They seek to 'stir their glands' so that they may trigger the release of adrenalin in their bodies, causing them excitement.

Some recent psychological discourse is said to have become more 'sophisticated' in its attempt to understand violence against women in the home (O'Leary, 1993). Perhaps the most well known psychological theory of violence against women in intimate relationships is Lenore Walker's (1979, 1985) Battered Woman Syndrome (BWS). The BWS is widely regarded as the standard model for understanding why women are trapped in violent relationships. The major assumption of the BWS is that women who are battered are conditioned to be 'helpless.' This thesis is borrowed from behavioural psychology or cognitive studies that investigate how animals react to repeated inescapable,

life-threatening situations. According to this thesis, animals eventually learn to relax and passively accept the traumatic event because they learn that resistance is futile. Walker notes that not all women who experience violence are to be considered 'battered women:' "[i]n order to be classified as a battered woman, the couple must go through the battering cycle at least twice" (Walker, 1979:xv).

The battering cycle is said to consist of three stages: (1) the 'tension-building stage'; (2) the 'acute battering incident'; and (3) 'kindness and contrite loving behaviour.' The initial stage is characterized by tremendous tension and anger in the man who commits 'less serious' attacks on his wife, including the use of emotional and psychological threats. The second stage is the 'acute battering incident,' the exact timing of which is unpredictable, and consists of a serious assault against the wife. The final stage is characterized by an extremely apologetic man who buys his wife expensive gifts and begs her forgiveness. As a result of this 'kindness and contrite loving behaviour,' the woman takes her husband or partner back into the home and the cycle is eventually repeated (Walker, 1979, 1985). The BWS is a powerful model that has been accepted into American and Canadian jurisprudence as a mitigator in cases where the survivor murders her violent partner (see Lavalley, [1990] 1 S.C.R. 852, 55 C.C.C. (3d) 97). The BWS, along with its 'learned helplessness' thesis, will be taken up in a discussion of feminist models in the final section. It will suffice here to say that, as in psychological approaches, it is the woman who is singled out as suffering from a 'syndrome' while the man escapes scrutiny altogether.

Similar to the BWS is Dutton's (1988) 'nested ecological theory.' Like Walker (1979), Dutton attempts to reconcile structural forces such as patriarchy, that he calls 'macrosystems,' with factors in the 'microsystem,' such as familial discord. To this he adds factors in the 'exosystem,' such as occupational stress, and 'ontogenesis,' such as learned behaviours. Dutton (1988) attributes a woman's difficulty in leaving a violent partner to 'traumatic bonding,' a concept very similar to Walker's (1979) third phase of loving and contrite behaviour. Much criticism can be levelled at Dutton's work for his use of the Conflict Tactics Scale¹ and his focus on serious assaults causing bodily harm to the exclusion of psychological torment -- a form of violence some have observed as more damaging to survivors than physical attacks (Walker, 1979).

Another major limitation of Dutton's model is that his understanding relies heavily on issues raised in his treatment groups for men who have been convicted of assaulting their wives. From these discussions he extrapolates the finding that violent men are suffering from a need for power and a fear of uncontrollable changes in the intimate relations with their partners. He also notes that these men have feelings of 'abandonment' by their wives and a general lack of 'assertiveness' that makes recourse to violence an 'appropriate' learned response. Dutton (1988) fails to heed his own warnings when he takes the justifications he is presented with by offenders at face value. It is difficult to imagine a man convicted of assaulting his partner as lacking 'assertiveness!'

In his review of the literature on treatment programs for men, Ptacek (1988) finds that the excuses and justifications that violent men provide to 'explain' their acts of aggression serve to minimize their actions and blame the victim. He notes that these

justifications have been accepted by psychologists and counsellors who treat violent men. The resultant treatment models, at the individual level "obscure the batterer's self-interest in acting violently," and at the societal level "mask the male domination underlying violence against women" (Ptacek, 1988:155). In the end, Ptacek finds that "[c]linical and criminal justice responses to battering are revealed as ideological in the light of their collusion with the batterer's rationalizations" (1988:155). Of course, this also works in the opposite direction -- the accounts of violent men are also the 'condensed' versions of wider value systems operating in a male dominated society. Acceptance of the batterer's rationalizations has resulted in an image of the offender as 'not necessarily sick,' but rather 'temporarily insane.'

An acceptance of the offender's construction of the phenomenon has also fostered a sense of renewed woman-blaming at the treatment stage. Dutton's (1988) belief in the offenders' assertions that they were abandoned or losing control of intimacy with their partner is equal to suggestions by Deschner (1984:19) that a man's physical assaults are the result of a woman's 'verbal persecutions.' This implies that violence committed by men is the result of a woman's 'nagging,' or that she continued to talk about an issue after the man had made up his mind (Dobash & Dobash, 1979).

These assertions of 'joint fault' in causing 'domestic' violence have fuelled a new approach known as the 'conjoint' or 'dyadic' analysis. This model views the battering phenomenon as one where a special 'symbiotic relationship' exists between the offender and survivor (Margolin, Sibner, Gleberman, 1988; O'Leary, 1988, 1993). According to this perspective, 'marital violence' is a familial dysfunction problem that can be

ameliorated through family counselling. Instead of blaming the victim or pathologizing the offender, this perspective views violence against women in the home as a problem of both the offender and the survivor. Under this perspective, the woman is asked to recount her traumatic experiences in front of her assailant and a therapist. This technique has been roundly criticized for re-victimizing the survivor.

Adams calls this treatment model 'interactive' because "treating both the abuser and the abused is considered essential for improving marital communication, resolving conflict, and ending violence" (1988:184). Accordingly, terms such as 'abuser' and 'abused' are rejected in favour of the label 'abusive couples.' Parallel tasks are assigned to the husband and wife, who is "partially responsible for her husband's subsequent violence should she fail to recognize his non-verbal cues accurately and desist from further argument" (Adams, 1988:186). It is Adams' (1988) assertion that the interaction model is only a slight adjustment upon the often criticized 'ventilation' model that was popular in the sixties and seventies.

The ventilation model required that the man learn to express his hostility freely in an effort to stave off a 'burst' of violent behaviour down the road. Howard (1970), for example, advocated pillow punching and that couples hit each other with styrofoam clubs. Shostrom (1967:176, as cited in Adams, 1988:182) asserts that "hurting is a necessary part of a [marital] relationship." As Adams correctly concludes, however, "men who batter do not need permission from experts to continue to vent their anger with little regard for its consequences to others" (1988:183). Indeed, as Dobash and Dobash (1983:59) have argued, these models imply the woman is at fault for 'provoking' the

man. This results in her having to abdicate her right to negotiate with her husband or intimate for fear it might irritate or offend him. It is no wonder that these approaches are now being widely abandoned. As O'Leary (1993:13) reports, certain states (such as Colorado) have actually banned such 'traditional couple' or 'family therapy' treatment models.

The most recent psychological analysis to be enlisted is Wilson, O'Leary and Nathan's (1992; O'Leary, 1993) 'psychobiosocial' approach. According to this view, a wide range of variables need to be incorporated into an accurate predictive model of male batterers. Unfortunately, as O'Leary (1993:13) admits, the researchers are "not entirely happy with the predictive validity of the model." In fact, the model is able to account for only 18% of the variance in physical aggression of men toward their wives, and 30% for wives toward their husbands. The most potent predictive variables for the model were found to be (1) acceptance of aggression, (2) past use of aggression, (3) relationship conflict, and (4) partner's aggression. Obviously, the model is useless without prior knowledge of aggression. This places it in company with an assortment of other 'predictive' models used in psychology that are essentially circular in nature: the best predictor of future action is a history of the same action. As we can see, these findings do not help develop an etiology for the phenomenon under study and are therefore atheoretical.

There are a number of other critiques of psychological approaches to the study of wife and partner violence in the home. First, in contrast to the individual pathology model, statistical evidence reveals that very few offenders are ever diagnosed as mentally

ill. Sociologists have noted that only 10% of violent incidents are caused by mental illness (Straus, 1980a) and the remaining accounts "are not amenable to mental illness" (Gelles, 1993:40). Second, psychological theories, with few exceptions (e.g. Walker, 1979, 1985), ignore structural and social factors in their analyses of violence against women (Gelles, 1993). As Bograd puts it: "[non-sociological perspectives] ignore the question of power. They cannot answer the question of why allegedly mentally ill men beat their wives and not their bosses, nor why impulse ridden, out of control husbands contain their rage until they are in the privacy of their homes" (1988:17). Third, there are important policy implications that emerge from biological/psychological approaches that may serve to curb men from examining their misogynist construction of masculinity. Feminists such as Hanmer, Radford and Stanko (1989:4) have argued that analyses which come from biological perspectives may make an entreaty for change meaningless, since oppressive practices are viewed as inherent and therefore unchangeable. At the very least, this unfavourably shifts the focus from attempting structural transformation in gender relations to clinically directed individual management.

Sociological Perspectives

For our purposes, a distinction is made between sociological perspectives and feminist analyses that employ sociological methods. As noted earlier, there are feminist approaches to sociology as well as psychology (Walker, 1979). Some feminists have recently begun to draw a rigid boundary between what they consider a sociological 'family violence' perspective and a feminist approach (e.g. Kurz, 1992, 1993; Yllo, 1993). Many of those authors placed within the family violence perspective seem to have

accepted that categorization (e.g Gelles, 1993); others have not been so happy with the label (Straus, 1993).

The 'family violence' perspective is typically associated with the work of Straus, Gelles and Steinmetz, who have published the largest body of social science research on 'domestic' violence in the United States (see Kurz, 1992:23 for a full listing). Kurz (1992, 1993) argues that this group of academics has trained the lion's share of contemporary researchers, most of whom have continued using the same methods as their instructors.

Within the family violence perspective are many theories currently in use. Gelles (1993), in his review of the sociological literature, cites a number of these approaches. Gelles' contribution to theorizing includes discovering that 'social facts' such as age, position in the social structure and race and ethnicity are 'predictors' of risk (1993:31-34). He teamed up with Straus in 1979 to posit that the unique characteristics of the family as a social group conspire to make it a particularly violent institution. These characteristics include such things as (1) the inordinate amount of time families spend together compared to members of other social institutions; (2) the intensity of familial involvement; (3) the fact that familial interactions involve a 'zero-sum' aspect in decision-making; (4) the lack of privacy; (5) stress; (6) the fact that family members have extensive knowledge of social biographies which can result in vulnerabilities being exposed, exploited, and so forth. In all, Gelles (1993:35-36) lists 11 characteristics that are unique to the family institution.

A 'systems theory' approach to 'family violence' has also been posited by Straus (1973). The systems theory approach seeks to describe the processes that characterize the use of violence in family interactions (Gelles, 1993:36-37). This approach attempts to delineate how violence is perpetuated, stabilized, and therefore normalized, by assessing it in a linear, processual fashion. 'Resource theory' operates on the same premise as the systems theory approach. According to this perspective, all social institutions (including the family) revolve, to some degree, around the use or threat of force (Goode, 1971). The more resources one can muster, be they personal, economic or social, the more authority one will command.

In keeping with the emergence of neoconservatism in the United States and the return to prominence of neo-classic thinking in criminology (e.g. Gottfredson & Hirschi, 1990; Wilson, 1983, Wilson & Herrnstein, 1985), Gelles' (1983) most recent contribution is his rationalistic 'exchange/social control theory.' Simply put, exchange/social control theory views violence against women and children in the home as governed by the principle of costs and rewards. Gelles states: "I have proposed that the private nature of the family, the reluctance of social institutions and agencies to intervene...and the low risk...reduce the cost of abuse (sic) and violence." (Gelles, 1993:38).

A controversial feature of the family violence perspective is its contention that all family members carry out and are victims of violence. Its proponents supported this general assumption through statistical evidence gleaned from the Conflict Tactics Scale (CTS) (Straus, 1979; 1980b, 1983) which shows that violence is, to a certain degree, used by all family members. Using the CTS, Straus, Gelles and Steinmetz (1980:36)

found that while 12.8 percent of husbands directed acts of violence against their wives, 11.7 percent of wives were violent against their husbands. These findings, and the scale itself, have generated some rather heated debate between feminists and the family violence sociologists (e.g. Gelles, 1993; Kurz, 1993; Straus, 1993; Yllo, 1993).

In the section on feminism to follow, these issues are examined further. All of the approaches presented thus far have been criticized by feminist authors looking at violence against women in the home. By first considering the feminist perspectives generally, we can understand from where these criticisms emerge. At both structural analytical and policy levels, most psychological and 'family violence' orientations are successfully criticized by feminist scholars.

Toward an Integrated Feminist Model

All sorts of feminisms operate within the social sciences. There is neither a monolithic feminist epistemology (Harding, 1983; Smart, 1990) nor a singular feminist criminology (Gelsthorpe & Morris, 1988). Feminism in academia has been said to include epistemological orientations that are empiricist, Marxist, standpoint, and postmodern, to name only a few (see Harding, 1983; Smart, 1990; Stanley & Wise, 1983). Feminist political perspectives may include academic feminism, cultural feminism, lesbian feminism, liberal feminism, psychoanalytic feminism, political lesbianism, radical feminism, and socialist feminism (Palmer, 1989). There is also a distinct and active 'third world' feminism. Other feminist commentators divide feminism into two camps based on notions of materialism: radical feminism and socialist feminism (Hartmann as cited in Jary & Jary, 1991:168-169). Some would argue that there is a

specific formula for conducting feminist research (e.g. Cain, 1990), while others argue that research need only be 'political' and therefore always advocative (e.g. Jayaratne & Stewart, 1991; Morgan, 1988; Stanley & Wise, 1983).

Despite these many differences, there are also essential similarities and unifying forces within the feminist enterprise. As Gelsthorpe and Morris have said: "At the very least, a feminist is someone who believes that women experience subordination on the basis of their sex" (1988:94). In addition, a feminist is someone who desires a transformation of this structured inequality. Subordination is the result of patriarchal relations which are manifest in various ways and through myriad institutions for the benefit of men and at the expense of women.

Feminists who address violence against women in the home view patriarchy as central to the phenomenon (e.g. Dekeseredy & Hinch, 1991; Dobash & Dobash, 1979; Edwards, 1989, 1990; Hanmer, Radford, Stanko, 1989a; Kurz, 1992; 1993; Pahl, 1985a; Stubbs, 1994; Yllo, 1993). Patriarchy comprises two components: structure and ideology (Dobash & Dobash, 1979:43). Structurally, patriarchy operates by reinforcing a hierarchy within social institutions and social relations and by relegating certain individuals and classes to positions of authority and others to forms of subservience. Radical feminists argue that while patriarchies differ and may be complex, women's subjugation is a universal, structural reality (Scraton, 1990:14). As Yllo (1993:49) points out: "[f]eminist theory does not regard patriarchy as a discrete, measurable variable (like age, sex, or socioeconomic status [sic]). Rather, patriarchy...is very complex and multidimensional." The structure of patriarchy is achieved by excluding women from 'the

bench and the pulpit' as well as by confining them to the home and banning them from any other meaningful position (Dobash & Dobash, 1979:43).

To this description, socialist feminists would add structural inequities caused by capitalism and racism (as well as ethnocentrism, heterosexism, etc.): "women can be simultaneously privileged and oppressed; for example, black working-class women are less valued in three important structured inequalities but, if heterosexual, share a privileged position through their relationship with men" (Hanmer, Radford, Stanko, 1989:6-7). All men, however, are privileged because of their sex.

The inequity of patriarchy could not be maintained without ideological support. This is achieved through socialization, where women and men are 'gendered' for the purpose of perpetuating the patriarchy (Pahl, 1985b). A focal point of this socialization is to be found in marriage, where all laws, both secular and sacred, act to subjugate the wife and empower the husband. The Dobashes' historical examination of the institution of marriage and the family provides ample evidence of how the web of patriarchy has perpetuated itself:

Christianity, as well as most other religions, has provided the ideological and moral supports for patriarchal marriage, rationalized it, and actively taught men and women to fit into this form of marriage. On the other hand, the state has codified this relationship into law, and it regulates both the marital hierarchy and access to the opportunities to institute change in the hierarchy. The history of the patriarchal family shows the integration of the family in society and the way in which the family, the church, the economic order, and the state each have influenced and supported one another in maintaining their own hierarchies (Dobash & Dobash, 1979:44).

Patriarchal relations are also supported through the violent acts of men. Male aggression towards women has resulted in their fear of violence from male strangers.

Susan Brownmiller (1975) makes the claim that rapists are 'shock troops' who serve to convince women to attach themselves, through marriage, to one man in order that they may safeguard themselves and their children from potential violence. Since women are viewed as being incapable of protecting themselves, they are forced to live with the familiar violence committed by their husbands or intimates. Violence, therefore, is used by individual men against individual women to control or punish women who may be challenging their authority. "Men's violence against women and children is identified by radical feminists as central to the maintenance and reproduction of all exploitive social relations" (Hanmer, Radford, Stanko, 1989b:4).

Socialist feminists, who unlike radical feminists contextualize patriarchal relations historically and are integrative, multi-dimensional and non-essentialist in their theoretical and praxiological approaches, argue that men are granted these privileges as a 'private right.' Historically, they were enshrined as rights to 'coverture' and 'lawful correction' which included the now infamous 'rule of thumb' provision in English common law (Dobash & Dobash, 1979; Pahl, 1985b). A number of socialist feminists addressing male violence against women in the home have noted that 'public' and 'private' constructs serve to legitimize male aggression (e.g. Dobash & Dobash, 1979; Edwards, 1989, 1990; Ferraro, 1989; Pahl, 1985b). The private/public division in law is as old as the law itself. Pahl (1985b:14-15) reports that the ancient Greeks believed that women were in the 'realm of necessity' and fell within the 'oikos' or private domain. This placed them in a subordinate position to most 'freemen' who were considered 'public.' As the construction of privacy is traced throughout history, we see that it has operated for certain

individuals at the expense of others. This forces feminists to investigate whose privacy is being respected and whose is being violated under what circumstances (Pahl, 1985b:14-15).

When a man perpetrates a violent act against his female intimate, he is treated drastically differently by the police depending upon whether the violence was committed publicly or privately. As numerous feminist authors have commented, this ideological distinction serves to excuse men for their violent acts, as long as they are committed at home.

Based on a knowledge of patriarchy and the political nature of the 'rule of law' as it pertains to private and public constructs, feminists problematize both the psychological and the sociological 'family violence' approaches reviewed in the previous sections. From a feminist perspective, male violence against wives or partners can be described as a means of maintaining dominance within patriarchal marriage (Yllo, 1993). The notion that women commit violent acts against their husbands to the same degree as men commit violent acts against their wives (Straus, 1993) is rejected by feminists who have looked closely at the CTS. As Kurz (1992:26) has observed, the scale fails to ask what acts were committed in self-defense, who started the violence, or who was subsequently injured. The scale also fails to take into account gender differences in report rates: men tend to under-report their own acts of violence.

These criticisms have led some feminists to call for the elimination of survey research in the area of wife assault. Yllo (1988), however, has argued that the abandonment of quantitative research would be a grave error. Like Jayaratne & Stewart

(1991), she "would not want to be limited to qualitative methods" because 'exploratory' research generates questions "that cannot be answered through further qualitative research" (Yllo, 1988:35). If feminists abstain from attempting to muster other evidence that could help facilitate the rejection of misogynist theories, then "the decision between patriarchal and feminist explanations of wife abuse would come down to political power (and we know who would win on those terms)" (Yllo, 1988:48).

So serious are the repercussions of 'family violence' research that the Fathers United for Equal Justice in New Hampshire called for a 'Commission for the Status of Men' based on statistical findings from the CTS. They went on to state that "[l]ittle mention is ever made...that most abused spouses are husbands, and that women actually have higher rates of aggressive actions of violence in the home. They start most of the hassles in the family and then enlist the aid of the legislature and the courts when they are unable to prevail" (cited in Saunders, 1988:91).

Feminist researchers buttress their accounts through a plethora of statistical evidence. For example, the U.S. National Crime Survey of 1982 reported that 91% of all violent crimes between spouses were directed at women by husbands or ex-husbands, while only 5% were directed at husbands by wives or ex-wives (cited in Kurz, 1992:26). Dobash and Dobash (1979) found similar levels (94%) of violence in their Scottish study. Berk et al. reported that in 95% of the cases they studied, it was the woman who required hospitalization and that women's injuries were more severe than the men's (cited in Kurz, 1992:27).

Most of the criticisms of the CTS and contradictory evidence mustered in opposition to it occurred shortly after Gelles and Straus' contention that "1.8 million wives are physically abused by their husbands each year (3.8%) while nearly two million husbands are abused by their wives (4.6%)" (1979:26). Despite the airing of these concerns, Straus & Gelles (1986) continue to use the CTS unrevised. The results of their ten year follow-up survey yield the finding that "women are about as violent within the family as men. This highly controversial finding from the 1975 study is confirmed by the 1985 study" (Straus & Gelles, 1986:470). Straus (1993) has only recently attempted to address criticisms of the CTS emanating from feminist scholars.

In an attempt to settle criticisms about male under-reporting, Straus (1993) re-examined data from the National Family Violence Survey. Instead of using husbands' reports of violent acts committed against them by their wives, Straus (1993) used the wives' information exclusively, for both their own rate of violence against their husbands and the rate at which their husbands assaulted them. He finds that the "overall rate for assaults by wives is 124 per 1,000 couples, compared with 122 per 1,000 for assaults by husbands as reported by wives. The difference is not great enough to be statistically significant" (Straus, 1993:69). This would be an interesting finding if Straus could somehow assure us that the wives he surveyed were not acting in self defense. In fact, Straus' most important concession may be that "the self defense explanation of the near equality between husbands and wives in domestic assaults cannot be rejected" (1993:76). Straus (1993) also notes that women are much more prone to serious harm from an assault than men.

The self-defense critique (see Kurz, 1992, 1993) is not one that Straus (1993) has dealt with adequately. One could argue that he has intentionally overlooked the powerful feminist research by Saunders (1988) on this issue. Saunders (1988) takes up the clinical findings of Walker (1985) that show 23% of women who 'occasionally' and 1% of women who 'frequently' used physical force did so against a violent mate. Only 4% 'occasionally' hit a non-abusive mate and none 'frequently' did (N=203).

Saunders uses the CTS in his study (N=52), but revises it slightly by adding three questions concerning 'fighting back,' self-defense, and pre-emptive assaults after threats with a weapon were made. He finds that "40% of the women who used severe violence reported that all of this violence was in self-defense; another third of the women said that all of their severe violence was 'fighting back.' In contrast, only one woman (3%) reported that she initiated most of the violent encounters with severe violence" (Saunders, 1988:105-6). Similar results were found with non-severe violence. Saunders concludes that "[t]he most frequent motive for violence reported by these women was self-defense" (1988:107). These findings bring into question the theoretical foundation for an 'equal responsibility' or 'family violence' perspective.

When feminists look at the theoretical approaches put forth by family violence researchers, they find them also lacking. As Yllo puts it, "systems theory, resource, exchange/control, and subculture of violence theories ignore gender and are not as fruitful as they might be if a feminist lens sharpened their focus" (1993:50). When the resource theorist looks for 'resources' of coercion available to individuals in the family (or elsewhere), s/he would be better served by appreciating the structural framework in which

men are granted more resources by default, and the systematic exclusion of women from acquiring many such 'resources.'

Gelles' (1983) social exchange theory fails to ask an important question: why are the costs of battering one's wife so low? This strict economic model fails to take into account structural forces that facilitate an unproblematic recourse to violence for men.

Conflict or 'systems' theory (Straus, 1973) "obscures personal interests with gender interests" (Yllo, 1993:51). As Yllo (1993:51) notes, when a man forces his wife to have sex because it is her 'wifely duty' he is not being influenced by personal interests alone, but by a society that attaches tremendous authority to the 'man of the house'. If his socially constructed 'entitlement' is not recognized in our analyses, then our approach is lacking.

Non-feminist psychological theories are deficient because they pathologize the offender; blame the victim; fail to account for men who are only violent only with their wives and not others; and ignore structural forces. Non-feminist sociological approaches falter by ignoring, or making peripheral, discussions of patriarchal relations and relying on flawed survey data which portray 'family violence' as a 'mutual fault' phenomenon. Starting with skewed assumptions about the nature of violence against women in the home logically results in theorizing that is subsequently inadequate. We are therefore left with the problem of presenting a feminist model that sufficiently describes the phenomenon of violence against women in the home. Is there a single model?

The short answer is 'no.' In fact, there are at least three competing 'pro-feminist' models describing the nature of violence against women in the home: (1) Lenore Walker's

'battered woman syndrome' and 'cycle theory of violence' (1979, 1985, 1993); (2) the Dobashes' 'male domination' model (Dobash & Dobash, 1992); and (3) Bowker's (1993) 'curvilinear model.' All of these models are purported to be feminist. There are also an assortment of other theories that purport to be at least 'partially' feminist. For the most part, these highly eclectic approaches (such as Dutton's, 1988) amount to little more than tokenism.

We have already discussed Walker's theory of a BWS (1979, 1985, 1993) and her belief that women become trapped in a violent relationship because they are 'conditioned' to be 'helpless.' In much the same way, Dutton (1988) believes that a woman will not leave her violent partner because of her 'traumatic bonding' to him. This occurs immediately after the violence is over. Like Walker's (1979) 'loving and contrite behaviour' phase, which is stage three of her 'cycle of violence theory,' Dutton (1988) claims that survivors, in their heightened vulnerability, will respond to their husbands' positive behaviour and that their attachments will be reinforced. Both of these approaches are very similar and are formulated from within the discipline of psychology. Both, however, also make claims to incorporate patriarchy in their theorizing: Walker (1979) much more so than Dutton (1988).

To call Dutton a feminist, however, would not be wise: his methodology and findings contradict much feminist thought on the issue of male violence against women in household settings. First, he interviews batterers instead of survivors to infer why the phenomenon occurs. Second, he uses the CTS despite ample feminist criticism of that instrument. Third, he ignores non-physical violence altogether. Finally, he makes

patriarchy peripheral rather than central to his analysis (Dutton, 1988). Walker's (1979) 'feminist psychological' approach, on the other hand, differs from Dutton's (1988) procedure greatly. Walker (1979) includes interviews with over 200 survivors; engages feminist theory and epistemology; and reports that emotional and psychological violence is more harmful than physical violence in many cases.

Juxtaposed against the 'feminist psychological' approach is the 'feminist sociological' perspective that encompasses both Bowker's (1993) curvilinear model and the Dobashes' (1992) critique of the BWS, which I have called the 'male domination' model. The essential tenet upon which these two discipline-based perspectives conflict is the 'helplessness' thesis, so important to the feminist psychological perspective and so disparaged by the feminist sociological orientation.

Dobash and Dobash argue that women are not helpless; instead, they are 'active' in their 'pursuit of assistance.' Their ability to seek out help may 'ebb and flow' for a number of reasons that have little to do with any unique psychological traits:

Instead, an understanding of their patterns of help-seeking must be located in the nature and ferocity of male domination, coercion and violence; a moral order which places responsibilities for family problems on to women; inadequate, even condemning responses of legal, social and medical agencies; a financial and material dependence on men for support of women and children; a wider social and economic order that makes it nearly impossible for women to leave and live on their own; the bleak prospects (well understood by most women) for single, female headed households; and the lack of effective intervention in the lives of violent men and abused women...(1992:232)

In other words, women's agency, and their capacity (and incapacity) to resist, are being acknowledged. In much the same way, Bowker hypothesizes that "battered women [are]

not nearly as passive as they [have] been portrayed in the literature" and that instead "they [are] active agents trying to make their environments safer" (1993:155).

Like the Dobashes (1992), Bowker believes that the length of time it took women to escape a violent home was directly related to "the intransigence of their husband's penchant for domination and lack of support from traditional social institutions" rather than any link to "women's passivity or helplessness" (1993:155). Instead of staying because of their 'passivity,' women were trying to avoid worse battering in the future and harm coming to the children if they attempted to leave. They also feared for their parents or close relatives; starvation or homelessness; shame, failure and public sin; and even their loss of social identity and their entire way of life.

In order to support his hypothesis, Bowker (1993) administered questionnaires to 1,000 women and asked them to voluntarily submit their own case biographies. He found that all participants used at least one of seven strategies to escape violence. These strategies include: (1) trying to talk their partners out of it; (2) attempting to extract promises of the cessation of further violence; (3) physical or conversational avoidance; (4) hiding or running when attacked; (5) covering their faces and vital organs; (6) threatening to call the police; and (7) fighting back in self-defense.

Bowker (1993) theorizes that women's self-esteem is initially battered and falls lower with continued violence. Finally, when all seems hopeless, a woman's self-esteem bottoms out and she undergoes a re-emergence or 'psychogenesis' (Bowker, 1993:157). The form of the model is 'U-shaped' because women tentatively and then more forcefully seek to escape the violence after they 'bottom out,' if they are still alive.

In many ways, the division of these discipline-based theories into two opposing perspectives may be a little sophistic on my part. There seems to be some rather obvious misunderstandings between authors. When discussing the helplessness assumption, for example, Walker claims that those who have criticized it do not understand it, and that a careful reading of her "applications [of the concept] to battered women, can clarify this point" (1993:135). It also seems that Walker (1993) agrees with Bowker's assertion that "most battered women (and their children, if there are any) begin to recover...as soon as they are safe" (1993:160), when she states that "[o]ften women do not need any further intervention beyond safety from future abuse and good support from family, friends, or battered women shelter staff..." (Walker, 1993:137). What does this say for her therapeutic model?

It is also ironic to find Walker arguing that much of women's ability to escape violent homes will depend on their 'hardiness' and then to see her criticize Bowker's 'naive' belief in his "pull-yourself-up-by-your-bootstraps theory" (1993:149). It is even more ironic to find the Dobashes (1992), whose perspective is very similar to Bowker's (1993), criticizing Walker's (1979) approach for failing to successfully incorporate socioeconomic and patriarchal factors into the BWS model. "Factors such as these" they argue, "make a mockery of therapeutic advice that by becoming assertive, women can escape from male violence" (Dobash & Dobash, 1992:233). Are all these authors criticizing each other for the same transgression? A non-critical eye might view all of these approaches as rather diffuse and mutually convergent rather than oppositional or distinct. Walker makes this same point when she argues that:

Bowker's hypothesis of a curvilinear relationship to self-esteem, that waxes and wanes according to nonmeasurable environmental stimuli, is probably more accurately clinically described as situation based, caused by the cycle of violence. The woman is more likely to perceive herself in control during the early phase, the tension-building period, when she can do things to keep the batterer calm, and the third phase, the loving contrition or absence of tension period, which brings with it the rewards of the relationship...(1993:146).

Despite such congruencies, sociological and psychological feminist models remain as competing schools because their major proponents see through different disciplinary lenses. First, there is confusion about the appropriate population for study. Walker (1979, 1985) restricts her focus of the phenomenon to women who have gone through the cycle of violence at least twice, ignoring those women who would otherwise be seen by Bowker (1993) and the Dobashes (1992) as exercising 'agency' and escaping the situation very early. In other words, Walker's (1979, 1985) sample is, by definition, more 'helpless' or less able to access resources to escape. Similarly, when Dutton (1988) restricts his focus to 'serious' assaultive acts only, he eliminates all women who leave a relationship after emotional or 'less serious' physical violence. Since they had escaped prior to an escalation into serious assaults, they would not be included in Dutton's (1988) analysis.

Second, feminist psychologists and counsellors are more immediately concerned with treating survivors than 'changing the world.' Their everyday dilemma, of having to cope with battered women, makes them embrace a theory of 'learned helplessness' in order to assist the survivor make sense of her predicament. In addition, the BWS has now been accepted as a mitigating factor in cases where survivors eventually kill their partners (R. v. Lavallee, [1990] 1 S.C.R. 852, 55 C.C.C. (3d) 97). To redefine

survivors as active agents might negate this as a defense. The irony is that women who kill their partners have demonstrated the ultimate act of individual agency over determinism as described in the cycle of violence.

Finally, there is the problem of 'treating' the woman and labelling her as 'sick' instead of seeking to uncover and change structural forces rather than individuals. Sociological feminism's gaze, in this case, is correctly directed at how social structures confine women.

In the end, we are left with the understanding that while many woman are trapped in violent relationships due to a lack of resources for escape, many others may stay because of their own internalization of societal pressures to remain. This latter group can later erroneously be found to suffer from a 'syndrome.' It is no wonder Walker (1979) allegedly finds that women suffering from BWS overwhelmingly hold 'traditional' family values.

Summary

In this chapter psychological and sociological approaches to the study of violence against women in the home, within and without feminism, have been analyzed. It is argued that much of the early non-feminist psychological literature blames and pathologizes the victim; accepts the rationales of offenders; ignores the structural forces that make the beating of one's wife permissible; and fails to account for men who are violent with their wives and not others. Non-feminist sociological approaches are in many cases atheoretical and often rely on a flawed research instrument (the CTS) which portrays 'family violence' as a mutual fault phenomenon. It is argued that the later

psychological feminist model of the 'battered woman syndrome' serves only to resurrect images of women as 'helpless' and pathological (Walker, 1979, 1985).

A preferred orientation is a sociological feminist approach (Bowker, 1993; Dobash & Dobash, 1979, 1992), which views the actions (and inactions) of women in violent relationships as explainable when contextualized within patriarchal relations. This approach includes an appreciation of the woman's individual agency and rejects the notion that she suffers from a 'syndrome' which impairs her judgement. It is argued that the phenomenon of violence against women must not be interpreted as an individual problem of the survivor or the offender. Instead it must be viewed from within patriarchal constructions of 'family' and 'home' that disempower women and facilitate easy recourse to violence for men.

The chapter to follow introduces the reader to the method, subject, and site of the field research conducted for this work. Throughout this thesis, the feminist model described above guides the conduct of the research and most importantly governs the central question that is asked when investigating the efficacy and enforcement of protective orders. Feminist sociological approaches divert our attention away from the survivor and onto the agents she relies on for assistance. The correct question is not "why do women stay?" Rather, it is "what agents, structures and ideologies in patriarchal relations collude to make escaping violent relationships difficult for women?" This is the central question around which this thesis revolves.

Chapter Two:
Method and Context

Introduction

This research project seeks to uncover the attitudes that police officers and other justice officials hold towards the use of peace bonds and restraining orders in cases of violence against women in the home. This objective is realized through the use of both quantitative and qualitative methods. The quantitative component consists of a short questionnaire administered to police personnel. The qualitative component includes interviews with a subsample of officers as well as with selected justice officials. The site of this study is the Municipality of Delta, in the southwestern-most section of the province of British Columbia. It took five months to collect the data presented in this thesis: from March to August of 1994.

Feminist epistemological orientations differ on whether a precise methodology should be followed (e.g. Cain, 1990) or whether a broad qualitative approach is sufficient (Dobash & Dobash, 1979 vs. Yllo, 1992). The sole use of a quantitative method, however, has not been viewed with enthusiasm by many feminist scholars (Dobash & Dobash, 1979; Jayaratne & Stewart, 1991; Stanley & Wise, 1983). The enlistment of qualitative methods in this project is not just an exercise in 'triangulation,' but signifies my attempt to stay as close as possible to the feminist research experience. This includes a conscientious attempt to broaden the analysis beyond the 'sliced pie' approach of quantitative survey research. Qualitative research provides a tremendously rich source of information about how police officers construct their world within a wider structural and cultural context of patriarchal relations. This type of data is difficult, if not impossible, to glean from survey research alone. The attitudes of police officers towards

enforcement, reflected in a questionnaire, cannot be understood without interview data that illuminate their underlying constructions of, inter alia, women, violence, marriage, privacy, masculinity and domesticity.

This chapter addresses four themes, concentrating respectively on context, method, experience, and some other caveats relating to the Municipality of Delta which may have affected the research. An introduction to the design specifics relating to the quantitative and qualitative approaches used in this thesis is followed by a discussion of the actual research experience with respect to both methods. In addition, the research project is further contextualized by describing community institutional programs operating during data collection. Finally, the limitations of this study are explored in the final section. Of course, 'things do not always go as planned,' but as I will attempt to illustrate, much can be learned from changes in design due to experiences in the field.

Perhaps the most striking change from proposal to product in this thesis has been the relative importance assigned to the questionnaire and interviews. At the start, it was thought that the questionnaire would constitute the major focus for discussion, while the interviews would play a less pronounced role. As the research progressed, however, it was discovered that data obtained from interviews became central to the proper analysis of the survey results. This means that the questionnaire has become 'peripheral' to the extremely rich data gleaned from the interviews. The finished product is thus quite different from what was envisioned.

Context: The Municipality of Delta and the Delta Police.

The Municipality of Delta, originally a Coast Salish village, was incorporated by white settlers as a fishing and farming community in 1879. Today, this area, located southwest of Vancouver B.C., is a diverse suburb that comprises three distinct residential districts. In the northwest, the community of North Delta is largely residential where it borders with Surrey, B.C.. Towards the southwest is the municipal centre of Ladner, still a fishing locality, where police, fire and municipal departments are stationed. The southern-most area of Delta is the town of Tsawassen. Just north of the U.S. border, this area is one of the most affluent locales in the province of B.C. and the country. Delta is also home to two of B.C.'s largest industrial/business parks, including Annacis Island, as well as large fishing and farming zones that fill the area between the three residential areas described above (Delta Chamber of Commerce, 1994).

With links to Vancouver via the Massey Tunnel and the more recent Alex Fraser Bridge, "Delta is an area of choice, the number of residents growing by 400% in twenty years" (Delta Chamber of Commerce, 1994:1). Statistics for 1991 reported Delta's population to be 89,434. With Chamber of Commerce projections of 100,000 inhabitants in 2001, current interpolations place the population of Delta at approximately 90,000.

The Delta Police were formed in 1888, making them one of the oldest police services in the province. Currently, the Delta Police Department consists of 131 sworn officers and approximately 25 reservists. There are 12 policewomen in the Delta Police Department; the highest ranking female is a detective. There are also 12 members of visible minorities employed as constables. It is evident from the Department's rank

structure that women and visible minorities have been excluded from positions of authority (see Table 2.1). The current task identified by the recruiting section is to attract more women and minority (especially of East Indian descent) applicants. These efforts, however, will not likely result in any immediate change to the demographic make-up of the Department's rank officers who are almost exclusively white middle-aged men.

Table 2.1

Delta Police Department Rank Structure (1994)				
RANK	Male	Female	Visible Minority	TOTAL
Chief	1	0	0	1
Deputy Chief	1	0	0	1
Inspector	5	0	0	5
Staff Sergeant	6	0	0	6
Sergeant	8	0	0	8
Detective/ Corporal	16	1	0	17
Constable	82	11	12	93
TOTAL	119	12	12	131

Source: Compiled by the author

Like most contemporary police services, the Delta Police Department has a number of specialized sections including criminal investigations (CIB); victim/witness assistance; bicycle squad; training; records; and school liaison units. Based on a cursory analysis of structure, discipline, public image, as well as my own research observations, the Delta Police Department is best described as 'service-oriented' rather than a 'military' modeled service (Stanko, 1989). Rank structure and discipline are much more relaxed

than at other larger departments. Briefings, for example, do not include inspections or salutes. NCOs and other higher ranked officers are rarely referred to as 'sir' and station-house banter quite often includes the participation of corporals and sergeants. In addition to victim/witness services, the Department, like other police services across the country, re-trains and updates their officers about responding to 'spousal assaults' in line with changing provincial policies.

The Delta Police Department in-service training regimen for 'domestic assault' includes a seminar on the role of police; the practical application of the new policy and procedures of the Department; as well as 'awareness and sensitivity' training. In practice, this training amounts to one-and-a-half hours of instruction, including a 30 minute video. The training session does not include a discussion of peace bonds and restraining orders, other than to remind officers of their availability.

Quantitative Component

The quantitative section of the research is based upon a questionnaire (see Appendix I) that was designed to gather information on Delta police officers in three areas: (1) how they have reacted to peace bonds and restraining orders in the past; (2) what factors encourage or discourage them to arrest for breaches of these protective orders; and (3) what their general perceptions are of the effectiveness of protective court orders. In addition, some basic demographic information was also requested.

The framework for constructing the questionnaire was extracted from three major sources. First, many of the issues specific to the enforcement of protective orders were gleaned from interviews and conversations with justice officials and researchers in

Ottawa, and specifically the Department of Justice Research Section, where I was employed in the summer of 1993. Second, many themes were pulled out of the existing feminist literature on police response to violence against women in the home. The major source referred to is Hanmer, Radford and Stanko's (1989) edited volume entitled Women, Policing, and Male Violence: International Perspectives. Although none of the chapters specifically deal with protective orders, findings regarding the 'private' nature of 'domestic' violence; what factors police officers consider salient in deciding to arrest; and their attitudes toward women in general, were useful in constructing the questionnaire. In addition, Edwards' (1989) work, entitled Policing 'Domestic' Violence: Women, the Law and the State also proved vital. Finally, preliminary interviews with Delta Police administrators and policy analysts in Victoria as well as conversations with my supervisory committee helped 'finalize' the research instrument.

The questionnaires were group administered, in person, to patrol officers during four shift briefings in July of 1994. The instrument had been initially pre-tested with a platoon in late June. As a result of the in-person contact with patrol officers, response rates were initially high: 37 of 39 officers (95%) completed the questionnaire. Subsequently, however, it became difficult to get an adequate response from non-patrol or NCO police officers, given that later questionnaires were dropped off in mail boxes and not hand-delivered. Consequently, the response rate was drastically lower: 2 of 48 officers (4%) responded. Due to this poor response, another set of questionnaires was delivered in early August. This time the questionnaires included a memorandum that

identified officers by name and rank and were sent to unit NCOs for distribution. The response rate this last time was slightly better: 6 out of 35 (17%).

The total sample, therefore, consists of 38 constables, three corporals, two detectives, one sergeant and one inspector, for a total of 45 responses (34.3%). None of the staff sergeants responded. Many police officers could not be reached for a variety of reasons, including sick leave; other leave; holidays; their location (not at the Ladner station); and non-standard shift starts (i.e. some officers were missed because they started at 'staggered' shift times).

Table 3.2 illustrates the 'representativeness' of the sample based on rank and gender. It is important to note that the number of personnel at each rank does not reflect how many questionnaires were delivered, nor does the number account for officers who were absent. Information concerning ethnic background was not requested.

Demographic questions, such as age and the year officers were sworn in as Delta constables, were largely left unanswered by the respondents. Many officers expressed concerns about being identified due to the small size of the Department, asking "who's going to read this?" and "how do we know it's really anonymous?" Others were concerned that the research was being conducted by the Department, for the Department, regardless of how often I would tell officers at the briefings that the questionnaire was for an M.A. thesis. Despite my assurances to the contrary, many officers were not satisfied that the information from the questionnaires would not be used against them. This resulted in 29% of the officers (n=10) not including their age or the year they were sworn in.

Table 2.2

Response Rates to Questionnaire (N=45)				
RANK	Male	Sample	Female	Sample
Chief	1	0 (0%)	0	-
Deputy Chief	1	0 (0%)	0	-
Inspector	5	1 (20%)	0	-
Staff Sergeant	6	0 (0%)	0	-
Sergeant	8	1 (13%)	0	-
Detective/ Corporal	16	5 (31%)	1	0 (0%)
Constable	82	33 (40%)	11	5 (46%)
TOTAL	119	40 (34%)	12	5 (42%)

Source: Compiled by the author

Note: Percentages based on total personnel at each rank, not on number of questionnaires sent or available personnel.

Results such as these greatly compromise any statistical attempts to analyze attitudes and decision-making on the basis of age and experience. Fortunately, police personnel were not so reserved when it came to specifying rank and gender. One policewoman, however, remarked that she was indicating her sex against her better judgement. Reservations about completing the questionnaire may have much to do with a police occupational culture that views suspiciously any outside intrusions (Ericson, 1982; Manning 1978a, 1978b; Skolnick, 1966).

While administering the research instrument at the briefings, officers would sometimes offer their opinions of wife assault, protective orders, and women in general. I recorded these contacts as they provided a spontaneous injection to the research. Some officers complained that the instrument "was too vague," while others felt it was "too

specific to answer properly." For the most part, however, the questionnaire would trigger briefing-room banter that spoke volumes about police perceptions of women who were beaten and how the police saw their own role. When officers were in a group, their comments were sometimes more candid than when interviewed on tape.

If it were somehow possible to measure the 'forthrightness' of officers, my impression is that the best data collected were in the briefing room after the questionnaire was administered. In many ways, the survey instrument's greatest contribution was as a 'facilitator' for discussion by police about women, wife assault and the policeman's role (see also Palys, 1992:163). These commentaries, usually made in a flippant or joking manner, are the most powerful indicators of 'actual' police attitudes.

Qualitative Component

In total, I recorded five 'contacts' made at the briefings that included comments from seven different officers ranking from constable to sergeant. Formal, in-person interviews were conducted with 16 individuals: eight constables; one corporal; one inspector; the chief constable; a Justice of the Peace; a Provincial Court Judge; a probation officer; one Crown counsel; and a family lawyer. Telephone interviews were also used where face-to-face meetings were not possible [five interviews were conducted in this manner, involving two constables, two policy-makers (one of whom is also a Crown counsel), and one family lawyer]. In total, the qualitative sample consists of 26 'recorded contacts' including telephone and in-person interviews, as well as notes from the briefings.

The Simon Fraser University Ethics Review Committee had approved this research project on June 22nd, 1994 and data collection began shortly thereafter (see Appendix II). The only persons to refuse an interview included one constable, two family lawyers and one policy-maker. Three counsellors, one from Deltassist,² one from Delta Family Services³, and one from Delta Youth Services⁴ did not return any of my telephone calls. All telephone and in-person interviews were taped only after the respondents' consent was obtained. One policewoman requested that the audio recorder not be used -- notes were kept instead. Only one briefing-room conversation was taped. This occurred when a constable entered the room to put away some equipment while another member was being interviewed. He continued to talk after I had gestured to the recorder. The officer responded by waiving his hand and saying "that's O.K.". I took this as his consent and recorded his interjections throughout the interview. All audio recorded interviews were destroyed after transcription. There are no identifying notations on the transcripts other than indications of the rank/position and gender of the respondent.

In order to maintain the confidentiality of those who participated, none of their names shall be used in this thesis. In some cases, however, certain officials might be recognized because they are the only members of the community to hold a particular position. The chief constable, Judge and Justice of the Peace (J.P.) in Delta might be identified by their occupations. The Judge and J.P. were made aware of this but agreed to participate nonetheless. Qualitative data obtained from the chief constable will be presented, along with the lone inspector interviewed, under the title 'senior police administrator' in order to maintain some degree of confidentiality.

The main themes of the interviews always depended upon the particular expertise of the respondent. For the most part, however, police constables and other justice officials were asked about their experiences with protective orders; their attitudes toward the phenomenon of violence against women in the home and the adequacy of official responses; the performance of their own agency and other agencies; and what they might change if they could. At the start of my research, many officers seemed uncomfortable answering any questions, and preferred monosyllabic responses. I suspect many officers were under the impression that I was going to report what was said to the administration. One policewoman was particularly uncomfortable talking to me. I had to 'convince' her, as best I could, that nothing she said would be revealed to her supervisors.

As mentioned earlier, the qualitative component of this thesis was originally viewed as ancillary to the questionnaire. As the research progressed, however, it was soon discovered that the interviews and briefing notes answered questions that the survey instrument could not even begin to address. These findings will be discussed in Chapter Four. It will suffice to say here that the 'qualitative' research experience was much more rewarding. By meeting with police officers face-to-face, the research project was slowly accepted by the rank-and-file. Where I was viewed with suspicion for the first half of the study, officers were accommodating for interviews in the latter half. My gradual acceptance into confidence included invitations to court trials and 'ride-alongs.' On two occasions, police officers volunteered to be interviewed without being asked. Near the end, I am convinced that officers were being more candid with me during the interviews.

Community Programs

Although this thesis is not a program evaluation, it is important to identify the 'domestic violence' projects that were in operation during data collection because they may have sensitized the Delta police, and other agencies, to outsider investigations. This study, therefore, may have been conducted in a period where official agencies in Delta were particularly concerned with putting their 'best face' forward. The Delta Police Department, along with other agencies, was engaged in two projects concerning violence against women in the home while this research project was underway. The 'Delta Project' and the 'Domestic Violence Emergency Response System' (DVERS) are both important community programs that may have stimulated interest in the thesis by Delta officials and facilitated my access. Officials often referred to the programs during interviews and explained, at length, their agency's role.

The Delta Project is a pilot initiative funded by the provincial Ministry of Women's Equality and by the Ministry of Health. A number of organizations and government bodies are involved in coordinating a strategy to address 'family violence' in Delta. These agencies include alcohol and drug programs; the B.C. Institute of Family Violence; Crown counsel and Court Services; the Delta Family Services Society; the Delta Police victim/witness service; Forensic Psychiatric Services; Mental Health Services; the Ministry of Social Services; and Delta Probation and Family Court Services. The goal of the project is to protect victims by attempting to reduce recidivism.

The project seems to centre around forensic assessments at pre-sentencing. These help determine proper treatment programs for offenders and then track them for subsequent offences. One official described the program in the following way:

What was supposed to happen is once an offender is arrested for domestic assault...someone from Forensics would do an assessment to determine what kind of a risk he was...the Crown would do that prior to a 'show cause.' Now, logistically we found that was impossible to do. There is just not enough time to get all the information to Forensic Services, have them come out to an assessment. So that kinda went by the wayside and the risk assessments are now primarily being used for the purposes of providing additional information to the judge at sentencing (Delta Probation Officer).

There is also some question as to how this program might differ from existing province-wide initiatives to monitor 'spousal assaults,' including police and court responses to them. The only real difference seems to be the addition of the Forensic Risk Assessment, which has been viewed rather negatively in other jurisdictions. Menzies, for example, critically analyzed risk assessments done at a pre-trial psychiatric clinic in Toronto, and found that "[p]sychiatric decisions often comprise simple restatements of prior judgements by other medical or legal authorities" (1989:7). Referring to the use of police occurrence reports by the Forensic Assessment team, one Delta official makes similar observations:

I guess the question that is still in the air is whether this risk assessment serves any real significant purpose or not. I think if you will look at this with other jurisdictions around here, most of the time people who are convicted of spousal assault are placed on probation and are given counselling conditions. And usually what the risk assessment will do in 99% of the cases, or I shouldn't say that high, but in the majority of cases, they're just recommending probation with anger management type counselling (Delta Probation Officer).

Besides concerns with the Forensic Assessment specifically, it is wise to view psychiatric or psychological models with some scepticism when they involve husbands convicted of

assaulting their wives. As mentioned in Chapter One, these approaches suffer from a limited appreciation for the structural inequities that facilitate male violence against women.

The second program the Delta Police Department is involved with is the DVER system. The DVERS program is part of the larger Delta Project. Its purpose is to provide women with an in-home alarm system that functions independently of the telephone. When activated, it sends a priority response message ('assault in progress') to the police. The woman can trigger the alarm by pressing a hand-held remote that she can carry in her pocket, around the house, or yard. These alarm systems have been donated by ADT Security Systems to a number of programs across Canada that are working toward ending violence against women in the home.

When the current research began, the DVERS system was being discussed but had not been put in place. Towards the end of the data collection, one device had been assigned to a well-known residence. During an interview with a Crown counsel (the final interview conducted) it was learned that the husband had returned, the device was activated and he was arrested. The case is now before the court.

In order for a woman to be assigned an alarm, she must meet seven criteria: (1) she has made a complaint to the police; (2) the accused is presently under charge or investigation, subject to a court order, or about to be released from incarceration; (3) the survivor has been separated from the offender for a minimum of six months and reconciliation is not an option; (4) the survivor is cooperative and "is competent to carry out instructions (sic)" (personal communication between Delta Family Services and

Deltassist, January 4, 1994); (5) there is a 'high risk' that the accused may return and carry out acts of violence; (6) the victim is willing to 'cooperate with the police;' and finally, (7) the victim is a Delta resident.

The DVERS program was generally held in good opinion by the police because they could catch an offender in the act and respond 'code-3.' One policeman, however, expressed concerns when he said, "I like it, but we have to be careful we're not giving these things out like a pez-dispenser, otherwise, we'll be running around like chickens with our heads cut off." Alarmingly, his comments imply either that women will be setting off alarms needlessly or that there are so many assaults against women occurring that the police can never catch up. In either case, women are being viewed negatively: either they cannot discern when they are being assaulted or, according to this officer, responding to 'legitimate' alarm calls is not worth the effort.

The final caveat to report regarding the Delta Police Department is that a 'homicide' occurred just prior to the commencement of research. Information about the incident was not sought because a connection to the present study was not initially apparent. Near the end of the study, however, it became known that the victim in this case was a woman who had a restraining order against her husband. How much this incident contributed to facilitating institutional access is open to speculation; however, I do not believe it was integral. Discussion of this project had begun months before the femicide occurred. Like the many community programs, however, this occurrence can surely be said to have sensitized the police toward this thesis.

Limitations of this Study

Conducting feminist research without the voices of women is always a precarious project. The entreaty that feminist research be 'by, for, and about women' (Stanley & Wise, 1983) is not one that can simply be ignored. The best research design would have included a longitudinal study of battered womens' experiences with, as well as an analysis of court records on, the issuance and enforcement of protective orders.

Access to criminal court files was limited and an evaluation of Supreme Court records (other than to count the number issued) was not allowed. Even if the number of civil restraining orders issued by the New Westminster Supreme Court could be counted, they could not be opened to ascertain whether the applicant resided in Delta. In addition, as we shall see in the following chapters, the frequency with which restraining orders are issued is much less important than how police view and subsequently enforce them.

It was decided early in the design stage of this thesis that contact with transition houses would not be attempted. Asking survivors to recount the horror they endured in order to glean information about the effectiveness of protective orders would have resulted in an emotional re-victimization hardly worth the data sought. Perhaps this is also an area where Stanley and Wise's (1983) prescription that feminist research be 'by' women is most cogent. The same dynamic that facilitated a tremendous wealth of data to be gained from police officers (who eventually considered me 'one of the boys') might just as well have alienated survivors. Without adequate experience or training to deal with the possibility of emotional episodes, interviewing battered women was never a serious research option.

Summary

In this chapter, the research method and context for data collected between March and August 1994 in the Municipality of Delta is presented. The Delta Police are viewed as a 'service-oriented' department, policing a diverse community of 90,000 residents. The Department is also involved in a number of community programs aimed at reducing violence against women in the home.

The research method described includes both quantitative and qualitative approaches. The quantitative component comprised a questionnaire eventually completed by 45 Delta Police officers. The instrument sought to gather police reports on how they typically respond to protective orders; what factors they consider salient in deciding to arrest for a breach of a court order; how effective they believe these orders are; and whether they favour a policy change that would force them to arrest for breaches of these orders. The qualitative component consists of telephone (N=5) and in-person (N=16) interviews with police officers and other justice officials. Conversations between Delta police officers and myself during shift changes were also recorded (N=5) and added to the qualitative sample (N=26).

In Chapter One, I furnished the reader with the central question that guided this thesis: "what agents, structures and ideologies in patriarchal relations collude to make escaping violent relationships difficult for women?" Here, I have explained how I went about answering that question. In the chapter to follow, the socio-legal context through which women must navigate in order to obtain protection from their violent partners is discussed. The official response to women's concerns for safety is critiqued by

introducing the reader to the feminist research on police attitudes toward 'domestic' assaults; by canvassing the existing legislation on peace bonds and restraining orders in B.C.; and by specifically addressing how this legal and institutional order affects survivors seeking protection in Delta.

Chapter Three:
The Socio-Legal Setting

Introduction

When official (and unofficial) social institutions are viewed through a feminist lens, their operational culture and rationales become clearer. Nowhere is this more true than in investigations of police decision-making in cases of violence against women in the home. In order to comprehend how the values and mores affecting police action are produced, it is necessary to understand the legal and institutional parameters that officers must negotiate on a daily basis. The purpose of this chapter, therefore, is to provide the reader with an understanding of the procedural mechanisms that constitute the 'recipe knowledge' of justice officials in Delta. Furthermore, the practical effect of these mechanisms on women seeking protection is also considered.

This chapter is divided into two sections. The first section briefly analyzes how the police and other official institutions, in jurisdictions throughout the world, tend to respond to violence against women in the home. These findings are then compared to data collected in the Municipality of Delta. Similarly, in the second section, the substantive and procedural law on protective orders that guides the police and courts is compared to the actual knowledge that agents in Delta rely on to systematize their occupational roles. This legal framework is then compared to the operational practices of legal orders in other jurisdictions. Finally, I consider the possible difficulties women encounter when attempting to secure themselves against further male violence by obtaining a protective court order in Delta.

The Institutional Framework

The first question we need to address if we are to understand the phenomenon of violence against women in the home is "how is man-to-woman violence in 'private' settings viewed by official agencies?" Unfortunately, there are a plethora of studies that conclude violence against women by an intimate rarely results in any punitive measures. Field and Field's (1973) early U.S. review of conviction rates for assault cases reveals that 75 percent of such incidents result in arrest and court adjudication. In contrast, only 16% of familial assaults result in arrest and trial. Black's (1971) study of three U.S. cities reveals similar results. Arrests are only half as likely to occur in felony crime calls when family members are involved. Blum (as cited in Dobash & Dobash, 1979:208) notes that while 80 percent of all minor charges result in arrest, police lay charges in only 8 percent of 'physical disputes' involving family members. The Dobashes make similar observations in their Scottish study (1979), while Canadian field-research also supports these statistical findings (Ericson, 1982:113).

The most well known Canadian study of police response to 'domestic violence' was conducted by Paul Jaffe and the London Family Court Clinic (1991). Sponsored by the Department of Justice Canada, the research shows an increased satisfaction by victims and police officers following implementation of a vigorous arrest policy (London Family Court Clinic, 1991). This research is the Canadian version of the Sherman & Berk (1984) study that has had such a profound effect on policy-makers in the United States. In fact, Sherman (1992) reports that, by 1989, mandatory or preferred arrest policies had been implemented by 84% of urban police agencies. In addition, 15 states and the

District of Columbia had mandatory arrest policies where there was probable cause to believe a 'domestic assault' had occurred. Similar policy changes have been sweeping Canadian provinces since the mid-eighties. Table 3.1 compares the findings of this Canadian seminal work (London Family Court Clinic, 1991) to 1993 arrest statistics in the Municipality of Delta.

Table 3.1

'Domestic' Assault Arrest Rates		
	London* (1990)	Delta** (1993)
Incidents (I)	358	100
Arrests/Charges (AC)	320	49
Percentage (AC/I)	84.3	49.0
Population	294,700	90,000***
Incidents to Population	1:823	1:900

* Source: London Family Court Clinic (1991) *Wife Assault as a Crime: The Perspectives of Victims and Police Officers on a Charging Policy in London, Ontario from 1980-1990*. Ottawa: Dept. of Justice Canada (TR1993-13a), p.30

** Source: Delta Police Department official statistics.

*** Based on 1991 census of 89,400 inhabitants and Delta Chamber of Commerce projection of a population just under 100,000 for the year 2000.

As we can see, the Delta Police Department has a much lower propensity to arrest than do the London Police. A 49% probability of arrest reinforces the concerns of feminists that police responses to survivors' calls for assistance are entirely unpredictable for battered women. What also remains unclear are the number of calls that are funnelled out of the system without a police response. Studies in other jurisdictions (e.g. Ferraro, 1989) have found this to be a regular and unreported police practice.

The whole 'arrest debate' in cases of 'domestic assault' has not, however, subsided. As Grant Bowman (1992) has succinctly argued, the arrest experiments are methodologically flawed and ignore more important issues such as the survivor's immediate concerns including economic well-being, personal safety, and whether adequate transition houses exist. The success of the London program has much to do with its holistic focus. Whereas a similar approach is being tried in Delta, there are no transition houses situated in the Municipality. Moreover, when women attempt to secure themselves against further violence they may or may not want the police to arrest their partners (Bowker, 1993). As Bowman (1992) and others (e.g. Buzawa & Buzawa, 1993) have argued, the survivor's wishes should be respected and police should always work toward providing the woman with 'safe options.'

In Chapter Four, I will explore images of 'spousal assault' within the Delta Police Department, with particular focus on the unflattering impressions of victims held by individual officers. When such negative stereotypes are added to a court system that rarely incarcerates offenders (see Table 3.2), many women in Delta may feel that arrest will only further endanger them.

One positive feature of the Delta Court, conversely, is that no fines were imposed in 1993. To place a monetary penalty upon the beating of one's wife or partner is to define the assault as a 'transgression,' slightly beyond a man's general entitlement to instill 'lawful correction.' There is a problem, however, in the number of common-law peace bonds that are being entered into in the Delta Courts. As the Judge noted:

If there's a breach, there could be a hearing and the dollar amount of the recognizance, the person could be ordered to pay it. It would get pretty

complicated to charge them with a breach of common-law peace bond because there's no statutory treatment for that.

Table 3.2

'Domestic' Assault: Court Dispositions				
	London (1989-90)*		Delta (1993)**	
	N=47	%	N=49	%
Dismissed/ withdrawn	5	11	10	20.4
Fine	17	36	0	0
Jail	7	15	3	6.1
Probation	18	38	36***	74

*Source: London Family Court Clinic (1991) *Wife Assault as a Crime: The Perspectives of Victims and Police Officers on a Charging Policy in London, Ontario from 1980-1990*. Ottawa: Dept. of Justice Canada (FR1993-13a), p.51 Based on women's reports regarding court experiences. Percentages on original tables were miscalculated – they are corrected here.

**Compiled by the author. Based on spousal assault cases decided in the Delta courts in 1993.

***Includes common-law peace bonds with or without conditions. There is no conviction entered in these cases (N=12).

In other words, while breaches of restraining orders and peace bonds may be rarely prosecuted, at least a statutory and procedural mechanism is in place for enforcement.

In many cases, common-law peace bonds also include an order to report to a probation officer. But the latter may not know what to do if her/his clients breach the terms:

If there was a breach of one of those [common law peace bonds], I would imagine we would just submit a Crown counsel report, otherwise I don't know what we would do. Because it's not a breach of a recognizance and it's not a breach of a probation order, so... (Probation Officer).

Despite tremendous legislative and police policy change throughout the Western World, the rank-and-file officer continues to enjoy considerable discretion during 'domestic' calls. As Stanko observes: "it is the street-level officer who is the major

dynamic decision maker, making his/her decisions in the context of an elaborate hierarchical structure that can reward or punish its members" (1989:47). In an Australian study, the street-level police were arresting both parties as a form of protest against a presumptive arrest policy (Hatty, 1989). Back at the station, the sergeant was then forced to decide who was guilty. Incidents such as these may be occurring in Delta as well: 7% of 'spousal assault' incidents result in the arrest of both parties, while another 2% result in the arrest of the woman alone (not shown in Table 3.1). Edwards (1990:158) has uncovered a similar reluctance to take action in Holloway and Hounslow, Britain, where prosecutors have failed to reinforce police arrests with prosecution.

Police reluctance to arrest in cases of violence against women in the home can be linked to patriarchal constructions of 'masculinity' and 'privacy' which impinge on police decision-making (Stanko, 1989). Indeed, many feminists investigating police actions in this area have noted that the 'police subculture' resists efforts to arrest offenders (e.g. Dobash & Dobash, 1979; Edwards, 1989, 1990; Ferraro, 1989; Hatty, 1989; Stanko, 1989).

The Legal Framework

Despite the tremendous amount of literature on wife and partner assault (Schwartz & Dekeseredy, 1988), there have been few studies focussing on the operation of recognizance and restraining orders (these include: Chaudhuri & Daly, 1992; Edwards, 1989; Fagan, Freidman, Wexler & Lewis, 1982; Finn & Colson, 1990; Grau, Fagan & Wexler, 1984; Stubbs, 1989). This is surprising, considering the number of women who are routinely diverted to the civil courts in cases of household violence and the explosion

of legislation throughout the Western world intended to provide protective orders for survivors (Finn & Colson, 1990; Lengyel, 1984, 1988; Lerman & Goldzweig, 1980; Rigakos, 1993; Schollenberg & Gibbons, 1992).

The law in Canada provides both criminal and civil protective court orders. Feminists have argued that this division in law has facilitated a general ambivalence toward protective orders issued through civil processes. There is concern that civil 'privacy' has been given a stipulated meaning of non-regulation by law, resulting in the marginalization of the private sphere and, by extension, of women who occupy this domain (Edwards, 1989).

It is the 'public' law in Canada, through section 810 of the Criminal Code, that provides protection in the form of a Judicial Recognizance Order, more popularly known as a 'peace bond:'

810 (1) Any person who fears that another person will cause personal injury to him (sic) or his (sic) spouse or child or will damage his (sic) property may lay an information before a justice.

(2) A justice who receives an information under subsection (1) shall cause the parties to appear before him (sic) or before a summary conviction court having jurisdiction in the same territorial division.

(3) The justice or the summary conviction court before which the parties appear may, if satisfied by the evidence adduced that the defendant has reasonable grounds for his (sic) fears,

(a) order that the defendant enter into a recognizance, with or without sureties, to keep the peace and to be of good behaviour for any period that does not exceed twelve months, and comply with such other reasonable conditions prescribed in the recognizance as the court considers desirable for securing the good conduct of the defendant; or

(b) commit the defendant to prison for a term not exceeding twelve months if he (sic) fails or refuses to enter into the recognizance.

In the event that a defendant breaches a recognizance order, s.811 of the Criminal Code provides means for punishment. The justice can find the defendant guilty of a summary offence, which under s.787 of the Code carries a maximum penalty of six months imprisonment, a two-thousand dollar fine or both. Ironically, failing to sign a peace bond can result in a more severe sanction than signing and subsequently breaching it.

It is readily discernible from the above text that the provision for issuance of a recognizance order is applicable to many situations and is not meant as a specific remedy for survivors of violence in the home. Further, a peace bond cannot be issued without the judge being satisfied beyond a reasonable doubt that the complainant has grounds to be fearful (R. v. Kirkham, 1993). Many women are unwilling to go through a confrontative court process. A policy-analyst in Victoria informed me that the federal government is currently drafting a Bill that will allow a police officer to obtain a section 810 peace bond on behalf of the complainant. It remains to be seen, however, whether the police will make use of this provision. In Vancouver, peace bonds are currently being used extensively:

...in Vancouver at least, when they apply for an 810, they apply and there's a warrant issued, so that the defendant is arrested and bail terms can be put into place right away. So there's a measure of protection right, you know, because the usual bail term is no contact with the complainant. In that sense it's ex parte. When the 810 is sworn, a warrant will go out and then bail terms will be set rather than summons of the accused. Because with any information, there's two ways of getting an accused into the courtroom: one is a warrant to bring them into custody and have bail set and the other is a summons (Policy analyst).

In Delta, this is not the case:

We don't have a lot. We try as much as possible to go by way of charges...I wouldn't consider it a large number. We start out always with the charges, as far as I'm concerned, unless it's very unusual. Often when they put in for a peace

bond, the police send in a report for a peace bond, I look at the case and if there is enough evidence for an assault, I lay an assault charge. We don't like peace bonds, our policy is not to use peace bonds if at all possible. We go by way of charges and to get the victim to come to court. That's the policy (Crown counsel).

In essence, charges are brought against an offender in order to bring him before the court and side-step the peace bond process altogether. What happens instead, however, is the substitution of section 810 peace bonds with common-law peace bonds at trial (N=12, 25% of all cases -- see table 3.2). This is commonly done where there may be insufficient evidence to convict for assault. As indicated previously, the common-law peace bond is a much weaker preventive measure because it is even more obscure to justice officials, and presumably the police. In addition, a conviction is not recorded since the accused undertakes to sign on his own recognizance. Thus, we have a situation where Crown 'up-grades' the charges only to 'down-grade' them at trial.

From the questionnaire, police officers report that women produced 29 peace bonds between June 1993 and June 1994 that were issued against their partners. Many officers, however, may have conflated section 810 peace bonds with court orders at sentencing. Probation services in Delta send survivors copies of the court order stipulating no contact, along with other provisions⁴. These might have been confused with peace bonds. The Justice of the Peace reports that she has rarely been required to swear section 810 peace bonds in cases of violence against women. Furthermore, she adds: "I haven't seen those returning to court." This is corroborated by Crown counsel's comments (above) and by the Judge, who states: "we don't have a lot of section 810s...and I just can't think of a case where I've dealt with a breach of a recognizance."

Yet another problem for women attempting to obtain a peace bond is a B.C. Crown policy that instructs her to go to the police in order that they investigate the allegation. Not only does the woman have to convince the police, the Crown and then the Judge or J.P., but she may not want to deal with the police in the first place. The J.P. confirms that "I always refer them back to the police or I contact victim services." One senior police administrator said, "I don't think it's a great policy. Sometimes people don't want to go to the police...I don't understand what their rationale is behind it." In fact, the policy may be a contravention of their rights to justice, since battered women are being denied their legal right to lay an information before a Justice of the Peace. One policy analyst candidly noted that, "Practically speaking, a police report is helpful, but it shouldn't be a requirement. In my position, I'm not supposed to give legal opinion [pause] but I question the legality of that policy."

In Canada, there are also civil remedies available to wives of violent husbands under provincial statutes governing family relations. Unfortunately, a woman must be legally recognized as 'married' before she can seek these orders against a male intimate (Schollenberg & Gibbons, 1992). In British Columbia, the Family Relations Act⁶ (FRA) contains three sections that seek to provide battered women with some protection:

36.1 Order Restraining Harassment: On application, a court may (a) make an order restraining any person from molesting, annoying, harassing, communicating, or attempting to molest, annoy, harass or communicate with the applicant or a child in the lawful custody of the applicant...

37.1 Order Prohibiting Interference with Child: Where a court makes a custody order or separation agreement that is enforceable by a court, the court may order that a person (a) shall not enter the premises, including premises the person owns or has right to possession of, where the child resides from time to time; (b) shall

not make contact or endeavour to contact or otherwise interfere with either the child or any person having custody of or access to the child...

79. Restriction of Contact: (1) A court may, on application, order that, while the spouses continue to live separate and apart, one spouse shall not enter premises while the premises are occupied by the other spouse or child in the custody of the other spouse. (2) Subsection (1) applies whether or not the spouse against whom the order is made owns or has a right to possession of the premises.

When one examines enforcement of these provisions, one begins to see the major difference between civil and criminal preventive remedies. The inquiry inexorably leads to a case study of the patriarchal constructs of 'private and public' and the reluctance of official agencies to take proper steps to stop women's suffering.

Family lawyers throughout British Columbia consistently express frustration with a system that barks but never bites. In a survey of these sentiments, Taylor noted that "the major problem, above all others, put forward by each of the family lawyers interviewed is the problem of enforcement of restraining orders" (1993:32). In another small-scale survey of 21 private attorneys and seven legal offices in California, Truninger (1971) found that family lawyers believed that restraining orders were generally effective. However, only one-third of those interviewed felt the police were of any assistance. Commentators investigating the broader issue of police response to 'domestic' calls have discovered their actions regarding protective orders to be 'unhelpful' (Ferraro, 1989:178).

Ferraro reports that two of the 17 women she interviewed in Phoenix received restraining orders only to find the police would not enforce them because, in their eyes, the women had violated the order by recommencing contact with their husbands (Ferraro, 1989:178). Similar sentiments are common-place among Delta police (see Chapter Four). What is ignored is that the order was placed against the men, and that its violation was

their responsibility, and not the survivor's. Police failure to enforce protective orders in the United States has caused Sherman (1992:238) to conclude: "[t]here is a strong basis for calling the current system a cruel hoax upon the victims, a promise to protect them that will not be kept." Edwards (1989) reports that London area courts vary wildly on the type of evidence they require to issue injunctions (restraining orders) and on whether an arrest order will be attached. "Injunctions without a power of arrest are not worth the paper they are written on" (Edwards, 1989:61).

Of the evaluative studies conducted on civil restraining orders which consist of interviews with survivors, there is consensus that restraining orders 'could' work, but do not, because of police inaction (Chaudhuri & Daly, 1992; Fagan, Freidman, Wexler & Lewis, 1982; Grau, Fagan & Wexler, 1984; Stubbs, 1989)). In Stubbs' (1989) study of women's experiences with Apprehended Domestic Violence Orders (ADVOs)⁷ in New South Wales Australia, for example, it was discovered that only 10% (N=6) of the 61 incidents where breaches of ADVOs were reported to the police resulted in an arrest. Similar conclusions have been reached in studies that involved interviews with police (Edwards, 1989) and the judiciary (Finn & Colson, 1990). As with the broader problem of violence against women in the home, enforcement is the central issue surrounding any discussion of restraining orders.

Statistics gathered from the questionnaire show that 19 restraining orders were produced by women for the police to act upon when they were attending a 'domestic call.' In Chapter Four, the enforcement of these orders is considered further. For now, it will suffice to say that civil protective orders are not taken seriously by the police. The

FRA, however, is specific and seems to leave little doubt as to what constitutes a breach of a civil restraining order in British Columbia. Section 81(1) of the Act states that "a person commits an offence by refusing or neglecting, without reasonable excuse, to comply with an order made against him under sections 36.1, 37, 77, and 79."

In contrast to other provincial statutes, there is no direct mention in the FRA of a penalty for a breach, and since there are no contempt powers in Provincial Court, the matter is left to the criminal system. The Provincial Court will issue FRA restraining orders only when child custody is also at issue. Since the Supreme Court has contempt powers 'outside the face of the court,' Judges (and often Masters) include directions to the police to arrest where the offender has breached the order. The police, in Delta as elsewhere, demand that the language be specific and the order be properly stamped and sealed before they will consider an arrest. It is so rare for the police to arrest that one family lawyer who represents women reports the following:

I would say it's way up there in thousands [number of ROs obtained for clients]. I've been doing this for 15 years. And that happened about a month ago and I was very surprised. But it was only because of my client being very very persistent. 'He came into my home when he wasn't supposed to be.'

It's very interesting. Nobody wants to touch them with a ten foot pole because there is absolutely no consistency. There is no rule, it would seem to me, in the hands of the police about what they'd do. And the two times that I've been in court where they were dragging somebody in for offending against the restraining order, we all sort of stood around and said 'well, what do we do now?' I'd be happy if it were treated as a contempt charge. Usually I'm happy if the police have done anything.

What, then, can the courts do to enforce civil orders if they were not obtained in the Supreme Court? It seems that there are two options at the police officer's disposal.

The first option is in the Criminal Code, where punishment is provided for the contravention of a court order, and it appears that the penalty for breaching a civil restraining order would fall into the same category. Section 127 of the Code stipulates that "everyone who, without lawful excuse, disobeys a lawful order made by a court of justice or by a person or body of persons authorized by any Act to make or give the order...is guilty of an indictable offence and liable to imprisonment for a term not exceeding two years." Consequently, according to these formal legal provisions, breaches of civil restraining orders are clearly designated as offences, and the resultant means of enforcement should be easily accessible through the criminal court. Yet although a Crown counsel in Delta stated that "we would consider the use of s.127," in practice this is not the first option.

According to the respondent Judge, the better option lies in arresting the offender under section 81 of the FRA which makes a breach of the Act's orders a provincial offence. The breach is then processed under section 2 of the B.C. Offence Act, and proceeds as a summary conviction case. This is in a fashion identical to the processing of provincial moving violations.

Few of the police officers I spoke to in the Municipality of Delta were aware of this option, despite the fact that it was included in the Delta Police policy manual. In her study of the issue, Taylor notes that "obtaining such an order is an exercise in futility when there is no general consensus among the professionals to whom we look for enforcement as to what constitutes enforcement...the Defendants simply ignore them" (Taylor, 1993:32).

Women in violent relationships have difficulty in getting the police to enforce these orders. The diversion of women to the civil courts in Delta results from policies that require women to convince the police, an institution they have grounds not to trust, of the necessity for a Criminal Code peace bond. Only if the police are satisfied that an application is warranted will they file a report to Crown counsel. Once the report is before the Crown, the survivor may find herself summoned to testify against her partner for assault, even though she was only after a protective order. She is then placed in a position she may have been trying to avoid to begin with: risking angering her assailant further by pursuing charges. When she finally gets to court, she finds that she must convince the court, beyond a reasonable doubt, that her partner assaulted her. She then watches as he is released on conditions of probation or a common-law peace bond. The latter court order, by the admissions of the court's 'everyday players,' is probably less likely to be enforced than a civil restraining order.

Even if the case did go ahead as a peace bond hearing, it might take months for the police and Crown to investigate and for the trial date to be set. In that case, a woman is faced with explaining to the Judge why she has not been attacked in the interim. If she has been safe up until trial, is there really any need for a protective order?

Summary

In this chapter, the socio-legal framework within which protective orders are issued, enforced and adjudicated is analyzed. Given all the obstacles women must face, most would make the 'choice' to use the civil courts 'but not in conditions of their own choosing.' Since restraining orders can be obtained ex parte in the civil courts, and the

burden of proof is based on the 'balance of probabilities,' she might prefer to retain a lawyer, if she can afford one, and try the civil process. Having made that 'choice,' however, her suffering is filtered back into the private domain.

Data collected from field research in Delta are further analyzed in the following chapter. Appreciating that women's options are confined by procedural mechanisms and institutional ambivalence, it is necessary to investigate how justice officials view and react to women's concerns for safety in Delta. What motivates their behaviour? How do the police typically react to breaches of protective orders? Do the police believe protective orders are effective? When would they arrest for a breached order? What attitudes affect their decision-making processes? Answers to questions such as these bring us closer to understanding the 'reality' and rationales for police action and inaction when called to enforce protective orders.

Chapter Four:
Findings and Interpretations

Introduction

A major argument throughout this thesis has been that in order to understand police action (or inaction) when confronted with protective orders during 'domestic calls,' one must always keep in mind the structural framework and organizational mechanisms that influence decision-making. In Chapters One and Three, the structural and socio-legal framework within which the police must operate was discussed. It was noted that officers make decisions in a legal setting that sanctifies marriage and the family and that reifies notions of the public and private sphere. In this chapter, these issues are taken up and applied to the results of the questionnaire and interviews conducted in the Municipality of Delta. Particular attention is paid to the attitudes police hold toward women, and the rationales they enlist to explain their actions. It is argued that, in many ways, the police are only a reflection of the society they are charged with regulating.

An analysis of data produced by the questionnaire administered to Delta police officers (N=45) was somewhat compromised. Faced with 'outsider' investigations, the police are not always cooperative. Indeed, as numerous authors investigating police occupational culture have noted (e.g. Manning, 1978a, 1978b; Skolnick, 1966; Van Maanen, 1978; Vincent, 1990), the police are an isolated, cynical and secretive fraternal order.

In Delta, many police officers did not include their year of birth or the year they were sworn in as constables on the questionnaire. When the remaining sample was crosstabulated against an assortment of other variables (that also included missing data), the number of analyzable cases shrank as low as 25. This, however, is not the only

reason for deciding to drop experience information from the analysis. First, it was discovered that many Delta police officers are former members of other lower-mainland police services. Some had as many as seven years' experience at other departments. To use the 'year sworn in' statistic as an indication of police experience, therefore, would have been misleading.

Second, in one briefing-room discussion, a policewoman asked who would be reading the questionnaires. When I tried to explain to her that I would be the only one looking at them, a fellow constable interjected by saying, "just put anything down, that's what everybody else is doing." I asked him what he meant, when yet another constable informed me that most officers were providing answers for those questions that were false or "close enough," so that they could not be identified later. Aware that officers may well have discussed this option among themselves before filling out the questionnaire, I could not estimate how many personnel were involved in 'fudging' their answers.

Rather than attempting to use suspect data, attention was diverted to more reliable demographic information. Indications of rank and sex were checked after each briefing to ensure that they were correct. The number of policewomen and policemen, and the ranks they represented, were counted during each briefing and then matched against the demographic data provided by that shift on the questionnaires. There were no incongruencies found.

Officers Believe Protective Orders Are Effective

Question 21 on the questionnaire (see Appendix I) asked Delta police officers to comment on how effective they feel protective orders are in stopping further violence or

harassment. Their responses were numerically coded into three groups: (1) effective, (2) ineffective and, (3) don't know. Tables 4.1(1) and 4.1(2) show that crosstabulations of perceived effectiveness by rank and sex did not reveal any statistically significant difference between groups. In addition, officers indicated that peace bonds are only slightly more effective than restraining orders in stopping a continuation in violence (64%

Table 4.1(1)

Generally speaking, how effective do you feel peace bonds are in stopping further violence or harassment? (N=41)			
GROUPS	Ineffective	Don't Know	Effective
Constables	11 (31%)	1 (3%)	23 (66%)
NCOs	3 (50%)	0	3 (50%)
Males	11 (30%)	1 (3%)	24 (67%)
Females	3 (60%)	0	2 (40%)
TOTAL	14 (34%)	1 (2%)	26 (64%)

versus 61%). While it is interesting that Delta police officers believe a criminal court order is slightly more effective than one obtained through the civil courts, it is particularly surprising that over 60% of respondents feel that both orders are generally effective. This is especially interesting in light of their reluctance to arrest when the orders are breached (see below).

I believe that these results are more indicative of police attitudes toward the general effectiveness of the court orders absent their own interventions. In other words, police officers believe that protective orders are generally adhered to by those upon whom they are imposed. As one constable noted "a piece of paper is a piece of paper, it

Table 4.1(2)

Generally speaking, how effective do you feel restraining orders are in stopping further violence or harassment? (N=41)			
GROUPS	Ineffective	Don't Know	Effective
Constables	11 (31%)	2 (6%)	22 (63%)
NCOs	3 (50%)	0	3 (50%)
Males	11 (31%)	2 (6%)	23 (64%)
Females	3 (60%)	0	2 (40%)
TOTAL	14 (34%)	2 (5%)	25 (61%)

depends on the guy. If he's nuts, he'll breach it, but most people are reasonable." This reasoning is somewhat circular in nature: i.e., they are effective so long as they are not breached and since we do not think they are usually breached, they are effective. Absent from this equation, however, is the sociologically interesting question of "what happens if the orders are breached?" Tables 4.1(1) and (2) show that there is some gender difference in the perceived effectiveness of both orders. Due to the small sample sizes in the tables, a chi-square statistic cannot be successfully applied to corroborate this.

A Compulsory Arrest Policy?

Question 22 asked respondents whether they believed forcing officers to arrest for breaches of protective orders is a good idea. The important finding here is that police officers are split on whether such a policy would be a good thing.

Although the totals indicate that a slight majority is in favour of a compulsory arrest policy (52% versus 48%), three respondents on the questionnaire who checked off 'yes,' qualified their answers by emphasizing the importance of discretion. This was the

Table 4.2

Do you think a policy forcing officers to arrest for breaches of protective orders is a good idea? (N=44)		
GROUPS	Yes	No
Constables	19 (51%)	18 (49%)
NCOs	4 (57%)	3 (43%)
Males	20 (51%)	19 (49%)
Females	3 (60%)	2 (40%)
TOTAL	23 (52%)*	21 (48%)

* Note: 3 of 23 in favour of arrest qualified their response by maintaining that discretion should not be eroded.

overwhelmingly popular reason given by those who responded 'no':

ID#28:⁸ [Yes] However a breach is never usually black and white and we require the ultimate decision of not arresting. Many times the victim has breached the order herself and we can't enforce (Female constable).

ID#40 [Yes] Generally yes in most cases, but each arrest should be made based on the circumstances (Male sergeant).

ID#41 [Yes] Most of the time however there is the element that falls in the grey area (Male corporal).

If these responses were to be included in the 'no' category, the majority would tilt toward opposition to such a policy. Even those officers who felt that a mandatory arrest policy would be a good idea were not necessarily indicating their willingness to arrest. A number of respondents (on the questionnaire and during interviews) indicated that it would act as another 'enabling' mechanism (Ericson, 1982) that they could call upon if needed:

The thing that's good about them is that at least you've got something that you can act on. It's a real good tool for police officers (Senior Police Administrator).

As long as the restraining order is in proper order and has been adhered to, then like I say, it can be a useful tool for the police in giving them something to work with (Male Constable).

I could still use that but use it reverse. Like 'this is what I'm supposed to be doing. She said you smacked her. With that -- boom, I can take you downtown. But I'm reading the situation, and I'm getting this kinda stuff here and so I'm saying I'm not gonna do that, but this is what I could be doing. So, I'm stepping out on a limb here, what are you going to do? What's gonna happen when I leave?' (Male constable).

Discretion is central to the notion of freedom from direction, such that "[p]olice work is seen as an individualistic, entrepreneurial, practical, face-to-face activity involving particular people and their problems" (Manning, 1978b:77).

Criminal justice personnel, in contrast, were in favour of a mandatory arrest policy that would curtail police discretion. A probation officer, commenting on the lack of police enforcement, noted: "[i]t's my position that they should be arrested because they are committing an offence. I would be very much in favour of a policy which would force the police to arrest whenever there is a breach of an order." Similar sentiments were expressed by two policy analysts and a family lawyer.

The irony of question 22 is that police officers are already compelled to arrest by law. A court order, by its very nature, is an instruction to the parties and the police to take a certain action. In the United States, the courts have held that the police are legally obliged to enforce such orders. In an Oregon Superior court ruling, it was found that "police officers who knowingly fail to enforce a judicial order issued pursuant to statute restraining the husband from molesting his wife and children, are potentially liable for the resulting physical and emotional harm to the intended beneficiaries" (Nearing v. Weaver, cited in Rigakos, 1993:11).

The Oregon court ruled that because there is a precise statutory requirement that the police arrest, they have no general protection from civil action for failing to do so. One senior police administrator in Delta conceded that officers "are already compelled, technically." If officers feel that protective orders are generally effective but are resistant to relinquish their discretion, how inclined are they to arrest when an order is produced at a 'domestic call?'

Police Reluctance To Arrest and The Civil/Criminal Distinction

Police officers were asked to indicate how many times in the last year (June 1993 to June 1994) they had occasion to be presented with a protective order at a domestic call and how they responded to those incidents. Table 4.3 shows an obvious police reluctance to enforce protective court orders. These data were gleaned from the questionnaire and are based on individual police officers' reports of their own responses to 'domestics' where a breach of a protective order was involved. An aggregation of this sort brings with it an assortment of statistical problems. The most important of which is that more than one police officer may be recollecting the same event. When 'domestics' become violent, it is not uncommon for more than one officer to respond to the call. When an arrest ensues, you may have three officers reporting the same charge on the questionnaire. It must be noted, however, that most 'domestics' are handled by a single 'unit' that always contains one officer. Delta police officers are rarely paired up. This means that the statistics being presented in Table 4.3 may be flawed. In other words, the particularly low arrest rates of 21% (for a restraining order) and 35% (for a peace bond) are probably inflated -- a thoroughly depressing thought.

A peculiar finding is that Delta police officers report being presented with more peace bonds than restraining orders (29 versus 19) even though key respondents report that the issuance of peace bonds is rare. I believe that many officers confused section 810 peace bonds with other criminal court peace bonds, such as probation orders, bail bonds and other no-contact provisions.

Table 4.3

Delta Police Arrest Rates for Breaches of Protective Orders During 'Domestic Calls'		
Type of Order	Number Produced	Enforced w/ Arrest
Restraining Order (civil)	19	4 (21%)
Peace Bond* (criminal)	29	10 (35%)

Source: Based on questionnaire responses

*Peace Bond statistics may be inflated due to possible confusion with other criminal court orders.

As mentioned in Chapter Three, crown counsel and the J.P. state that issuances of section 810s are rare. This observation is buttressed by the following comments offered by key respondents:

I think the most common thing is for breaches of peace bonds at sentence. You know, like probation or no contact orders. We get those. If I had to guess, I'd say 99% of arrests are for breaching a probation or release condition (Male Constable in the PiRS section - occurrence report analysis and entry onto electronic information networks).

We really don't get many of these. Mostly they're orders by the court. No contact orders after he's been let go on conditions. That's what we've been doing around here for the last while (Male Corporal).

We don't get a lot of section 810s. It's more likely to be an assault or an assault causing bodily harm, sometimes a threatening charge, rather than using the section

810...It's not often used here and I just can't think of a case where I've dealt with a breach of a recognizance. The more common thing here where a charge of assault has been laid for any number of reasons, the Crown counsel or defense counsel or the accused may ask that I put him on a common-law peace bond and then the Crown would drop the assault charge (Criminal and Provincial Court Judge).

I've never seen a peace bond in all my years of police service. I did not know what a peace bond was up until I came into the [] section...So I'd say about a year-and-a-half ago I found out what a peace bond was. I was amazed to find out the majority of the people I work with, the policemen, did not know what a peace bond was either. They thought peace bonds and restraining orders were one and the same. I've only seen civil (Male Constable).

Despite the confusion between section 810 peace bonds and other court orders, the fact remains that Delta police officers would rather deal with and arrest for breaches of criminal court orders than civil restraining orders. Police reluctance to act on civil restraining orders is illustrated in Table 4.3 and in the commentary of respondents during the interviews:

In the past, and I haven't heard many lately, but in the past we in British Columbia are Family Court Counsellors also for Family Relations Act matters and you have a lot of people who have had restraining orders tell us that the police won't act on them. Police basically say 'there's nothing we can do.' Maybe because the Supreme Court is placing instructions to arrest it's less now but they used to say 'it's a civil matter, talk to your lawyer.' Unless they witness a criminal offence, clients have told me that the police just say 'there's nothing we can do about it.' (Probation Officer).

I haven't seen more than about five arrests for restraining orders since I've started here. If they arrest, it's minimal. I know many are issued, but we enforce very few...When you work here, very few come across your desk, I know there are many issued, but we don't see them, at least I haven't (Male Constable, Report Reader – PiRS).

Usually they don't have any weight or substance whatsoever. We look at them and see when it was written and it had the judge's signature et cetera, but we knew it was a civil order. So we would stand by and keep the peace at that time and date and we would tell the people to get a divorce and solve it that way but not to actually use the order as it stands (Male Constable).

Police reluctance to enforce civil restraining orders, even more than peace bonds, has much to do with their acceptance of patriarchal constructions of public and private 'wrongs.' Police officers were asked to indicate how often they recommended that a woman obtain a protective order against her husband in the last year. Not surprisingly, officers were more apt to suggest she secure a civil order rather than a criminal court order (see Table 4.4). In fact, just over half of the questionnaire respondents (53%) recommended a criminal court injunction, while 62% of officers suggested the use of civil restraining orders. This is a particularly provocative finding because officers are less likely to arrest for a breach of a civil restraining order.

Table 4.4

Delta Police Officer Recommendations to Survivors to Apply for a Protective Order (N=44)			
PROTECTIVE ORDER	Number Recommended	% of Officers Recommending	Mean per Officer
Peace Bond	129	53	2.9
Restraining Order	140	62	3.2

In Hanmer's study of the West Yorkshire police, a similar trend was observed: "the advice offered is to see a solicitor and possibly obtain a non-molestation injunction" (1989:105-106) even though restraining orders "are often cumbersome and ineffectual in stopping violence" (1989:90). Canadian field research by Ericson shows that "[r]ecipe rules on interpersonal conflicts, especially among intimates ('domestics'), apparently instruct officers to deal with these situations by means other than the criminal law" (1982:113). Since civil remedies are preferable from a police perspective, Edwards

argues that "the law in theory and in practice reflects the relegation of private or domestic 'crime' to that of the lowest priority" (1989:8).

Feminists have argued that the conceptual division of social life into public and private spheres arises from gendered social relations that assign superordinate and subordinate importance to certain actions and venues by labeling them public or private. This dichotomy is reified, as though pre-existing outside the social life that makes up the orderly patterns of hierarchical relations in patriarchy. Delta police officers reflect these distinctions when they relegate civil restraining orders to a less important status than that accorded criminal court orders:

Yeah, uhm, I'm gonna use more 'ways and means' with the civil to try and get the guy to comply. I'd be telling him 'hey, you'd better abide by this' (Male Constable).

Civil, civil, boy I tell ya: 'fine line.' I really don't think that we should be the ones enforcing civil. Boy, but who's gonna do it? Sheriffs? They don't want it (Male Constable).

Not criminal [unlike civil].... We have more time to deal with them and we treat them quite seriously over here. They'll take a guy off the road to write up a peace bond like they did with me -- eight hours one day. So, it's not half-assed when you put it in (Male Constable).

In the following example, the officer draws an analogy between labour disputes and 'domestics.' It is not hard to imagine who might be management and who might be labour in the marital relationship he describes:

Any type of civil action, whether it be a Bailiff's seizure, a picket strike, they're all viewed in a distant and negative fashion by police in general. Because it's an apples and oranges thing. We deal with criminal provisions which are black and white and we understand them totally. Civil, we have no training, no experience for these civil matters. From what experience I have acquired over the years, the civil is probably more bureaucratic than criminal, definitely has more lawyers involved and works on the balance of probabilities in most cases where criminal

is beyond a reasonable doubt. It has a different structure in itself. It comes back to what I told you, it's a no win situation. Criminal law, we don't mind getting out there and 'scrog' somebody or whatever because this is some bad guy and he deserves it or whatever. But when you deal with civil law, you're talking about a balancing act. Everybody has different interests whether it be a labour dispute which is a classic one you could tie in with domestic violence. You have management who has their set side and you have labour who have their set side and there's friction in between. Nobody's gonna win but somebody has to suffer all the friction and the pain and suffering and that happens to be the cops on the labour disputes and that's no different than with domestic situations (Male Constable).

From a policing point of view, it is more effective to be using the criminal courts because we have difficulty sometimes in the enforcement of civil orders, because lawyers will write them up differently and they won't always be written in terminology that we feel is acceptable for enforcement. If it's written up in such a way where the authority for the police is not clear... (Senior Police Administrator).

Other justice agents also report a reluctance by the police to take civil restraining orders seriously:

I'm not entirely sure. Maybe there's more teeth behind a criminal procedure versus a civil one. There's a psychological perception on the part of the police that their responsibility is on criminal rather than civil matters. We should be trying to change that viewpoint (Justice of the Peace).

I know that women complain that police won't act on these or arrest. I've had officers explain that they don't, they feel don't, they can't rely on the currency often of a Family Relations Act restraining order (Criminal and Provincial Court Judge).

One family lawyer, who represents women, finds this excuse difficult to swallow:

If they're not enforcing restraining orders without a time frame, imagine how hard it would be to enforce one with a time frame. I'm not going back to court every month to renew a restraining order. What are they saying? 'We'll give it some time to cool off.' If I hear that one more time...I advise my clients to get them because I believe a criminal sanction, which is a section 810, uh, promise to keep the peace, is treated with greater respect by the police.

Indeed, when new legislation was passed in New South Wales Australia, creating Apprehended Domestic Violence Orders in 1983, a six month maximum duration was also attached. In 1988, however, this limitation had to be removed (see Stubbs, 1989:7n).

In Delta, the public/private distinction manifests itself in attitudes toward criminal and civil court orders in cases of violence against women in the home. The 'appropriateness' of civil injunctions in these cases relates directly to the relegation of women to the private sphere. When it comes to enforcement, the 'private nature' of these injunctions makes them unworthy of police involvement, or outside the realm of 'public interest.'

Officers were also asked about other civil or private injunctions that did not involve violence in the home. These may include liens on cars, Bailiff's seizures or other proprietary injunctions. In most cases, officers reported no experience with such orders. There was some consensus, however, that they are a 'hassle' because Departmental practice calls for careful exercise of discretion, including the assistance of an NCO:

Any time there's a risk to property, like that, I'm not gonna make the decision, I'll call an NCO (Male Constable).

You gotta be careful with those ones. There are a lot of emotions at those. People get upset when their stuff is being taken away. They're real volatile, so I take them seriously and, yeah...I might call for help (Female Constable).

No, thank God, they're a hassle, you need an NCO for those (Male Constable).

It would seem that even proprietary injunctions are taken more seriously than civil restraining orders issued under the FRA.

In sum, therefore, civil restraining orders, in cases of violence against women, are less likely to be enforced than criminal court orders. Both orders, however, rarely result

in an arrest when breached. Nonetheless, police officers are more apt to recommend civil restraining orders to women because 'domestic fights' are seen as private family matters. Consequently, police view other civil injunctions, where intimates are not involved, as a more legitimate arena for police involvement. The question that remains to be answered, however, is "when do the police feel that intervention and arrest are appropriate in cases of breached protective orders?"

Factors Precipitating Arrest

Police officers were asked to indicate, on a Likert-type scale, the weight they assign to certain factors when making a decision about arresting for breaches of peace bonds (PBs) and restraining orders (ROs). As mentioned in Chapter Two, these factors were gleaned from a number of sources, including the existing literature on violence against women in the home and my own preliminary inquiries. Ideally, officers would have been given multiple scenarios including an assortment of variables and asked to comment on how they would react. Thereafter, the scenarios would be analyzed such that factors which repeatedly resulted in arrest could be isolated. The questionnaire, however, had to be brief in order that officers would not be detained before their shift starts for too long a time. A more direct approach was the only available option (see Appendix I). The means exhibited in Table 4.6 are based on the saliency scores listed in Table 4.5.

There are no statistically significant differences between male and female officers or between constables and NCOs across all variables. It is not surprising to find no difference between rank and patrol officers, since those officers who have most

internalized subcultural norms would be most likely to be promoted. What is somewhat surprising, however, is the lack of difference between policemen and policewomen. This suggests that male and female officers are either equally socialized into the police occupational culture or, as institutions often do, the Delta Police tend to hire in their own image.

Table 4.5: Coding Scheme for Saliency Scores

<u>Numerical Weight</u>	<u>Saliency of Factor</u>	<u>Decision</u>
-4	:extremely important	to not arrest
-3	:very important	to not arrest
-2	:moderately important	to not arrest
-1	:slightly important	to not arrest
0	:don't know	
1	:slightly important	to arrest
2	:moderately important	to arrest
3	:very important	to arrest
4	:extremely important	to arrest

The most important factors inciting police to arrest in cases of breached protective orders where the safety of a survivor was involved, include: (1) signs of forced entry (PB=3.690, RO=3.524); (2) a violent history (PB=3.000, RO=2.762); and (3) signs of a struggle (PB=2.857, RO=2.632). The startling finding from this ranking is that officers appear to be more interested with property damage than with signs suggesting that an assault may have occurred. Moreover, a woman's request that the police arrest was ranked sixth out of 12 situational factors (see Table 4.6); it is, on the average, only 'slightly important' in the disposition of police toward effecting an arrest (PB=1.275, RO=1.250):

You know, I have to live by what I do. I'm gonna have to make sure that I get backed by my bosses and that the courts are gonna be thinking that this is alright, that I did the right thing. The woman yelling and screaming and hollering and wanting the guy out, O.K., means very little (Male Constable).

On the other hand, if the police officer believes that a woman is intoxicated (PB=-.071, RO=-.024) or not going to appear for court, s/he would not be inclined to arrest (PB=

Table 4.6

Ranked Importance of Factors for Delta Police Officers to Arrest for Breach of Protective Order (N=45)*				
FACTORS	Peace Bond	Rank	Restraining Order	Rank
Signs of forced entry.	3.690	1	3.524	1
Offender has violent history.	3.000	2	2.762	2
Signs of Struggle.	2.857	3	2.632	3
Chronic case residence.	2.171	4	1.927	5
Offender intoxicated.	1.714	5	1.929	4
Woman wants arrest.	1.275	6	1.250	6
Children present.	1.050	7	1.175	7
Both intoxicated.	0.326	8	0.349	8
Woman intoxicated.	-0.071	9	-0.024	9
Believe woman will not show for court.	-0.167	10	-0.405	10
Offender left property.	-0.750	11	-0.675	11
Order ex parte.	n/a	n/a	-1.095	12
Believe woman invited offender in.	-1.341	12	-1.098	13
No arrest power.	n/a	n/a	-1.122	14
Two orders produced.	n/a	n/a	-1.488	15

* Valid cases vary from n=40 to n=43. Values presented are means.

-.167, RO=-.405). Factors of slight to marginal importance for the Delta police to arrest in cases of breached protective orders include: whether the residence is considered a 'chronic case' household (PB=2.171, RO=1.927); whether there are children present (PB=1.050, RO=1.175); and whether the offender is intoxicated (PB=1.714, RO=1.929). Police consider the offender leaving the scene (PB=-.750, RO=-.675) a slightly important factor in their decisions not to arrest. One family lawyer believes that the police view is that they must find the offender on the property and in the act:

Well I think what is happening is that we are still in a place where we use to have to have police see an assault. It was that kind of thing, you know, if we didn't see anybody beating up on their wife even though we arrived shortly after on the scene of the crime and find a woman bleeding. They've said, up until a very short time ago, in terms of law enforcement, that they wouldn't be laying charges, because they did not see anything and it was up to the woman to lay charges in that kind of terror. I'm seeing that attitude still around in the enforcement of restraining orders. He's breached his restraining order, he has broken into the premises but we didn't see him do it.

As expected, police officers are reluctant to enforce restraining orders when they are obtained ex parte and the offender claims he is unaware of its existence (RO=-1.095):

I'll tell you right now, if I went to a domestic and there was an ex parte order, I certainly would not be arresting him. I would be advising him that there is an order in place and I'd be documenting all that and sending info to the file that he has been advised now and get an address so a copy can be sent to him. How could you reasonably arrest the guy if he didn't know what was going on? (Female Constable).

One constable reported resolving a similar difficulty in a more creative manner:

One of them was actually served on one of the parties in my presence. It was a domestic situation where the wife had contacted us. She said there was a restraining order in place. He had just entered into the home and was causing some problems. We went down there. I said 'where's a copy of the restraining order?' She didn't have a copy with her at the time. He, of course, had not been served. They were trying to reach him but couldn't. So we contacted the lawyer's office right then and there. And as it was, because he was so close by,

his secretary, acting on his behalf, came down and we served the husband right then and there. We went through it and paraphrased [for him] exactly what the restraining order was (Female Constable).

It would appear that ignorance of the law is an excuse where a protective restraining order, obtained ex parte, has been breached. Police officers also considered it slightly to marginally important not to arrest if the restraining order was issued by a Provincial Court and did not include a power of arrest (RO=-1.122). As mentioned in Chapter Three, however, there are statutory provisions for enforcement regardless of any instructions on the court order. Another factor that leads Delta police officers to shy away from arrest for breaches of restraining orders is any confusion they might harbour about the currency or validity of the order. Question 11 was phrased in the following way: "the offender claims the order has been varied and produces his own ex parte restraining order, although he is at the woman's residence." When faced with this situation, the police are inclined not to arrest (RO=-1.488). There seems to be some difficulty when police officers must deal with more than one order. Delta police policy, however, dictates that the orders should be read carefully and where a more recent order does not amend or rescind a previous order, the unchanged sections of the earlier order still stand.

By far the most significant factor causing police officers to shy away from arrest for both peace bonds and restraining orders is when they believe the woman originally allowed the offender into the residence (PB=-1.341, RO=-1.098):

Why should I arrest a man if he was invited in by the woman? It's her fault, not his. What I'd like to do is arrest her...she's the one who violated it, not him. How many times do we arrest both parties? (Male Constable).

...they always seem to be a problem. If they're not really enforced or the person having it has not followed it, like having the person that it's against back living in the house or being in contravention of what the restraining order says (Male Constable).

It's a real good tool for police officers. Unfortunately, people that get them, don't deal with them properly. They contravene them themselves (Senior Police Administrator).

One of the problems with them is outside contracts being made over and above. O.K., husband and wife have an order of some sort, a bond of some sort, restraining order, whatever, and the non-restraining person agrees to a meeting. They want the restraining order but it has to be on their terms and they supercede the courts and that. And so I think there should be some kind of way of letting them know they can't do that. They shouldn't be doing that. If it was an arranged meeting or the woman invited the man back into the home, I'd be reluctant to arrest (Male Constable).

Yes. Since January, I've had one occasion with the restraining order in a domestic situation and both the subjects were very intoxicated. As it turned out, she invited him over to the residence and she breached the order. We didn't do anything with it, we sent him on his way. And we certainly weren't about to enforce it (Female Constable).

A reluctance to charge where it is believed the woman allowed the man back into the home is not an attitude borne in a vacuum. The police must rely on the support of the community's justice personnel if they are going to be proactive and take a firm stance.

This support, however, might not be forthcoming:

Well, I think it goes the same way as under your Family Relations Act. Once you've consented to them coming back into the house then any orders you would have are null...as far as I'm concerned (Justice of the Peace).

If he's come over on his own, that's a breach. Oh, I'd be prepared to charge unless there is some indication that she called him and invited him or something like that...but practically, if she has initiated the contact...[pause] (Crown Counsel).

Finding the same rationales circulating in the West Yorkshire Constabulary, Edwards questions why "[m]en were rarely if ever held responsible for returning to the

matrimonial home or accepting the invitation. It was considered the woman's responsibility to uphold the injunction, although the order was made against the man and often involved his undertaking" (1989:106-107). Similar sentiments were expressed by a Policy Analyst in Victoria:

I've been involved with training sessions across the province in relations to a violence-against-women-in-relationships policy and, of course, that question comes up. And we have to explain to them, you know, he's in breach of a court order, court order, period. Doesn't matter if the victim invited, doesn't matter what, you know, it doesn't mean that the order is no longer in effect simply because the victim invited them over.

Of course, this elucidation of the conditions in which the police feel they may legitimately intervene reveals an overarching attitude that unless a harm has taken place before their eyes, they will be very suspicious of a woman's call for assistance in cases of breached protective orders. As Ferraro (1989:175-176) has noted, the police are looking for obvious physical signs in order that they do not have to rely on the testimony of the woman. The mobilization of a reverse onus against the woman means that she must establish her credibility through every step of the system:

He should know when he arrives at that house, or phones that woman, or inveigles himself back into her sympathies -- he's breaching the order. If we could pick him up on breach the moment he phones her, sends her a letter, or sends her flowers through the lawyers office then we wouldn't have that kind of police problem. We are reluctant to enforce restraining orders until he has broken down the door and is standing over her with the phone he ripped out of the wall... You know, the moment he phones her true friends or her mother or her uncle... saying tell her sorry, I can't live without her, I cry to sleep at night. If we could arrest him at that point... (Family Lawyer).

Perhaps the most frustrating and paralyzing thing for women is a police response that focuses on her actions instead of the offender's. The injustice is that women who have obtained protective orders are endeavouring to secure safety for themselves and their

children; they are trying to ameliorate the unpredictability of police response with the assurances of obtaining a legal document that 'guarantees' some action. As we noted in Chapter One, women are not 'helpless,' hapless, or pathetic; or inexorably trapped in these circumstances; they are active agents trying to gain safety from male violence. But when they try to empower themselves by using a protective order to establish some leverage in their relations with an intimate or outside agency, they instead end up forfeiting their rights to protection. One family lawyer summed up these sentiments eloquently when she described an incident involving one of her clients:

Like what happened last week, when he was beating down the door. My client's children were frightened, so they opened the door for him. A lot of women say, 'well, he hadn't eaten, so I invited him for dinner and he lost it again.' They rely on that protection because they have to. And she should be protected regardless of any precipitating factors. See what we're doing is blame the victim, blame the victim; it's always blame the victim!

Police Subculture

How do we best begin to understand police attitudes and inaction during breaches of protective orders? In order to appreciate fully the context in which these decisions are made, analyses have to extend beyond simple situational factors and relate to structural relations within patriarchy. Police officers make choices within an organizational setting that defines their mores and norms -- the police occupational culture.

The idea of 'subculture' was first imported into criminology by Albert Cohen (1955), in his analysis of youth street gangs. He explained gangs as part of, but set off from, the dominant American culture. Later, this analysis would be used by Skolnick (1966) to describe the police subculture. In Skolnick's analysis, three essential

ingredients constitute a framework for police action: (1) danger; (2) authority; and (3) the need to be efficient and look busy.

In their study of Metropolitan London officers, Smith and Gray (1983) amend Skolnick's observations to include a 'cult of masculinity' that pervades the police officer's working personality. This has resulted in special constructions of 'manliness' such as heavy drinking, physical tests of courage and the exclusion of female officers who challenge the subculture. The resultant lurid, 'bawdy talk' denigrates women by objectifying them as things to be degraded and sexually exploited (Smith & Gray, 1983:373).

In Delta, policemen freely discussed the attractiveness of a policewoman, and their interests in other women. A 'situation' would often develop if a female constable entered the briefing-room. She would end up having to listen to conversations saturated with sexual overtones. At one point, I asked a policewoman if she would be available for an interview after the briefing. Worried that the interview might take too long, she was reluctant. I told her that "it was short" and I would "only take a few minutes." Overhearing this exchange, another policeman mockingly repeated parts of our conversation so that it was suggestive of a sexual liaison: "I would like to meet with you, it's short, it'll only take me a few minutes." My attempt at securing an interview had been reinterpreted as a pathetic sexual advance. Of course, the briefing-room erupted in laughter. Vincent (1990) has uncritically interpreted this 'bawdy talk' as the innocent banter of 'energetic young men.' Absent a critical eye, however, these conversations cannot be seen for the discursively dense and empowering statements they represent (see

Harris, 1978). Smith and Gray have found that "the dominant values of the Force are still in many ways those of an all male institution such as a rugby club or boys' school" (Smith & Gray, 1983:372).

Sheptycki (1993) has recently criticized the 'cult of masculinity' concept for two reasons. First, he argues that because masculinity is not peculiar to the police it is not a good framework for analysis (1993:40). However, as feminists have argued, patriarchy is an omnipresent structural and ideological reality. The fact that it is not confined to the police subculture only strengthens their position. Second, Sheptycki (1993:40) argues that "police work, and the almost military hierarchy in which much of that work takes place, can be said to reinforce, promote or exaggerate, but not create this tendency." Again, Sheptycki's critique only serves to emphasize what feminists like Edwards (1989) and Stanko (1989) have been saying all along: "[p]atriarchy is not simply perpetuated by individual male attitudes, but by the organization itself, through its informal rules [read subculture] and its rather more formalized structure..." (Edwards, 1989:26). In short, the police subculture of masculinity is only a microcosm of general patriarchal attitudes found in society. Although police forces do not 'produce' patriarchal attitudes, they certainly 're-produce' them.

Interwoven with police perceptions of masculinity are 'malestream' ideological constructions of privacy. If there is no observable, 'public' wrong being done, then according to such conceptions, it should not be a police matter. Police often voice a fear that their arrests will not stand up in court or will be thrown out by the prosecutor (Edwards, 1990; Stanko, 1989). As a result, 'domestics' are not considered a 'good

pinch' (heroic arrest) by fellow police officers (Ferraro, 1989; Stanko, 1989) and therefore not worth the risk of injury. In her study of the Phoenix police, Ferraro notes that officers would go to great lengths in getting the survivor to promise to appear in court (1989:169). If there was a doubt about whether she would show, officers would usually not arrest and recommend civil (or private) action.

Masculinist constructions of violence against women by police officers in Sydney, Australia resulted in the labelling of women who were consistently beaten as 'mentally ill' and undeserving of protection (Hatty, 1989). Similarly, misogynist attitudes sometimes led to a view of the woman as 'nagging' and taunting her husband and therefore deserving of punishment for her 'mental torment of the man' (Hatty, 1989:80). Other feminists (e.g. Dobash & Dobash, 1979; Edwards, 1989; Ferraro, 1989; Stanko, 1989) have noted that the police tend to divide households into those either deserving, or undeserving, of protection. Most 'undeserving' households comprised residents of low socioeconomic status.

Other factors that affect the police officer's decision-making process include the demeanour of the assailant (Stanko, 1989), the extent of the injuries to the woman (Hatty, 1989), and whether there are witnesses present (Berk & Loseke, 1980 as cited in Stanko, 1989:57). Finally, the police officer is greatly influenced by a history of violence in his/her own background (Stith, 1985 as cited in Edwards, 1989:16). The process that guides police officers in the field about whether to arrest also affects their response to incidents of breached recognizance and restraining orders. In Delta, the masculine occupational culture of the police department has contributed to negative stereotypes of

women as liars, manipulators, and unreliable witnesses; has fostered erroneous assumptions about the cause of violence in the home; and has pointed the finger at 'the system.'

Delta police officers are quick to blame an inadequate legal system for women's suffering and mistreatment. These criticisms are, of course, not limited to the issue of violence against women -- complaints about 'the system' are a pastime of police services around the world. Police rationalize their inaction when protective orders are breached by citing bureaucratic or technical impediments to obtaining a conviction. They also believe that restraining orders are too liberally dispensed and rarely taken seriously by judges and lawyers. The following observations of selected respondents are illustrative:

The province, the courts, mandate that you shall arrest. Now they're plugging up the court system and they're not getting a higher conviction rate...All they're doing is costing the justice system a lot of bloody money. You take the restraining orders -- they're too freely given in some cases. I think they should go in front of the judge. Have the judge look at the evidence. Is there evidence for it? And then give restraining orders. And if the restraining orders are broken, make a minimum of thirty days in jail. There's no sense making something that is not really enforced. Go through the court files. Have a look. Go up to see the number where there is a charge [for breaching] a restraining order or peace bond where they've gone to court and find out what happens. Nothing (Male Corporal).

They'll have an order that the Supreme Court will put on an injunction which says 'can't picket...and if you do picket you can be brought before the courts.' Well, that kind of an order is nice and fine, but it means nothing to the police. Until the court, the Supreme Court comes out and says 'Now you've been in contravention of the first injunction, now I'm going to have a second order that orders police officers to arrest anyone in contravention of the first one' (Senior Police Administrator).

They're only as effective as the court's punishment dictates. Where there is no deterrence through sanctions, the peace bond and restraining order is just a piece of paper that doesn't mean anything (Female Constable).

...a lot of the times we can't get a copy of it or they don't have a copy of it and we're sort of right in the middle of it and we have to act now, I mean the guy is there, so we gotta know. Is he arrestable on this right away? So we can scoop him and then deal with it...If they were more specific, even a date on it type of thing, so we know O.K. she was issued it two weeks ago so, you know... Sometimes there's three or four, they amend it and he's got the amendment and she doesn't (Female Constable).

...they look like something some asshole lawyer drafted up. It's like a weasel-word document; it goes on and on and on about this and that but we don't know if they've been done ex parte. You need both parties there who both agree with the legal restraining order. This is the facts and if both people agree to the facts then we can stand by and keep the peace but that's it. But usually that's not the case. Both parties aren't there, only one party is there so we're reluctant to enforce them. Secondly, we don't know how valid the order is. Could be a month old, could be six months old, could be a week old. You don't know how many applications have been made since then to alter it (Male Constable).

I guess what ultimately the police are looking for is, because it's civil, we'd be looking for some judge or someone to be responsible for that order. It's nice to come up with an order that's written in legal language where it is very technical, where I would say that a peace bond is not that technical. Peace bonds are a lot more simplistic, laying out all the terms and conditions where it seems in restraining orders they're not. Secondly, you're looking for your judge to guarantee or back the civil restraining order. Which typically doesn't seem to be done. It's done by some judge who mass produces them and they have their lawyers who represent them. It's like a big legal bureaucracy, from what I've seen, which doesn't help the people. All it does is put money in the pockets of the lawyers bleeding off the emotions of these people who are obviously going through a domestic crisis (Male Constable).

For their part, however, legal agents believe that the orders lack effectiveness because the police fail to enforce them. The perception is that the police misunderstand court orders and cannot respond adequately; that is, protective orders are ineffective because of police ineptitude:

Yes. I have a pet peeve against police who don't listen to court orders (Justice of the Peace).

...they think often that the Provincial Court Order which won't say 'I direct you to arrest them and bring them to court.' Of course, that doesn't mean that they

shouldn't arrest, or something. So, it's the Provincial Court Judges view that someone in breach of our orders should be arrested under section 81, is it? Which is a summary conviction offence and so on. But I think there's some confusion. (Criminal and Provincial Court Judge).

In the end, we must question the legitimacy of police rationales that serve to deflect attention away from their failure to take protective orders seriously. Such attitudes may amount to what Taylor (1993) views as 'obstructionist' tactics.

Attitudes Toward Marriage and Violence In The Home

The motto of the fabled Royal Canadian Mounted Police, when loosely translated from the French, reads "maintain the right." No shibboleth is perhaps a more fitting descriptor for police agencies in the Western world. Hatty (1989) has noted that the police hold conservative views on most topics including the preference that women adhere to traditional gender-based behaviours such as mothering and housekeeping. Similar sentiments are to be found in Delta, where the 'sanctity of home' and marriage is expressed in the comments of the officers interviewed. A failure to fit this gendered construction relegates unconfirming women to the status of 'rubbish' (Smith & Gray, 1983) and undeserving of protection (Hatty, 1989):

The whole arrest thing is bullshit. You have some real douche-bags who keep the house like a pig-sty. Then the guy gets angry...and she's drunk and slaps him. If he fights back she calls the police. Most of these things are started by the women anyways, it's just that they're smaller and end up losing the fight. She shows you her wrists are red where the guy grabbed her and expects you to arrest even though she hit him first. All he was trying to do is keep her from hitting him by grabbing her arms and forcing her onto the bed (Male Constable).

Concomitantly, the conservative notion of 'moral decline' is also espoused:

The family unit is breaking down in our society and there's not a lot we, as police officers, can do to change that. People going in two different directions. They

don't have the commitment to each other, like they did in the past. The moral[s] of the whole society is breaking down (Senior Police Administrator).

I think for the most part, and this goes back to my own situation, I've been married a couple of times myself, frustration and lack of communication are major factors why couples split up. And I guess society has lost a sort of 'stick-to-itiveness' approach to marriage now. My parents have been married 50 plus years. A lot of people my age, their parents have been married a long long time, you know. You don't see that a whole lot now with younger couples where they've been together for long, long periods of time...A lot of it is external frustration with the job. Advancement, no money, you're not making enough, the husband feeling he's not providing enough (Male Constable).

Conservative attitudes toward marriage elicit pronouncements about the pressing need to preserve the family at almost any cost:

Well, I've been to domestics where there's been outright threats or physical acts taken place where the guy has actually chased the wife around the house with a knife or threw her out or something like that. I mean, I had one lady sit here in the office a number of years ago and she had bruises all over the place and I still didn't charge in that situation. One of the factors that will play a lot in my mind is how I read the couple and how I understand their willingness to maybe consider ways of patching this or ending it. Counselling to end it or counselling to patch it up and get it going again. And with this one case I was just citing, I read this couple that if they got somebody in there to really sit down and talk to them, straight from the hip, just the two of them, face to face, it was an oriental couple in Tsawassen, I kinda had the sneaky feeling things would be alright. If they would sort this out, get back together and go on from there, they would do quite well. And it turned out that that's what happened and I didn't charge them (Male Constable).

When asked why 'domestics' occur, police officers espoused a belief that they were related to alcohol consumption and other situational variables. Through their words, we see the justifications and rationales of the batterer (Ptacek 1988). Although suspicious and cynical of all informants, the police, like some psychologists (Dutton, 1988), may be more ready to validate the rationales of the man than the cries of the woman, as in the following excerpts:

Family breakdown. With variables...whether it be a money situation, whether it be alcohol, or whether it be stresses with divorce. You know, just a breakdown between the husband and wife and some form of violence whether it be verbal or otherwise (Female Constable).

A lot of it is liquor related, like most of the stuff we do. Liquor is in there a lot (Male Constable).

Alcohol, huge economic hardship, being laid off from a job, the breakdown of the family unit (Senior Police Administrator).

Alcohol. Alcohol, alcohol, alcohol. Yup, I've never been to a domestic, ever, where alcohol has not been involved. Basically, just narcotics and alcohol (Female Constable).

Alcohol. Alcohol, and I guess a lack of communication; apathy; a lack of parental discipline and then an argument about the raising of children. I'm no expert (Female Constable).

Alcohol, definitely would be a major factor. It's very rare to go to a domestic and find that they haven't been drinking. There's drug related problems or whatever. I think those are the biggest factors (Female Constable).

Alcohol. You can say money matters, you can say financial, but all those things lead to the alcoholism which leads to the guy coming home and slapping around his wife or vice versa (Male Constable).

In much the same way as police officers subscribe to stereotypes about criminals, conventional police wisdom attributes certain recurrent characteristics to victims. In the case of women, the division is between 'traditional' and therefore 'deserving' women or false and illegitimate victims (Edwards, 1989:92). Delta police officers hold perceptions of battered women that are sometimes denigrating and often negative. Adopting societal definitions of women as manipulators and liars, the police hold skeptical views of women who protest against their treatment by intimates.

Stories of negative experiences with battered women circulate within a masculinist subculture that views these incidents as reaffirming of a pre-existing 'operational narrative.' Women are seen as untrustworthy and prone to lying:

We had a domestic in Ladner just a little while ago. Everybody in the department knows about it. The guy involved is a fireman. Most of the guys like him. What had happened was that we had to go down there working, in uniform, because he had gone down to pick up some property, but she had a restraining order against him. She went and swore out an information saying that some off-duty police types had been around and intimidated her into giving up the property. We were there working. She filed a citizen's complaint and the whole nine yards. She went down there and lied through her teeth in order to get this restraining order. I mean, that's a lie she can be caught in no problem and she's prepared to make it. So you can imagine what people are prepared to say when they know there's no chance of getting caught at it...Often these restraining orders are based on something so far from the truth you can't even see it (Male Constable).

First of all they still have to use their discretion because it's still very possible for a woman to make an allegation against her husband just to get him out of the bloody house (Crown Counsel).

Women police officers, as well, accept such subcultural stereotypes and view the protestations of women in a rather unflattering light:

Sometimes you get some really chippy women. If this woman was yapping in my face...She didn't ask to be assaulted but... (Female Constable).

One family lawyer sees this attitude surfacing in the culture of the police and the criminal justice system as a whole:

You know, what they're doing is saying women are stupid; women are not to be believed; when a woman calls for help and says 'I've got a restraining order,' you should be careful because she might be lying. It used to be that all I needed was an affidavit from her, now I bring a doctor's letter. Even if he says 'well, she told me she was beaten' it's almost like 'somebody else believed her.' Especially if the police charge. The woman's word is not enough (Family Lawyer).

The problem of women liars is viewed as serious enough to warrant legislative change in perjury laws:

I'll tell ya. If you really want to clean up the justice system, uh, I mean really, really clean it up, I'll just leave this as a fact for you and maybe you can use it down the trail. But one of the biggest problems we have with the justice system is that you can only charge perjury by way of indictable offence. You can't charge perjury summarily. Because it's an indictable offence, the accused has a right to a jury trial. That's why perjury charges aren't laid. Civilly and criminally I see time and again and time and again people regularly commit perjury. So if the Criminal Code were amended whereby perjury was a summary offence thing, so that chop, chop, they can expeditiously prosecute it without giving the woman charged with perjury the right to a jury trial, you're going to get a lot less perjury in our justice system. And, you know, initially there would be a spurt of charges for perjury and everybody will get the message (Family Lawyer).

Survivors are not only pathological liars, in the view of many respondents, they are also manipulative and cunning. They try to 'use the system' in order to entrap their partners:

Women are using these orders to manipulate their husbands. Like for custody battles and divorces...Woman aren't stupid, they know we have to arrest, we have no bloody choice, so they're using it against their husbands (Male Constable).

The problem is that women argue well, when men fight, fight back they get arrested for it. Women are good at arguing but when men respond the only way they know how they get arrested. It's not fair, is it? (Male Corporal).

The one thing I have noticed though is the bias, at least it's my perceived bias, that the males are the only ones being charged with domestic assault. And in going through police reports, talking to victims and offenders, it appears that whenever there's a domestic situation and the police attend that, there's going to be an arrest of the male regardless of how it started or who said what. I've come across a number of cases where the woman is the first one to assault the male or the woman has taken an equal part in the assault (Probation Officer).

ID#11: It appears that some women are using the Attorney General's policy on "Police shall arrest" at domestics, as a tool to gain an upper hand in divorce proceedings, and child custodies (Male Constable).

Another popular perception of the Delta police is that women are reluctant witnesses. Officers complain that they invest a tremendous amount of effort and time to

prepare a case against the offender only to be abandoned by the women at trial. As discussed elsewhere, these cases are not 'good pinches' for police officers (see Stanko, 1989). Often, they feel betrayed by an ungrateful woman (Ferraro, 1989):

Police don't like getting involved in domestic situations because it's a no win situation. We like to help people but in that case we don't look like we're helping anybody. Either we're being a friend of the bitch by being subservient to her or we're being a friend to that asshole by looking after all the men in society. It's a no win situation. Either one of the two lawyers are going to say we're knobs and we're not doing our job and they're going to criticize. They work for their clients, special interest groups, women against violent men, they're all down on the cops figuring they just don't do a good job (Male Constable).

During spousal assaults we'll make an arrest, but as far as restraining orders, the ladies aren't acting on it once they're in place, outta fear or ignorance of the law. I've been off the road for two-and-a-half years. My big thing is that you'll arrest and go ahead and take a statement and then in court the wife is a reluctant witness -- and that's very frustrating -- that's the worst thing (Male Constable).

I've been doing this for some 26 years and I've had thousands and thousands. The ones where there is actual violence on an ongoing basis, you charge, you go to court, and the women don't show. And after a while it's like 'don't cry wolf if you're not prepared to go through with it' (Male Corporal).

It ended up going to court and she, in the eleventh hour and with no prompting at all, said 'well, I sort of made up some of it.' She said that at that time it was the heat of the moment and she's thought about it. Then I felt bad, I said 'No, I don't like this.' So since then, I've sort of learned, let's look at it a bit closer. So what she says all this, that he or she did this to you (Female Constable).

[Sigh] Yeah, I've had where they've...in fact, it was a boyfriend-girlfriend thing and they had been living together, and uh, split up, and uh I mean, it was a serious assault: kidnapping, and unlawful confinement, all those kinds of things. And then she says this, that and the other and boom, it's thrown out of court! This happened five or six years ago, it grows on you for a long time (Male Constable).

From these comments, it is evident that officers believe that reluctant witnesses are a serious problem. It is also clear that many respondents remember 'stories of

betrayal' by women for quite some time. These stories, however, are contradicted by the comments of other agents:

99% of the time, I would say [they're cooperative]. It depends on a lot of things, uhm, their ethnic background; what influence they're having from other family members in the household (Justice of the Peace).

We don't have a lot of the trials actually go ahead. Often they're resolved by guilty pleas or say by the peace bond, the common-law peace bond...(Criminal and Provincial Court Judge).

Faced with these two opposing perceptions, I decided that a closer look at court records in the Municipality of Delta might yield some answers. Table 4.7 shows that only one in ten women testifying in 'spousal assault' cases in 1993 was listed as 'uncooperative.'

Table 4.7

'Uncooperative' Women: A Look at the 'Spousal' Assault Records in Delta (1993)			
	N	%	
Total cases	49	100	
Dismissed/withdrawn	22	45	
Total cases where women were 'uncooperative'	5	10	RESULT
Refused to testify	1	2	stayed
No show	3	6	all 3 stayed
Stated she had lied	1	2	dismissed

Source: Compiled by the author. Based on spousal assault cases decided in the Delta courthouse in 1993.

The question that arises, therefore, is "why is there such a gulf between perception and reality by the police about witnesses at trial?" I believe that the answer may have

much to do with selective recall and a subculture that quickly reinforces both positive and negative 'war stories.' This occurred to me one day while observing a group of officers coming off shift. They shared with the incoming shift a story about an incident that occurred the previous night involving a high speed car chase, multiple arrests and the unholstering of side-arms. Officers involved relished in retelling the story, acting out and possibly embellishing their own roles. Their audience, including the researcher, was captivated by the tale. For that moment, all the officers in the room managed to break free of the actual mundanity of their jobs and share in a legitimating anecdote of 'real police work.' Those who were involved were thoroughly pleased in sharing the incident with their peers while those not involved wished they were there.

It is this same mechanism that serves to magnify the interesting incident involving battered women above the general trend of recurrently bland cases involving arrest and guilty pleas with no further police involvement. The following five examples illustrate this process at work. In all cases, Delta police officers were asked whether they believe survivors are generally uncooperative witnesses and then were asked to recall all their experiences with arrests of wife batterers:

#1 Yeah. Bottom line? Yeah, definitely. I mean, I was at a domestic not too long ago and we had to fight this guy with two of us. Got kicked, everything else, had to drag his ass down the stairs and she wouldn't even... We got to court, and we're talking from a rather well-to-do family here, and we went through all this, we took statements, I mean, I wasted like hours and she did not show up for court. I mean, we become very unimpressed after a while. You know, she's not stupid by any means and it becomes very discouraging for us. We go through all this effort and they won't come to court.

I've received only one court notice this year and that was the one for him...
(Female Constable).

#2 And from the very beginning she didn't want to, but because of the mandate, you put it through, you do all the work, and you're getting paid to do the work, but I'd rather take the two or three hours to do that and go out and catch somebody doing something else, or catch a bad guy. At times there are no physical signs or marks but you're bound to put it through because of the mandate...Before courtroom, they wouldn't even show up for court. You put the PCR's, the Crown reports in, court date is set, you show up, they're not even there or they'll phone you up and say 'No officer, I'm not going to be there.' What can you do, you're not gonna go through with it.

That's happened about two or three times. I've never had to go through with the trial, all the other times the guy has pled guilty (Male Constable).

#3 Even as a woman, I get frustrated with some of these women. It's like: 'I wouldn't put up with that shit, so why should you?' Sometimes we take it too personally, especially when a lot of time is invested. On the outside looking in...you end up getting mad at them. As far as I'm concerned...I did everything I can for her. After that, it's up to her.

I've been here for just over three years. Almost in all cases, the guy pleads guilty. A lot of times the officer won't stay because he doesn't want to hear the outcome (Female Constable).

#4 Females will even tell you that 'I just want him out of here, but I'm not going to be going to court on this.' When you do arrest them, my practice is to take a statement as soon as possible, you know, at the time and that's when she's told all about arrests and everything. But come court time they say 'no, I've never seen that statement' or 'I was pissed off so that's why I gave that statement to the officer.'

Oh...well, that's happened five or ten times over five years...I suppose they usually plead guilty (Female Constable).

#5 It hasn't been favourable. The example I have is the most recent one, which is just over two years ago before I went into []. An East Indian couple. It was a pre-arranged marriage. The guy was born and raised in Canada. He was thirty-five. He got an East Indian woman from India. He had an argument with her three months after she got here and he beat her up, basically. He punched her in the stomach, pulled out her hair, threw her down the stairs, punched her in the face, took off her clothes so that she couldn't escape, and then she ran out anyways, she grabbed a towel and ran out. One of the neighbours called it in and I got there and I arrested the guy. Brought him in, went to court and by the time the proceedings came around, she wasn't available. So I had to go and track her

down, which took a bit of work on my part, and I finally found her and I served a summons on her to appear in court because she didn't want to appear in court. This is two months later, three months later. She got the summons; it went to trial; she never showed up in violation of the summons. So Crown counsel stayed the charges. She was happy with the way things resolved. That's been my only experience as a police officer for 15 years. I can't see why anyone would want to testify against their spouse after they made up with them. It doesn't make any sense.

In my career? I can't remember but it would be several, a dozen? Most of them I haven't had to go to court on. I'd say, if we're going to use a dozen, about half, not even that. Of those, I can only think of, uh, two, no three, instances where the spouse failed to show up and testify. What's that 25%? Approximately? (Male Constable).

Delta police officers' selected memories of trial experiences gone sour revolve around feelings of betrayal when a survivor became a reluctant witness. These images overshadow the hundreds of cases that have resulted in guilty pleas or successful prosecutions throughout their careers. They become amplified because of their profound personal effect on the witnessing officer and the ease with which these incidents can be accounted for when viewed within prevailing patriarchal constructions of women.

Such 'stories of betrayal' are circulated within a hyper-masculine police occupational culture that reifies society's stereotypes of women. In this way, 'symbolic narratives,' representing battered women as manipulative, deceitful and masochistic, are diffused within a subculture 'pre-wired' to receive them. Instead of living vicariously through the legitimating 'scrog' of a fellow constable, Delta police officers, in these cases, empathize with their colleague who is burnt by an ungrateful 'symbolic complainant.' When a similar incident happens to a given officer, her (or his) image of the battered woman is further entrenched despite ample evidence to the contrary. Rather

than being the fairy tale 'damsel in distress,' women maintain a healthy cynicism toward a criminal justice system that has often failed them.

Summary

Over 60% of Delta police officers believe protective orders are effective, even though they arrest in only 21% of the cases where there is a breach of a restraining order and 35% of the cases where they are presented with a peace bond at a 'domestic call.' Moreover, they are more apt to recommend a woman obtain a civil restraining order despite the fact that these orders are less likely to be enforced. When the police do arrest for breaches of protective court orders in cases of violence against women in the home, they are looking for signs of forced entry and a potentially violent offender. A woman's plea that the police arrest is ranked sixth out of 12 situational variables inciting the police to arrest. If she allows the offender onto the premises, in the eyes of the police, she has forfeited her right to protection. Finally, the occupational culture of the Delta Police Department cultivates conservative values towards women, family, and marriage which eventually lead to skewed perspectives of battered women as symbolic complainants who are sometimes manipulative and often unreliable witnesses.

These findings tell us much about the way police officers construct and manage their world as it pertains to the enforcement of protective orders in Delta. In the conclusions to follow, these findings are analyzed in relation to research from other settings and re-connected with the feminist model outlined in Chapter One and employed throughout this thesis. In addition, we are still left with the question of 'what is to be done about all of this?'

Chapter Five:

Conclusions

At the outset of this thesis, I asked what factors and agents in patriarchal relations collude to make leaving a violent relationship difficult for women. Clearly, the most important finding of this research project is that, by their own admission, the police rarely enforce protective orders. This is a particularly troubling result because women who have acquired protective orders have made concrete steps toward taking control of their lives. When police fail to act upon a court order, survivors are being told that there is little the police will do to help them.

Despite this, the police believe that protective orders are generally effective because it is assumed that most offenders do not breach the order (see also Chadhuri & Daly, 1992). Police officers are split on whether a compulsion to arrest policy is a good idea. The utility of such a policy is also questionable given that the Delta Police Department's arrest rate during 'domestics' is only 49%, despite provincial and departmental directives to lean towards arrest. A general police ambivalence toward the plight of battered women has been reported in numerous other jurisdictions (e.g. Edwards, 1989; Ericson, 1982; Hanmer, 1989). These attitudes are a result of the division of social life into private and public domains (Edwards, 1989; Pahl, 1985b). Women are excluded from the latter and diverted to the civil courts.

Conservative notions of marriage, family, and women relegate the enforcement of protective orders outside the purview or interest of the police. There is also ample evidence that the police are guided by exaggerated notions of masculinity and unfavourable impressions of battered women as 'symbolic complainants.' As in other jurisdictions, these attitudes cut across both rank and sex. Women are not 'helpless'

(Walker, 1979, 1985, 1993) or mentally ill; they are active agents who make rational choices in conditions not of their own choosing (Bowker, 1993; Dobash & Dobash, 1988). When police erroneously conclude that women are reluctant witnesses they must keep in mind that survivors have every right to be suspicious of a criminal justice system that has often failed them. These findings add to the growing body of feminist analyses of police occupational culture (Edwards, 1989; Smith & Gray, 1983; Stanko, 1989).

When the police do decide to arrest, they look for evidence of forced entry, a violent offender, or signs of a struggle. Absent these factors, a woman's plea that the police take action is of only marginal importance. Ferraro (1989) has noted similar sentiments operating in Phoenix, while Hatty (1989) finds these attitudes present in Sydney, Australia. In short, many of the conclusions presented in this thesis are supportive of a small but growing body of feminist literature that is adding much to our understanding of how and why the police behave the way that they do (Edwards, 1989; Ferraro, 1989; Hanmer, Radford & Stanko, 1989a, 1989b; Hatty, 1989; Pahl, 1985b). In Delta, B.C. as in Holloway Britain (Edwards, 1989), New South Wales, Australia (Stubbs, 1989), and Phoenix, Arizona (Ferraro, 1989), the police are reluctant to enforce protective court orders in cases of 'domestic violence.'

So what is to be done about the non-enforcement of protective court orders? In Delta, I identify a number of difficulties women encounter when trying to secure their own safety. These procedural obstructions must be removed. First, women who wish only to apply for a peace bond should not be forced to press charges against their intimate for assault. Although it is always a good policy to help women criminalize the violence

of their intimates, I am not satisfied that the B.C. Attorney General's policy in this area is wise. Although the policy helps to inflate arrest statistics, in Delta, it often results in the imposition of an unenforceable common-law peace bond at trial. Moreover, it should be remembered that women can best judge the wisest course of action for themselves (provided all options are available to them). A conceptual shift is also required in the system's definition of 'success' in cases of violence against women. A better definition would see the replacement of prosecution as the focus of the system's intervention with that of securing a woman's safety (see Ursel, 1986; Ursel & Farough, 1990). An adoption of this policy by the Delta courts would, as witnessed in Manitoba, have a significant effect on report rates and women's satisfaction with the system.

Second, it should not be necessary for women to file a police report and request a police investigation in order to start peace bond proceedings. Every Canadian citizen has the right to lay information before a Justice of the Peace. At worst this is a policy that usurps women's rights to justice; at best it is a paternalistic gesture by the system geared towards tracking and assisting in the complaint. Paternalism, however, is only the benevolent face of patriarchy. Many women may wish to forgo police involvement, especially if they have found them unsupportive in the past. Moreover, a police investigation that judges a woman's complaint to be unfounded essentially kills her petition to the Justice of the Peace.

Third, the police need to stop filtering complaints into the civil courts and begin criminalizing the actions of violent male partners. This can be done by encouraging women to obtain peace bonds instead of civil restraining orders and where breaches of

either one of these orders occurs, to arrest immediately. Little can be expected to change without a conceptual shift in society's understanding of what constitutes private and public interests and each gender's place within these constructs, but in the meantime, police should be expected to arrest for orders that are breached and the courts must reinforce this action with stringent application of penalties. Although Delta police officers are split on whether a compulsory arrest policy in cases of breached protective orders is a good idea, it should be remembered that they are already obligated by the court order to arrest.

Some policy-analysts and police officers during the course of data collection wondered aloud if new legislation was necessary to rectify the problems listed throughout this thesis. The short answer is 'no.' The law is clear and enforceable. All that remains is for the agents women look to for protection to apply them. While there might be a sense of renewed interest and use if new legislation was passed, this spurt of enthusiasm would likely subside. In New South Wales Australia, new legislation aimed at providing women with Apprehended Domestic Violence Orders (ADVOs) in 1984 resulted in an incarceration rate of 23.1% for those who breached the order. Three years later, however, the courts were imprisoning offenders in contravention of the order in only 12.2% of the cases (Stubbs, 1989:35).

Many of the respondents mentioned that they would prefer an automated system that keeps restraining orders on file. Similar programs have been instituted in Calgary and Ottawa, and the B.C. provincial government is considering this initiative. While this is welcome, there is no evidence that 'more information' will result in 'more enforcement' when the orders are breached. Although it has turned into a bit of a cliché

among those who study the police, it must be stated that 'more training is needed' in the area of violence against women in the home and particularly on protective court orders. Many of the police officers I spoke to were unaware of the existence and practical application of one or both of the protective orders covered in this thesis.

Women's organizations, such as LEAF⁹, should consider taking legal action, as has been done in the United States, when police agencies do not enforce a protective order and an offence is committed against the woman. This may be the greatest motivator for getting institutions, especially the police, to take these orders seriously. The intent of this thesis is to add to the feminist research that focusses on the policing of violence against women in the home and to forge a beginning in the study of the application, use and enforcement of protective court orders for women in violent relationships in Canada. In the end, an examination of the efficacy of peace bonds and restraining orders is a case study in institutional indifference to the plight of women.

ENDNOTES

¹ This scale measures physical violence between persons based on self-reporting. It is the primary instrument of the 'family violence' researchers. Criticisms of the scale are discussed later in this chapter.

² This agency is a municipal referral service that also operates distress lines. It also employs a handful of counsellors.

³ Delta Family Services is a private care centre contracted by Delta Probation Services to assist in the continued counselling of battered women and assaultive partners.

⁴ This is another help centre, with a focus on youths.

⁵ These might include 'keeping the peace and being of good behaviour,' curfews; meeting with a P.O.; orders to attend counselling; etc...

⁶ R.S.B.C. (originally 1979; amended 1986).

⁷ An ADVO works very similarly to the Canadian peace bond but is issued on the basis of whether a woman has reason to fear for her life or safety on 'the balance of probabilities.' Like the peace bond, the penalty for breaching the order is six months imprisonment and/or a \$2,000 fine. It was passed into law in 1982, under the Crimes (Domestic Violence) Amendment Act (see Stubbs, 1989:6-8).

⁸ Identifiers used here and throughout the thesis indicate case numbers assigned to questionnaire respondents. From time to time, qualitative data from the instrument are referenced in this manner. There is no key for primary qualitative data obtained through interviews. A listing of participants is provided on page 44 of this thesis. In all cases, where this type of data is presented, the position/rank and gender of the respondent is included.

⁹ Women's Legal Education and Action Fund.

REFERENCES

- Adams, D. (1988) Treatment models for men who batter: A profeminist analysis, in K. Yllo & M. Bograd (eds.) Feminist Perspectives on Wife Abuse. Newbury Park, CA: Sage, 176-199.
- Black, D.G. (1971) The social organization of arrest, Stanford Law Review, 23, 1087-1111.
- Bograd, M. (1988) Feminist perspectives on wife abuse: An introduction, in K. Yllo & M. Bograd (eds.) Feminist Perspectives on Wife Abuse. Beverly Hills, CA: Sage
- Bowker, L. (1993) A battered woman's problems are social, not psychological, in R.J. Gelles & D.R. Loseke (eds.) Current Controversies on Family Violence. Newbury Park, CA: Sage, 154-165.
- Bowman, C.G. (1992) The arrest experiments: A feminist critique, The Journal of Criminal Law and Criminology, 83, 1:201-208.
- Brownmiller, S. (1975) Against Our Will: Men, Women, and Rape. New York: Bantam.
- Buzawa, E.S. & Buzawa, C.G. (1993) The scientific evidence is not conclusive: Arrest is no panacea, in R.J. Gelles & D.R. Loseke (eds.) Current Controversies on Family Violence. Newbury Park, CA: Sage, 337-356.
- Cain, M. (1990) Realist philosophy and standpoint epistemologies of feminist criminology as a successor science, in L. Gelsthorpe & A. Morris (eds.) Feminist Perspectives in Criminology, London: Open University Press, 124-140.
- Chaudhuri, M & Daly, K. (1992) Do restraining orders help? Battered women's experience with male violence and legal process, in E.S. Buzawa & C.G. Buzawa (eds.) Domestic Violence: The Criminal Justice Response. Westport, CT: Auburn House, 227-252.
- Cohen, A. (1955) Delinquent Boys: The Culture of the Gang. New York: The Free Press.
- Dekeseredy, W.S. & Hinch, R. (1991) Woman Abuse: Sociological Perspectives. Toronto: Thompson Educational.
- Delta Chamber of Commerce (1994) A Great Place to Live, Work, and Play. A Guide to the Municipality of Delta.

- Deschner, J.P. (1984) The Hitting Habit: Anger Control for Battering Couples. New York: Free Press.
- Dobash, R.E. & Dobash, R. (1992) Women, Violence and Social Change. New York, London: Routledge
- Dobash, R.E. & Dobash, R. (1983) Unmasking the provocation excuse. Aegis, 37, 57-68.
- Dobash, R.E. & Dobash, R. (1979) Violence Against Wives: A Case Against the Patriarchy. New York: The Free Press.
- Dutton, D.G. (1988) The Domestic Assault of Women: Psychological and Criminal Justice Perspectives. Boston: Allyn and Bacon.
- Edwards, S.S.M. (1990) Violence against women: Feminism and the law, in L. Gelsthorpe & A. Morris (eds.) Feminist Perspectives in Criminology. London: Open University Press, 145-159.
- Edwards, S.S.M. (1989) Policing 'Domestic' Violence: Women, the Law and the State. London: Sage.
- Ericson, R.V. (1982) [1988] Reproducing Order: A Study of Police Patrol Work. Toronto: University of Toronto Press.
- Fagan, J., Freidman, E., Wexler, S. & Lewis, V. (1982) The National Family Violence Evaluation: Final Report. Washington: Department of Justice.
- Ferraro, K.J. (1989) The legal responses to woman battering in the United States, in J. Hanmer, J. Radford & E.A. Stanko (eds.) Women, Policing, and Male Violence: International Perspectives. London: Routledge, 155-183.
- Field, M.H. & Field, H.F. (1973) Marital violence and the criminal process: Neither justice nor peace. Social Service Review, 47, 2:221-240.
- Finn, P. & Colson, S. (1990) Civil Protection Orders: Legislation, Current Court Practice and Enforcement. Washington: Department of Justice.
- Forcese, D.P. (1992) Policing Canadian Society. Scarborough, Ont.: Prentice-Hall Canada Inc.
- Gelles, R.J. (1993) Through a sociological lens: Social structure and family violence, in R.J. Gelles & D.R. Loseke (eds.) Current Controversies on Family Violence. Newbury Park, CA: Sage, 31-46.

- Gelles, R.J. (1983) An exchange/social control theory, in D. Finkelhor, R.J. Gelles & M.A. Straus (eds.) The Dark Side of Families: Current Family Violence Research. Beverly Hills, CA: Sage, 151-165.
- Gelles, R.J. & Straus, M.A. (1979) Determinants of violence in the family: Toward a theoretical integration, in W.R. Burr, R. Hill, F.I. Nye, & I.L. Reiss (eds.) Contemporary Theories About the Family. New York: Free Press, 1, 549-581.
- Gelsthorpe, L. & Morris, A. (1988) Feminism and criminology in Britain, British Journal of Criminology, 28, 2:93-110.
- Goode, W. (1971) Force and violence in the family, Journal of Marriage and the Family, 33, 624-636.
- Gottfredson, M.R. & Hirschi, T. (1990) A General Theory of Crime. Stanford, CA: Stanford University Press.
- Grau, J.L., Fagan, J. & Wexler, S. (1984) Restraining orders for battered women: Issues of access and efficacy, Women and Politics, 4, 3:13-28.
- Hanmer, J. (1989) Women and policing in Britain, in J. Hanmer, J. Radford & E.A. Stanko (eds.) Women, Policing, and Male Violence: International Perspectives. London: Routledge, 90-124.
- Hanmer, J., Radford, J. & Stanko, E.A. (1989a) Improving policing for women: The way forward, in J. Hanmer, J. Radford & E.A. Stanko (eds.) Women, Policing, and Male Violence: International Perspectives. London: Routledge, 185-201.
- Hanmer, J., Radford, J. & Stanko, E.A. (1989b) Policing men's violence: An introduction, in J. Hanmer, J. Radford & E.A. Stanko (eds.) Women, Policing, and Male Violence: International Perspectives. London: Routledge.
- Harding, S. (1983) The Science Question in Feminism. Ithaca, NY: Cornell University Press.
- Harris, R.N. (1978) The police academy and the professional self-image, in P.K. Manning & J.H. Van Maanen (eds.) Policing: A View From the Street. Santa Monica, CA: Goodyear Publishing Inc., 273-291.
- Hatty, S.E. (1989) Policing male violence in Australia, in J. Hanmer, J. Radford & E.A. Stanko (eds.) Women, Policing, and Male Violence: International Perspectives. London: Routledge, 70-89.

- Howard, J. (1970) Please Touch: A Guided Tour of the Human Potential Movement. New York: Harper & Row.
- Jary, P. & Jary, J. (1991) The Harper Collins Dictionary of Sociology. New York: Harper Collins.
- Jayaratne, T.E. & Stewart, A.J. (1991) Quantitative and qualitative methods in the social sciences: Current feminist issues and practical strategies, in M.M. Fonow & J.A. Cook (eds.) Beyond Methodology: Feminist Scholarship as Lived Research. Bloomington, IN: Indiana University Press, 85-106.
- Kurz, D. (1993) Physical assaults by husbands: A major social problem, in R.J. Gelles & D.R. Loseke (eds.) Current Controversies on Family Violence. Newbury Park, CA: Sage, 88-102.
- Kurz, D. (1992) Battering and the criminal justice system: A feminist view, in E.S. Buzawa & C.G. Buzawa (eds.) Domestic Violence: The Criminal Justice Response. Westport, CT: Auburn House, 21-38.
- Lengyel, L.B. (1986) Domestic violence: Within or without the constitution, Woman Lawyer's Journal, 72, 4:11-14.
- Lengyel, L.B. (1984) Survey of state domestic violence legislation, Legal References Services Quarterly, 10, 58-92.
- Lerman, L.G. & Goldzweig, S. (1980) Protection of battered women: A survey of legislation, Women's Rights Law Reporter, 6, 4:271-284.
- London Family Court Clinic (1991) Wife Assault as a Crime: The Perspectives of Victims and Police Officers on a Charging Policy in London, Ontario from 1980-1990. (Report No. WD1991-13a) Ottawa: Department of Justice.
- MacLeod, L. (1987) Battered But Not Beaten, Preventing Wife Battering in Canada. Ottawa: Canadian Advisory Council on the Status of Women.
- Manning, P.K. (1978a) The police: Mandate, strategies, and appearances, in P.K. Manning & J.H. Van Maanen (eds.) Policing: A View from the Street. Santa Monica, CA: Goodyear Publishing Inc., 7-31.
- Manning, P.K. (1978b) Rules, colleagues, and situationally justified actions, in P.K. Manning & J.H. Van Maanen (eds.) Policing: A View from the Street. Santa Monica, CA: Goodyear Publishing Inc., 71-90.

- Margolin, G., Sibner, L.G. & Gleberman, L. (1988) Wife battering, in V.B. Van Hasselt, R.L. Morrison, A.S. Bellack & M. Hersen (eds.) Handbook of Family Violence. New York: Plenum, 89-117.
- Menzies, R.J. (1989) Survival of the Sanest: Order and Disorder in a Pre-trial Psychiatric Clinic. Toronto: University of Toronto Press.
- Morgan, G. (1983) (ed.) Beyond Method: Strategies for Social Research. Newbury Park, CA: Sage.
- Norwood, R. (1988) Letters from Women who Love Too Much: A Closer Look at Relationships Between Addiction and Recovery. London: Arrow Books.
- O'Leary, K.D. (1993) Through a psychological lens: Personality traits, personality disorders, and levels of violence, in R.J. Gelles & D.R. Loseke (eds.) Current Controversies on Family Violence. Newbury Park, CA: Sage, 7-30.
- O'Leary, K.D. (1988) Physical aggression between spouses: A social learning perspective, in V.B. Van Hasselt, R.L. Morrison, A.S. Bellack & M. Hersen (eds.) Handbook of Family Violence. New York: Plenum, 11-55.
- Ontario Women's Directorate (September, 1990) Wife Assault: The Criminal Justice System. Toronto: OWD Fact Sheet.
- Pahl, J. (1985a) (ed.) Private Violence and Public Policy: The Needs of Battered Women and the Response of the Public Services. London: Routledge.
- Pahl, J. (1985b) Introduction, in Pahl, J. (ed.) Private Violence and Public Policy: The Needs of Battered Women and the Response of the Public Services. London: Routledge.
- Palmer, P. (1989) Contemporary Women's Fiction. London: Harvester.
- Palys, T.S. (1992) Research Decisions: Quantitative and Qualitative Perspectives. Toronto: Harcourt Brace Jovanovich.
- Pizzey, E. & Shapiro, J. (1982) Prone to Violence. London: Hamlyn.
- Prairie Research Associates Inc. (1990) Literature Review of the Manitoba Spouse Abuse Project. Ottawa: Department of Justice Canada.
- Ptacek, J. (1988) Why do men batter their wives? in K. Yllo & M. Bograd (eds.) Feminist Perspectives on Wife Abuse. Newbury Park, CA: Sage, 133-157.

- Rigakos, G. (1993) Protection Orders in the Domestic Violence Context: A Bibliography. (Report No. TR1993-13e). Ottawa: Department of Justice Canada.
- Saunders, D.G. (1988) Wife abuse, husband abuse, or mutual combat? A feminist perspective on empirical findings, in K. Yllo & M. Bograd (eds.) Feminist Perspectives on Wife Abuse. Newbury Park, Calif: Sage, 90-113.
- Schollenberg, E. & Gibbons, B. (1992) Domestic violence protection orders: A comparative review, Canadian Journal of Family Law, 10, 2:191-238.
- Schultz, L. (1960) The wife assaulter, Journal of Social Therapy, 6, 103-111.
- Schwartz, M.D. & Dekeseredy, W.S. (1988) Liberal feminism on violence against women, Social Justice, 15, 3-4:213-221.
- Scraton, P. (1990) Scientific knowledge or masculine discourses? Challenging patriarchy in criminology, in L. Gelsthorpe & A. Morris (eds.) Feminist Perspectives in Criminology. London: Open University Press, 10-25.
- Shainess, N. (1982) Sweet Suffering: Woman as Victim. New York: Pocket Books.
- Sheptycki, J.W.E. (1993) Innovations in Policing Domestic Violence. Aldershot, Britain: Avebury.
- Sherman, L.W. (1992) Policing Domestic Violence: Experiments and Dilemmas. Toronto: The Free Press.
- Sherman, L.W. & Berk, R.A. (1984) The specific deterrent effects of arrest for domestic assault, American Sociological Review, 49, 26-272.
- Skolnick, J. (1966) Justice Without Trial. New York: Wiley and Sons.
- Smart, C. (1990) Feminist approaches to criminology or postmodern woman meets atavistic man, in L. Gelsthorpe & A. Morris (eds.) Feminist Perspectives in Criminology. London: Open University Press, 70-84.
- Smith, D.J. & Gray, J. (1983) The Police in Action. Vol.IV, London: Policy Studies Institute.
- Snell, J.E., Rosenwald, R.J. & Robey, A. (1964) The wife beater's wife: A study on family interaction, Archives of General Psychiatry, 11, 107-113.

- Stanko, E.A. (1989) Missing the mark? Policing battering, in J. Hanmer, J. Radford and E.A. Stanko (eds.) Women, Policing, and Male Violence: International Perspectives. London: Routledge, 46-79.
- Stanley, L. & Wise, S. (1983) Breaking Out: Feminist Consciousness and Feminist Research. London: Routledge.
- Straus, M.A. (1993) Physical assaults by wives: A major social problem, in R.J. Gelles & D.R. Loseke (eds.) Current Controversies on Family Violence. Newbury Park, CA: Sage, 67-87.
- Straus, M.A. (1983) Ordinary violence, child abuse, and wife beating: What do they have in common? in D. Finkelhor et al., (eds.) The Dark Side of Families: Current Family Violence Research. Beverly Hills, CA: Sage.
- Straus, M.A. (1980) A sociological perspective on the causes of family violence, in M.R. Green (ed.) Violence and the Family. Boulder, CO: Westview, 7-31.
- Straus, M.A. (1980b) Victims and aggressors in marital violence, American Behavioral Scientist, 23, 681-704.
- Straus, M.A. (1979) Measuring intrafamilial conflict and violence: The conflict tactics (CT) scales, Journal of Marriage and the Family, 41, 75-88.
- Straus, M.A. (1973) A general systems theory approach to a theory of violence between family members, Social Science Information, 12, 105-125.
- Straus, M.A. & Gelles, R.J. (1986) Societal change and change in family violence from 1975 to 1985 as revealed by two national surveys, Journal of Marriage and the Family, 48, 465-479.
- Stubbs, J. (1994) (ed.) Women, Violence and the Law. Sydney, AUS: Institute of Criminology, Monograph Series #6.
- Stubbs, J. (1989) Domestic Violence: Impact of Legal Reform in NSW. Sydney, AUS: Bureau of Crime Statistics and Research.
- Taylor, R.L. (1993) Battered Women and Civil Restraining Orders. A Report to the Wife Assault Co-ordinating Committee of the Ministry of the Attorney General, March 31.
- Truninger, E. (1971) Marital violence: The legal solutions, Hastings Law Journal, 23, 259-276.

- Ursel, J.E. (1986) Examining systemic change in the criminal justice system: The example of wife abuse policies in Manitoba, Manitoba Law Journal, 19, 529-548.
- Ursel, J.E. & Farough, D. (1986) The legal and public response to the new wife abuse directive in Manitoba, Canadian Journal of Criminology, 28, 171-183.
- Van Maanen, J. (1978) Kinsmen in repose: Occupational perspectives of patrolmen, in P.K. Manning & J.H. Van Maanen (eds.) Policing: A View From the Street. Santa Monica, CA: Goodyear Publishing Inc., 115-128.
- Vincent, C.L. (1990) Police Officer. Ottawa: Carleton University Press.
- Walker, L. (1979) The Battered Woman. New York: Harper and Row.
- Walker, L. (1985) The Battered Woman Syndrome. New York: Springer.
- Walker, L. (1993) The battered woman syndrome is a psychological consequence of abuse, in R.J. Gelles & D.R. Loseke (eds.) Current Controversies on Family Violence. Newbury Park, CA: Sage, 133-152.
- Wilson, G.T., O'Leary, K.D., & Nathan, P.N. (1992) Abnormal Psychology. Englewood Cliffs, NJ: Prentice Hall.
- Wilson, J.Q. (1983) Thinking About Crime (Revised Edition). New York: Vintage Books.
- Wilson, J.Q. & Herrnstein, R.J. (1985) Crime and Human Nature. New York: Simon and Shuster.
- Yllo, K.A. (1993) Through a feminist lens: Gender, power, and violence, in R.J. Gelles & D.R. Loseke (eds.) Current Controversies on Family Violence. Newbury Park, CA: Sage, 47-62.
- Yllo K.A. (1988) Political and methodological debates in wife abuse research, in K. Yllo & M. Bograd (eds.) Feminist Perspectives on Wife Abuse. Newbury Park, CA: Sage, 28-50.

Appendix I:
Questionnaire

The purpose of this questionnaire is to find out how police officers make decisions about enforcing peace bonds (s.810 of the Criminal Code) and civil restraining orders (s.36.1 of the Family Relations Act) during domestic violence incidents. Your participation is part of a larger study which looks at both the courts and police in the Municipality of Delta.

The study is being conducted by George Rigakos, a graduate student in the School of Criminology at Simon Fraser University (SFU). The procedures utilized have been examined and approved by my supervisory committee, as well as by the SFU Ethics Review Committee.

Please answer the following questions and hand in the completed questionnaire on your way out. Your name is not asked and the data from this questionnaire will be aggregated with that of your peers.

Thank-you for participating.

I. This section is geared to finding out how you have reacted to protective orders in the past.

1. Since last June, how many times has a woman presented you with a PEACE BOND that was issued against her husband or partner during a domestic call?

2. For each incident, what was your response?

3. Since last June, how many times has a woman presented you with a CIVIL RESTRAINING ORDER that was issued against her husband or partner during a domestic call?

4. For each incident, what was your response?

5. Since last June, how many times have you recommended that a woman obtain a PEACE BOND or a CIVIL RESTRAINING ORDER against her husband or partner?

Number of times you told a woman to get a

- (a) PEACE BOND _____
- (b) RESTRAINING ORDER _____
- (c) neither _____
- (d) both _____

II. In this section, questions are asked that are designed to find out about the factors you consider when confronted with peace bonds or restraining orders.

Using the scale below, indicate how important the following elements are in causing you to DECIDE TO ARREST or NOT TO ARREST for breach of a protective order during a domestic call.

- (1) don't know
- (2) slightly important
- (3) moderately important
- (4) very important
- (5) extremely important

Circle the appropriate number for importance (e.g. 1 2 3 **4** 5) and check which action you are inclined to choose (arrest no arrest) based on the following information. Do NOT check a box if you choose #1 (don't know) for importance.

6. There are visible signs of a struggle.

	don't know	slightly	→	extremely important			
PEACE BOND:	1	2 3 4 5			in causing me to	<input type="checkbox"/> arrest	<input type="checkbox"/> no arrest
RESTRAINING ORDER:	1	2 3 4 5			decide in favour of	<input type="checkbox"/> arrest	<input type="checkbox"/> no arrest

7. There are children present.

	don't know	slightly	→	extremely important			
PEACE BOND:	1	2 3 4 5			in causing me to	<input type="checkbox"/> arrest	<input type="checkbox"/> no arrest
RESTRAINING ORDER:	1	2 3 4 5			decide in favour of	<input type="checkbox"/> arrest	<input type="checkbox"/> no arrest

8. The woman wants you to arrest.

	don't know	slightly	→	extremely important			
PEACE BOND:	1	2 3 4 5			in causing me to	<input type="checkbox"/> arrest	<input type="checkbox"/> no arrest
RESTRAINING ORDER:	1	2 3 4 5			decide in favour of	<input type="checkbox"/> arrest	<input type="checkbox"/> no arrest

9. The restraining order does not include an arrest power with it.

	don't know	slightly	→	extremely important			
RESTRAINING ORDER:	1	2 3 4 5			in causing me to	<input type="checkbox"/> arrest	<input type="checkbox"/> no arrest
					decide in favour of	<input type="checkbox"/> arrest	<input type="checkbox"/> no arrest

10. The restraining order was obtained 'ex parte' and the offender claims he was unaware of its existence.

don't know slightly → extremely important

RESTRAINING ORDER: 1 2 3 4 5

in causing me to decide in favour of

 arrest no arrest

11. The offender claims that the order has been varied and produces his own 'ex parte' restraining order, although he is at the woman's residence.

don't know slightly → extremely important

RESTRAINING ORDER: 1 2 3 4 5

in causing me to decide in favour of

 arrest no arrest

12. The household is well known to police as a 'chronic case' residence for domestic violence calls.

don't know slightly → extremely important

PEACE BOND: 1 2 3 4 5

in causing me to decide in favour of

 arrest no arrest

RESTRAINING ORDER: 1 2 3 4 5

in causing me to decide in favour of

 arrest no arrest

13. Only the woman is intoxicated.

don't know slightly → extremely important

PEACE BOND: 1 2 3 4 5

in causing me to decide in favour of

 arrest no arrest

RESTRAINING ORDER: 1 2 3 4 5

in causing me to decide in favour of

 arrest no arrest

14. Only the offender is intoxicated.

don't know slightly → extremely important

PEACE BOND: 1 2 3 4 5

in causing me to decide in favour of

 arrest no arrest

RESTRAINING ORDER: 1 2 3 4 5

in causing me to decide in favour of

 arrest no arrest

15. Both the offender and the complainant are intoxicated.

don't know slightly → extremely important

PEACE BOND: 1 2 3 4 5

in causing me to decide in favour of

 arrest no arrest

RESTRAINING ORDER: 1 2 3 4 5

in causing me to decide in favour of

 arrest no arrest

16. There are signs of forced entry.

don't know slightly → extremely important

PEACE BOND: 1 2 3 4 5

in causing me to decide in favour of

 arrest no arrest

RESTRAINING ORDER: 1 2 3 4 5

in causing me to decide in favour of

 arrest no arrest

17. The offender has left the property.

	don't know	slightly	→	extremely important		
PEACE BOND:	1	2	3	4	5	<input type="checkbox"/> arrest <input type="checkbox"/> no arrest
RESTRAINING ORDER:	1	2	3	4	5	<input type="checkbox"/> arrest <input type="checkbox"/> no arrest

18. The offender has a history of violence.

	don't know	slightly	→	extremely important		
PEACE BOND:	1	2	3	4	5	<input type="checkbox"/> arrest <input type="checkbox"/> no arrest
RESTRAINING ORDER:	1	2	3	4	5	<input type="checkbox"/> arrest <input type="checkbox"/> no arrest

19. You believe the woman is probably not going to appear in court.

	don't know	slightly	→	extremely important		
PEACE BOND:	1	2	3	4	5	<input type="checkbox"/> arrest <input type="checkbox"/> no arrest
RESTRAINING ORDER:	1	2	3	4	5	<input type="checkbox"/> arrest <input type="checkbox"/> no arrest

20. You believe the woman originally allowed the offender into the residence.

	don't know	slightly	→	extremely important		
PEACE BOND:	1	2	3	4	5	<input type="checkbox"/> arrest <input type="checkbox"/> no arrest
RESTRAINING ORDER:	1	2	3	4	5	<input type="checkbox"/> arrest <input type="checkbox"/> no arrest

III. This third section asks general questions about your feelings regarding protective orders.

21. Generally speaking, how effective do you feel protective orders are in stopping further violence or harassment?

PEACE BONDS:

RESTRAINING ORDERS:

22. Do you think a policy forcing officers to arrest for breaches of protective orders is a good idea? Yes _____
No _____

Explain:

IV. Finally, please provide some demographic information.

23. Year of Birth: 19__

24. Rank: constable ___
corporal ___
detective ___
sergeant ___
staff sgt. ___
inspector ___

25. Sex: Male ___
Female ___

26. Year sworn in as Delta police officer: 19__

If you have any comments to about the questionnaire, the study or anything else you feel is relevant, please do so in the space provided below.

Appendix II:
Ethics Approval

SIMON FRASER UNIVERSITY

VICE PRESIDENT, RESEARCH



BURNABY, BRITISH COLUMBIA
CANADA V5A 1S6
Telephone: (604) 291-4152
FAX: (604) 291-4370

June 22, 1994

Mr. George Rigakos
Graduate Student
Criminology
Simon Fraser University

Dear Mr. Rigakos:

**Re: Peace Bonds, Restraining Orders, and Violence Against
Female Partners: The Police and Courts in Delta.**

I am pleased to inform you on behalf of the University Ethics Review Committee that the above referenced application has been approved contingent upon this office receiving a letter of acknowledgment and approval from Delta Police Department authorizing your research to be conducted. Once this letter has been received by this office, you may proceed with your research.

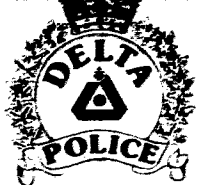
Best wishes for success in this research.

Sincerely,

Bruce P. Clayman, Chair
University Ethics Review Committee

/hme

c R. Menzies, Supervisor
N. Boyd, Director



DELTA POLICE DEPARTMENT

Patrick D. Wilson
Chief Constable

June 22, 1994

To Whom It May Concern:

This is to verify that our Department approves of the domestic violence research project being conducted by Mr George RIGAKOS.

As part of his M.A. thesis, we acknowledge that Mr Rigakos will be administering questionnaires and conducting interviews of Delta Police personnel.

Further enquiries regarding Mr Rigakos and his research project may be directed to Constable R. Parent of the Training Section or to me.

H. G. West, Inspector
Officer in Charge
Staff Development Branch

:lg



5 May 1994

File: 46200-01

Mr. George Rigakos
#2013 Hamilton Hall
Simon Fraser University
Burnaby, British Columbia
V5A 1S6

Dear Mr. Rigakos:

Further to your letter of February 27, 1994, I have recently received correspondence for the Office of the Chief Judge (attached) and the Chief Justice approving your access to the court files. With regards to the access to the Supreme Court files, the approval specifically states that your access is to the volume of court orders as opposed to the actual files.

I hope that the delay in receiving this approval has not hindered your research project.

I am forwarding copies of this letter as well as the approval letters to the Managers of the courts where you will be conducting your research. I would suggest that you contact these individuals in order to set a convenient time to review the information that you need.

Yours sincerely,

Marg Sorensen
A/Director
Policy and Program Services

Attachment

cc: Bill Grandage, Delta Court
Leo McGillvray, New Westminster



March 25, 1994

Ms. Marg Sorensen
Senior Policy and Program Analyst
Policy, Planning and Evaluation
Court Services Headquarters
Ministry of Attorney General
6th Floor, 850 Burdett Avenue
Victoria, B.C. V8W 1B4



Dear Ms. Sorensen:

Re: Access to Court Files for Research
Your File 120-02

In response to your memo of March 7, 1994 requesting that a Simon Fraser student, Mr. Rigakos, have access to civil files, civil restraining orders to do research is granted.

Yours truly,

Sharon B. Waddell
Deputy Director of
Judicial Administration

SBW/dg