

**Women's Needs/Available Choices:
Juxtaposing Criminal Justice Response to Wife Abuse
with Women's Words**

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A Thesis Submitted to the Faculty of Graduate Studies in Partial Fulfilment of the
Requirements for the Degree of:

Master of Arts

Department of Sociology
University of Manitoba
Winnipeg, Manitoba

1998



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WOMEN'S NEEDS/AVAILABLE CHOICES:

**JUXTAPOSING CRIMINAL JUSTICE RESPONSE TO WIFE ABUSE
WITH WOMEN'S WORDS**

BY

JOANNE CHERYL MINAKER

**A Thesis/Practicum submitted to the Faculty of Graduate Studies of The University
of Manitoba in partial fulfillment of the requirements of the degree
of
MASTER OF ARTS**

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ABSTRACT

The purpose of this work is to explore whether feminist engagement with the state and law to address the problem of wife abuse has produced benefits in the lives of women victimized by male intimate violence. This study does **not** examine the effectiveness of the criminal justice response in terms of the merits and drawbacks of policy, but provides women's own evaluations. In this work I attempt to show how changes introduced, largely in response to the Battered Women's Movement, were "worked out" in the lives of the women; that is, what are the practical implications of these changes as experienced by the women themselves? Although several feminist writers have theorized about the usefulness of engaging the state, this analysis differs in that the **criteria** used to assess "success" are the needs of women in abusive relationships. Further, rather than base the analysis on *apriori* assumptions on what women need, women's needs are problematized. Providing the women themselves with the opportunity to express the sorts of needs and concerns they have offers quite a different starting point than the traditional method of beginning with set criteria. The needs the women identify then become the basis from which to understand the impact of the criminal justice system's response to wife abuse.

Interviews with women who have been in contact with the criminal justice system for support provide the basis for interpreting the standpoint of abused women. A feminist standpoint which juxtaposes the criminal justice system's response to wife abuse with women's experiences is then developed. The usefulness of this analysis lies in its ability to contextualize practices and processes within the lives of those for whom they are intended to benefit. The result provides insights into the mundane, everyday encounters abused women have with those systems in place to provide them support.

Acknowledgements

I have come to realize that the journey toward all pieces of writing is a collective experience. Along my journey, I was very fortunate to have several scholars whose work I respect and commitment to this calling I admire, as well as friends and family with me. I would like to take this opportunity to thank these individuals.

Without the dedicated contributions of several people, my thoughts before you would appear disjointed and this project would be somewhat incomplete. I would like to express my deepest gratitude to my Advisor, Elizabeth Comack, for everything she has done for me during this research and throughout my academic career thus far. Like no one has been able to, she has challenged my thinking and my work. Her enthusiasm, genuine support and encouragement have strengthened my own desire to work, both theoretically and practically, for social change.

I would also like to extend my thanks and appreciation to my Committee Members, Steve Brickey and Janice Ristock. Their important contributions, although largely unheralded, have not gone unnoticed. I would like to acknowledge the contribution of those organizations and agencies that supported my work. Similarly, I would like to thank Jane Ursel and the Research Centre for Family Violence and Violence Against Women for affiliating with my project.

The support, unconditional love and acceptance I have always received from my parents, Robert and Diane Minaker, are deserving of recognition. As parents, they taught me to stand up for my convictions, believe in my own inner strength and pursue my hopes and

dreams (albeit unconventional). Throughout my life, during the struggles and the triumphs, my parents, along with my brother, Brian, have always been the greatest support system. They will never know how thankful I will always be for what they do, and for who they are.

I owe my greatest debt to my partner, Bryan Hogeveen. Bryan has offered his support in countless ways. When I needed to debrief, a shoulder to cry on, or just a listener, Bryan knew, and he was there for me. Thank you Bryan, for being both my colleague and my best friend. I also want to thank him for offering his insights and providing much needed assistance. How can one thank someone for the strength their love gives them? I will never be able to put in words the depth of my gratitude for his contributions to this work and for all that he brings to my life.

Finally, I want to thank each of the fifteen women who shared their stories with me. I am honoured to have met them. Although it must have been incredibly difficult for them to open up parts of themselves and speak with me so honestly about their experiences, these women did so with the hopes that their voices would be heard. Without them I could not have done this work.

This project is dedicated to the fifteen women who made it possible.

Your strength inspires me.

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INTRODUCTION

Despite increased awareness and efforts to challenge the problem, violence against women continues to be a pervasive and widespread feature of Canadian society. Whether in the form of sexual harassment, date rape, sexual assault, incest or wife abuse, the fact the women are being victimized by men cannot be taken as an individual problem that some women experience, but must be seen as systemic. Violence directed toward women occurs within a society which supports male dominance over women and perpetuates women's economic and structural inequality, not only through myths, norms and assumptions about men and women (ideology), but through the way in which society's traditional structures reinforce women's unequal position in society (material reality). This work is centred around one specific form of violence which women experience: abuse directed upon women by their husbands or male intimate partners.¹ The main purpose of this thesis is to investigate whether efforts to engage the state and the Criminal Justice System (CJS) to respond to wife abuse have been beneficial for women.

To understand the plight of women whose male partners beat, brutalize or otherwise abuse them, wife abuse must be placed in its historical context. As such, Chapter One provides a social history of wife abuse, traces the efforts of the Battered Women's Movement

¹ Otherwise referred to as 'wife battery' or 'wife assault,' or the more recent gender neutral terms 'spousal abuse' or 'domestic violence,' the terminology employed here will be 'wife abuse.' Although this denotes a marriage union, this will not be implied here, but instead will include the abuse of women by their intimate (married, common-law or dating) partners (past or present). At times, I will use other concepts, such as 'wife battery' in order to be consistent with the language of the Battered Women's Movement or with a particular author's usage.

(BWM)² to bring about an end to the abuse, and then outlines the way in which the Canadian state responded to the movement's concerns. Particular attention is given to developments in Manitoba as it provides a specific example of a more generalized trend across the country toward increasing state involvement in the issue of wife abuse (Ursel, 1997). The focus shifts in Chapter Two to the debate among feminist writers concerning the efficacy of feminist engagement with the state and the law to bring about meaningful change in the lives of women in abusive relationships. In so doing, the discussion outlines the work of several authors who have critically reflected on the "success" of the BWM.³ This chapter provides a theoretical review which forms the basis of the research which follows. Chapter Three expands the discussion by exploring practical questions arising from the analyses presented. The purpose here is to lay out the research design and address epistemological and methodological concerns of the study. In particular, I will propose that the most meaningful evaluation of the CJS's response to wife abuse can be gained through understanding the standpoint of those directly affected by the changes. Furthermore, by understanding the women's standpoint, a feminist analysis which considers whether feminist engagement with the state and the law to bring about meaningful change for women can become more practical, sensitive and relevant since its basis is the experiences of women in abusive

² The "Battered Women's Movement" (BWM) is a term which has been used in the literature to describe those within the women's movement who have focused on providing support for and advocating changes in order to better address the needs of women in abusive relationships (Cornack, 1993). The BWM, like the larger women's movement, is diverse, both politically and geographically, incorporating differences among women in terms of class, race, sexual preference, ethnicity and ideology (See Schecter, 1982: 258).

³ I place success in quotation marks to indicate my uneasiness with the binary distinction between success and failure. Moreover, what is "success" is not self evident, but is largely a function of the evaluation criteria used and the way in which these are measured. This idea is developed further throughout the discussion.

situations and their interactions with the systems in place to assist them. In Chapter Four, I situate the women who participated in this study in the context of their biographies and structural location and outline their needs and concerns. While Chapter Five explores the coping strategies the women used to manage their abuse, the discussion in Chapter Six centres around the women's own accounts of criminal justice interventions. On the basis of the women's standpoint, I construct my own feminist standpoint in Chapter Seven which seeks to address the major questions arising from this research. Finally, the Conclusion summarizes this work by highlighting the main strengths, limitations and implications of the study, and discussing recommendations for further research and practice.

CHAPTER ONE SOCIAL HISTORY

Okay, the first time he took me, he was talking to me nice, and we were driving towards [name of place]. There's a big field there and he took me right to the back. Oh, he gave me a good lickin'. And I was pregnant, too. He dragged me, threw me around by my hair, kicked me in the face. And then he dropped me off at home - he just pushed me out and I got up and I went home. (*Sarah*, cited in Comack, 1996:66)

THE PROBLEM OF WIFE ABUSE

All throughout history, women have been physically abused by their husbands or male intimate partners. The onslaught of physical, psychological and emotional abuses women suffer have developed from within a historical context of male domination over women both *inside* and *outside* of the family.

If we step back historically we notice that in the Western World before the 17th century, waged labour and domestic work were not distinguished as separate, since the home was the basic unit of production. Domestic labour (women) and productive labour (mainly men) were both seen as integral. Then, with the onset of mercantilism and early forms of capitalist production, came the erosion of the domestic home as the major economic unit (Freedman, 1985). As productive activity shifted from the home to places of economic production such as the factory, a split emerged in the production process between a domestic sphere and an economic sphere, one which would have implications for women. As society transformed into a wage economy, domestic work became ghettoized, remaining in the home. Not considered to be productive (but reproductive) labour, that which was predominantly women's domain became devalued. Men, viewed as productive labourers, by and large took

on the role of family breadwinner. To the extent that the sexual division of labour remained intact, women, seen as “merely” domestic workers, were devalued. Thus, women’s dependence and male dominance was perpetuated, albeit in a new form.

As capitalism developed, society as a whole was divided into a public sphere (production) and private sphere (reproduction). The notion of separate spheres is premised on the dichotomy between the private world of domestic life and family (the “women’s” sphere), and the public world of the marketplace (the “men’s” sphere) (Olsen, 1983: 1499-1501). The basis of the meanings of “public” and “private” are social and cultural assumptions of what is valued and important, which are deeply rooted in gender (Schneider, 1994). The cultural decree that a woman’s place was within the home served the function of securing reproductive labourers. Men’s control over women within the home was a way to ensure that women performed their domestic roles. What is important here is that this granted men as a group the opportunity to abuse that control.

At this time the husband’s authority within the home was unquestioned. Societal standards set for women implied the expectation that women were to obey and serve their husbands, while at the same time the family was granted considerable immunity from society’s rules and laws (MacLeod, 1980:28). This was a system of familial patriarchy, where the male patriarch dictates and controls what occurs in his home (Ursel, 1992).

The law has historically legitimated familial patriarchy and tacitly encouraged and supported male dominance. This can be seen in its content, form and, in particular, the selective application of law within the family. Just as cultural prescriptions dictated women were the property of their husbands, so too did law. Under English common law (from which

Canadian laws were derived), once women were married they surrendered their legal identity and their right to hold property, personal credit and guardianship of their children. In marriage, husband and wife were one person in law and that person was the husband (Blackstone, 1765:442). Men, on the other hand, were accorded the “right to consortium,” which meant their wives had a legal obligation as to the “consummation of marriage, cohabitation, maintenance of conjugal rights, sexual fidelity, and general obedience and respect for his wishes” (Dobash and Dobash, 1979:60). The chastisement of women, that is, the physical abuse of women, has also been codified in marriage laws (Edwards, 1985). Husbands were allowed to use force to ensure that their wives abided by their obligations. The patriarchal nature of the law is exemplified in Blackstone’s famous Rule of Thumb doctrine (18th c. British law), which stipulated that a man could chastise his wife so long as the stick he used was not thicker than the width of his thumb (Edwards, 1985). Historically, the law has upheld that men’s physical abuse of women is acceptable and legitimate behaviour for men within the family. Similarly, state agencies and institutions within Canadian society have traditionally supported the view (if not explicitly, then implicitly) that men have a right and responsibility to discipline their wives. Moreover, since wife abuse was not considered a criminal matter, police were reluctant to intervene in the “private” domain of the family.

Even as women entered the public sphere in increasing numbers after World War II, the family was still widely conceived of as a private place. Accordingly, wife abuse remained a private trouble. The way in which the law upheld a man’s right to abuse and control his wife created barriers for women in abusive situations. When the police did intervene in cases of domestic disputes, it was the responsibility of the woman to lay a complaint, rather than the

police (as it is for all other criminal code offences). This, in itself, was often problematic for women economically, emotionally or otherwise tied to their partners. Moreover, the rules of evidence excluded wives from testifying against their husbands and, similarly, the rape laws exempted husbands. Reflecting the male right to consortium, a man could not be charged with raping his wife, since the law defined rape as occurring when “[a] male person has sexual intercourse with a female person who is not his wife, (a) without her consent, or (b) with her consent if the consent (i) is extorted by threats or fear of bodily harm, (ii) is obtained by impersonating her husband, or (iii) is obtained by false and fraudulent representation as to the nature and quality of the act” (CCC Section 143).

In reviewing the social history of wife abuse, it becomes evident that women, seen as either the property of their husbands or their servants and subordinates, were afforded minimal protection under law. If, historically, Canada’s justice system has been immune to women’s suffering, then the question becomes: To what extent, in contemporary Canadian society, has the law taken women’s experiences of abuse and their needs into account?

FEMINIST ENGAGEMENT WITH THE STATE

What is now known as the second wave of the women’s movement visibly and vocally surfaced in the late 1960s (Clark, 1997). Many Canadian feminists, frustrated with a lack of response from those with the power to bring about change for women, wanted “their voices heard in the corridors of power” (Findlay, 1989). One of their first initiatives was to pressure the government to establish a commission which would investigate the broader dimensions of women’s inequality and define comprehensive responsibilities for reform (Findlay, 1989:5).

In 1967, the government formed the Royal Commission on the Status of Women (RCSW) to study women's inequality and "review the federal, provincial and territorial regulations, legislation, practices, and policies affecting the equality of Canadian women" (Begin, P., 1991). In 1970, the RCSW presented a Report to Parliament which contained a series of recommendations with respect to various issues regarding women's inequality.¹ In 1972, the National Action Committee on the Status of Women (NAC) was created to ensure the Royal Commission's recommendations were implemented. Although issues of the status of women formed a "new official social problem" (Begin, M., 1997:13), there was little immediate response to the recommendations of the Royal Commission, save for the government establishing the Canadian Advisory Committee on the Status of Women in 1973.

Despite its prevalence, violence against women was not foremost on the feminist agenda in the early years of the second wave. Issues of violence against women and children were largely ignored in the RCSW report. The movement had concentrated on women's equality in economic terms, reflecting a liberal feminist focus on realizing equal rights and opportunities for women. However, this situation soon changed with the emergence of a radical feminist approach and what has come to be known as the Battered Women's Movement (BWM).

¹ The RCSW made 167 recommendations which focused on equal rights and opportunities for women (e.g. daycare, abortion), 122 of which were directed as federal responsibilities. In 1974, the CACSW reviewed the recommendations to find that of the 122, 34% (42) had been implemented, 30% only partially, and 35% not at all (Clark, 1997).

The Battered Women's Movement: Feminist Concerns & Demands

The BWM began with the efforts of radical feminists to provide services for battered women in the form of media collectives, health centres, and support groups. Testimonials of battered women who sought out these services were the main impetus behind the growth of the movement. Micheline Beaudry (1985) points out that, since its beginnings in 1975, the shelter movement operated in secrecy, by both choice and necessity. Shelter housing for women was for the most part located within women's private homes. Consequently, at this time shelters were not widely visible. Under the influence of radical feminism, the movement adopted the slogan "the personal is political," and became more vocal and more political in its approach. Feminists organized and lobbied as advocates for battered women to provide support, as well as to push for change which would address the needs of battered women.

FROM PRIVATE TROUBLE TO PUBLIC ISSUE

In response to the lack of recognition and support granted to battered women, the BWM endeavoured to transform wife battery from a private trouble to a public issue. In bringing private problems into public view, the movement represented a challenge to the status quo. "The battered women's movement was strengthened by an organized struggle to define the problem as one rooted in patriarchy, and to pull away the mask of privacy" (Hilton, 1988). Publications such as Erin Pizzey's (1974) English work, *Scream Quietly or the Neighbours Will Hear*, and Del Martin's (1976) American work, *Battered Wives*, gave credence to feminist identification of wife battery as a major social issue in Canada.

Feminists were concerned that women were afforded little or no protection from

physical violence within the home. According to Linda MacLeod (1980), laws were technically in place to protect wives who were battered, but accepted legal procedures and exemptions in law enforcement protected the sanctity of the family, making convictions virtually impossible and reinforcing the wife's isolation and dependence. Feminists demanded that these and other barriers be removed on the grounds that women must be given the same rights as other citizens to call the police for assistance (to seek legal recourse) and to expect fair action (sensitivity on part of the police and a sympathetic court).

The BWM was committed to lobbying the state to implement programs and policies which would address the problem as feminists had identified it, being particularly attentive to its larger systemic roots and the experiences of abused women. In short, these feminists wanted the state to *respond* to violence against women. The primary goals of the movement can be categorized in terms of three main areas: 1. Constructing and funding shelters for battered women and their children (*instrumental:protection/safety*); 2. Increasing public intolerance of wife battery (*ideological/symbolic*); and 3. Obtaining legislation holding wife battery to be a criminal offence (*symbolic/instrumental: legal recourse*) (Faith, 1993:5). In effect, feminists politicized the personal, criticized the historic double standard and called upon the state to act in the interests of women.

1. The Shelter Movement: Protection and Safety

As safety and protection for battered women were main concerns for advocates, a primary objective became the provision and support of women's shelters. Fuelled by anger and hope, feminists initiated women run shelters and transition houses which operated on the

basis of fundamental feminist principles (those being: overt respect for women in crisis and empathy for women's experience). The first transition houses, which were designed to house and protect women, opened in British Columbia and Alberta in 1972.

During the 1970s and early 1980s the demand for shelters increased, while at the same time the state chronically underfunded shelters and withheld space and staffing (Faith, 1993). Vancouver Transition House, for example, was minimally funded between 1973 and 1976, while “[b]etween 1978 and 1983, over 7,000 women in British Columbia were turned away from transition houses for lack of space, despite the gradual construction of shelters in the province” (Faith, 1993:13). Although the *number* of shelters across Canada increased from only 71 (transition houses) in 1980, to 85 in 1982 and then 264 in 1987 (MacLeod, 1987:3), women in need were still being turned away. Between 1980 and the first half of 1985, the Vancouver Transition House alone turned away 5,657 women and children (Women's House Saving Action, 1985a, in Faith, 1993). What happened in BC is indicative of a larger trend of state recalcitrance occurring at this time. In the province of Manitoba, over 13,400 women and children went to abuse shelters for help between 1985 and 1989 (Winnipeg Free Press, 27 December 1989). In response, feminists fought for state support not only in the form of provision of shelters, but for increased funding.

Feminists engaged the state for ideological as well as material reasons. A former staff worker at Vancouver Transition House commented: “From an ideological point of view, the decision to go under the government [to garner support for shelters] was made in order to have the government mandate and give legitimacy to the issue of wife-battering” (cited in Faith, 1993:9). Nevertheless, Faith notes the ambivalence on the part of the state in its

support and funding of shelters and its “concomitant refusal to develop other needed and related resources such as child care services” (1993:3).

2. Shifting Ideology: Public Intolerance

Part of transforming wife abuse from a private trouble to a public issue involved changing consciousness about violence against women and increasing public intolerance of wife abuse. As such, the BWM was committed to: sending a message to male abusers that their behaviour was wrong; assuring abused women that wife abuse will not be tolerated; and denouncing wife abuse to the general public as wrong and unacceptable male behaviour. In addition to both deterring men from abusing and changing popular attitudes, the BWM endeavoured to change government attitudes about wife abuse. This ideological goal was not separate from, but intricately connected to, their goals of changing the law and increasing services for battered women. As with the shelter movement, one of the objectives of engaging law was to give the issue of wife abuse legitimacy. With the short-term goal of consciousness raising, feminists conducted mass public education campaigns, made demonstrations and held fora in order to garner mass support so that the state (government, police, and judiciary) would be forced to reform policies and procedures relating to violence against women (Guberman & Wolfe, 1985:14).

“The law both reinforces and helps shape the values Canadians hold about wife battering” (MacLeod, 1980:47). As such, it was widely held that criminalizing wife abuse would convey a strong message to society that wife battering would no longer be tolerated, and to abusers that this behaviour was unacceptable. Hence, part of the BWM’s strategy to

enact the criminal law was for its symbolic value.

3. Symbolic and Instrumental Use of Law

Laws not only have a considerable influence in shaping the values of society, but reflect the attitudes of those who frame them. “When these values are in question, the law must also be put under scrutiny” (MacLeod, 1980:41). As alluded to above, by engaging law feminists had a dual intention, that is, to use the law symbolically in order to influence attitudes and behaviours, and to use the law instrumentally to provide abused women with an avenue by which they could attain safety and protection.

BWM activists, then, called upon the criminal justice system to manage the problem. They argued for the creation of new criminal offences and for policies which would better facilitate arrests, charges and convictions for crimes against women, and protect women from abuse in the form of restraining orders and peace bonds. The aim was to end the historic double standard where abuse within the home is a private matter, while that which takes place outside of it is criminal under law.

THE STATE’S RESPONSE

The relationship between the BWM and the state can be best characterized as a process of struggle which evolved over time. While the distinction between “feminist demands” and the “state’s response” is useful for delineating the events which transpired, in the end, it oversimplifies what was actually a complicated process of articulation and simultaneous interaction between the two sides. That is to say, feminists did not make all their

demands (action) to which the state responded (reaction) in a linear sequence. Rather, the process was more complex, with feminist demands and concerns being altered as the state addressed the issue.

The state's response to concerns raised by feminists could be characterized as a proliferation of state sponsored initiatives, including official campaigns, research studies and task forces.² The Canadian Advisory Council on the Status of Women (CACSW), commissioned by the Federal Government, conducted the first Canadian study of wife battering in 1979. This investigation concluded that the nature of the problem was both widespread and endemic, with only a paucity of resources to deal with it. In 1982, MP Margaret Mitchell rose in the House of Commons to report the CACSW's finding that 1 in 10 women were abused by their husbands. She then made a motion that Ottawa give serious attention to the problem of wife battery. In response to this, the (predominantly male) Members roared in laughter. It appeared that, despite the efforts of the BWM, the issue of wife battery was merely a joke to many members of the Canadian Parliament. Outraged, both women's organizations and the general public insisted that the government take action to deal with the problem of wife abuse. Under such pressure, policy makers and legislators began to take the issue seriously, and declared wife abuse as a new social problem. In the following section, I outline the state's response, giving particular emphasis to Manitoba. The three main areas of (initial) concerns or demands made by the BWM will be used to organize the discussion: 1. Social Services (shelters); 2. Public Intolerance; and 3. the Legal System.

² To this extent, the state's response to the issue of wife abuse was not all that different from how other issues brought before it are managed, in the sense of being formalistic, bureaucratized and professionalized.

1. Developments in the Social Service Sector

Government expenditures within the social service sector for wife abuse began to increase throughout the mid-1980s, as funding for wife abuse services went from \$41,800 in 1981-82 to \$415,000 in 1984 (\$315,000 in grants for 5 community-based services and \$100,000 committed to a public-awareness campaign on wife abuse) (Ursel, 1991). By 1983, the provincial government of Manitoba had formed an office, The Manitoba Committee on Wife Abuse, to coordinate wife abuse programs within the state. Ursel (1991) notes that during the period between 1985-87, several policy and program changes were introduced into the social service system itself. These included: a government policy supporting agencies funded to provide second stage housing and support programs using provincial housing projects; the introduction of a one-tier system, where the province took responsibility for per diem rates to shelters, thereby changing the regulations of the Social Assistance Act in order to provide more equitable services to women; the introduction of fee waiver grants in order to ensure that shelters which enable women not qualifying for per diem social assistance payments to stay do not suffer financially; an arrangement by the Department of Housing to provide a facility and operating grants to agencies funded to provide shelter services; the establishment of the first Native run wife abuse program and the first immigrant family violence service; and negotiations between the Department of Employment Services and Economic Security and the wife abuse government office for an \$800 thousand dollar training program to train 20 grassroots local women as wife abuse counsellors (Ursel, 1991: 274-75). By 1987, funding for wife abuse services had dramatically increased to \$1.739 million and the number of wife abuse programs totalled 23 (including 10 shelters, non-resident programs and

second-stage facilities). In addition, an office within the government had been created to coordinate and administer funding for wife abuse services.

In the late 1980s, the “Women’s Initiative,” a province wide consultation process which focused on both abused women and women’s economic needs was established in Manitoba. Ursel (1997) suggests that their report, which recommended numerous changes in funding, resulted in increased provincial expenditures for wife-abuse services. As a result, “[t]he provincial budget increased from \$1.7 million in 1987-88, to \$4.3 million in 1989-90 and \$6 million in 1995” (Ursel, 1997:169).

At the national level, by 1995, the number of treatment programs had increased to 124 (Health Canada, 1994), and the number of shelters across Canada had risen to 402 (Rodgers and MacDonald, 1994). In addressing the issue of family violence, the federal government has spent more than \$200 million since 1985 (Ursel, 1997). Today in Manitoba, emergency shelter is available at no cost for all women at Osborne House and for Aboriginal women at Ikwe-widdjiitiwin Inc. Women’s Services at the Salvation Army will also provide shelter for women, although not for battered women specifically. Longer term housing is available for women through Women in Second Stage Housing (WISH) and Alpha House in Winnipeg. The main counselling and resource services available in Winnipeg are as follows: a toll free (24 hour) province-wide Crisis Line; a local Winnipeg (24 hour) Crisis Line; Ma Ma Wiwichitata Centre; Immigrant Women’s Association of Manitoba Inc.; Child & Family Services; Evolve; Fort Gary Women’s Resource Centre; North End Women’s Centre; and Pluri-Elles Centre de Femmes. Shelters exist outside of Winnipeg, in Portage la Prairie, Selkirk and Thompson, for example, as do rural Crisis Lines (see Appendix B for other

women's resources and services).

2. Public Intolerance

The social censure of abuse - the silence - has in large part contributed to the tolerance of violence against women. This silence stems from the belief that wife abuse is personal and private matter. The state's recognition of the problem does indicate, to some extent, that this silence is dissipating. Wife abuse gained much social visibility in the mid 1980s, which can be attributed to some extent to the government sponsored (CACSW) study on wife abuse. The resulting report, *Wife Battery: The Vicious Cycle* (MacLeod, 1980), was the first nationally recognized document which made the problem explicit by revealing its prevalence and severity. The Report's oft quoted estimate that 1 in 10 women were physically abused in Canada was influential in increasing public awareness and intolerance. The media also publicized the issue, as can be seen in the series of newspaper and magazine articles printed across the country in the late 1980s. Among many recommended responses, the CACSW Report indicated that education was an urgent and overwhelming need. Throughout the 1980s and into the 1990s, the Government of Canada designated funds for awareness initiatives and sponsored numerous reports, all of which devised a myriad of recommendations for change.

At the federal level, the government launched a Family Violence Initiative in 1988, and allocated \$40 million dollars to six federal departments over four years to enhance and augment activities related to family violence (Begin, 1991). In February of 1991, the federal government announced a four year \$136 million initiative to build on the 1988 Family

Violence Initiative. The Report of the House of Commons Sub-Committee on the Status of Women, *The War Against Women*, was brought to Parliament in June of 1991.³ Among the Report's 25 recommendations were: a national multi-media education campaign on violence against women; education prevention programs in schools; gender sensitivity training for judges, law enforcement officers and prosecutors; secure funding for front line agencies which provide services for battered women; enforcement of mandatory charging policies; and establishment of a Royal Commission on violence against women (Begin, 1991). Another Report of the Federal, Provincial and Territorial Ministers responsible for the Status of Women (1991) recommended: research on consequences of abuse; training for justice officials; a media blitz; and an education campaign from kindergarten to grade 12 (Begin, 1991).

A Federal Panel on Violence (1991) was later established to examine violence against women, identify pertinent issues, heighten public awareness, make recommendations and devise a plan of action for government and community groups. In December of 1992 this Report was released, like the others, with a plethora of recommendations, most along similar lines to those advanced in previous investigations. As in other parts of the country throughout the late 1980s and early 1990s, public education in schools and media public awareness campaigns were initiated in Winnipeg and across Manitoba. Most notable is the mass campaign on violence against women launched by the Manitoba Government in 1990.

These and other initiatives, such as The National Study on Violence Against Women

³ The Report culminated 5 months of public hearings with oral and written submissions from battered women, government officials, non-government community-based agencies and organizations which deliver services, professional organizations and associations, and individual experts.

(1993), increased visibility and gave the problem more credibility. Arguably, these contributed to widespread awareness of the extent and severity of the problem and increased public intolerance to - or at least greater public familiarity with - wife abuse.

3. Wife Battery and The Law: Wife Assault in Manitoba

Before outlining Manitoba's legal response, there are several important changes made at the national level that warrant attention. In 1968, the Divorce Act was changed to allow women to divorce their husbands on the grounds of physical cruelty. In 1983, Parliament repealed the old rape law (to shift the focus from the sexual nature to the violent nature of the offence), and replaced it by adding three new categories to the offence of assault: sexual assault (s. 246.1); sexual assault with a weapon (s. 246.2); and aggravated sexual assault (s. 246.3). This new law revoked spousal immunity, which meant that husbands could now be charged with sexually assaulting their wives. In the same year, changes in the rules of evidence (Canada Evidence Act) allowed wives to testify against their husbands. Finally, at the beginning of 1983, the Solicitor General of Canada, Robert Caplan, wrote to police chiefs across the country urging them to implement aggressive charging policies in wife assault cases (MacLeod, 1995). This directive, in conjunction with criticisms levelled by feminist advocates against the system for having a double standard in the way violence against men and violence against women were treated, was influential in Manitoba's first response (Ursel, 1995).

Manitoba was the first province to act on the federal directive with its own provincial directive to criminalize wife abuse. In February of 1983, Manitoba's Solicitor General, Roland Penner, issued a directive to change the way police were to lay charges in cases of wife

assault and advised crown attorneys to prosecute domestic violence cases vigorously. Police were instructed to lay a charge when there was “reasonable and probable cause” for believing an assault had occurred, regardless of the wishes of the victim/complainant. This replaced the previous practice which required a witness and/or physical evidence for a charge to be laid, and left the onus on the complainant to lay a charge. Subsequent to this change in police procedure, Manitoba’s CJS saw an influx of 600 charges (Ursel, 1997).

In November of 1983, due in large part to the lobbying efforts of the Manitoba Committee on Wife Abuse, a separate court was set aside for two days per week to hear the increased volume of wife assault cases. As a result of these initiatives, the number of men being dealt with by the courts drastically increased. The number of individuals (approximately 96% male) charged with spouse assault increased from 1136 in 1983, to 2035 in 1988/89 (Ursel, 1991).

In 1986, the Committee’s office initiated the Women’s Advocacy Program (WAP), a service for women whose partners were charged with assault that was to be run as part of the Family Dispute Services branch of Manitoba Community Services. The program, originally consisting of a legal advocate/crown liaison worker, a social worker, and a trainer/advocate (Pedlar & Wilcox, 1992), is now run by a lawyer and two counsellors. WAP’s “mandate was to support victims, provide a bridge between the social service and criminal justice systems, and facilitate the operation of the criminal justice system” (Ursel, 1997:271). The service provides assistance for victims in the form of information on their legal rights, charges and the court process in order to provide women the support necessary to testify against their abusers (Begin, 1991). WAP was intended to sensitize the CJS to the

needs and interests of the victim (Ursel, 1991). Throughout this period there was also growth in the number of batterers' treatment programs, from 3 in 1985 (one program run through probation services, and two non-funded, community based agencies) to 7 in 1987 (adding three more probation services programs and a new community based program, called Evolve) (Ursel, 1991).⁴

Intensive monitoring of the CJS response, growing concern by women's organizations that women should receive sensitive treatment within the court, public pressure, and the rising charging rates contributed to several major initiatives in Manitoba in the early 1990s (Ursel, 1991). In 1990, a specialized Family Violence Court (FVC), unlike that in any other province, was established in Winnipeg, Manitoba. The goals of the FVC, as stated by the Manitoba Department of Justice, were: expeditious court processing; rigorous prosecution; and more appropriate sentencing than that of non-specialized courts (Ursel, 1994). The FVC operates with specialized court personnel, a team of specialist Crown attorneys who prosecute only family violence cases, and particular judges who support the issue and have experience handling domestic violence cases.

In the same year, Manitoba's Minister of Justice, James McCrae, commissioned the Domestic Violence Review to examine the justice system's response to domestic violence directed against women. The Review's mandate was to present recommendations which could "ensure that victims are adequately protected and sensitively treated by the justice system" (Pedlar, 1991:1). The Report's recommendations emphasized not only a criminal justice response, but also important roles for the community and education system. Dorothy Pedlar

⁴ Evolve was set up to run treatment programs for batterers and separate groups for both women and children.

(1991:vii), who was commissioned to lead the investigation, states: “The final report and recommendations are not intended to single out any particular area of response, but instead should be viewed as a comprehensive proposal to effect real change in the way that domestic violence is viewed and responded to in Manitoba.” Among the Pedlar Report’s many recommendations, Winnipeg Police were urged to provide adequate training on the social dynamics of domestic violence, and education of policy directives and response protocols for police recruits and all officers.

In response to the growing number of offenders sentenced to court-mandated treatment, a special Family Violence Corrections Unit was introduced in 1992 by Manitoba’s Corrections Branch. The special unit included 15 probation officers who would handle treatment of family violence offenders (Ursel, 1997). Each correctional institution in the province was also mandated to provide treatment programs for batterers.

In 1993, Winnipeg Police Services introduced a “Zero Tolerance Policy” for family violence. The Pedlar report and public criticism that police were using too much discretion in charging provided the main impetus for the Manitoba’s Zero Tolerance stance. The policy directs police to lay a charge in all cases of domestic violence regardless of the victim’s wishes, thereby removing from the police discretion they previously held in matters considered domestic disputes. Underlying the policy is the premise that, like other crimes, domestic violence should be treated with criminal charges.

Later in the same year, a new protocol for handling domestic calls within the police department, written by Inspector Ken Biener (and recommended by the Pedlar Report), was put in place. The objectives (as Biener outlined in the Family Violence Policy and Procedure

manual) stated that officers should strive to: ensure the safety and security of victims; apprehend and charge offender(s); prevent a breach of the peace; inform all concerned parties of their rights; promote and encourage good public relations; and reduce call backs (1993:1). “Domestic Violence” was defined as “violence, threats of violence, or other acts of a criminal nature which may include elements of emotional and psychological abuse committed against a person by that person’s spouse, common-law spouse, boyfriend, girlfriend or other intimate partner, past or present” (Biener, 1993:6). The policy reads: “[I]t is a police duty and responsibility to lay a charge when there are reasonable grounds to believe that a domestic assault or some other offence has occurred. Charges shall be laid whether or not the victim wishes to proceed with the matter, and even in circumstances where there are no visible injuries or independent witnesses” (Biener, 1993:6).⁵ Like the 1983 protocol, the police, and not the complainant, are to lay the charge. However, Zero Tolerance removes police discretion in charging.

CONCLUSION

This chapter has endeavoured to provide a social history of the problem of wife abuse, the emergence of the BWM and the state’s response to the movement’s concerns and demands. The developments outlined with regard to each of these three areas of concern -

⁵ The offences applicable for charging in domestic dispute cases include, but are not limited to, any one or more of the following: physical assault (pushing, shoving, hitting, punching, slapping) s. 265-269 C.C.C.; sexual assault- s. 271-273 C.C.C.; uttering threats- s. 264.1 C.C.C.; mischief- s. 430 C.C.C.; intimidation- s. 423 C.C.C.; forcible confinement- s. 279 C.C.C.; possession of a weapon- s. 87 C.C.C.; breach of any court order including any type of restraining order (recognizance, peace bond, probation order and Family Maintenance Act order).

protection and safety, public intolerance and the law - all appear to suggest that the move to politicize wife abuse in Canada has been successful, or at least the demands had been met. Wife abuse has been brought into public view, public intolerance has increased and the state and the CJS has responded. Nevertheless, evaluating the impact of the BWM's engagement with the state requires attention to - not simply **whether** the state responded, but the **specific nature** of the state's response and its implications for addressing feminist concerns. As is evident from the preceding discussion, the state's response was, in large part, fuelled by feminist demands. Just as significant, however, is that the response was contoured and conditioned by the **nature of the state itself**. Indeed, as the 1980s drew to a close, several feminist writers began to question the gains made by the BWM and whether engaging the state on the issue of wife abuse had, in fact, resulted in positive change. The purpose of the next chapter will be to consider these analyses in detail.

CHAPTER TWO

EVALUATING THE BWM'S ENGAGEMENT WITH THE STATE: THEORETICAL CONSIDERATIONS

CHALLENGING PATRIARCHY

As alluded to in the previous chapter, feminist analyses of wife abuse located the issue in the context of patriarchy. As patriarchy is the key issue which underlies the feminist engagement with the law, so too must critical reflections of engaging the state be situated within this context. The dilemma in engaging the state is that feminist analyses, although in differing ways and degrees, recognize the state as implicated in the maintenance and reproduction of patriarchal social relations. The question, then, becomes: can the state and law can be 'reliable allies' in the endeavour to challenge the familial patriarchy which is at the root of wife abuse? This broader question is one which informs the critical reflections on the BWM which have emerged in the last decade. In reflecting on the BWM, feminists have put the relationship between women and the state under close scrutiny. Scepticism has grown concerning whether the state is able to address feminist concerns and if law can be an avenue through which feminists can realize meaningful change in the lives of women. While some writers levelled their critiques at engaging the state *per se*, others focused specifically on engaging the criminal justice system (CJS). Accordingly, the purpose of this chapter is twofold: 1. to interrogate each work in terms of the criteria used in assessing the BWM's engagement with the state; and 2. to situate both feminist demands and the state's response in the context of patriarchy. In so doing, the main intent is to sort through the issues concerning whether changes made do, in fact, produce benefits in the lives of women in

abusive relationships who seek criminal justice intervention.

The discussion is organized in two parts. In the first section, I examine the process of the state's response by exploring the critiques of feminist writers who have focused on engaging the state *per se* (Jan Barnsley, 1988; Zoe Hilton, 1989; Gillian Walker, 1990). The second section considers changes in law and legal practice by examining feminist writers whose analysis mainly concerns engaging the criminal justice system (Currie, 1990; Snider 1991, 1994; Ursel, 1991; Ursel & Brickey, 1996, Ursel, 1997). To conclude, the lessons learned from this discussion will be explored further by outlining the main questions arising from the literature and explaining how I sought to address them in this study.

ENGAGING THE STATE

Rather than mere critique or commentary, my intention in reviewing the work of selected feminist writers is to determine what each author views as problematic or potentially transformative in engaging the state. As Melanie Randall (1988:15) has argued, "we have paid insufficient attention to a critical reflection on the politics of the feminist movement, the way we identify and articulate our issues, the points of division in our strategies, and the implications of what we have and have not achieved in our struggles to date." Moreover, my intent is to draw out how, or by what criteria, each author's evaluation was made.

Jan Barnsley (1988) is an activist whose work with the Women's Research Centre in Vancouver, BC informs her evaluation of the effects of the BWM's engagement with the state over the issue of wife abuse. Barnsley's main focus is on what she terms the "institutionalization of wife abuse" by the state which, she argues, occurred as state

institutions responded to feminist demands. In Barnsley's terms, feminists *initiate* and state institutions *respond*. However, given the nature of the state, as both patriarchal and masculinist, the response is one which endeavours to maintain the status quo, rather than challenge it (as the BWM's initial approach did). Consequently, institutional response redefines the problem, which, Barnsley argues, compromises the issue of wife abuse beyond recognition and results in new problems rather than acceptable solutions (Barnsley, 1988:18). The state defines the issue using mainstream social science approaches which *fit* the existing bureaucratic perspectives and realities. While the feminist definition includes threats to the dominant interests, the state's redefinition of the problem is, by and large, a reflection of its own conception of itself as "equal, neutral and objective." This contrasts with a feminist analysis which begins with women's experiences, recognizes the interconnection between violence against women and women's inequality in society, and implicates the state in reproducing unequal relations. As a result, the problem, as defined by the state, is seen as faulty interaction in the family or an individual pathology in some men. This is then added to the equation of all social problems and dealt with accordingly.

Barnsley asserts that wife abuse, now transformed as "family violence," obscures "who is doing what to whom" (1988:19). In the process of this ideological revision, feminist strategies are subverted. For instance, during the 1980s, feminist demand for support for transition houses and *feminist* services was translated into government funding for services run by non (or anti-) feminists which imposed a hierarchical structure and professional credentials. With privatization and government involvement came reductions in victim services run by feminists. By responding in this way, the state "rationalizes the need for

modest reforms or fine tuning rather than radical change” (Barnsley, 1988:19). Programs for batterers, task forces and studies result along with the “claim that the problem has been solved” (Barnsley, 1988:19). Thus, Barnsley calls attention to the manner in which the state responded; that is, to the notion that wife abuse can be *fixed* by studying it and initiating a government agency to deal with it. The issue for feminists becomes one of dealing with the consequences of the state’s response (i.e. the institutionalization of women’s issues and invalidation of women’s experiences).

For Barnsley (1988), then, the state’s response to the problem of wife abuse re-framed a *political issue* into a *social problem*, leaving the political analysis behind. Although state agencies or institutions did *respond*, society, its structures and political system were left unquestioned. The state is seen as doing something about the problem, while it has directed no attention to the roots of the problem. Barnsley argues that “[a]s long as the impression stands that women’s interests are reflected by and included in the dominant ideology, control of women’s issues can be maintained by routine practice” (1988:19).

Despite the nature of the state’s response, Barnsley argues that feminist groups are often left with no choice but to work with state institutions. In this respect, she admits that challenging the state is not always futile as opportunities for change exist because the state needs to maintain its legitimacy. To appear to represent the people; “it must juggle and reach compromise among competing or different interests” (Barnsley, 1988:21). Barnsley argues that feminists’ task is to regain ownership of the issues by demanding what women need, not only what the state will accept, and developing “our own [feminist] criteria and standards of success to help us [feminists] determine when ‘something’ really is ‘better than nothing’”

(1988:21). To do so requires developing a better understanding of the state based on “our actual experience” (Barnsley, 1988:21).

Zoe Hilton (1989) also questions the nature of the state’s response. As mentioned in Chapter One, the aims of the BWM were both instrumental as well as ideological. Although the BWM has made instrumental gains in terms of public policy (e.g. placing wife abuse on the public agenda, new police charging policies), Hilton argues that it has failed at its ideological aim (defining wife abuse as a form of patriarchy). Like Barnsley, Hilton argues that when the BWM’s demands became translated by the state, the movement’s questioning of societal structures and challenge to patriarchy were absent from the state’s response. Attention was directed away from the patriarchal social system as government coopted the problem. Hilton argues that a woman’s issue was “refined and even reversed” (1989:314). This process of redefinition is similar to Barnsley’s notion of institutionalization. In taking ownership, government coopted the BWM by de-politicizing wife abuse as a private, not public, problem, and subsuming the issue under other public policies. In the process of getting wife abuse on the public agenda, the state limited its response by adopting a professionalized, bureaucratic and paternalistic approach that acted on behalf of women and was characterized by reformism. For example, the state directed attention to official facts and figures (the rhetoric of 1 in 10 women). Moreover, “[t]he private nature of wife abuse has been strengthened by the government’s response to the BWM” (Hilton, 1989:314).

Hilton is mainly concerned with two areas of feminist demands: law and shelters. She argues that the way wife abuse is handled by the CJS perpetuates the private nature of the problem since the focus is on men with individual problems. In terms of the symbolic function

of law, police enforcement still reflects the historic double standard.¹ Although more men are coming to court as a result of changing enforcement patterns, women are also being charged for contempt of court and jailed for not testifying against their husbands.² In terms of shelters, underfunding and professional and bureaucratic involvement have affected the way shelters are run.

Being the legitimate source to define the problem, the state had the power to regulate, control and innovate solutions. Consequently, the BWM lost authority to define the issue and determine solutions. Feminist, women-centred definitions of the problem (as conceived by women's realities) were replaced by professionalization and policy-oriented definitions (Hilton, 1989). Like Barnsley's, Hilton's criteria revolve around ownership or, more specifically, the effect of the state's response on the BWM itself (loss of authority) and on the issue of wife battery (how the issue is defined). Feminists defined wife abuse in the context of male domination, as supported through the private nature of the domestic sphere. But when the state took ownership, its response - which reestablished wife abuse as a private trouble - reproduced rather than challenged the conditions for wife abuse.

As Barnsley argues that feminists often have no choice but to work with state institutions, similarly Hilton suggests that maintaining wife abuse on the public agenda is "ensured only by the government's ownership of the issue" (1989:325). Hence, the depoliticization of wife abuse may have been a necessary step before the government could

¹ Hilton cites Anne McGillvary's (1987) reference to the still apparent old privilege of a husband to punish his wife.

² Since this time charging women for contempt of court has drastically reduced across the country, largely because of the outcry brought about by these cases.

act. Yet, Hilton insists that, “[a]s long as the politicization of wife battering is resisted, the role of patriarchy remains unrecognized, and the public response to wife battering cannot be adequately effective against the problem” (Hilton, 1989:332).

In her work, *The Conceptual Politics of Struggle: Wife Battering, the Women's Movement, and the State*, Gillian Walker, a feminist theorist and an activist, takes as her point of departure the recognition that relying on the state to achieve long term changes in women's subordinate status is problematic. Walker's analysis begins from the theoretical premise that as a society we are ruled by ideological procedures, ways of thinking, understanding, and acting.³ Walker's main focus is on what she calls “the political process of control” that shapes and develops issues into the procedures by which they will be ordered, organized and ruled (1990:64). She conceptualizes the state as part of the “ruling apparatus,” the network of institutions whereby power is exercised and society is organized, administered and ruled (Walker, 1990). Her analysis is more elaborate and conceptual, while at the same time more directed than the authors previously discussed.⁴

Walker's key concern is state appropriation, which transformed and absorbed wife battery into existing institutional structures (which parallels Barnsley's concept of institutional response). The process involves ways of thinking and using language, where concepts make possible institutional articulation and absorption which obscure important aspects of the

³ In other words, the general and abstracted procedures of ruling and administering the particular form of society in which we live do not take place in isolation from the everyday activities, local events and practices of people (Walker, 1990:64).

⁴ Walker's argument is based on her analysis of the processes involved in Ontario's Standing Committee on Social Policy and Development, initiated in 1982 to examine wife battering, and the government's subsequent response.

problem. Walker characterizes the process of articulating feminist demands and state response as occurring in primarily three stages: 1. the BWM's struggle to define a woman's issue and make wife abuse visible; 2. the work of getting something done about the issue is "translated to and generalized within the relations of the state" (1990:64); and 3. the BWM succeeding in getting various sections of the ruling apparatus to respond to the needs of battered women, what Walker calls generalization and appropriation.⁵

Feminists did persuade the ruling apparatus (agencies and institutions of the state, formal government) to respond to battered women's needs. However, Walker (1990) argues that, in taking a social problem approach to wife abuse, the state adopted ideological constructs compatible with its "social problem apparatus" which displaced the totality of women's experiences and structural location. In much the same way as Hilton and Barnsley, Walker conceives of *social problems* in a negative way. The reason being, when conceived as a social problem, the issue is merely added to all other problems with which the state must manage. That is, once studied and the *right* strategy employed, the problem has been dealt with.

Walker shows that the naming of phenomenon is not merely a case of semantics, but rather provides for particular courses of action. That is, the definition and understanding of the problem is directly related to the institution(s) designated to respond to it. What Walker calls the language of abstraction "transforms our understanding of our daily experience, and implicates us in our own regulation, shaping our concerns into "issues" organized around

⁵ A fourth stage can be seen in feminist dissatisfaction with outcomes and their reexamination of the process. This fourth stage is where Walker's and the other writers' critical reflections can be located.

grounds and within the relevances and imperatives of the institutions and practices of ruling” (1990:80). Therefore, how wife abuse was delineated (as the ideological construct of “family violence”) allowed for a conceptual frame which provided the basis for government policies and procedures by linking specific aspects to particular state institutions and agencies. In this process, discourses like family violence and law and order replaced a feminist discourse on male violence. This shift in focus from a feminist understanding to violence or assault under the law located the problem within the legal system where those with the professional mandate (the CJS) translated wife abuse into “family violence” or “spousal assault.” Violence, then, is understood as a feature of social life, “one which must be both deplored and managed, a pressing social problem” (Walker, 1990:78). However, Walker argues that “violence” as assault under the law challenges men’s abuse of their authority in the home, not the authority *per se*, as feminists demanded. Through the hidden “law and order frame,” patriarchal family relations get reduced to actions that either support or defy the law (Walker, 1990). With “family violence” conceived as an individual pathology or faulty interaction within the family, discourses like psychiatry and psychology absorb the experiences of battered women. Thus, wife abuse was removed from its context “in a political movement” which relinquished “women’s control over their definition of the issue” (Walker, 1990:98).

Walker argues that the concept of violence also allowed for combined strategies (by both professionals and feminist activists) to accept wife battering as a problem under criminal law. Feminist theories of male domination actually provided the basis for conceptually coordinating the issue of wife beating as a form of “violence” defined as assault under the law, which then allowed for the work of the BWM to be aligned with the work of the CJS. Once

feminists had formulated an account of the problem and began developing strategies for action in relation to increasing state involvement, they engaged in struggle over definition with professionals who sought to remove the issue from its context in a political movement. In essence, feminists played a part in constructing the ideology around the problem. Designating violence as occurring in the family maintained it as a private problem between individuals. "In the process [of extending the application of law to end the double standard], the analysis of women's oppression in the broader structures of society became secondary to the strategy of invoking women's rights as individuals under the law" (Walker, 1990:71). Through this process, the woman becomes a victim of violence, thus rupturing her named experience from the context of both her life and the common experience of violence against women by men. Gender and relational aspects dissolve as an abused woman and her abuser become only legal constructions of 'victim' and 'perpetrator.'

Walker recognizes that this process of absorption and control creates dilemmas and contradictions for feminists. For one, in order to make private oppressive conditions public, the terms of the public discourse must be employed (language of ruling) and in doing so feminists risk having women's issues absorbed into the existing social problem apparatus. Further, the women's movement has been fragmented by strategies that align feminists with different aspects of the ruling apparatus. Finally, how is it feminists can change the oppressive conditions of women's lives without being appropriated through interactions with the ruling apparatus?

Commentary

The BWM began with the recognition that the roots of wife abuse are systemic, that is, built into the nature of society and its institutions. However, when concerns were voiced and demands were made, attention was directed toward responses which were reactive (to manage or “deal with” the problem) rather than address the roots of the problem, thereby muting a feminist analysis. At first glance, what transpired may be interpreted as evidence of a liberal feminist approach on the part of the BWM. However, as Barnsley, Hilton and Walker show, this view fails to recognize the ongoing relations between the BWM and the state and the way in which the problem and feminists concerns were reformulated as they were transferred to the state’s domain. These insights suggest that an analysis of the state’s response must not only be concerned about the outcomes, but should examine the process(es) involved in the relationship between the state and the BWM and the specific ways in which the state responded (the nature of the response). Evaluations based solely on outcomes lose sight of the process of redefinition and rearticulation of feminist demands. Focusing on process, though, allows for consideration of the meaning and impact of the responses made by the state. It enables an understanding of the dynamics of the relationship and directs attention to the issue of whether or not the experience of abused women has been reflected in the state’s response.

Although the writers use different concepts to characterize what happened when the state intervened (institutionalization, depoliticization, absorption, transformation), the concepts hold in common the idea of ownership. Once the state took ownership of the issue, women’s experience was redefined and obscured. Women’s interests and experiences were

seen as taken over by state agencies and the analysis was moved away from the systemic, structural and political nature of the problem. Consequently, the phenomenon of wife abuse was no longer connected to the larger society and its structures, but viewed as a social problem (as any other social issue). The result was an individualized approach to wife abuse whereby those mandated to deal with it have done so on a individual, case by case level which pathologizes the problem as the family or atypical male abusers.

Jane Ursel has suggested that this critique amounts to a statement of the failure of the movement. Rather than read their work as presuming the movement's "failure," I offer a different interpretation. By giving more priority to each author's analysis of the relationship between the BWM and the state, and the way feminist demands became translated once under the purview of the state, a different understanding arises. In this respect, a common theme throughout Barnsley's (1988), Hilton's (1989) and Walker's (1990) work is an attention to the processes involved in the BWM's struggle to engage the state. The criteria Barnsley, Walker, and Hilton use could arguably be only the impact of the state on the movement (Ursel, 1991). However, this assumption appears to remove their analyses (out) of context and fails to recognize their critiques (perhaps purposefully) pay more attention to process than outcomes. This criterion is not inherently problematic. Taken together, their work suggests that although feminist activists have succeeded in being heard (the state has responded), there is more at work. That is, evaluating the BWM cannot be viewed only in terms of getting the state to respond. Moreover, evaluating in terms of *a priori* intentions of reformers would ignore the process of redefinition of feminist demands by the state. The social history (as discussed in Chapter One) tells us that part of the initial strategy of the BWM included

demands for social service and legal responses. However, the nature of the responses that were actually made within these sectors were very different from that sought out by feminists.

The fact that each writer is concerned with how feminists lost ownership and subsequently definition of the issue suggests battered women are not entirely absent from their analysis. Reflecting back again we recognize that the initial understanding of wife abuse and the BWM itself stemmed from testimonials of battered women. Therefore, it would seem that a critic who points to the fact these experiences are being ignored very much suggests she is looking to battered women. However, for the most part, their analyses remain at the level of ideology. They do not look at or to abused women *directly*, nor do they ask whether the needs of battered women have been addressed (with the exception of Hilton's brief mention of counter-charging). They consider what it means for the BWM that wife abuse is considered a social problem and not a women's issue, but do so only at a theoretical level. Instead, we need to ask: to what extent has the state's response made a difference at the material level, in women's lives? Does displacing the **totality** of women's experiences render all women's experiences unintelligible? In practical terms, how does the state's response affect abused women in their daily lives? Such an analysis would ask the basic question: are women empowered (by changes in law, legal practice, and state intervention)?

Barnsley (1988:18) argues that a better understanding of the state should be built from "our actual experience," which begs the question of whether or not this incorporates the experience of feminists and/or of abused women. Her suggestion makes most sense if applied to the experiences of the women such reforms are designed to benefit. Barnsley also emphasizes the need for feminist criteria and standards for success. These standards should

reflect the varied experiences of those who are the supposed beneficiaries of the reforms.

Hilton seems to confuse disempowerment of the BWM with disempowerment of abused women. Her discussion, while more grounded than Barnsley's, does not comprehensively address the effects on abused women by speaking to women's experiences. Yet, she claims that battered women are disempowered. Hilton's analysis also suggests that without ideological change instrumental gains, although apparent, produce little real change. Again, the unanswered question is what are the effects on abused women? If we take as certain that, although the BWM began on the terrain of affecting the political, the response has become one of criminal justice intervention in which women's interests as a group were not represented, is it possible that the interests of some women are, in fact, represented in the state's response? In other words, are some women helped by such changes? ⁶ Nevertheless, Hilton leaves a contradiction unresolved: if depoliticizing wife abuse was a necessary step in order to get the state to respond and the role of patriarchy is unrecognized by depoliticizing wife abuse, then how is the state's response to be adequately effective against the problem?

The compatibility of these critical reflections with a socialist feminist approach can be seen, first, in their recognition of the challenge to patriarchy represented in the initial strategy of the BWM and, second, in the way they argue that the state's response did not challenge patriarchy. The question which arises from each analysis is: to what extent have feminists been active agents in developing a response we find so inadequate? The BWM actively participated

⁶ The question is, when is "something is better than nothing?" Addressing this requires caution, as Comack (1987) points out in her work on the impact of the battered woman syndrome. Comack shows that although the use of the battered woman syndrome defence does, in fact, provide a more lenient sentence for particular women guilty of killing their abusive partners, for women-as-a-group, "syndromizing" women's experiences individualizes and pathologizes women's experiences. The question becomes: how can this dilemma to be reconciled?

in this transformation process whereby the government took ownership of the issue and responded according to its own definition of the problem. Hilton states, “without relinquishing its [BWM’s] right to define the reality of wife abuse,” feminists urged the government to become the legitimate source of response to the problem (1989:324). Put simply, although the BWM wanted to define the problem, it wanted the state to provide solutions. Yet, in reality, taking ownership of the issue meant the government took on responsibility for both responding to **and** defining the problem. This dilemma is further compounded by the government’s ability to control the flow of much needed money into the movement.

In addition to exploring the response on the part of the state *per se* (that is, primarily the state as government) the nature of the response within one of the state’s agencies, the CJS, must be considered in and of itself. Indeed, the state’s response has been largely a criminal justice one; the CJS is that part of the state’s social problem apparatus which has been given jurisdiction over wife abuse. As such, the following section will examine the work of selected writers whose analyses critique feminist engagement with the CJS in particular.

ENGAGING THE CRIMINAL JUSTICE SYSTEM

In an article aptly titled, “Battered Women and The State: From the Failure of Theory to a Theory of Failure,” Dawn Currie (1990) explores the practical questions raised by the BWM concerning what to do about violence against women as, in her view, the BWM presents an opportunity to analyze and explore the practical aspects of feminist attempts to challenge patriarchy. She examines the theoretical premises upon which feminist strategies

were based with regard to the relevance of theory for feminist academics working to conceptualize strategies.

According to Currie (1990), the necessity to reform criminal law and the expectation that formal avenues to justice can advance the position of women were premises inherent in the BWM's strategies. She is critical, however, of this prevailing liberal view of law as ideology since it fails to locate law within social structure, neglecting the material basis of law. Currie's approach calls into question the basic premise that formal criminal law reform can advance women's position. So, being critical of the image of a liberal, welfare state, Currie (as does Barnsley and Hilton) conceives of the state as social patriarchy. Yet, Currie's focus extends beyond ideology (unlike Barnsley and Hilton) toward the way in which law is worked out in our everyday lives.

Although critical of the process, Currie acknowledges that the BWM could be seen as a successful reform effort in many ways. Wife battery is now well documented, public awareness has increased, wife battery has been placed on the political agenda, and federal responsibilities have been identified and integrated into the policy agenda (See Findlay, 1988:9). Yet, Currie states that the BWM campaign is now controversial, "in that by challenging male power, it transformed women's need for protection into campaigns for law and order" (1990:83).

In what Currie calls a 'law and order' campaign, "issues are phrased in terms of legal rights, police protection, and criminal justice: technical terms which can be safely met within the current system without any meaningful redistribution of power" (1990:91). Currie asserts that before the state dealt with the problem, it redefined the problem itself. In the process, not

only the definition of the issue, but the goals of intervention were shifted. The state's definition of the issue followed from the assumption, not that men as a gender have the power to beat their wives, but that **some** men beat their wives. Following from this, the distribution of power in society is left unquestioned. As did Walker, Currie alludes to the BWM's part in making the issue a law and order one.

Currie acknowledges that the turn to criminal justice was a feminist strategy, but it comprised only part of the BWM's initial political approach. Nevertheless, the state response was almost entirely focused on criminal justice or social control; that is, satisfying women's need for protection has been equated with justice for women. Thus, what originally was a demand for a redistribution of social power (radical change) was translated into demands which sought expansion of current institutions. Currie's concern here can be seen as one of whether or not the movement actually represented a challenge to the current system, which was the initial objective of the BWM.

Currie argues that attributing this **failure** only to that of a liberal approach (feminist strategies) ignores the fact that the strategy itself was transformed. As the state defined the issue in terms of a social problem, it reformulated feminist demands to that which could be realized through the state's response. Like Walker, Currie suggests that the BWM was concerned with challenging male power, while the state was prepared to do so only to a limited extent (men's abuse of authority in the home, not that authority *per se*). Therefore, "[a]s a practical issue, the struggle is one whose outcome cannot be explained by *a priori* intentions of reformers" (Currie, 1990:89). The ideological revision did not occur unilaterally by the state, but was constituted through - not against - feminist discourse; that is, the BWM

was active in the ideology constructed by the state (hegemony).

Drawing on Dorothy Smith's (1974, 1987) work, Currie explains how this process of (re)ownership occurs. Smith "highlights ideology as processes through which society is organized and governed through the production of an account of the way things are which obscures alternative interpretations" (cited in Currie, 1990: 92). This account is produced not only by the relations of ruling, but through divisions between feminists within universities, community-based feminists, professionals and battered women.⁷ Around this time liberal feminism became the public face of the movement (Findlay, 1989). Currie (1990:93) argues that "in reality, the state exercises power through the engagement of individuals, including ourselves as feminists and as academics."⁸

Currie obliquely refers to this process as a failure of practice since the state, although it responded to "feminist demands" or took on a "women's issue," merely gave the impression it was acting for women's interests (Currie, 1990). If state intervention did not act for women-qua-women, practically the question remains: what did it do for the interests of individual women whose partners abuse them (their concerns, needs etc.)?

Laureen Snider's (1991, 1994) and Jane Ursel's (1991, 1992, 1997) views on the potential of the CJS to bring about meaningful change with respect to wife abuse are divergent, despite the fact that both writers start from a socialist feminist approach. Although it may seem that Ursel's focus is short term imperatives for women, while Snider's concern

⁷ Walker terms the institutional forms which organize, regulate and control society, such as state administration, legislative processes, and professional organizations, "relations of ruling" (1990)

⁸ If the engagement of individuals implies the employment of liberal feminists within bureaucracies, this could explain how liberal feminism became the public face of the movement.

lies in long term change (Comack & Brickey, 1991:313), perhaps there is something more. Rather, a distinction can be made between these two authors in terms of their different theoretical understandings of the CJS, more specifically, their acceptance or rejection of engaging the CJS as a feminist strategy. What is most important here is how this frame of reference is revealed in the evaluation each provides of feminist engagement with the CJS.

Snider argues that “relying upon the criminal justice system is practically, theoretically and morally wrong” (1991:239). In practical terms, entrusting more power to the state increases control over women’s lives. Theoretically, this directs attention away from structural problems inherent in patriarchy and capitalism “and towards reformist ‘solutions’ which accept the present socio-economic system as a given” (Snider, 1991:239). From a moral perspective, this encourages inhumane and repressive solutions primarily against groups who have been victimized by structural factors.

Snider argues that the inherent limitations of criminalization have led to the failure of feminists to successfully enlist the CJS as an ally (1991:255). Her critique is not against using law *per se* as a strategy, but using criminal law and employing the CJS, a system bent on social control and oppression. Her main concern is whether or not battered women have been helped or harmed by CJS intervention. Snider’s analysis questions whether legal intervention is ameliorating for women by seeking to understand if the results substantially aid “victims.” Abused women “must be the prime, if not only criterion for evaluating the success or failure of law reform” (Snider, 1994:245). Snider cites examples where (primarily lower class) women are, in fact, worse off with legal intervention. Women’s plight, she argues, even in the short term is worse, not better. She notes that, in Ontario, the first two people sent to jail

under the province's "get tough" policy were women for refusing to testify against their batterers. Rather than being ameliorating, the use of the CJS has exacerbated existing class biases. Calling attention to the fact that those apprehended by the police represent only a select portion of all male abusers, Snider argues that the CJS "will tend to target lower and working class people, resist feminism and support the status quo of economic, social and familial relations" (1991:256).⁹ Elsewhere Snider (1994:81) argues that feminist strategies engaging criminal law are not ameliorating for women, but can play into the hands of those who would disempower women. In terms of the potential symbolic effects of criminal law, Snider is sceptical as to whether criminal law can be an efficient or effective vehicle to change social attitudes since "the predominant role of criminal law is to coerce and contain, which makes it an inappropriate site for achieving social transformation" (1991:258).

For Snider, feminists' goal of a redistribution of power cannot be achieved through criminal law, since "[c]riminalizing more behaviour, and thereby encouraging the state to step up control and repression, in order to advance a movement whose basic aims are to lessen oppression, seems a strange as well as an ineffective and counterproductive one" (1991:256). Instead, feminists should employ strategies which challenge the present system, not strengthen it, and seek legal changes which "redefine the system of social relations which keep women and lower/working class groups under control," thereby offering the potential for humanitarian and non-oppressive, rather than punitive, social change (Snider, 1991:258). Snider suggests that the strategy with the most potential to do so is what Comack and Brickey (1987) describe as the 'jurisprudence of insurgency.' Rather than employing law,

⁹ Snider looks to Patricia Morgan's (1981) work, who shows how lower class, black men are targeted.

increasing punishment and social control (all calling for more of the same), the jurisprudence of insurgency attempts to challenge law, or use law against itself, by using the tension within the existing system to push forward contradictions arising from the structures of capitalism and patriarchy.

In contrast to the feminist critiques of the BWM, Ursel (1991) argues that the efforts of the BWM have, in fact, resulted in positive change. Theoretically, Ursel argues that wife abuse has become too costly to the state. In the current social patriarchal order, the laws and practices that perpetuate the male as the patriarch in the family no longer serve a function to the state. The state, as a system of social patriarchy, has no inherent interest in reproducing familial patriarchy within the home. Therefore, the interests of the women's movement and the state to dismantle conventions of an old familial patriarchal order coincided and the movement was able to use the power of the state to introduce progressive reforms which do challenge patriarchy.

Ursel's main concern parallels Snider's, that is, the result for battered women. For Ursel, the operative question is: has there been a marked improvement in the lives of battered women? Ursel is also concerned not only with the impact of the state on the BWM (which she sees as the focus of feminist critiques), but with the impact of the BWM on the state. Ursel argues that engaging the CJS has proven successful in terms of both concerns. She considers developments within the social service sector and CJS to evaluate both the impact of the BWM on the state (in terms of how the movement was able to get the state to respond) and the impact on battered women (in terms of whether the reforms to each sector have produced positive effects in the lives of women).

Ursel's analysis is more 'grounded' than the other critiques in that she attempts to empirically study the changes introduced. To assess changes within the social service sector, Ursel considers two quantitative measures: the number of programs the government funds and the amount of funding provided. In both areas she documents consistent growth. By 1990, the number of programs had increased to 25 from only 2 in 1981. Governmental expenditures for community based programs also increased from \$518,000 in 1981/82, to \$4,347,000 by 1989/90 (Ursel, 1991).

In terms of the CJS, Ursel examines wife abuse cases in Manitoba from 1983-1990 by analyzing Winnipeg Police and RCMP records and court case file data. In 1983 (the year the new directive was introduced), the total number of arrests within and outside Winnipeg totalled 629 offenders charged with (spouse) assault in Winnipeg (96% male), and 507 charged by the RCMP (94% male). By 1988, a total of 9,126 charges were laid by the two jurisdictions (94.5% male). To examine court processing she considers the rate and type of sentencing. Ursel argues that the sentences most likely to provide for monitoring, protection and/or counselling are: probation +; jail sentences; and counselling as an order on final disposition (Ursel, 1991:280).¹⁰ In addition, "[d]ispositions that provide for ongoing monitoring and counselling interventions have been actively promoted by wife abuse workers and advocates" (Ursel, 1991:280) On this basis, Ursel examines the appropriateness of sentencing. She found that: sentences of probation increased from 9% in 1983, to 20% in 1987; jail terms were sentenced in 2% (23) of cases in 1983, while by 1987 jail terms were

¹⁰ Probation+ as a disposition would include a sentence of probation in addition to another requirement such as court mandated treatment or anger management counselling.

handed out in 7% (639) of the cases; and counselling sentences had increased from 9% in 1983, to 32% in 1987 (Ursel, 1991).

According to Ursel (1991:280), these higher arrest rates are indicative of greater protection for women provided by police departments, and the sentencing patterns suggest an attempt on the part of the court to be more sensitive to women's needs. To measure the outcome of the efforts on the part of the court to be more sensitive, Ursel examines the rate of victim cooperation. For Ursel, the consistently declining rate of court Dismissals For Want Of Prosecution and the reduction in Crown Attorney's reports stating "victim's reluctance" as reason for a stay indicate that the system is moving in the right direction. Ursel concludes that there were more arrests, more options and services for battered women, a victim-sensitive Family Violence Court (FVC) and more appropriate sentences (probation with court mandated counselling). Ursel states that the intention of changes to Manitoba's CJS (including a Zero Tolerance policy and specialized FVC) was to provide victims of wife abuse with more protection and to make the court more sensitive to their needs. In her view, her analysis which indicates these intentions have been met suggests "real changes with beneficial results" (Ursel, 1991:280).

In a later article, "Feminism, Punishment and the Potential for Empowerment," Snider (1994) turns to Jane Ursel's (1991) work to look at changes in wife assault legislation and their effects, particularly on battered or assaulted women. She argues that interpreting the data Ursel presents on the CJS (lower attrition rates and "more appropriate sentences") as indicators for success is a weak argument. "[T]here is no reason to conclude that arresting and charging more suspects is helpful to the women involved, or even that it represents the

option she would have preferred” (Snider, 1994:86). However, she does acknowledge there is some evidence of success in the data Ursel presents for changes within the social service sector.

For Snider, the CJS is the least likely candidate for transformative struggle. Even if employing criminal law has symbolic potential (e.g. making the issue more visible and law acknowledging the problem), she argues that “[t]he symbolic gains achievable through public forays to change criminal law must be balanced against the losses and costs of this strategy” (Snider, 1994:249). That is, legal battles to secure reforms may have ideological and symbolic significance, but they have the potential to produce detrimental results for battered women. Here, Snider is pointing to the effects of criminalization on vulnerable male populations and the consequences for women who are dependent financially and/or economically on their male abusers.

In Snider’s view, the distinct and restrictive roles of criminal law and the CJS as mechanisms of social control suggest they are not designed to produce remedies nor offer victims alternatives. Therefore, their power to serve as tools of social transformation is limited. As in her earlier work, Snider (1994) emphasizes the need for feminists to develop empowering and ameliorating strategies (such as instituting structural change in the community to which abusers return so as to replace negative, punishment and injury oriented agendas).

In a more recent article, Ursel and Brickey (1996) examine the treatment of family violence offences by the CJS in Manitoba, a legal reform they define as a success. They argue that Manitoba’s model (specialized FVC and Zero Tolerance policy) is able to address the

particular needs of abused women. To examine the impact of the reform, they look at three expectations (which they state are goals of activists and reformers): police must charge regardless of victim-perpetrator relationship; Crown Attorneys must take cases seriously; and sentencing must reflect the seriousness of the crime. Their evaluation criteria rest on getting the system to respond to these demands or expectations.

In their quantitative study, Ursel and Brickey examine police protocol and the specialized court by assessing: public perception (using Winnipeg Area Study data); police response (using charges laid by Winnipeg Police and the RCMP over an 8 year period); and the impact of Zero Tolerance (by conducting comparative court analyses of a FVC data set, general court data set and a before specialization data set). The third aspect of their study receives the most emphasis.

In their comparative analyses of court outcomes, Ursel and Brickey outlined 3 indicators for success of the FVC in realizing its goals: 1) a lower attrition rate and a lower rate of stays; 2) a lower rate of conditional discharges, and less lenient sentences; and 3) longer term monitoring (probation +). As expected, they found a higher attrition rate (47% before versus 36% after, an 11% difference), but not the expected higher rate of stays (31% before versus 22% after, a 9% difference). The before specialization data set did have the highest rate of conditional discharge (14% before versus 6% after) and more lenient sentences (6% incarceration in the before vs. 16% after), as expected. As anticipated, the specialized court emphasized long term monitoring to a greater extent than before specialization (probation sentenced in 11% before versus 49% after) and percentages for sentences of court-mandated treatment were higher in the after data set (10% before versus 31% after). On the

basis of a comparative analysis of court outcomes before and after specialization, they suggest that these goals have been met.

The authors argue that the most fundamental criterion for measuring the success of a reform is whether or not the reform produced an improvement in the day-to-day lives of those affected. Ursel and Brickey conclude that their data suggest the CJS's response has, in fact, bettered the life of the victim. "As the Manitoba experience illustrates, it is possible for a legal reform to have a profound impact in an area where victims have been traditionally ignored" (Ursel & Brickey, 1996:74). For Ursel and Brickey (1996), this recourse to law available to women and the support they receive from the CJS indicate these reforms have been successful.

Commentary

Like Barnsley, Hilton, and Walker, Currie recognizes both the challenge to patriarchy which asking the state to respond represents and how this challenge and an analysis of patriarchy has been absent from the state's response. But her analysis goes further to explain how the BWM can inform our understanding of the State "in a way which connects theory and feminist practice" (1990:92). Currie seems to suggest that what began as a counter-hegemonic project resulted in perpetuating the prevailing hegemony of the social order. Her work raises similar questions as the other authors: Was the state prepared to challenge men's **abuse** of their authority in the home, not their authority per se? If so, has men's abuse of authority in the home been challenged and has women's need for protection been satisfied?

Several questions emerge from Ursel and Brickey's work. First, in light of the

aforementioned critiques, how appropriate are *a priori* intentions of reformers as criteria for evaluation? In this respect, Ursel and Brickey evaluate a reform based on the intentions of reformers without considering how these intentions may have been reformulated before a response was in fact made. In the process, they do not systematically interpret their findings in such a way that gives equal weight to the data. For instance, at one point an 11% difference is taken as indicative of positive change, while at another they discount a 9% difference which did not support their expectations. In addition, their data do not lend the degree of support to their findings which they imply. While their data do suggest evidence of systemic change with the introduction of the FVC, whether it amounts to a “dramatic change” as the authors claim (1996:72) is open to question. Moreover, whether this “systemic change” is, in fact, helpful to those women directly affected is not fully explored. For example, to what extent do more arrests and an increase in supervised court mandated treatment indicate an improvement in the day-to-day lives of those women affected? As Snider has argued, it may be unwarranted to conclude that these court outcomes mean that the life of the victim has improved.

Ursel’s (1991, 1996) analyses would appear to contradict the other authors discussed. To reconcile, or at least understand, the discrepancy between Ursel’s optimistic view and the scepticism of her colleagues, I have taken a different approach in interpreting her work. Rather than interpret Ursel’s analysis as defining success within a context of liberal reform (that is, the state was asked to do something and it did), I suggest Ursel shares the view that positive change should (or would) challenge the social system which perpetuates and accepts wife abuse. Moreover, seen in this way, Ursel’s work is not entirely at odds with feminists

who remain sceptical of the CJS and state intervention with respect to wife abuse. The difference in form rather than in kind is that Ursel's approach is conditioned by a very different understanding of what it means to challenge patriarchy. In this way, there is a connection to be made between Ursel's work and the other authors discussed with respect to the notion of challenging patriarchy. For example, challenging men's abuse of authority would, for Ursel, constitute a challenge to patriarchy, whereas Barnsley, Walker, Hilton and Currie, but most obviously Snider, argue otherwise. Ursel suggests that systemic change has occurred in Manitoba, but the implications of that change for abused women have not been fully explored in her work. Therefore, rather than criticize her for not considering a challenge to the status quo as integral to respond to wife abuse, it would be more beneficial to take her analysis as a starting point.

The one point of similarity in Snider's and Ursel's work is that both attempt to consider the effect of changes on abused women which, in my opinion, is potentially the most meaningful approach since abused women are the ones the reforms were designed to benefit. While I agree that abused women must be the focus of the analysis, it may be that a different methodology is required to realize this. Ursel uses charging and sentencing patterns to indicate whether changes are effective for abused women. Doing so assumes what will constitute positive change and thus looks *for*, rather looks *to* abused women to determine criteria.¹¹ Even though Ursel (1991) and Snider (1991, 1994) have the same criterion, their analyses contrast in terms of the impact of engaging the CJS. Since Snider is raising a larger issue, cautioning against employing criminal law, she considers cases where battered women

¹¹ Her more recent work (Ursel and Brickey, 1996) seems to follow the same pattern.

are negatively affected by the change objectively (counter-charging). Yet, she does so without considering battered women subjectively. In company with Ursel, I depart from Snider in that I take a more optimistic approach in relation to the potential of criminal justice intervention. Snider's point that engaging the CJS is risky business is well taken. However, at this point in time feminists **have** engaged and **are** engaging the CJS and criminal law and, therefore, the more appropriate question is how effective are changes already in place for abused women?

Only those directly affected, the supposed beneficiaries of the change, have experienced the effects of the Zero Tolerance policy and specialized FVC. Taking the real life experiences of abused women as a starting point requires doing so not only in theory, but in practice. Further, whether or not the reform has produced an improvement in the everyday lives of abused women can only be understood by looking to women's experiences with the change or reform and listening to women's stories. The greatest potential for an analysis which is sensitive, accurate and significant will come from hearing from the women directly. Therefore, rather than consider whether feminist demands have been met, or develop another theoretical argument against engaging a system in opposition to feminism, I will take abused women's experiences as my starting point and seek to understand their needs and their experiences from their standpoint.

CONCLUSION

Feminists' demand to end invisibility and inaction can be evaluated in different ways. Whereas common police practice in Canada was one of avoidance of arrest (Burriss and Jaffe, 1983: 309), policing today emphasizes domestic violence as a criminal act and arrest as the

primary response to abusers. The preceding discussion has shown that wife abuse has become visible and the state has responded. However, without examining the process and outcome of the state's response, assumptions that demands have been safely met are premature. Critical reflections by feminists on the relationship between the BWM and the state suggest, on the one hand, that feminists have lost ownership of the issue of wife abuse while, on the other, that real systemic change has occurred which has produced positive results.

To my mind, the possibility of positive change in the lives of women has not been fully explored. In order to develop this line of inquiry, I have examined the works of feminist writers, paying particular attention to the way they have evaluated changes thus far. Rather than seek to answer whether the BWM has been a success or failure (and dichotomize success/failure), I am more concerned with whether changes produce benefits and/or harms for women. What is viewed as "success" must be defined within a particular context. To further explore the potential for change suggested by Ursel's analysis, a method of investigation which speaks to the real experiences of the women the reforms were designed to benefit is required. This involves placing women's experiences at the centre; listening to women's stories and learning the women's perspective. In this way, rather than feminist practice informing theory, women's real life experiences become the basis from which a theoretical understanding is achieved. In short, we need to better understand the needs of abused women and to question whether the CJS has been responsive to those needs, from the standpoint of abused women.

CHAPTER THREE

EVALUATING THE BWM'S ENGAGEMENT WITH THE STATE: EPISTEMOLOGICAL/METHODOLOGICAL CONCERNS

CHALLENGING PATRIARCHY?

In order to find out more about women's modes of experience and interpretation, it is necessary to observe their responses and listen to their description. (Tomm, 1987:4)

Research which takes as its starting point the experiences of women is crucial to understanding women's needs and concerns, and their particular points of view. Only then are we able to question the extent to which the CJS provides supports and services which can benefit women in abusive situations. Understanding the varied needs of the women who are directly affected by reforms, such as the implementation of the Family Violence Court, will better equip us to evaluate the effectiveness of the CJS's response to wife abuse.

In interrogating the "criteria" feminists have used to evaluate changes brought about by the state's response, I have noticed a lack of fit between criteria and the way in which they are measured. Moreover, although not absent, it seems that abused women deserve more of a presence in our attempts to assess feminist strategies and institutional interventions. Elizabeth Comack (1996) asks rhetorically: Why do we think that, as academic feminists, we know what will resolve women's troubles? She states: "A large part of our difficulty in our attempts to assess strategies is the need to hear more from women such reforms are designed to benefit. While law may not be able to hear women's voices *we can*" (Comack, 1996:155).

I have suggested that, since feminists have already engaged the state and the state has responded, the question becomes not so much **should** it be used, but **how effective** are the changes which have been introduced. Furthermore, I caution against an emphasis on “criteria” for success in the way criteria have traditionally been defined. Perhaps, rather than more clearly defining criteria by which to assess institutional response, it would be more fruitful to look at women’s needs and the extent to which the systems in place do, in fact, address women’s needs. As such, attention to the relationship between women’s needs and women’s choices may very well bridge this gap.

Ursel has presented evidence suggesting systemic change can be found in the CJS response to wife abuse. Perhaps, to come to terms with the impact of such changes on women’s lives, a different methodology may be required; one which moves away from police and court records, and toward women’s needs and their encounters with the systems responding to wife abuse. When we either reduce voices down to numbers or allow only pre-given categories (which can never really be mutually exclusive or exhaustive) to guide the analysis, something is lost. What is needed is a method of investigation which speaks to the real experiences of the women the reforms were designed to benefit; that is, to how reform gets “worked out” in women’s lives. From this standpoint, interventions which “work” for women will be those which address their varied needs and are sensitive to diverse experiences and social locations. Through quantitative methods, we have gained a better understanding of the extent, severity and prevalence of abuse. Yet, in order to capture the richness of women’s real life experiences with the CJS and to explore the impact of the changes on their lives, we need to hear women’s stories. Qualitative methodology allows for the flexibility

necessary to balance the researcher's desire for explanation and the women's desire to be heard.

STARTING FROM WOMEN'S EXPERIENCES

As academics, our theorizing becomes less useful the further we abstract our analysis from the lives of those we write about. Proceeding in the direction outlined above offers the potential for explanations that analyses of legal intervention alone fail to provide. By listening to women's own accounts, we are able to understand how they interpret both their needs and their experiences. Gaining a familiarity with women's lived experience "in their own words" will allow us to pose better, more relevant questions. As a result, our attempts to evaluate reforms can be more sensitive, relevant, accurate and practical. Epistemologically and theoretically, what framework would begin with women's accounts? The remainder of this chapter focuses on specific epistemological concerns and methodological issues posed by this study and outlines the feminist research process in which I have been involved.

ABUSED WOMEN: DIFFERENCE WITH COMMONALITY?

Taking abused women's experience as a starting point, or the primary criterion, is not self evident, but must itself be problematized. First, "abused women" must be understood, not as a unified social category, a homogeneous group with similar needs and realities. Rather, the experiences of women are multivaried and in some cases divergent. As such, "abused women" constitutes a standpoint from which to engage in analysis, not a monolithic construct. Arguably, using the category of abused women is not in and of itself problematic, since

mutual experience is not implicit. As Randall argues: "The term 'women' has a specific social meaning and refers, of course, to a real and identifiable social group, yet it is a term which highlights only one dimension of the diverse members of this social group's status. Women share the attribute of possession of a female body and we live out of the social meanings of that experience" (1988:13). Women's lives are constructed around many social divisions or exclusions (such as race and class), so our experience is shaped by statuses other than gender. This is not to say that women do not share the experience of oppression, only that women do not have the same experiences of it. Many women who find themselves in abusive situations are marginalized - economically, socially and culturally. Abuse does not discriminate. Necessarily, then, women's experiences must be conceived of in the plural, to allow for diversity in location and experience.

FEMINIST RESEARCH PRACTICE

Historically, women have been not only along the margins, but absent from the official production of knowledge. The androcentric "truths" which are said to be history do not represent women's reality as women with different biographies experience it. Traditional scientific method involves either deduction (where theory precedes research) or induction (where observation builds theory). Both are positivist approaches which view science as pure, unbiased and objective.¹ In large part, feminist inquiry has departed from viewing research in

¹ This is not to suggest inductive and deductive methods do not produce "good research," only that these approaches developed out of the Positivist School.

this dichotomized way and the research process as orderly, logical and coherent.² Alternatively, in much feminist research, subjectivity and value is acknowledged.

Insofar as feminists claim that there is no knowledge that is value-free or without a point of view, history has by and large been written from a male point of view (androcentric). Many feminists have directed their work to producing or, better stated, **exposing** knowledges which uncover the experiences of women, thus making women visible.³ Acknowledging that women's experiences as women are shaped by other forms of differentiation, such as (but not limited to) class, race and sexual orientation, feminist writers have more recently drawn close attention to diversity in their analyses. It is also in this trend that my research follows. When I began this project, my goal was twofold: first, to make women's experiences visible, specifically the needs of women in abusive relationships; and, second, to build a women-centred understanding of the CJS's response to wife abuse.

Rather than separated from the research, the researcher is an ever present part of the process. Therefore, I am located in this work.⁴ Largely in response to critiques from women

² Feminist inquiry has raised fundamental challenges to traditional social science research (Harding, 1987; Smith, 1980; 1987; 1995). The result is a very different knowledge, both in kind and in form, than Cartesian scientism, as it "breaks out" (to borrow from Stanley and Wise) from traditional mainstream approaches which adopt their method from the natural sciences.

³ Feminist writers have challenged the idea of a distinct feminist method of inquiry (Stanley and Wise, 1979; Harding, 1987). Rather than outlining a method from which feminist research should be conducted (thereby rejecting feminist research with only *particular* methods), Liz Stanley and Sue Wise (1979) espouse a "feminist research process," which simply stated includes research which is on, by, and for women. However, some writers have found the dictum "on, by and for" problematic (Cain, 1986). Cain argues that the "on, by and for" must be interpreted in a social and political context.

⁴ Joan Acker and her colleagues point out that we cannot, nor should we, assume that those who participate in the research (abused women) share the same politics as the researcher (Acker et. al., 1983). Perhaps a better distinction is found in Helen Roberts use of the concept "reflexivity," which she describes as the process through which feminist researchers locate themselves within their work. As such, the researcher's involvement in and experiences of the research are viewed not as problematic, but valid (Gelsthorpe, 1990).

of colour (hooks, 1987) against of the BWM's predominantly white, middle class, and educated composition, feminists have recognized the importance of locating ourselves (our biases and assumptions) in our work.⁵ Presuppositions find themselves in all research, whether explicitly acknowledged or not. As such, my attempt here is to account for myself in, and for whatever bias I bring to, this research.

My present location is both ascribed and achieved. A key part of my identity is being a woman in a patriarchal society. I come from a middle-class background. I have post-secondary education and have been employed part-time throughout my graduate studies. My social location makes my experience in a sexist, racist and heterosexist society different from some of the women I met, primarily on this basis. However (as implied above), I do share with these women the experience of oppression, although we do not have the same experience of it. I have not experienced the impoverished conditions many women live with daily. I have not been on the receiving end of overt and systemic racism. Yet, the experience of sexism and being confronted with obstacles because I am a woman and as a woman are all too real. As a woman, in all cases I am offended. Another important aspect of my sense of the world is my concern for women, especially for the conditions in our society that create barriers for women, that limit women's choices and put women's lives in jeopardy.

Much feminist work has taken as a guiding principle the notion of 'praxis' or knowledge for social transformation (Stanley and Wise, 1990). The underlying philosophy of praxis is that we should not only study the world, but understand it in order to change it.

⁵ Criticisms raised have also come from women in other marginalized positions, such as from Aboriginal women, disabled women and lesbian women.

Janice Ristock and Joan Pennel (1996:116) define praxis as “the joining of theory and action so that each is informed by and changes through its relation with the other.” As theory and practice are then seen as inextricably woven, so too are theory, experience and research (Stanley and Wise, 1993). The goal of praxis, understood in this way, underlies my work of developing a theoretical analysis based on the practical implications of the CJS’s response to wife abuse. In so doing, theoretical insights derived from this work can be used to further inform practice.

Standpoint Feminism: A Framework for Understanding Women’s Lived Reality

Standpoint is an epistemology which connects the study of discourse and everyday practice (or everyday lives and experiences). Standpoint feminism was devised by Dorothy Smith (1974, 1987), and rearticulated by several feminist writers, most notably Sandra Harding (1986, 1987) and Maureen Cain (1986, 1991).⁶ According to Currie (1990:92), “Smith directs us away from the study of ideology in abstraction to the study of discursive relations which underlie the production of ideological material and which are themselves situated within what she calls ‘relations of ruling.’” Over the last two decades, several revisions to this framework have been presented (see, for example: Comack, 1997). In common, though, is the epistemological basis from which a standpoint is constructed; that is, experience. A standpoint feminist epistemology can be located in, and proceeds from, a grounded analysis of women’s material realities. Smith’s idiom, “the everyday world as

⁶ Standpoint is rooted in realist ontology (Cain, 1986). Cain argues that “knowing is a political process, and therefore potentially transformative” (260).

problematic,” has come to be seen as the underlying tenet of such work. Rosemary Hennessy defines a feminist standpoint as “a way of conceptualizing reality from the vantage point of women’s lives” (1993b:14).

Knowledge is always produced from a particular vantage point or standpoint, whether openly stated or not (only, traditionally, this position - of privilege - was seen as objective and therefore required no explanation). All knowledge is partial, and particularly so here. Elizabeth Comack (1996:13) has already captured this point so I will not attempt to better state it here. Recognizing this avoids the “danger of seeing the women as embodying victimization, of imposing an artificial uni-dimensionality to their lives. Quite the contrary, there is much more going on in a woman’s life than can be captured in a master status of ‘victim of abuse.’ ” The women’s stories, as told to me, are partial in that they are only a partial telling of events and experiences they choose to share with me. So, although I cannot fully know the standpoint of the women, I can attain partial knowledge of their standpoint by listening and being sensitive to the women’s accounts of their experiences.

Standpoint feminism derives from a materialist understanding of society (Hartsock, 1987). In my analysis, women’s experiences and women’s lives are situated within the nexus of class, gender and race. Structures like capitalism, patriarchy and racism play a role in conditioning and contouring the life experiences and choices of women.⁷ I attempt to locate the women’s experiences and the women themselves in structural terms (in the context of capitalism, patriarchy and racism) in order to consider how these structures are experienced

⁷ This attention to structure is one of standpoint feminism’s strengths, while at the same time is at the center of criticisms against it (Smart, 1995).

in women's everyday lives. However, their social locations include, but are not limited to, gender, class and race. As a framework, standpoint allows the researcher to be sensitive to the contextual situation of those being studied by taking into account other forms of "othering." Research must be grounded somewhere. For me, grounding the research has meant "ensuring that the study remains based in the research participants' [the women's] realities" (Ristock and Pennel, 1996:103). Recall in the first chapter, where I argued that wife abuse has developed from within a context of male domination over women both inside and outside the family. The concept of domination is key to explaining the way relations are not only gendered, but structured by marginalization.

However, women's experiences of their lives are not synonymous with feminist knowledge of women's lives (Harding, 1991). Therefore, there are two levels of analysis at work with standpoint epistemology. The women's stories themselves have a level of interpretation and analysis; their standpoint. My task becomes using their experiences and understandings to develop a feminist theoretical analysis; a feminist standpoint. A key concept and practice for identifying standpoints and producing knowledge from a feminist standpoint is "theoretical reflexivity," which refers to thinking about oneself in terms of a theoretical understanding, paying attention to the scope of class, race, age, and gender relations (Cain, 1986:133).

Without presuming an essentialist, homogenized notion of "woman," feminist standpoint involves observation and theory which begins from the perspective of women's lives. Yet, standpoint does not speak for women, it offers a way to make sense of women's lives and their experience of those lives. Further, standpoint feminism allows me to occupy

a particular site or vantage point from which to produce knowledge about women's experience. As a feminist researcher studying abused women's experiences, I cannot know the standpoint of the other, but I can align myself with the point of view of knowing subjects. Cain (1990:129) suggests that "there are as many knowledges as there are people. And it is to deal with precisely this point that standpoint epistemologies have been developed."

Standpoint, as an epistemology, is not without criticism. For example, standpoint epistemologies have been criticized for being essentialist and for being impossible to identify because of differences between women.⁸ In response to the critics, Cain argues that, although writers within criminology who focus on women's experiences have tended not to problematize masculinity, not all standpoint epistemologies have done so (Cain, 1990:128).⁹ Rather, feminist standpoint epistemology recognizes diversity in experience, opinions and contextual location of those who occupy a particular standpoint. Cain (1990) argues that rather than being formed by biology, standpoints are constituted by politics, theoretical reflexivity and choice of site. Therefore, differences among women, their fractured identities, are recognized in theory as an integral part of standpoints.

RESEARCH QUESTIONS

The larger objective of this research is concerned with the extent to which the state's response, primarily within the CJS, has empowered women, or at least produced benefits in

⁸ Smart (1990) argues that standpoint epistemology ignores masculinity; that is, in focusing on women's experience of oppression there has been a tendency for feminists to write of an "essential woman," rather than one in a reciprocally constructive relationship with maleness.

⁹ For examples see Stanley and Wise, 1983; Cain, 1986a.

their lives. On a practical level, this requires questioning whether or not the changes made have been sensitive to the women's needs, and the impact and implications on women's daily lives. The following describes the more specific research questions which this study addresses.

1. What are the varied needs and concerns of women in abusive relationships or situations?

Here my aim is to locate the women in the social contexts in which they encounter abuse. In so doing, I have attempted to expose the conditions under which the women called upon the CJS. My understanding is guided by such questions as: What are the women's biographies? How do women deal with that which they are encountering? ¹⁰ How do the women understand, interpret and articulate their concerns, expectations and, most importantly, their needs?

2. To what extent has criminal justice intervention responded to women's needs?

My goal here is to understand the women's encounters with the CJS and what response on the part of the police and the courts the women received. With the intention of critiquing the effectiveness of the Zero Tolerance Policy and the Family Violence Court, originally it had been my idea to focus primarily on these two levels of the CJS. During the

¹⁰ Questions were raised in the ethical review of this project as to why the women would need to speak (i.e. why include abuse in the interview?) about their abuse experiences during the interview. These comments troubled me for several reasons. First, implicit is the assumption that women are, and should be, able to separate their needs as women in abusive relationships and the way the criminal justice system or social services sector responded to their abuse. Second, for me to not acknowledge the abuse itself serves to silence the women and suggests their experiences are not as important as their interactions 'post-abuse,' with the police or courts. Finally, it was my experience that the women themselves offer this kind of information without being asked directly about it.

course of my research, however, it became clear that the women were in contact with and sought support from various other systems, such as shelters, Family Services and through other legal means (such as divorce proceedings and child custody hearings). It became difficult to limit the scope of the examination to the CJS. In effect, then, this study offers not only the women's evaluations of the CJS's treatment of wife abuse and its ability to respond to women in need in a way which is attentive and sensitive to their experiences, but also provides insights into the needs of women and the availability of choices and options to assist them in dealing with, and healing from, abuse.

3. How do the women make sense of their experiences? What are their interpretations?

This portion of my work considers women's own interpretations and evaluations, primarily in their own words. What factors are important to the women (in keeping with the literature's language - their "criteria for success")? In addition to what women have to say about their experiences, of concern are their reasons, attitudes and opinions about their experiences, the system and what needs to be done. Of prime importance is not only what can be learned from the women's standpoint about the CJS response *per se*, but just as significant is the way in which the women's interpretations are shaped.

LAYING GROUNDWORK: SUPPORTS AND BARRIERS

My goal was to have a sample of between 12 and 15 women who had been in contact with the criminal justice system (as 'victims') of wife abuse ('family violence'). Establishing contact with the women was a rewarding, yet arduous task. I wanted to ensure that the

women's participation was completely voluntary. To allow for this, I decided to place an advertisement for my study in various places women frequent to access resources or other services [see: Appendix A]. I was also concerned that my sample reflect diversity in women's experiences and social locations. By targeting certain agencies, I attempted to ensure diversity in my sample with respect to race, class, citizenship and age. I selected a wide range of organizations and agencies which all provide some resource or service to women. Initially, I went directly to several of these places to request that my sign be placed there. I wrote letters to the directors at numerous women's organizations, associations, social service and health agencies to inform them of my research, and to elicit their support for my study [see: Appendix B for sign and Appendix C for letter]. I hoped the organizations would support my work and inform or encourage women to take part. In theory, a good idea. In practice, a task more daunting than I anticipated.

The response was mixed. In retrospect, the research process was not what I had expected, yet it resulted in more than I could have imagined. Initially, I received little response from my letters, so I made phone calls to the Executive Directors at each contact place. Although I was not able to connect with a number of places, several who did respond were eager to provide their support. As well, I gave two presentations about my study, one at the Portage Provincial Correctional Facility and another at MaMawiWiChiTata, an Aboriginal resource centre.

I designed referral cards (see: Appendix D) that women could take from bulletin boards, information tables or be given by staff. The cards briefly describe the study, list my name and telephone number, and are small enough so that women could conceal them if

necessary. I wanted to provide a non-obtrusive and inconspicuous way through which women could become informed of my research. On my telephone answering machine, I left a message about the study asking the women to either leave a number where they could be reached or a time they may call back. With the advertisements in place across the city, along with the referral cards, gradually I began to receive calls for the study.

INTERVIEWING WOMEN

The interviews were both private and confidential. Confidentiality was assured through several means. First, with the women's permission, the interviews were tape recorded and then transcribed (as soon after the interview as possible). I was the only person with access to the interview tapes, the resulting transcripts and other related research materials. Once all interviews were transcribed, the tapes were destroyed. Second, I chose pseudonyms for the women as a way of keeping their names confidential. The pseudonyms replace the women's real names with names of women in my own life. Third, in my analysis I refrained from providing any information which could expose the women's identities. One way to do so was only making reference to something about the woman (such as a characteristic or defining feature) only if she shared it in common with two other women. For example, as you will notice in the next chapter, three of the women possess an immigrant status. Had there been only two, I would not have used this part of their identity when describing their particular stories. Fourth, I asked for the women's permission to use their words verbatim in my work.

Fifteen women who have been in abusive relationships and called upon the police for

support participated in my study. Abuse cuts across all social locations, and this was most evident in the group of women with whom I had the opportunity to speak.¹¹ I conducted open-ended, semi-structured interviews with each woman in person [see: Appendix E for Interview Schedule].

My first contact with each woman was over the telephone. When a woman phoned me I would briefly describe the nature of my research and her involvement, and answer any questions she had. At this time I informed the women that their participation was voluntary (they were under no obligation or pressure to participate because they had called) and their responses to my questions would be confidential. We would then arrange a mutually agreeable time and place for the interview.¹²

Before each interview began, I would briefly describe the purpose of my work, reassure her of confidentiality and outline the consent form. The women freely gave informed consent to participate. All but one woman gave written consent [See Appendix F for Consent Form]. Protection and respect for women are key issues when studying sensitive topics. Whenever possible and with the women's permission, the interviews were tape recorded. Of the 15 interviews, all but 4 were tape recorded. In one case, language provided a barrier which I felt would hinder my understanding of the interview tape. Another woman, for

¹¹ In light of the overload and rapid increase in cases processed through the FVC it would also be interesting to compare women who experienced the system at the time of implementation with those whose contact was more recent. Due to the nature of the sampling frame, I was unable to determine before the interviews when women came in contact with the CJS. With a sample of 15, such a comparison was not feasible.

¹² Three of the women (not currently living with their abusers) felt most comfortable having the interview in their home. For the other women, a neutral location was more appropriate. Seven of the interviews were held within an office in a women's organization, social service agency or institution. Of the other five, three interviews took place at local coffee shops or cafeterias, one in a student lounge, and the other at my office at the University.

personal reasons, refused to be tape recorded. Environmental factors (noisy, crowded, public place) influenced my decision not to tape record, or even mention the possibility, in another interview. Finally, in another case, a combination of mechanical and human error on my part made hand written notes my only option.

Recording the interviews allowed me to pay closer attention to listening to the women. I had hoped that, by creating a more “conversation like” atmosphere where I could fully attend to the women’s words, the women would be more comfortable and thus more inclined to speak openly and honestly with me. Comments from the women about the interview indicate that this was, in fact, the case. In any event, the women were, with one exception, very eager and willing to talk about their experiences.¹³ Each interview took on a life of its own, becoming a more guided conversation, where often my primary role became listener, only to probe and clarify when appropriate. The openness and interactive nature of the interviews provided the women with the opportunity to speak about what they deemed important. I endeavoured to create space for input from the women in guiding and shaping our interaction. The questions I asked and the responses the women provided did not occur in a linear fashion, in a similar way across all the interviews. Some women preferred to be directly asked a question to which they would respond, while others told me their story - all about their experiences with the police and dealing with the abuse - in response to the query: “Tell me about yourself.” As each interview drew to a close, however, I was confident that

¹³ One interview was particularly awkward at times. It was my sense this woman had never talked about her abuse, or even referred to her experience as abusive. She approached me after one of my presentations eager to participate. During our interview, however, it was obvious to both of us that she was apprehensive to respond at times, largely given the fact that she was confused about her feelings toward her abuser and had mixed emotions about her experience.

I had addressed each research question. I was cautious about ending the interviews abruptly and making the women feel uncomfortable. I did not want to force closure upon the women. Before we parted, I tried to have a debriefing period with each of the women. For some, this meant talking about her kids or her plans for the future, while for others it involved her thoughts on the interview. I offered to provide a summary report to each of the women. With the exception of one, all of the women wanted the report and seemed anxious to read it. I told the women (with telephone access) that I would call them to let them know when the report was completed. For those women without telephones, I made different arrangements with each of these women to ensure a copy would be available to her.

I made the decision not to send transcripts back to the women after the first few interviews for several reasons. Although this would be a way to provide feedback and have the women more involved in the research, I was hesitant to do so in large part because I could not guarantee I would be in contact with all of the women. Another important consideration was the length of time and amount of resources another interview would take.

GIVING BACK

Given the political nature of feminist research practice, I found myself pondering the question: "What's in it for the women?" I also hoped that I could contribute in some small way to women's healing. At no point, however, did I assume this would be the case. I was humbled to find that women acknowledged that talking to me has helped them. For some women, I was the first person they had opened up to. Sadly, though, some women told me it was the first time someone wanted to listen. Others relayed several instances where they

were discouraged from speaking about their abuse. The experience of the interview process involved breaking the silence for many of the women. I offered each of the women who participated a summary report of the research.

ANALYSIS

The analysis was guided by the three main research questions set out in this chapter. Briefly: What are women's needs and concerns? To what extent is the CJS responsive to women's needs? What are the implications of criminal justice intervention for the women? I attempted to address these questions from the vantage point of the women, not only their experiences, but their own interpretations and analysis.

Interview tapes were transcribed as soon after the interviews as possible. I began preliminary analysis and coding of transcripts when half of the interviews were completed. I consulted Kirby and McKenna's (1989) *Methods from the Margins* for direction. Two key principles guided my analysis: intersubjectivity and critical reflection. The former refers to "an authentic dialogue between all participants in the research process in which all are respected as equally knowing subjects" (Kirby and McKenna, 1989:129). In practical terms, for me this meant ensuring that each woman was given the opportunity to speak in the analysis (each voice was heard). As such, when reading through each transcript I was attentive to the similarities and differences in the other interviews. When examining each research question, I was careful to be inclusive of every woman's experience. The latter involved examining the women's reality "within which people exist and out of which they are functioning" (Finson, 1985:51); that is, close attention to context, contextualizing patterns and how they are

sustained is crucial. Practically, I found myself examining how the women's experiences fit within the context of the structures that condition and contour their lives. These principles allowed me to hear the women's words and learn about their experiences, without neglecting the importance of the structures that influence their experiences.

Once the interviews were transcribed, I collapsed the information into a first order (basic) level of coding, or what I called "organizing categories." These categories comprised the key issues and concerns that formed the basis for the research questions. For instance, Research Question 1 asks: What are the varied needs and concerns of women in abusive relationships? The women's responses which focused on their needs or concerns were categorized initially as "needs/concerns."

Other organizing categories included: social characteristics; abuse experiences; emotions/thoughts/feelings; contact with police; CJS; expectations; supports; her understanding/account/interpretation; abuser's impact; residual impact; women's healing; need for change. Although I began to see patterns in the women's stories during this part of the process, I first tried to reflect on each interview separately until I was confident that I understood all that she was trying to say. Reflections became second nature in the sense that their stories were never far from my mind. Critical reflection prepared me for coding the interviews. Coding involved reading and reviewing the women's responses using the organizing categories listed above first. The second part of this process involved breaking down the codes into their different properties and dimensions, and also collapsing codes (For example, women's needs/concerns were categorized by type).

Searching for emergent themes within and across the women's stories allowed me to

link the important questions raised. That is, understanding women's needs and concerns enabled me to explore the extent to which the CJS was responsive to those needs and concerns. I could only capture the CJS response after examining the women's own understandings of their needs. Thematic coding allowed me to provide more theoretically driven codes. Dividing the data into context and process files assisted in this process. Research Questions 2 and 3 necessitated that I analyse the women's encounters with the CJS in the context of their needs and concerns. To do so, I looked at the extent to which the women's needs were met by the CJS. Perhaps, the categories reached saturation, but more than likely I was the one who became saturated. In any event, when I was comfortable that I had captured the women's accounts and that I had made my own sense of their accounts, analysis drew to an end.

Reliability, as feminist researchers view it, refers to something distinct from its traditional scientific usage. Having trust and confidence when speaking about the description and analysis of the data implies reliability (Kirby and McKenna, 1989). Similarly, validity speaks to whether the material actually says what I purport it to (would it be recognized by the research participants as such?). In this respect, I have endeavoured to be careful both in my presentation of the women's standpoint as well as in the elaboration of my own feminist standpoint to present the range of views expressed by the women and to not exceed the limits of what can be 'concluded' based on the information made available to me.

During my interactions with the women, I was continually attempting to break down power differentials that exist between "researcher" and "researched." I emphasized to the women their part in this work and encouraged them to provide our direction. The voices of

the women who chose to come forward and share with me their stories are at the heart of this work. Although only I can put a face (and will always do so) to their stories, I hope that their words will be able to touch readers in some way.

LANGUAGE

Close attention to language is crucial, especially in this context. Words carry with them different connotations and at times may be read as something other than the author intended. Therefore, at this point, I would like to clarify meanings by defining key terms which will be used in the remainder of the discussion.

I have attempted to move away from the tendency in the literature to talk about women as ‘battered women,’ singling out one feature of their experience as defining who they are. Therefore, when possible, I will refer to the women as being in abusive relationships or abusive situations, or simply as women. However, I may use the term ‘abused women,’ albeit cautiously.

‘Abuse’ will be conceived of as both behaviour as well as process. Rather than only a particular event or instance (such as hitting or kicking), abuse, seen in this way, conceptualizes the nature of a woman’s relationship with her partner. Inclusive in the term abuse, then, is physical, sexual, mental, psychological and emotional abuse.

When referring to the women’s partners I will likely use the term “abuser.” The abusive nature of the relationships and the extent of the physical, psychological, mental and emotional abuse the women have endured cannot be highlighted using a term such as batterer. As well, abuser also captures his control and abuse of that control (i.e. to abuse is to take

away control; see: Comack, 1996).

The 'criminal justice system' (CJS) will refer to those agencies involved in the administration of criminal law, inclusive here as comprising the police and the court system (prosecutors, judges). 'Government,' as it is used here, will refer to elected officials in positions of authority and the bodies they represent (i.e. Family Services).

The concepts of 'need(s)' and 'choice' are developed further in Chapter Four. What is important here is that needs are seen as internal to the women and choices as external to the women. That is, choice is not seen as objectively defined options. Rather, choice is located within a structural context.

Commonly used terms such as 'assistance,' 'resource(s),' 'help' and 'response' will be used throughout the pages which follow. It is difficult not to impose the traditional meanings for these terms. For our purposes, the notion of 'helping women' will be seen as subjective, defined by the women as producing benefits or affecting something positive. Assistance is not seen as synonymous with help. Police assistance could mean only being present on the scene. This does not imply women are helped by the police. That is, 'coming to the assistance of' may or may not 'help.'

CONCLUSION

In this chapter, I sought to outline my own feminist research process. I argued that, in order to question the extent to which the response to wife abuse has been beneficial to women, we must begin to understand women's experiences and their needs. As such, this study endeavours to: first, understand the standpoint of abused women by speaking with

women directly; and, second, use their standpoint to provide a basis from which to inform a feminist standpoint which addresses the questions, concerns and issues surrounding the BMW engagement with the state and the CJS.

CHAPTER FOUR

WOMEN IN NEED

The purpose of this chapter is twofold: first, to provide a contextual basis in which to situate the ways in which women manage their needs, generally, and their experiences with the criminal justice system, in particular; and, second, to outline the women's needs as identified by the women themselves. Before examining the nature of the women's experiences and their needs, the women as a group must be situated in terms of their abuse histories and social locations.

LOCATING WOMEN/SITUATING ABUSE

BIOGRAPHIES

As a group, the women in my study share in common the experience of abuse - physical, psychological, emotional and sexual. This shared experience provides the women with a particular vantage point. To varying degrees, despite different social locations, their abuse experiences have influenced and shaped their experiences as women. Each of the women had, at least at one point in time, called upon the CJS for assistance. It should be noted that the women did not call the police at the first sign of violence. Often the calls to the police were a last resort, or an immediate reaction in the face of fear, sometimes in a life or death situation. Although as a group they are not a representative sample, they share characteristics with the majority of those who end up as victims in the CJS (not victims of wife abuse per se, as abuse cuts across all social, cultural and economic boundaries).

For the most part, the women who chose to come forward had physically removed themselves from their abusive partners, with one notable exception. At the time of our meeting, the majority of the women were no longer in crisis.¹ This seems to suggest that the decision to come forward may, in fact, be more complicated and perhaps too difficult for women still directly living with abuse. This was certainly the case for one woman who was initially eager to participate based on her past experiences of abuse. Sadly, she found herself dealing with abuse in her current relationship which necessitated directing all of her energies toward her immediate situation.

All of the women experienced abuse from their male intimate partners. The length of their relationships with these men varied from 2 years to 18 years. Of the 15 women, only 3 were in dating relationships. Among the women in marriage or common-law unions, four women were married for at least 10 years (two for 18 years). The average length of relationship for this group of women was 7 years. The majority of the women had been in the relationship between 3 to 4 years (8 of the 15).

Statistics show that women who report abuse to the police and, consequently, those ending up in court are relatively young (Family Violence Court Tracking Project, 1995). This should not be taken to mean that abuse is confined to younger women. Elder abuse and abuse that has carried on throughout a woman's lifetime into later adulthood, while just as common, is under reported. Many older women who are involved in abusive marriages today

¹ As generally defined in the therapeutic community, a crisis for women may arise as a result of a traumatic event, if a woman interprets an event as traumatic, if she lacks coping resources to deal with an event or if she defines there to be a lack of coping resources. In essence, a crisis exists when there is a gap between an event and resources to deal with it.

entered the relationship during a time when a patriarchal household was an acceptable norm. Given this, the women as a group in this study were relatively young. The mean age was 30 years. Only three of the women were in their early forties and one was in her late thirties. The majority of the women were between the ages of 23 and 35. Three women were distinctly the youngest of the group, one having just turned 18, one 20 and the other 22 years of age.

All of the women, either at present or did previously, live within the city of Winnipeg. Community of residence, however, was more varied. Only three of the women resided in middle- class or wealthier neighbourhoods. More common was living in the core area, the North End and Downtown. In class terms, the women were largely working class and unemployed. Of the 15 women, only two had graduated from university with professional degrees, three had completed some university education, four had completed grade 12 (one is working toward her diploma) and five had not finished high school (grade 9 or less). Each spoke of working for wages at one time, yet some were currently unemployed and relying on social assistance. In large part, those women working for wages were in semi-skilled and lower paying jobs. As evident in Canadian society, the feminization of poverty has had its impact on these women. With the exception of the two women currently in full-time studies, only two of the women working above minimum wage were employed in a professional position. The class positioning of the women will either enable or limit their access to resources and subsequently the choices and options women have available to them. For many, economic marginalization alone has created several obstacles. The fact that several women considered themselves as being “from the streets” or “street-wise” speaks to their experiences as women in desperately impoverished situations.

Attention to race must be paid in locating the women in structural terms. Of the 15 women, 6 were Aboriginal, a disproportionate number (especially given the sampling procedure) yet representative of those who come before the court as victims in domestic violence. Consistently each year, almost half of the victims in cases heard within the FVC were Aboriginal (Family Violence Court Tracking Project, unpublished results). Their stories raise concerns and questions about living as Aboriginal women in a classist, sexist and racist society. Two women were landed immigrants and one was (at the time of her abuse experiences) a refugee. Similarly, their accounts raise several important issues about the implications of cultural differences within the CJS. Six women were white or Caucasian. To what extent were the experiences of the women in this study contoured by their race?

Only 3 women I interviewed did not have children. In large part, this speaks to women's role as mothers. "Given their reproductive role, and the fact that child rearing continues to be defined as women's responsibility in Canadian society, the demands of that work will figure prominently in a woman's life" (Comack, 1996:32). This was especially so for the immigrant women whose cultures dictated that a woman's sole purpose was as a wife and mother.

THEORIZING WOMEN'S LIVES

A systemic perspective need not be problematic, despite the widespread turn to the postmodern of late. Rosemary Hennessy insists we explain social systems of power, such as patriarchy, exploitation and imperialism, "because those regimes of power that regulate knowledge and people's lives have not disappeared even if they have been reformed"

(1993b:21). To my mind, rather than deny social agency, a systemic perspective emphasizes the role of individuals acting within structures. Further, attention to the way in which structures condition and contour the lives of individuals, in terms of the way people act, how they see themselves and the world, allows for a more grounded analysis based on women's lived realities.

Violence against women must be seen within the context of the social, economic and political inequalities that women *qua* women experience. Despite recent claims that women are as violent as men and men are abused as frequently by their female partners (Pearson, 1997), women are, in fact, disproportionately abused by their male intimate partners. Statistics Canada's 1993 national study of violence against women reported that over one-half of Canadian women have experienced physical or sexual violence at least once, since the age of sixteen (Johnston, 1996). One could say that a woman has a 50:50 chance of experiencing male violence. Abuse at the hands of a male partner was experienced by 25% of the women in the Statistics Canada study. The fact that violence against women is a gender related factor may seem obvious, nevertheless attention needs to be directed to the gendered nature of social relations. Violence against women derives from, and is reinforced by, power relations between men and women and women's inequality in society. Several issues and concerns the women in this study are dealing with either directly or indirectly arise because they are women. Moreover, they encounter their struggles and experiences, especially their encounters with abuse, as women.² However, gender cannot be looked at in isolation from race and class positioning. In large part 'equality gains' for women have been reaped by upper and middle

² Thanks to Elizabeth Comack for clarifying this point.

class, white women. Arguably, one of the most devastating impacts of gender, class and racial oppression is the plight of Aboriginal women who find themselves within an abusive relationship.

In what kinds of situations do these women find themselves? With what are the women confronted? Further, to what extent do the women's biographies or social histories shape their abuse experiences? This next section explores the women's experiences of abuse in their own words. It should be noted that most of this information was gained, not through direct questions, but rather offered on the women's own volition.

WOMEN'S ACCOUNTS OF ABUSE EXPERIENCES

Reiteration is necessary here. The abuse experiences of the women individually must be located within a larger social context; that is, the abuse must be recognized as systemic. However, this must be done without losing sight of the very real, very individual, and very personal effects or, as one woman put it, "the human side of it." The abuse and control hit women's bodies, minds, and souls. Abuse had a profound impact on the women, to varying degrees and in different ways. It is important to recognize that the women experience abuse within the context of their daily lives. As a group, the women all experienced each form of abuse, emotional, mental, psychological and physical. There was a particularity to each woman's experience of the abuse. For some, abuse was the norm, while for others their partners were only abusive at certain times. Although the women's experiences of abuse may have differed in kind, frequency and intensity, underlying the abuse for each woman was power and control. The sexual overtones of the abuse are not seen only in sexual abuse, but

in jealousy and possessiveness. One manifestation of this was accusations of cheating. Ownership of the women is reflected in their partner's attempts to control their actions, behaviour and even thoughts.

Although physical violence was not a criterion for inclusion in my study, each woman had experienced physical abuse. At times, the men in the women's lives were forceful and physically violent toward them. Some women experienced physical violence throughout the relationship, while others were physically abused only when their partners were drinking. However, as the women attest, their lives with their partners were not entirely violent. That is, each woman did express love for her partner and identify the bond between them. The women acknowledged that they did have good times with their partners, but people could not understand that bond between them. Julie comments: "It doesn't just happen, you meet this guy and he's abusive . . . but the thing is, when it is someone you care about and have built up a relationship with and loves does it to you, you don't interpret it like that." The women have their own reasons for becoming and remaining involved with these men. Cassandra explains that she stayed with Paul "cause I don't have anything to show anybody else that I can give them - you know? Like, materially." Roberta suggests that:

Many just don't understand why you would ever have feelings for him. 'Obviously it had to have been bad before, like, why didn't you leave? (sarcastically) They have no understanding of that. It's not that easy to leave. Your self esteem is taken away, and financially, if I think about it, he had financial control because I paid all the bills. . . . I just didn't have the income to say 'Screw it. I will move.' Financially, you can't, not everybody can just pick up and go.

To understand the women's needs, it is important to highlight the context in which

the women experience abuse. As such, the following will provide a brief introduction to each of the women.

Janice's Story

Janice is a working single mom in her early forties. After staying at home to raise her two children throughout her marriage, she is presently working toward upgrading her grade 12 education in order to support them. Janice recalls the physical and emotional abuse she endured throughout her 18 year marriage, stating that she would take being lonely today over the abuse without question. Her partner used his violent behaviour to keep his wife in check. "He kept pulling the reigns tighter and tighter where I wouldn't be able to move." Her experiences have left her with a bitterness as well as a fighting spirit. She is determined to overcome adversity.

Elizabeth's Story

Elizabeth is an Aboriginal woman and single mother in her late twenties. She and her two children currently survive on provincial welfare. Her childhood tells a tale of neglect and troubles with the law. She looks back: "I grew up in the children's aid system . . . first in foster homes, then group homes, then lock ups, and then when I was 18 they just gave up on me and just let me go." In her early twenties, she met Jason, a man she soon found was physically, mentally and sexually abusive toward her. For Elizabeth, the abuse got continually worse, and heightened when she was pregnant. The physical abuse was life threatening. On more than one occasion her partner fired gun shots at her. At the time of our meeting she had

broken away from him. Since then she has contacted me and told me that she was currently in shelter.

Julie's Story

Julie is a young university student still living with her parents in a middle class neighbourhood. She is working toward a career in justice while she spends time volunteering within her community. After a long friendship, Julie and Case began dating. His extreme jealousy and lack of respect, coupled with his increased drinking, came to a head four years later in several violent episodes, where he "went crazy." This left Julie feeling sorry for him and blaming herself. After finally accepting that he was out of control, Julie recognized that she needed help. She has since ended the relationship and has committed herself to a career of helping women.

Corrie's Story

Corrie is a young Aboriginal woman who is street wise and undereducated. She is unemployed and shares the responsibility of her young child with her extended family. Like many other women, Corrie's family of origin was characterized by abuse and neglect. Corrie witnessed her father's abuse towards her mother throughout her childhood. At 17, Corrie got involved in a relationship that went spinning out of control. During these three years, Corrie experienced numerous physical assaults, and psychological and sexual abuse on a regular basis.

Suzanna's Story

Suzanna is a single mom struggling to make ends meet after eight years of an abusive marriage in an affluent home. Suzanna's experience, she admits, may be considered atypical. "I don't see it [my experience] in that cycle. He used more terror to keep me and gifts to reward me." After years of a relatively happy marriage, Suzanna's ex-husband began to emotionally, verbally and psychologically abuse her. Mental cruelty and child abuse characterized her home after her children were born. Suzanna's ex-husband's behaviour continually became more abusive as his mental health deteriorated. Today, in her mid-thirties, with a professional degree and no prospects, Suzanna is rebuilding her career through adult education.

Cassandra's Story

Cassandra is an Aboriginal woman in her early twenties. Today she is dealing with troubles extending beyond her abuse history. Cassandra dropped out of school early and has only worked in low paid jobs, spending much time living on the streets. Cassandra's experiences with men have all been power and control relationships. Her most recent relationship started almost five years ago. Almost from the start, Cassandra's partner physically beat her continually and trapped her in a web of lies, so much so that she is only now coming to realize the abusive nature of the relationship. At the time of our meeting, she was physically estranged from him, but vowed the relationship was not over.

Karen's Story

Karen has been struggling with abuse and family dysfunction since childhood. Overcoming obstacles, she struggled to make a life for herself until her relationship with Steve tore that life apart. After a three year relationship she went from employment full-time, secure employment and independence, to living alone on social assistance. She regrets: "I mean, I lost everything." The abusive nature of her relationship escalated until it came to a head for Karen in a hospital bed. Karen is now trying to rebuild her life and deal with the emotional abuse she experienced. Karen has since become an advocate for women who have experienced abuse.

Lory's Story

Today, Lory is independent and employed full-time in a semi-professional job. After an abusive marriage and messy divorce, however, she is estranged from her children. Lory's marriage, typical of the patriarchal culture she emigrated from, was one of submission and control. She was kept under the dominating thumb of her husband. Lory endured for over ten years, remaining silent until finally leaving. She regrets, however, that her attempts to save herself and her children resulted in only solace for herself.

Celine's Story

Celine is a well educated woman employed in a professional career. She is in her early forties, newly remarried, and raising her four young children. Throughout her first marriage her ex-husband was abusive toward her physically, emotionally and psychologically. She

explains, “I was in a prison, not him who deserved to be.” After 18 years of marriage, Celine finally divorced her husband and attained sole custody of her children. During their separation, she experienced more threats, harassment and sexual abuse. Celine has since become involved politically and professionally in the fight against violence against women.

Nena’s Story

Nena is an Aboriginal woman whose mothering role began early. At the young age of 20, she has sole responsibility for raising three children. Committed to finishing high school, she attends each day with her baby. Nena recalls how things were: “Cause here I am only 17 with a baby, TWO babies and uh, you know an abusive boyfriend!” Nena experienced all forms of abuse at the hands of her partner- physical, emotional, psychological and sexual. When her partner was drinking he became particularly possessive and jealous, which exacerbated his abusiveness. The abuse heightened when she was pregnant. She credits herself for being able to get out early while her children were still young.

Tina’s Story

Tina and her ex-husband emigrated to Canada five years ago. She recalls that throughout that time, “he hit me and argue with me, things like that.” Today, Tina is in her late thirties, now divorced and solely responsible for the care of her two young children. With only unskilled job experience, she is unemployed and undereducated. Her struggles are that much more apparent given her inability to communicate in English and verbalize her pain.

Kelly's Story

Kelly is an Aboriginal woman who has known only abusive relationships. Life on the streets, violence and abuse are all too familiar to Kelly. When I asked Kelly about the abuse she said: "They [her boyfriends] were all abusive, but I don't know which one was worse." Kelly has experienced the continuum of abuse in all of its forms. She is out of her last four year relationship with Eric and struggling to come to terms with the impact of abuse and her abuse history. At 35 and with a grade nine education, she is living on welfare with two of her five children.

Roberta's Story

Roberta was a young aspiring professional when she met Max two years ago. Today she works full-time in the service sector and lives alone in an area where her safety is tentative. For Roberta, the physical abuse was infrequent, but the psychological abuse- the manipulation, criticism and control techniques- occurred on a regular basis. The insults and snide remarks began as only joking comments but became more serious over time. However, when her partner was physically abusive, his violence was life threatening. Roberta admits: "I know if he caught me he would have killed me." She only recently left her partner and is only beginning to realize the impact of his abusiveness.

Brandy's Story

In her early 40's, Brandy is struggling to rebuild relationships with her six children. She left her relationship with their father and only later came back for her children. Brandy

explains “I was being abused for almost all of it [her 16 year marriage], when we were drinking, or when he was sober, and he was mad all the time. As he was growing older it got worse and more often.” As an Aboriginal woman with a grade six education she had lived on and off the reserves. Brandy still feels the emotional scars, although she has been out of the relationship for many years.

Jeanette’s Story

Jeanette emigrated to Canada with her ex-husband in the early 1990's. Jeanette associates coming to Canada with being abused. After four years she left her partner and found that, even with her post-secondary education from her home country, she is out of work. Now in her early thirties, she lives alone with her two children on social assistance. Jeanette’s partner had a term to refer to the beating he would inflict, his ‘tortures.’ She states: “[T]he tortures he used to do to me . . . he hit me in the head and punched me and hurt me with a knife and a belt.”

CONCEPTUALIZING ABUSE

Throughout our discussions, overt signs of physical abuse, slapping, kicking, pushing, shoving, choking, biting... were all too common in the women’s descriptions of their partner’s behaviour. However, many women did not recognize their partner’s behaviour as abusive. For Janice, it took seeing a pamphlet about abuse and having the letters stare back at her in bold type to realize “Yeah, it was me.” Looking back, Janice saw how horrific things were for her, but acknowledges that it was difficult to see how things were while she was actually in the

relationship. Julie suggested that she had “tunnel vision.” Kelly explains: “I wanted to believe him that he loved me, cared about me, was sorry and he knows he’s screwed up and he was an ass-hole.”

These 15 women have been shot at, tormented, attacked with knives, humiliated, kicked in the face, chased through the streets, beaten black and blue on the inside and out, and experienced numerous other abuses by their partners, the men in their lives who claim to love them. The following accounts by Nena and Elizabeth highlight the women’s experiences:

I was on my side and he was on the floor, like, on our bed. And he [her son] was just a baby. And I was lying there sleeping- and then he came in and he kicked me right here in the shoulder blade- he kicked me really hard and I said ‘What, what did I do?’ And he said ‘Get up. It’s time to get up.’ And I said ‘Ok.’ And that’s how he would wake me up, like, kicking me, pushing my head or whatever, like, yanking on my hair just to wake me up. (Nena)

After dropping me down, he dragged me out by my hair, took me into the car and he took me home. And he laid a real good beating on me at home. He sat on top of me, right on my stomach where the baby was and he put me out, like, with his hand he pushed strenu[ous]ly. And I would black out and then I’d come to and he’d do it again. He kept doing it over and over again - I don’t know how many time he did it. And then he started punching me and my head started to bleed and, (pause) that’s when he freaked out. He got off me and I ran down the street. I was running down the street and he had a gun and he fired two shoots at me. (Elizabeth)

Corrie, Jeanette and Celine disclosed sexual abuse by their partners. Corrie reveals that “he would be really mad and drunk and I would say ‘Leave me alone please.’ And he would just start hitting me and telling me, ‘Come on now.’ And he kept hurting me and I didn’t want it, but he forced me, so I had to.” Jeanette preferred not to talk about “what he did sexually speaking.” In Celine’s case, after her divorce her ex-husband would sneak into her home and be waiting in her bed, forcing her to have sex with him. He would pressure her

until she relented.

Several key elements are evident among the different control tactics the men in these women's lives used. The women's behaviour and relationships, especially for immigrant women, were very much structured and controlled. Jeanette recalls how "he locked the door and he take the phone away. Doesn't let me talk to no one. No communication with anyone." Similarly, for Lory, "he didn't let me to talk too much, you know. Even before talking, I had just before a friend and she used to call once in a while and I wasn't to call her too much because of him. I was not allowed to talk to her . . . because he believes, like, the more I have people around the more I learn, maybe I know things, maybe somebody was here to teach me." Isolation was used to control the women, particularly but not exclusively in immigrant homes. In Janice's case: "[H]e would try to isolate me from my family." Similarly, for Suzanna, devaluing, dependency, alienating her from friends and financial control were used.

Intimidation techniques were used in private and in public. Julie states that "he belittled anything I would do." Jeanette's husband would make her "feel stupid. He would throw food (from our culture) and he said he wanted only Canadian food." Control was also exercised through gestures and body language. Evil looks were used especially when others, notably the police, were present. Elizabeth explains how her partner would look at her: "He looked at me - he went like this, eh (shows me a dirty look). He nodded his head for me not to say anything, otherwise I was going to get it worse."

Each woman had been verbally threatened by her partner. Some threats were direct; that he would hurt or kill her, do something to the children or others she cared about. In some cases, he was more indirect; threatening to kill himself and blaming her for ruining his life.

Lory's partner would say "I'm going to put you under the ground, you know." Use of the children as pawns, for guilt or as messengers of threats, can be found to some extent with all of the mothers. For Celine, this was evident when her daughter said, "Mom, I don't think you should go back to the house tonight, I'm scared for you." Celine's husband would also say "if you leave me, I'll destroy your life." Janice explains: "The weak spot he found if I was to go in with the kids . . . he threatened to take the kids away." Lory felt her children were pawns in her ex-husband's game of control. "He teach the kids to run away. Sure, he teach the kids to say 'we don't want to stay with Mommy.' Like, he knows not to look bad in front of the law, you know? You know, so, they listen to Daddy, they listen to Daddy. He's a very controlling man. So he got them last year and moved away." He, like others, would "build stories" or make her out to be the one at fault so that the kids no longer wanted to be with her.

The power/control dynamic evident in the women's relationships manifested itself in other forms of abuse, such as economic abuse. In Roberta's situation, she "was paying the rent and the bills and then he would work here and there and have money but he would never give me any. So, then when he did get a job he didn't share the financial situation. It was like you do that, like, I was never allowed to have extra money. So, he knows that I couldn't afford to do everything." Lack of financial control was most egregious in the immigrant homes. Jeanette's husband spend his money on himself, neglecting to purchase even basic necessities for his wife and his children. She found herself in a Catch-22 situation since her husband and her culture's traditions forbade her from earning an income. Lory, too, remembers her husband taking money and taking control of everything to the extent that she

was not privy to information or allowed to make decisions.

Emotional abuse, such as mind games and name calling, constant put downs and belittling, basically “crazy making,” all with the intent of debasing the women, was all too common. Continually, the women’s insecurities were played on and tested. Roberta’s experience is telling:

Yeah, it was on a daily basis. Like, he used to do it jokingly so, you know, everybody bugs you about your big butt going through school and that. I always heard jokes . . . and then it turned from not being joking to being more and more criticizing. Like, um, it came to a point where he wouldn’t allow me to eat more than once a day. Or, if I walked to the fridge he would oink or moo or he would stand in the way.

The emotional abuse struck very deeply for most of the women. Celine reveals: “I would rather be hit, than to have him say such awful things.”

Psychological abuse, through hurt, fear, anger and denigration, although not referred to by the women as part of the “abuse,” was clearly evident. Kelly talked about how she often wondered what she had done. The line between the emotional and psychological abuse, attacks on the women’s self esteem and sense of who they are, that the women experienced in and out of the relationship seemed blurred. In talking with the women, the impact the abuse had on them after they were physically removed from the relationship, the residual effects, becomes clear. Nena admits that “he didn’t ruin my life, he just made it very hard to live for three years. He made me . . . ah, he took away my freedom, (tears), my self esteem, everything.”

In Suzanna’s case, “abuse is not valued against types of psychological abuse. It’s not seen as abuse, but feeling horribly. The type of behaviour, the degree of manipulation and

control- he used a vulnerability. None of this was admissible as abuse.”

Total control was most evident for immigrant women. Lory’s account is revealing:

What it was like back home, you know, women they don't, they are not free, like here. Like, when you marry the husband is the boss, like boss, you know. You have to stay in that control. Doesn't matter what he's saying, what he's deciding. You have to follow his words, you know. So, sure he doesn't feel good (now that she left) because I break family law, you know. Like, he got very upset and that's why he brainwashed the kids. He made the kids to believe and I don't know how, kids are very good. And if you're talking right now with the kids you will believe he's a perfect man and he's right in everything, but you need to live with him in the house and day by day to see what kind of man he is.

This is not to suggest that submission is limited to immigrant homes. Celine’s words are instructive:

I used to think he was all knowing and all powerful. I know some say victims give too much power to the abuser but after describing him to you (the manipulation, the lies, the deceit and abuse) its reasonable to believe what he's capable of.

The above discussion highlights the ways the women’s partners used abuse to establish and maintain control over them. The abuse sustains, and is a reflection of, patriarchal control. The cycle of violence, the heuristic device often used to describe the pattern experts have stated emerges in abusive relationships (Walker, L. 1990), is only useful here if given a context and recognized as a tool for understanding rather than as a description of the prototypical case. For the immigrant women, a honeymoon stage (characterized by loving hugs, tender kisses and lavish gifts) was non-existent. Recall the nature of Suzanna’s abuse which was not directly physical, but psychologically abusive. “I don’t see it . . . it’s not typical, you can’t apply it to each case.” What becomes important is the way in which the

women's partners - as a function of their abuse - have influenced the women's sense of self, their definition of reality, and their interaction and communication with others, both during and after the relationship. The women's struggles with their partners' influence and impact on their lives is a key theme implicit throughout the women's experiences of abuse and their attempts to heal and rebuild their lives.

DEALING WITH WOMEN'S CONCERNS: WOMEN IN NEED

"We understand that each woman has different needs"

(Rachel Massicotte, Shelter Worker, Wpg. Free Press, 1998).

In *Women in Trouble*, Elizabeth Comack (1996) describes "trouble" as a state of extreme need. The women in this study have found themselves in a state of extreme need or trouble. The question becomes: to what extent does law and the lens of criminal justice understand women's needs, and further, how has the CJS responded to women's needs? However, in order to examine this the notion of "women's needs," conceptually and practically, it requires problematizing. During the interviews, I found that the women did not interpret needs in the way I had expected they would. Almost all required clarification when asked the question: 'What sorts of needs did you have?' Some explicitly stated that they did not know what they needed. Others struggled to cognitively process their experience in terms of needs. The question was interpreted somewhat differently by each woman. In many cases, identifying needs as being one's own was foreign. This goes to show how deep their concerns for others were and what little attention they afforded to their own needs and concerns. For the most part, the needs of their partners and their children were paramount. Given the fact

that the majority of women had since left the relationship, issues around the extent to which women currently in crisis are able to attend to and manage their own needs become more critical. This raises an important issue in relation to the role of the state. If the state is to intervene in women's lives, then, from a feminist perspective, intervention should result in benefits for women. Yet, if women are not attending to their own needs (for a variety of reasons) should the state have the power to, in a sense, **decide** what is in their "best interests" and intervene without women's consent? What becomes most clear in reading the women's accounts of their experiences is their complexity. This complexity is similarly evident in our attempts to resolve the issues raised above.

RECONCEPTUALIZING NEED

In the social science literature, needs are by and large referred to as stable and static 'things' which one requires. However, the women's needs were not static, but changed over time, sometimes even in an instant. Needs are influenced by a woman's social positioning and her particular situation at any given point in time. The women's stories suggest that a more useful conceptualization would be to view women's needs as 'process.' Their needs are in flux. They do not remain stable. Some needs are immediate, such as for short term safety, while others, when satisfied, may allow for long term survival. Women's needs are both directly and indirectly related to their abuse situation or experience(s). Their attainment ranges from the difference between life or death, to concerns for quality of life. Women's needs can change over time, depending on many factors. As a group, the women have expressed similar needs. Disparity between women is more evident not by kind, but in terms

of severity, impact, temporal location and extent. Some needs are material while others are more intangible. The relationship between the women's needs and the choices available is not a linear one. Rather, women negotiate choice with respect to their needs. Therefore, attention must be paid to this process of negotiation when analyzing the CJS's response. Benefits will not be arbitrarily produced for women. That is, the same objective response will not have the same impact or effect upon women's lives. Consequently, some women may accrue benefits from criminal justice intervention, while others may suffer irreparable harms. Here lies the complexity in feminist attempts to evaluate structural reform.

NEGOTIATING CHOICE

We all make choices everyday. Some take little effort or thought, while others require closer attention. However, the extent to which our choices are made freely and openly varies between decisions and across individuals. Choices are influenced by our social positioning, that is, the extent to which we can exert influence or power over our "choice." Choice is not so much related to an arbitrary range of available options, but has more to do with access to the means necessary to make decisions or to obtain resources which would facilitate or limit decision-making. To clarify this point, Hennessy's work is instructive. As she puts it (1993b:20), the notion of choice "has to be rewritten so as to make visible the systems of exploitation and oppression that affect historical variability of particular positions to some subjects and not others as well as the possible movement of social subjects across and between them." For the women in this study, to varying degrees, choices are structured and often made under duress. Rather than simply choosing from a variety of available options, the

women were rather continuously negotiating choice with their partners, with the police, within court, and with social service systems.

The women's partners directly influenced their identification of their own needs and also coloured their definition of the situation. This being the case, an important aspect of the women's decision-making is their negotiating with the power and control of their abuser. To a certain extent, choosing seems elusive. Some would argue that the women could just "choose" to leave. The women's comments seem to paint a different picture; one of a reality more structured and constrained than could be accounted for by such a naive assumption. If women's choices are constrained and women must negotiate both choice and the abuser's control, then perhaps women's empowerment (although a lofty goal for those working with the system) may not be the most important concern here. Maybe not all women are in a place to be empowered. More immediate concerns may take precedence. Nevertheless, the women did make choices as to how they dealt with the abuse or manage their needs. The question becomes, to what extent are their options limited and what factors may facilitate choice?

WOMEN'S NEEDS

The tacit assumption held throughout the interviews and analysis was that women would be in some need. Direct questions about the women being in need verified my assertion. Objectively, each of the women were in need of assistance and help. The extent of this need, the level or severity, or even the kinds were not assumed but came directly from the women. Needs are then seen as subjectively defined and objectively managed or worked out. Some expressed their need for intervention explicitly, while others implied the same

indirectly. Each and every woman identified immediate physical safety as a pressing need. Women's need for safety viewed in isolation is far too simplistic. The women's experiences show a struggle between their own self identified needs and their concerns about the needs of others. The women take risks and negotiate their needs in such a way that satisfying one may, in fact, mean neglecting several others. As I alluded to above, women's needs do, in fact, change over time. The needs identified by the women are organized below according to the following categories: understanding; reprise; survival; children; means; remedies; and rebuilding. The remainder of this chapter will explore each of the needs the women identified in order to provide a basis from which to examine the extent to which the CJS response has been beneficial for women in abusive relationships. In other words, has the CJS been attentive to women's needs?

UNDERSTANDING

The women's need for understanding comprises their concerns for being believed, getting recognition and having their experience validated. Moreover, that the abuse be taken seriously was a grave concern for many, especially those whose experience suggests otherwise. Almost half of the women expressed a need to be believed. As a function of being a need, it was not satisfied. If these women's accounts were seen as credible, a need to be believed would be superfluous. Celine remarks: "I'd have to say I needed to be believed. My desire to be believed, I guess . . . it became more - you **have to believe me!**" Karen recalls that "what came across to me in a year is that I did need to feel that someone believed me." Similarly, Roberta explains: "Yeah, you have to prove it. Like they don't believe you every

time . . . it was like, 'Prove it to us.'"

For almost all of the women, either explicitly stated or inherent in their accounts, was a need to be heard and listened to. Given the women's comments, it seems implicit that few had been. The women also needed to have their abuse be recognized as abuse. For Karen, recognition meant that she, in fact, did need help. She states:

Just the feedback, the truth that the truth was going to finally set me free, living it over and over again, having nightmares of every assault, every beating that I ever got. Sometimes they come, sometimes they go. But now I don't feel like I have to continually validate how I'm feeling.

For Suzanna, validation took on a different meaning. Suzanna needed her abuse to be seen as worthy of police assistance, as valid. Janice admits "what I wanted really was for them (police) to recognize what was going on and maybe get help for him, and to take things seriously." Living through it was difficult and painful enough without having to justify and provide explanation for their abuse. Janice exclaimed, "I want a say in this . . . They have to take the women's point of view seriously."

REPRISE

Reprise consists of the need for protection, for safety and for an escape from the abuse. At some point, each woman recognized their need for protection (half of the women made their concerns explicit). For each of the women, stopping the abuse in the immediate instance was paramount. That is, in large part, while women were experiencing abuse their focus was on short term safety rather than long term intentions. For some, protection meant having their partners taken away. Obviously, safety was a key concern for the women.

During and immediately after the abuse was taking place, women described their needs in terms of safety, rather than what they would do next. Celine feared for her safety until she “just could not live with all that fear anymore.” Others agreed. They “just wanted to get away for the meantime. ” When I asked if she was thinking about what would happen next, Elizabeth responded: “No. It was an immediate thing.” For Janice, she “wanted to feel safe [and I couldn’t feel safe unless I knew what was going on].” Safety takes on different meanings for the women depending upon their immediate situation and their perception of danger.

Police response was not identified directly by any of the women as a need. The women were, however, concerned about being able to call upon the police. The most notable exception was for the women whose experience on the streets had taught them to be sceptical of police intervention. For them, reliance on the police was much more of a final resort than a planned strategy. Some women conceptualized this need for reprise as “an escape.” For Corrie, this need meant to “get him outta here.” Similarly, Cassandra wanted the police to “take him out.” Nena states: “I just wanted him to go.” When that did not work she needed somewhere to go and somewhere to stay, “somewhere where he can’t find me.”

SURVIVAL

All of the women’s needs are, in fact, needs of survival, though the need for medical attention and meeting basic human needs are life sustaining needs, surviving in the most literal sense of the word. Almost half of the women expressed that after the incidents of physical violence they required medical attention. In Elizabeth’s case, she did not seek treatment for

her injuries, but admitted later that she needed medical attention. At times for the women it came right down to basic human needs: to eat, to sleep, and so on. Janice admits:

[At times] it was just basic survival. Cause, you know, we'd be up 'til, like, 5:00 in the morning fighting. Then you got to get up at, like, 8 to take the kids to daycare and all that stuff and you know you're drained because you're being beat up all the time. You're being told you're worthless. You gotta clean the house and by the time everything's done its like, 'OK. I'll just sleep for like half an hour- 45 minutes.' And then you get up and do it all over again.

CHILDREN

The women with children all identified needs for the children as central to their own. For all of the women (with children) the children's safety was an ongoing concern. Suzanna's biggest concern was "protection for the children." Further, the impact of the abuse, and their partners' influence on the children, in terms of modelling/learning, emotional trauma and psychological effects, was clearly important to many women. For Nena, the turning point came when her son verbally recognized the abuse. She recalls:

Michael come out and he goes, 'Mommy what's wrong?' and I says 'nothing.' And I was washing my face because, you know, I was all swollen and he said, 'Mommy did Daddy fight you?' and I looked over at him and that what just -Oh! You know? I said, 'Yeah, yeah. Do you want to go see your Nana?' He said 'Yeah, Mommy I want to go, I want to leave,' he said. And I looked at him, he's just 2 years old, how the hell does he know about this?

. . . I think it's a cycle. Like his Dad, I talked to his Mom, his Dad used to beat her up badly and he's seen it and he could even tell me stories about it, his Dad beating up his Mom. And that's why I didn't want this to happen to my babies. Because they are going to think its alright. They never seen a fight, but they've seen my face after. They've seen the crying. And I thought, 'No way my boys are going to grow up to be mean like their Dad.' And I don't want that. I don't want them beating up on their girlfriends and spending the rest of their lives in jail. So, that's part of the reason I left, for

my children, mostly the reason why I left, actually. And because my daughter didn't want to be around him.

Interestingly, the women's children factored into women's decisions to stay as well as to leave. Nena also remarked at another point in time that:

I couldn't make up my mind, or anything, part of me wanted to forgive him too, and part of me wanted to leave him because I was pregnant and that was his baby and I didn't want to be alone. I kind of thought, 'Well, maybe I could put up with it, take the lickings, and at least Sarah would have a dad.'

For Celine, Lory and Suzanna, custody became their most pressing concern once they had left their husbands and found solace from the abuse. Brandy was particularly concerned with her relationship with her children after her relationship with their father was over.

MEANS

The women also needed means to cope, to either manage the abuse or to leave their partners. The women talked both directly and indirectly about the need for coping mechanisms and resources to manage the abuse or its after effects.³ Corrie, for instance, spoke of needing constructive coping mechanisms to deal with the abuse.

Six of the women directly mentioned the need for counselling. Kelly saw a need for long term counselling to deal with the emotional abuse and manipulation which still haunts her. Corrie admits: "I need counselling, I know that ... if I did go to counselling I think I would be in a better place right now."

Some of the women expressed that they needed information. Various kinds of

³ This will be considered in more detail in the next chapter on the ways women cope with the abuse.

information were mentioned, from knowledge of the abuser's whereabouts, and procedures and policies, to places to contact for help. Elizabeth describes the information she needed as "the options, and what roads to take." Roberta admits that "you need more information [about abuse] because I was already too far in to get out at that point. Like, I should have been able to recognize some of the signs."

In almost all cases, financial concerns were present. For ten women, money was an overwhelming need. Rather than a need in and of itself, it was seen by the women as a means toward several ends or as the obstacle to obtaining resources. For example, Kelly, Karen and Elizabeth suggested that money would have allowed them to get help.

REMEDIES

As remedies the women identified things like advocacy, resources, direction, support, accountability (not so much punishment and criminal justice intervention). The need for closure was an essential part of the healing process for many of the women. Karen equated justice with closure. She explains: "That's what I needed to feel. That I had justice and I didn't. I had validation, as to this happened, but I did not have justice for what he did." Many women wanted their partners to take responsibility for their actions, only then could they find closure. Julie and Suzanna verbalized their concerns about getting some direction and knowing where to go for help.

As is evident above in the discussion around children, women often put the needs of others before their own. More than half of the women identified the needs of her partner first, such as to get help, to learn, to change. In some cases, women wanted consequences for their

partners by way of punishment or restitution. More common, though, was for their partners to receive help through counselling. Many mentioned consequences for other women should he continue to abuse without help. Karen commented, "I just fear for the next woman he gets involved with." For some, the need was by extension their own need; that is, 'if he would get help or change, I would be protected.' For others, though, their partner's needs were paramount. Kelly states, " I was [calling police on him] because I care about him and I want him to get some help out of this." Coming to see that they did not need him was an important turning point in some of the women's lives. One day Julie could finally say, "I don't need you anymore." For others, rather than putting the needs of their partners first, they rationalized their concern for him as merely a way toward stopping the abuse. In other cases, such as for Corrie and Cassandra, punishment was important. They wanted him "to do time" so he could learn.

REBUILDING

The women's needs in this area of rebuilding include such things as her need to heal, emotional security and long term survival. Although less than half of the women identified her own healing as a need, at the time of our meeting each of the women were in a place where they were either considering or making plans for long term survival. Each woman spoke at some length about her healing process, which more often than not involved gaining back emotional security. Most often the women recognized this need after they had moved away from the relationship. For Roberta, this meant "getting a sense of security back to the point where I could function in society and then slowly building back the self esteem part because

you lose your self esteem and you actually, or I did, I lost my respect for myself because I couldn't believe it happened to me. But, to go back where I could live by myself and, you know, get a job."

RESIDUAL EFFECTS

It was clear that the women were as much in need after they had moved on from the relationship as when they were in the midst of it. The women were confronted with several residual effects or issues after they freed themselves physically from the abuse. Now that they are separated physically from their abusive partners (all but one), the women are experiencing several emotions common for those losing loved ones, such as loss, loneliness, and grief. The most obviously traumatic residual effects for the women are ones I have identified as 'lingering' and 'shadowing.' 'Shadowing' refers to the physical presence of the abuser in the woman's life, for instance, stalking or harassing. In some cases, the women's partner refused to let them go (at least without a fight). Cassandra remarks that "for the weekend that he was gone I remember just being around the house looking out the window all the time. I would really lock the door. I just was to myself for the whole weekend." Celine explains, "he had me believe I could never let go." The abuser's presence becomes a dark shadow over the women's attempts to rebuild their lives and let go of the relationship and the abuse. Janice admits that, "he still doesn't go away- he's still in my shadow."

'Lingering' involves the mental, psychological and emotional trauma women experience in the form of such things as hearing his voice, seeing his face or flashbacks. Celine explains that, "the verbal abuse haunts me." Janice admits that her partner was "still

trying to hurt me, big. I guess his comments still haunt me.” For Kelly, Eric’s residual impact made its way in that “he’s still putting me down even though I’m not with him, you know?” Elizabeth admits, “I don’t know, sometimes its like when I feel bad about myself I can hear a voice in my head putting me down, like, the exact same. The exact same words that he said, eh? Like an echo.” As stated earlier, abuse is experienced as a process. The residual effects of living in an abusive relationship, the shadowing and lingering processes women find themselves experiencing, pretend that women are very much in need not only during the abuse but after as well.

CONCLUSION

In simple terms, the women in this study are very much ‘women in need.’ The purpose of the above discussion has been to locate the women in structural terms, to describe their abuse experiences and to examine their needs and concerns. These women have found themselves within disempowering and controlling abusive relationships. As the preceding discussion attests, the women’s needs and concerns are varied and negotiating choice is not a simple nor straightforward process. The women were in need of different things at different points in time. The kinds of needs identified are important, not in that they provide an absolute conceptualization of women’s needs, but rather as they are able to allude to several issues women face and are challenged by while living in, and when moving away from, an abusive relationship. Moreover, the analysis of women’s needs presented here offers insights into the way in which women experience abuse. Understanding women’s needs in this fashion will enable us to examine the way in which the CJS has responded. In short, these women

were confronted by control, manipulation, deceit and an onslaught of verbal, psychological, emotional, sexual and physical violence. In turn, women want understanding and a commitment to respond to their needs and provide remedies for themselves and their children. The need for help and support to manage their abuse and to heal from their experiences was consistent throughout. They require the means to survive and to rebuild their lives. During and after their relationships, they are continually contending with the abuse as they negotiate choice with their partners and with others. The question becomes: To what extent, then, does the CJS provide the remedies necessary to help and support women in abusive relationships?

The next chapter moves the discussion to the ways in which the women manage their needs, paying particular attention to the place of the CJS in this context. Here I will examine the women's coping strategies and the resources they used in order to deal with their abuse and to leave their abusive partners.

CHAPTER FIVE

MANAGING WOMEN'S NEEDS: COPING STRATEGIES

Liz Kelly (1988) in her book, *Surviving Sexual Violence*, used the concepts coping, resisting and surviving to examine how women dealt with their experiences of sexual violence. She narrowly defined coping as “the actions taken to avoid or control distress” (1988:160). This recognizes coping as a process rather than simply “action/reaction.” Arguably, the experience of abuse is life changing for almost every woman. Kelly (1988:162) goes on to define resisting and surviving as distinct from coping in that the former involves actively opposing and the latter is “the positive outcome of coping and/or resistance. In my view, however, coping with the abuse involves resisting and surviving.¹ For our purpose here, coping is seen as the way in which women manage their needs in the context of abuse. Elizabeth Comack (1996:43) points out in *Women in Trouble* that women’s “struggle to contend with the effects of abuse experiences is often compounded and complicated by the ongoing nature of abuse in their lives.” Furthermore, coping is a process of managing not only the abuse, but its manifestations and its impact. This process is not time bound, as we saw in the discussion in Chapter Four of residual effects. Rather, women are continually making choices as to how to deal with the abuse. In this context, we must recognize that several “factors and conditions are operating to limit choices available to her” (Comack, 1996:43).

¹ It seems confusing to denote resisting and surviving as coping strategies but conceptualize coping itself as different phenomenon.

This chapter will examine the coping strategies the women used to manage their abuse and/or move away from their abusive partners, paying close attention to the role of criminal justice in this process. The women's coping strategies and their interactions with informal and formal support systems will provide a basis on which to locate the women's accounts of their experiences with the CJS, the subject of the next chapter.

WOMEN'S COPING PROCESSES

The women used a variety of strategies to manage their abuse and access support. By and large, the women's coping process initially involved denial and despair. The term 'conning' seems to aptly describe the techniques of pretending and rationalizing which the women used. This suggests that women are not necessarily in a place where formal intervention can assist them. Women often told themselves the abuse was not as bad as it was or that things will get better in order to distance themselves from their abuse. Celine would make rationalizations, such as, "if I stayed with him, he'd calm down and stop following me." The women also referred to times when they lost hope and spent hours (secretly) crying over the abuse. Compounding their struggles to manage the abuse were the very real feelings of love the women had for their partners and, for some, economic dependence. Elizabeth's comments summarize many women's sentiments:

You could still be in love with the person even though they do that to us, you know? And it could just be that we need some help with our self esteem. That we feel so low that we think that's all we deserve, you know? I know that it's hard for women when they're in that situation. It's hard for them to leave because the way a man can make you feel like you are nothing. Sometimes women will just be dependent on them and sometimes they think they deserve a licken.

To a certain extent, the women remained silent about their abuse. Corrie recalls, “but I was trying to hide it too. I was hiding it right until the end. People knew, though. But, I would say ‘No we were just wrestling.’ Like, people knew about it and they wanted me to leave him.” Elizabeth too admits: “If I really, really wanted to get out the first time he hit me I should have known that there’s going to be more to come, I guess. I just fooled myself into thinking that maybe its just going to stop, but it didn’t. It just got worse.”

The women did not use coping mechanisms in a linear pattern; that is, beginning with looking inward, followed by accessing informal supports and then seeking outside formal intervention. Rather, the women both called out for support and supported themselves, though they did so in no particular sequence. Since coping is very much a process rather than isolated actions, it is important to contextualize the way the women coped with the abuse. Therefore, I will highlight three of the women’s coping patterns in the context of their biographies. Following this, the strategies the women in this study used to manage the abuse will be explored under three headings: working ‘within’ the relationship; looking outside; and involving the criminal justice system. The discussion will conclude with a description of each woman’s experience with the CJS.

Celine’s Story (Continued)

Celine remained convinced for most of her 18 year marriage that either she was not being abused or that she was to blame for how her partner treated her. She would monitor her behaviour according to her husband’s moods, constantly “walking on egg shells” to avoid

an attack. Her fear of independence and the constant affirmation from him that she could not make it without him kept Celine from trying to leave. "I was afraid I couldn't survive because I had never been alone and, in a way, I was really dependent on him. I didn't know how to drive anywhere, didn't have keys to my own house or my own car. So I just felt I couldn't live without him. But I was getting to realize how dangerous he was becoming." She tried to encourage her husband to seek counselling, but she realized it was pointless because he refused to acknowledge he had a problem.

When she began sharing some of her experiences with a co-worker, Celine started to realize that her relationship was unhealthy. In response to her stories, her colleague would say: "You **don't** deserve that, you **don't** deserve that!" This was a turning point for Celine in that she had external validation that what was going on was unacceptable. As she struggled to manage the abuse she would repeat her colleague's phrase, 'You **don't** deserve this,' to keep from blaming herself and to gather the strength to move away from the abuse.

Keeping the abuse from her family and friends meant she could not rely on them for support. She continued to look inward to find the strength to deal with her partner's continued abuses. For the longest time, Celine refused to ask for help. She recalls feeling that "it was better to keep your enemies close to you, than to try and make a break from someone who was a maniac." Celine explains: "I could never get away from him. It was very, very complicated to try and leave someone like him." Celine later contacted a women's shelter and began receiving counselling and support. She gained a new understanding about her partner's behaviour and found strength to do something about it. She continued to call upon women's resource centres and organizations to help her to cope. Celine used 'self talk' a lot to remind

herself that she was deserving of happiness.

Celine waited until she thought she would retaliate to call the police. She knew at that time that she needed the police to intervene to show him that he could never do it again. She explains: "That's why, in the end, I knew I had to leave with help because he would never allow me to leave. And I was worried that one day when he hit me I would, you know, do something really horrible to him to make him stop." She continued to call the police and to do the things the shelter and the police told her to do for protection, always trying to take an active role. She became increasingly worried about her children and whether he would victimize them.

Finally, she left on her own resources. When she did make the commitment to leave, her family was supportive. Moving away was a difficult process since her partner continued to harass and stalk her for years after. Her ex-husband made it almost impossible for her to live with her choice to leave. Fortunately, her kids understood what their father had done to her and the older ones were able to offer support. Years later, she met her new husband and he became her biggest source of support. Celine's own words provide explanation here: "He's seen his wife hysterical, sobbing, suicidal, he's seen the impact on our kids, terrible, terrible impact and he's hung in there with me. I'm sure it hasn't been easy to live with a depressed person. He's given me lots of love and support." Celine is continually reminded of her ex-husband's abuse when she sees the impact on her children. She is still coping and healing, although she has rebuilt her life.

Roberta's Story (Cont'd)

Roberta continuously found herself forgiving her partner and believing that it would all get better. She struggled to just get over his violent outbursts and tried to close her ears to his verbally degrading remarks. She had one supportive family member who helped her through a terrible beating. She did not, however, talk about her experiences with her extended family. Her coping in large part has involved relying on her own strength. She finds it a continuous struggle to believe in herself given the impact his insults and threats have had on her self esteem. Roberta explains:

The turning point probably was when I first called the police with the assault. That was a turning point because I had always just dealt with it on my own and passed it off. As well, I can deal with it and I don't need help and it will get better. I always believed that it could get better. It was a bad thing to believe but, in your mind, you always want something to get better so you try to believe that it's going to get better.

When she did seek police intervention, Roberta was harassed and disparaged by her partner's family. She reveals: "His mother will call and its, um, 'How could you do this to my son? Why are you lying? You're going to ruin his life! You're the same as all the rest!' Well lady, if there others and we're saying the same thing - like?!" Roberta managed to use these remarks in a positive way by affirming she was not at fault for his pattern of behaviour.

After she had finally broken away from her partner, Roberta went for counselling at a women's shelter and attended a support group. She got a new job and moved to a different place. As she had excluded her friends from her life when she was involved with her partner, she slowly began to build those friendships back. It was difficult for Roberta to seek outside help since "I thought I could do it without anybody else's help. I was always told 'You're going to be independent and you can solve your own problems if you just sit there and work

through them.” She explains: “I had some good friends and family, like, friends that he didn’t know about. I’ve only recently . . . because I thought I could do it without anybody else’s help.”

For Roberta, healing is a process involving “baby steps.” She needs to prepare herself for social outings and get past the fear he instilled in her. She is continuously aware of the abuse since her partner is yet to be apprehended. She feels, in a sense, that she is in “limbo” since she needs the case to be resolved before she can gain a sense of closure.

Elizabeth’s Story (Cont’d)

Elizabeth admits that she “just fooled herself into thinking that maybe it would stop, but it didn’t. It just got worse.” After her daughter was born and the abuse escalated, Elizabeth went to a woman’s shelter for a while. She also moved out of the province but eventually returned. She found that the counsellors at the shelter helped her cope. Elizabeth did what she could do keep her kids safe from their father.

She looks back on it and states: “Sometimes I look at him beating me up as a chance to run away. And I would call [the police] and he would take off and they would come and it would be too late.” Formal intervention did not manage her abuse, so she knew she needed to leave. However, Elizabeth’s experience necessitated that she cope with the abuse primarily on her own. She would remind herself that: “I was somebody before, I can be somebody after this.” She finally left to ensure her children’s safety. They were her primary concern. She shielded them, at the expense of her own health.

Elizabeth admits that “there’s still a lot of things I haven’t dealt with, like the things

he put in my mind about me. You know, he made me really insecure, um, (sobbing) sometimes those words, the exact words that he said are still in my head today, you know? The mental abuse sticks around longer.” Now Elizabeth stays away from relationships. She cannot bring herself to get close to another man. Elizabeth explains: “I use it as a learning experience. All of, like, what he put me through - mental abuse, emotional, physical. And back then I thought everything he was telling me about myself because I finally broke away and I use it as a learning experience and try not to focus on what he did to me.” She knows now what to look for and “what kind of man to stay away from.”

STRATEGIES: WORKING ‘WITHIN’ THE RELATIONSHIP

As the stories of Celine, Roberta and Elizabeth reveal, women’s coping strategies can take a variety of forms, some of which involved working ‘within’ the confines of the relationship in the endeavour to bring an end to their partner’s abusive behaviours. In the process, each woman has had to rely, first and foremost, on her own **inner strength** to cope with the abuse and the negative effects it has had on her self esteem. This is partly due to the ‘silencing’ which occurs around the issue of abuse. Many of the women in this study were unable to talk to others about their experiences, often because they were too embarrassed or just could not find the words. Having to rely on her own inner strength, however, oftentimes led the women to develop creative ways to cope. Janice, for instance, would use her partner’s pressure to find her own strength. Whenever her partner would tell her that she could not do something, she would say “**Watch me!**” Janice would “try even harder just to prove the point that I could do it.” Kelly made several attempts to change how she interacted within the

relationship. She states: "I was trying to somehow, I don't know, find out new ways of talking, I guess, talking it out without yelling and shouting and screaming, you know, like that." Like Celine, many of the women modified their behaviour, always trying to figure out what cues may set off their partner's abuse. Also like Celine, some of the women urged their partners to get help. Julie's partner did enter a program. In her case, however, he resented her for it, which made matters worse for her.

But the women relied on more destructive coping strategies as well, such as drugging and drinking. For a few of the women, the high provided a temporary escape from the abuse. For others, alcohol became intermeshed with the beatings. Like the turn to drugs and alcohol, some women sought comfort in eating.

The women's decisions to seek assistance outside the confines of the relationship were often influenced by their own assessments of their ability to manage the abuse themselves. Janice felt that she "just needed somebody to give her a little push." She states: "And I got that push. It was stressed to me from the women who had been in abusive relationships who became my mentors that I had to make a decision." The nature and extent of the women's support network varied according to their social positioning and their relationships with those close to them. Brandy acknowledged that friends and family, especially, as well as her own community on the reserve "knew what was going on," but they chose to be silent. In some cases, support for the women was conditional. For instance, in Celine's case, her family became supportive only after she made the decision to leave her husband. Similarly, for Julie, until her family realized the severity of her assaults, they thought she should just 'let it go.' In both cases, support was only offered "on their terms," not the women's.

STRATEGIES: LOOKING OUTSIDE THE RELATIONSHIP

Each woman at some point in time recognized a need to involve others. The women called on a combination of friends, family, relatives, strangers, neighbours, co-workers, counsellors, religious/spiritual persons, medical services, women's shelters, police and legal services. Most of the women reached a marked turning point where they looked outward. Janice admits that "I had to stop thinking of him and start thinking of me and the kids and making a change that was really tough. I had so much focus in what he was doing or could do or would do that I took the focus off of what I needed or what the kids needed." For Suzanna, she could no longer stay in a situation where she knew her children were in danger. She left and stayed for weeks in the basements of friends and family members. Roberta "went to my Aunt's house on the night that I was assaulted and she was really good and she sat up with me all night." Corrie called on the help of strangers when she believed her life was in jeopardy. She recounts: "I was screaming, he was covering my mouth, 'Help me! Help me please!' We were in the park. I told this couple walking by to call the police." Most of the women seemed to reach a saturation point where they felt it was necessary to seek out formal intervention, such as shelters or the police, for assistance.

Of the 15 women, eight had accessed shelter services and, of those, only four stayed. The women made use of the shelters for information, for counselling and support, and for advocacy. Julie and Lory accessed the crisis lines for guidance and support. Lory and Celine both sought the assistance of shelter workers through counselling and advocacy throughout their marriages and when they were leaving. Julie called upon the shelter one year after her case went to court to join a support group. Corrie contacted a shelter a few times throughout

her relationship. Those who stayed were seeking solace or temporary refuge. Lory and Elizabeth stayed in shelters when they left temporarily, while Tina and Karen went into shelter after they left their partners. However, the women were not always successful in accessing the help they needed. Sometimes women were turned away or not granted extensions. The women also attended support group meetings held within the city. Some joined agency sponsored programs.

STRATEGIES: INVOLVING THE CRIMINAL JUSTICE SYSTEM

Many women called on the police only after they had exhausted their efforts to work within the relationship or had accessed (or exhausted) their informal supports. Kelly, for instance, explains the circumstances surrounding her first call to the police:

Well, I told him, I said, if he ever did it again that I would start phoning the police on him. I had given him chances after chance. So, finally, like, one day there he threw me up against my microwave and I went flying up across the counter and hit the wall and put a dent in the wall. In the meantime, I am yelling to my neighbour: 'Phone the police!'

Kelly's motivation for involving the CJS came from her desire to alter her partner's behaviour: "I was only calling on him because I care about him and I want him to get some help out of this. You know, I want him to realize, I want him to see he can't do that."

For other women, the motivation for involving the police derived from their own fears of what **they** would do to resist their partner's violence. Celine explains: "But when things started to get really, really bad and I felt like I was going to kill him, that's when I had to get the police to intervene ..." In Janice's case, the decision to call was prompted by a concern

for her children's safety: "I just can't go on like this, wondering who he's going to hurt. If it's not me, the kids? So, I phoned the police. First I phoned my lawyer and she said to contact the police." Brandy, like other women with limited financial resources, "phoned when I was able to phone and or if I had a phone." But the women were not always the ones to involve the CJS. And, as we will soon see, when criminal charges were laid, the women's partners were not the only recipients. Four of the fifteen women in this study were subject to assault charges.

Once the police became involved, the women found themselves in contact with other levels of the criminal justice system (the courts, corrections and probation). The court process was not a central part of the women's coping process. That is not to say that the prosecution of their partners was not part of their healing process. For some, it was important for establishing closure. However, the women's encounters with the court system were infrequent and limited. Having to go to court and speak to lawyers about their abuse experiences was difficult for the women, especially when their partners' violence escalated as a result of criminal proceedings. Three women were more involved with the courts for reasons other than criminal charges. Each went to Divorce Court and were involved in custody battles. In these cases, their involvement with the courts was more a part of a larger goal of building a new life for themselves and their children, not so much cathartic in and of itself.

The women also managed the abuse by obtaining non-molestation and restraining orders against their partners. For Janice, "he was threatening to take the kids away and I could see that they were under a lot of stress and turmoil and distress, so I put this restraining order in." Like other women, Janice found that doing so made her feel stronger.

WOMEN'S EXPERIENCES WITH THE CJS

The nature and extent of women's experiences with the CJS vary between the women in this study. As such, in order to provide some context for the women's analyses of their involvement with the police and court system, a brief description of each woman's story follows.

Janice's Story (Cont'd)

For almost her entire marriage, Janice did not involve the police. In 1994, after an altercation where she admits she 'got out of control,' the police were called and both she and her partner were taken into custody. After taking their statements, she was charged with assault, but no charges were brought against him. She spent one full day in custody until they finally released her to pick up her children from school. The charge was later stayed. Finally, several years ago when she realized that he was not going to change, Janice contacted her lawyer and explained her partner's behaviour. Her lawyer indicated that he could be charged. Soon after, she applied for a restraining order against her husband and began the process of a legal separation. However, even after she left, he would still continue to abuse her. She called the police and was told they would talk to him. She recalls that they finally caught up with him weeks later. She explains: "[T]hey said 'We picked him up and we talked to him and we released him.'" She found out from him later that he had spent a day in jail as a result. All charges against her partner were subsequently dismissed.

Elizabeth's Story (Cont'd)

In the early 1990s, after Elizabeth and her partner were together only two weeks, the police were called to intervene. A neighbour phoned 911 after hearing Elizabeth bang on her wall, and police arrived soon thereafter. Frozen, Elizabeth, as did her partner, indicated that everything was alright and the police left.

One time in 1992, after escaping from her partner, she called the police from a pay phone, then hung up and drove to the police station. When she arrived she decided against laying a complaint. However, in the meantime, witnesses to the assault had called the police. Elizabeth is uncertain of what became of the charge. She testified at a preliminary hearing, but heard nothing from him or the courts after that. Similarly, on several other charges that were pending, Elizabeth is unaware of the outcome.

Julie's Story (Cont'd)

Julie reported only one incident of abuse to the police. In 1995, after the third incident of physical abuse, she fled to her parents' home and called the police. A charge of assault causing bodily harm was laid against him. After several remands, the case was finally heard in court almost two years later. The Crown accepted his plea bargain to a lesser charge of common assault and he received a conditional discharge and a \$35 fine.

Corrie's Story (Cont'd)

Corrie made several attempts to phone the police from a pay phone, but the police did not respond to these calls. After a beating that continued outside in a public park, Corrie

managed to call out to strangers to call the police on her behalf. She went back to their home to wait for a unit but left two hours later before they arrived. Another time, she called upon the RCMP, but when they arrived to question her she refused to give a statement with her partner present. As a result, nothing was done. Finally, in 1997, after a violent beating in her home, she called the police and remained with him until they arrived. When police arrived thirty minutes later, she provided a statement. He was apprehended on a warrant for a robbery charge and charged for assaulting her. Corrie was unaware of the court date as she had since broken up with him. Later, she learned that he pled guilty to the robbery in exchange for having the assault charges dropped. He received 9 months incarceration for robbery.

Suzanna's Story (Cont'd)

The police were never called to intervene in Suzanna's case. As such, no charges were ever laid against him for his abusive behaviour toward her. Child and Family Services were called on her children's disclosures of child abuse. However, their testimonies were not seen as credible in court. She found herself then involved in the court process by divorcing her husband. In Divorce Court, Suzanna's abuse history was inadmissible. After several months Suzanna was granted sole custody of their two daughters with unsupervised visits for their father.

Cassandra's Story (Cont'd)

On a few occasions, Cassandra upon called the police, but then refused to cooperate (i.e. not attending court). Her reluctance seemed to stem from her sense of confusion over

her experiences or her ambivalence toward legal officials. The charges on these counts were dropped. Restraining orders were put in place but they both would breach these. In 1997, she had a warrant out for her arrest on an unrelated matter which her partner used against her to stop her from calling the police. To spite her, he called the police after one of their disputes. When they arrived she was apprehended on her warrant and he was charged on two counts of assault against her. She was not present in court but understands that he pled guilty and received a \$250.00 fine with conditions. He later received a \$300.00 fine for failing to comply with the conditions attached to his sentence.

Karen's Story (Cont'd)

In 1996, shortly after obtaining a restraining order against her partner, Karen called to report that he had violated the order. Two days later the police responded, but no charge was laid. Another time, after taking statements from both Karen and her partner, counter charges were laid. Karen admitted to using assaultive actions in self defense so she was subsequently charged under Zero Tolerance. Her partner was resistant, requiring six police officers to apprehend him. Karen's charge went to a Crown opinion and was dismissed. She testified against her partner. He pled to a charge of resisting a police officer and was sentenced to 30 days. Around the same time, he was sentenced to 10 months in prison on a break and enter conviction. Upon his release, he was assigned a probation officer and ordered to follow several conditions which, to date, have been breached several times.

Lory's Story (Cont'd)

In the early 1990s, after years of silence, Lory contacted the local RCMP to intervene.² Her husband was arrested, convicted and later sentenced to probation and a \$1200 fine. Soon thereafter, Lory applied to divorce her partner and obtained a restraining order. She soon found herself in Divorce Court in the middle of a custody battle. Subsequently, her partner was granted sole custody of their three children and moved with them out of the province.

Celine's Story (Cont'd)

Celine called upon Winnipeg Police and the RCMP numerous times. After her first call, which she made several years ago after Zero Tolerance was introduced, she notified the police of every incident. Only some of her complaints were treated as domestic disputes. Once, after being apprehended, her partner spent a night in jail. He was charged with several counts of assault, but only convicted of one for which he received a suspended sentence and supervised probation.

When her partner began stalking her, she frequently called the police to inform them, however, oftentimes these calls were not responded to, or were attended to days after the incident. In no case was a charge laid in these instances. Days after, Celine made allegations of sexual assault against her ex-husband. Police officers indicated to her that there was insufficient evidence to proceed, so the charge was dropped.

² Lory was living in a small town outside of Winnipeg, MB.

Nena's Story (Cont'd)

Nena made several attempts to contact the police about her partner. Sometimes she would explain it was a misunderstanding when police arrived, other times police just did not respond. One time in particular, neighbours heard screaming and called the police. She refused to provide a statement insisting that she did not want them present.

Other times, however, she pursued the charges, was cooperative with the police and provided a detailed statement. She made her last call to the police in 1997, right before she left him. He was gone before police arrived. Consequently, a warrant was issued for his arrest, but he was not apprehended for several weeks. Nena's ex-partner's most recent case had not yet been heard in court at the time of our meeting. She later called me to indicate that, of numerous charges laid (including assault with a weapon x 3, ³ assault causing bodily harm and several breaches), he was found guilty on two charges. He was sentenced to time served in the remand centre, which was 60 days.

Tina's Story (Cont'd)

Recently, after several years of marriage, Tina informed her doctor of the abuse and he eventually reported her partner. The doctor advocated on her behalf to the police, as she was non-English speaking. The police drove her to a translator's home to assist her in making a statement. Her husband went to jail as a result of these charges, but the duration of his sentence was unclear. Tina was unable to provide more information.

³ The nature of a least one of the weapon charges involved firing shots at Nena.

Kelly's Story (Cont'd)

Kelly initially chose not to inform police of numerous incidents of abuse in past relationships. Finally, with her ex-partner, Kelly started to involve the police. During one assault she yelled to her neighbour to call 911. When the police arrived, they charged both of them with assault. Both charges were later stayed. Kelly recounts that she must have called the police twenty times and that he went to jail ten times. She did not indicate the duration of his sentences. At times, orders were put in place for him to have no contact or communication with her, but they would reconcile and breach the orders.

Roberta's Story (Cont'd)

Roberta suffered emotional and psychological abuse for which she did not seek outside support. In 1997, after the first incident of physical violence, Roberta did contact the police. When police arrived, her partner had already fled. He is yet to be picked up on warrant. Since this incident, she has reported several break and enters, but has heard nothing from the police regarding these or two assault charges. Her ex-partner has yet to be apprehended or charged.

Brandy's Story (Cont'd)

Brandy informed the police on her reserve of her abuse on a few occasions in the late 1980s. There were three charges laid, but she stated that there was no record of two of them. He pled guilty to the charge and was sentenced to a \$100 fine. During this time, she was in court for custody of their two younger children. She was granted sole custody and years later

is now taking her ex-husband to court for child maintenance.

Jeanette's Story (Cont'd)

At no point during her abusive relationship did Jeanette contact the police for support. The police, however, did intervene after they were separated when her ex-partner called to intimidate her against applying for custody. Her ex-husband called and accused her of shoving him. A charge was laid against her, but later dropped due to insufficient evidence. After custody hearings in court, Jeanette was granted sole custody of their daughter.

CONCLUSION

From these brief descriptions of the women's experiences with the CJS, a number of issues emerge. For one, four of the women reported being charged for assaults on their partners. For another, several of the women appear to be 'reluctant' in their decision to involve the police. On several occasions when police intervened, for example, the women were hesitant to provide a statement. Finally, while restraining orders were imposed in several cases, the women themselves were often complicit in their violation. At first glance, these issues could be interpreted as evidence that the women **themselves** should be held accountable for any 'failing' of the CJS to adequately respond to abuse. Nevertheless, such an explanation is too superficial. It not only fails to locate the women's involvement in the broader context of the women's processes of coping with their abuse experiences (as well as the specific nature of the cycle of violence which characterizes many abusive relationships), it does not benefit from a fuller understanding of the women's own analyses and accounts of

their involvement with the CJS. The purpose of the next chapter, therefore, will be to provide such an understanding by exploring the women's standpoint. Informing their analysis is the central question of this thesis: To what extent is the CJS attentive to women's needs in terms of helping them to manage the abuse and to move away from their abusive partners?

CHAPTER SIX

EXAMINING WOMEN'S ACCOUNTS OF CRIMINAL JUSTICE INTERVENTIONS

The women's own accounts of their experiences with the CJS, in particular, and formal intervention, more generally, provide the basis for the discussion in this chapter. These accounts will be organized into two separate sections: women's encounters with the police; and women's involvement in the court system.

While both the women's experiences of abuse and their encounters with the CJS are diverse and multi-varied, the aim of this discussion will be to arrive at an understanding of the 'women's standpoint.' As I discussed in Chapter Three, to share a standpoint does not necessitate nor imply a homogeneity of experience and/or opinion. Neither does it deny particularities in the women's experiences with the police and the court system, nor diversity among the women themselves in terms of their social locations. Rather, to assert that the women 'share' a standpoint suggests that they have occupied a **similar** position; in this case, one tied to their involvement with the CJS and other formal interventions as these relate to the women's experiences of abuse. By listening to - and hearing - what the women have to say about this involvement, we can better assess the extent to which such formal interventions have been effective in responding to women in need.

WOMEN AND THE POLICE ¹

In general terms, the women do recognize that, as a group, abused women today are better off than they have been in the past. Kelly, for instance, agrees that “the police are pretty good” in the sense that “they haul the guy away as before they wouldn’t.” Julie found the police to be “totally supportive.” She states: “[T]hey made me feel in that we’re going to get him, and this is not right what he did, and reassuring me. And that aspect was really good and well handled.” Julie noted: “[T]he police officers I had were really great. I had a female and a male. I guess ‘cause they knew the situation maybe they sent a female, but the male officer was really good about it, too. They were, like, totally on my side - they totally believed me and, um, they were, like, ‘Oh, this jerk. How could he do that?’ They were very good.” She admits, however, that “with the police, I know the police are individuals and I may have had two really good officers handle me, but I have heard of other people who have gone through it and whose officers weren’t that great. But I think, with the Zero Tolerance policy, I think that was really helpful.”

While women like Kelly and Julie did have positive comments to make about their involvement with the police, the majority of the women’s comments were more critical in nature. Despite the diversity of their experiences, strikingly similar themes emerged from their accounts. These will be discussed under the following headings: 1. the conception of abuse; 2. protection/safety; 3. police (mis)understanding; 4. ratting out; 5. minimizing abuse/ignoring women’s fears; 6. othering: discrimination; and 7. systemic/organizational barriers.

¹ Each of the women had contact with the police (with the exception of Suzanna). Each of the women’s comments will be included in the analysis (Suzanna’s analysis concerns why she did not call the police). Of the 14 women, all were involved with the police post Zero Tolerance, except Brandy.

1. CONCEPTION OF ABUSE

In Chapter One, it was noted that, in the same year that the Zero Tolerance policy was introduced, a new protocol for handling domestic calls within the police department was put into effect. Under this new protocol, 'domestic violence' was defined in a way which included not only physical abuse, but elements of emotional and psychological abuse as well. Despite the adoption of this definition, the women's comments suggest that the conception of abuse widely held within criminal justice circles is narrowly defined as 'assault = abuse.' Brandy, for instance, argues: "[Y]ou don't have to be all beaten and bloody to be abused. You could be all black and blue on the inside, but they want it all out in the open." Similarly, Karen asserted that "an officer of the law thinks, like, he's an officer. 'This is my job. This is how I gotta do it. This is what the requirement [physical evidence] is.' He (sic) doesn't look at the emotional side, certainly not the human side of everything." Karen alludes here both to the role of the police as objectively responding to individuals as either 'offenders' or 'victims,' and to an emphasis in police work on that which is visible and readily verifiable. To the extent that such an approach downplays those aspects of a domestic situation which fall outside of the police definition and operating criteria, we need to question whether the police will be able to effectively attend to the particular needs of victims of violence within the home.

2. PROTECTION/SAFETY

One of the most fundamental changes brought about in response to the BWM is a recognition of violence between intimate partners as a criminal matter. Those victims of abuse in the private sphere are now said to have the ability to realize safety and protection through

police intervention. Karen, however, disagrees: “[D]on’t say that we have a strong charging directive across Canada when we don’t.” Karen’s partner breached his restraining order by chasing her down the street. When she called the police, it took them two days to respond. “The majority of the time police officers don’t follow through with restraining orders, it takes them two days. They say they are a priority but they aren’t.”

Nevertheless, the state’s response has almost exclusively connected women’s need for safety to the police. The women in this study found that the extent to which the police attended to their need for protection and safety depended on the police’s understanding of the danger women faced. Yet, officers often downplayed the women’s fear, thereby excusing their less than thorough response. The officers’ misunderstanding of women’s fear is evident in their direct comments to the women. In Roberta’s case, an officer asked, ‘how can you be sure you’re in danger?’ Sometimes, the women were met with overt resistance. Celine’s experience is illustrative. Still in fear, Celine applied for a protection order when her ex-husband’s probation ended. When the police responded to her call, she told them of the order. They checked their computer and indicated to her that none existed. She replied, “Look, I had to go to court and pay \$750 to keep this in **place** because he **fought** it. I **know** I have one.” The officers responded with, “Oh, we can’t check it out ‘til the morning. In the meantime, we’ll go talk to him.” Another time when she tried to seek redress, the police told her that there was never a report written about the assault for which she was seeking compensation. In regard to that she states, “it’s unbelievable that they can lie like that just because they want to cover their own asses, because they didn’t document properly. And, of course, once the police lie to their supervisor they’re not about to change their word, no matter what evidence

I could produce they're not about to say 'Oh, maybe we were wrong'."

For some women, instances such as those described above were interpreted as failure of the police to do their jobs; that is, 'if the police were working hard enough, my needs could have been met.' Celine argues: "Because at **any** point along the line, if the probation officer had done his job, if the police had done their job, they would have stopped him. I really believe they just needed to do their jobs and it would have stopped for me and my kids."

Other women were more sceptical, considering the reason to be ignorance. Karen states:

They say that police officers get 17.5 hours of educational training and every year they get upgraded. I'd like to see how that is. The police still have a very high amount of ignorance to these situations. They don't understand the cycle of abuse, they don't - without that true education. I mean, police officers are citizens first and it just seems to me that they forget that when they get their uniform on. They don't understand that, as a citizen, that they swear to uphold [the law] and protect. They should be not so aggressive when they're talking to you and certainly more understanding of the situation and they can't possibly get that in 17.5 hours in one year. I mean, they see it all, and they've seen a lot - a lot of officers have seen dead women - in their final assault. And the thing is they need to learn. That's a easy answer for anybody, but really unless they understand the dynamics surrounding why that person is there. There are so many dynamics.

While the Zero Tolerance policy has been heralded by some commentators as a way of increasing women's safety and protection, for many of the women in this study it has had negative implications. Of the 15, four women were charged as a result of the policy. Two of these women admitted using assaultive actions in self defence, while the other women's partners made false allegations to the police. What was so upsetting for Karen was that, because she retaliated in defence of her own life, she spent three weeks "with a charge of assault hanging over [my] head for those actions, which didn't make my emotional experience any easier, especially with the physical disabilities that I encountered in the 32 hours later after

my injuries.” Karen, like others, saw Zero Tolerance as working against her. She argues, “the Zero Tolerance law is baloney. And if police officers would enforce it and actually identify a primary aggressor in an assault, then we wouldn’t be wasting the court’s time, the Crown’s time or Victim Services’ time, which would allow for the money that is out there to be helping women!” Here she suggests that enforcement and appropriate charging (primary aggressor) are key.

In other cases, it appears that the change in policy has not been reflected in practice. All of the women, as did their partners, saw themselves as (responsible for) laying the charge. Nena suggests that “even though the policy reads that charging is not supposed to be up to the woman,” women are, in fact, responsible. She reveals:

Well then why don't they [the police] just charge him, why do you have to go about it? You know? It is Zero Tolerance, yeah, I know, the police can charge him, its just they need us to testify and if we don't then that's it, the charge is gone. They should find some way around it because if a woman signs a statement saying that this is what happened, then why should they be able to throw it out, you know? She said it's true. It's a signed legal document that is really happened. Even if she doesn't want to talk about it, it still happened and she talked about it already at this time with the police. That's what I think.

In Roberta’s case, the responding officers refused to accept that she and her ex-partner were no longer classed as common-law, thereby disqualifying him from a break and enter charge. They claimed he could not break into his own home, even though she told them they were separated and that she paid the rent. She stated, “I’m not common-law, we’ve been separated for 6 months, that bond has been broken. There’s always a road block, it seems.”

The women also identified other ways the police failed to protect them. Brandy, for example, recalls, “[The police] didn’t protect me. All they did was drop him somewhere else.”

Sometimes, the women's experience was recognized as abusive, but did not 'fit' within existing legislation. In Celine's case, there was no stalking provision in the Criminal Compensation Act, leaving her without legal recourse after the relationship ended.

3. POLICE (MIS)UNDERSTANDING

In Chapter Four, the women referred to a critical need for understanding. Given that, for many women, the police are the first on the scene after or during an assault, the extent to which the police bring with them a sense of understanding has a direct bearing upon the women's evaluations of the police response. Some of the women did refer to the police as understanding. Lory, for example stated: "I talked to [the police] and I think that they were understanding." Nowhere is misunderstanding more apparent, however, than in the women's encounters with the police. In one instance when Karen called the police, she recalls:

I basically got told that it's much easier to believe him, than to prove he's lying- which is an attitude that was certainly not appreciated or acceptable. Sometimes I could trust an officer, others you can't. They have no understanding. They bring a lot of ignorance to the problem. I mean, a few bad apples makes it hard. And I am not saying that all police officers are like that, but the police officers in my district were very unappreciative of the situation. They certainly didn't understand the relevance of some of his actions and his behaviour and how it would play on the emotional distress that I was having and the people who were trying to guard and keep me safe from him were having.

Karen questions whether police officers recognize the incident they respond to in the context of women's lives. She argues:

I don't think they understand what the victim or person whose left the assault, you know, that whole scenario of violence, goes through everyday. It's an up and down roller coaster. You're emotional one day and the next moment your stronger. You left and you were going to save your life at that point. They

don't understand what kind of guilt, what kind of shame is there, and how we like to blame ourselves and we don't admit that the person should take responsibility. You always think it's your fault.

In addition to misunderstanding the dynamics of abuse, the women also found the police unappreciative of common characteristics of abusers, such as being manipulative, controlling and jealous. Roberta suggests that: "The police don't understand that they [abusers] just don't let it rest. They keep on harassing. And they don't understand how you could ever have feelings for him." She has become sceptical in that, "in a sense it was easier to deal with the abuse than be explaining it ... you don't know what to expect with the police." She began to feel like, "what's the point in reporting it when no one's going to take action? You get re-victimized by the police." Revictimizing the women was not seen by all as malicious, but as tied to ignorance about abuse resulting from stereotypical assumptions about women.

Perceptions about abuse held by officers were particularly taxing for the women. For example, Celine recalls, "one comment that [the] police have made a few times is 'You know usually if something's gonna happen it happens shortly after you leave them.'" She argues,

[T]hat is such a false statement. You hear of women being killed three years later, many years later, all the time in the newspaper. The police need a lot of education. They need to know that these men are very manipulative. They need to be aware that they can often use the police to further harass their wives. They need to be a lot more sensitive in their language to women who've experienced abuse.

Insensitivity through language, conduct and attitude suggest misunderstanding on the part of police officers. Celine struggled to prove to the police that, after two years, her ex-husband was still stalking her.

Karen believes that “the police have a basic understanding.” She states, “I don’t think they have a true understanding because I honestly believe that had they understood they might have followed up on my medical injuries, they might have found out that I did suffer assault causing bodily injury, and they never did that.” For Karen, failure to do so made getting a conviction more difficult. (Recall that Karen needed closure and believed that she needed justice to find it).

Many women received the impression that the police assumed that abuse exists only in select parts of society. Karen adamantly responds: “It does affect everybody, not just one element of society. We have members of Parliament who we now know are abusive and that says that it doesn’t matter how rich you are, abuse affects us all. And I guess it’s more known at poverty levels, but don’t make it a poverty issue. It’s not. It’s an issue that society has to deal with and they don’t.” Karen saw the police as excusing her partner’s behaviour, rationalizing it as a problem among the poor.

A significant number of the women were particularly distressed about the police taking a statement from them while in front of their partners. Elizabeth recalls:

I was banging on the neighbour's wall because he was beating me up and she must have known, so she phoned 911 and the cops came. They were standing there asking me questions about what happened and I was going to answer, but I knew that if I answered and he - they arrested him and they took him out of the house - he would go back to Stoney. And he looked at me - he went like this eh? (shows me). He nodded his head for me not to say anything, otherwise I was going to get it worse. So, at that point I couldn't really tell him what went on. I was just, I don't know, I just gave them a story that we were arguing and nothing happened, I didn't get assaulted. And they asked him too and he said 'Everything's O.K.' And they left.

In these situations, officers underestimated the women’s safety risk and failed to

recognize the control these men had/have over their partners. Elizabeth argues: “They should separate the people. Take the man out of the room. This way the woman won’t be intimidated to say what’s really going on. Because it’s hard to tell in front of him. Like, you know, when he just finished beating you up, it’s hard to tell the police when he’s standing right there giving you those glares when you know you’re going to get it worse, right?”

Describing a detailed account of the violence is onerous for the women because “we don’t interpret it like that.” Celine admits, “it was a crazy situation, it’s difficult to clearly explain what’s happening, especially when you’re so afraid. So, after a while when I was reporting I would just ‘stick to the facts’- it seemed inconsequential [to them] since when I explained it in the context of my history of abuse they would say ‘Get back to the facts.’ But when I did, they asked me to explain it.” Brandy argues: “You can’t explain it that way except that you’re hurting.” Since the women did not experience abuse as the number of blows, explaining it for the police in this way was almost untenable, especially for those whose assaults were verbal and emotional.

4. RATting OUT

Calling the police was an incredibly painstaking move for three women in particular. Throughout their lives, they have been taught to be sceptical of the police. Kelly explains that she was reluctant to call the police largely because:

I didn’t want to be called, like, a ‘rat.’ That’s what they will say. Well, I’ve lived in the North End all my life and growing up more or less being a street wise kid. And, you know, being labelled as a rat, ‘Oh she’s a pussy, she can’t put up with a slap’ or something like that eh? So I never did. But then I thought, pff, forget this. If I have a next relationship, I am getting out of

relationships like that! The next relationship the guy ever hits me again, that's it. I'm starting to charge him.

Elizabeth rationalized not calling the police: "If he did go to jail he would get out anyways.

At that time all our friends, there was a bunch of us , a group of friends, he told them that I put him in jail and then I end up looking like the bad person. Like, I'm a rat- that's what he told them. So everybody's calling me a rat and he kinda excluded me from the group." But

for Elizabeth:

Even if he was beating me up I was supposed to just let it go right? But I couldn't, it got too bad, when someone's shooting at you you can't just let that pass because one of these days he'll kill you. Right? So, after that he got picked up and when he got out he told everybody right? That I put him in jail. And he didn't tell them what for. He didn't say 'she was four months pregnant. I strangled her. I was beating her up and I shot at her.' No, he didn't tell anybody that. But he said I was a rat, so then everybody labelled me a rat and I had a hard time on the street. Like, you know, a lot of people excluded me from their group and I wasn't always welcome around there anymore. So, that's one of the things they say, "Don't talk to the police , eh?

Cassandra's experience was similar: "Well, if you're from the street, which is where I'm from, you don't talk to the police for anything, right? I grew up on the street, um, he grew up on the street, he's in a gang and he sells drugs right?" That the women who are marginalized or 'from the street' have this ambivalent attitude toward the police helps to at least partly explain the women's apparent reluctance to involve the CJS or provide a statement once they are called to the scene.

5. MINIMIZING ABUSE/IGNORING WOMEN'S FEARS

Minimizing abuse and ignoring women's fears were themes which emerged frequently in the women's accounts. Many of the women expressed concern about the lack of

understanding and sensitivity exhibited by the police. Celine explains:

So the police came back and, oh, the police officer said to me that night, 'I don't understand why you're afraid?' And I, I said - 'You don't understand? Have you looked at the records? Of course, I'm afraid! This guy's been harassing me for years!' It's, like, ignorant comments like that. And they did nothing about it.

Janice relates that: "I explained to them about the abuse. And they said, 'So, why did you take him back?'" In both Celine and Janice's situations the police appear to have little conception of the degree of fear and the amount of control that characterizes abusive relationships. Roberta's comments are suggestive of her concern that the police minimized her abuse. An officer refused to go upstairs in Roberta's home, as he feared there would be mice. Another time,

... [I]n a matter of two days there were two break-ins and they didn't even send a cruiser out. They said, 'Well, what did he steal?' [She answered] 'Well, I don't know, the whole house, he turned the whole house outside down and I don't know what's gone. So [they replied] 'How do you know that you were broken into?' It was like prove it to us without them seeing. And then they would come here and it was like, 'What did you do to provoke it?' I had one cop actually ask me what I did to provoke him to kick the doors out!

She laments: "It gives you a sense of less security. Like, if they don't believe me and they're supposed to be there to protect me then I should just live with it. Maybe I'm just wasting my time."

At times the women themselves were held suspect, and sometimes they were interrogated by the police. Janice explains: "The roles were reversed . . . I was the victim, but I was being pointed [to] as the abuser in the incident. And, I felt I wasn't being heard. I had no rights whatsoever." Whatever the form, women's experiences were minimized and their fears ignored. For Roberta, it seems like "you always feel like you have to justify and explain

everything.” Similarly, Karen adds, “you know, it’s very scary to go through the police, to phone and another thing to have it questioned whether you were assaulted or not when you have bruises all over yourself and you think, ‘How could I possibly have made all these bruises?’”

In some cases, the police overtly refused to help women visibly in need. Celine explains what happened when she phoned the police to report another incident in a long string of harassment and stalking - her coat being slashed by her ex-husband: “You know what they said? This has been going on for a long time. What do you want us to do about it?” And one other time when I reported something to the same detectives that were at my house - he covered the phone and said to his partner ‘Guess who?’ as if it’s the total pest again.”

Nena recalls one situation:

I was running down the street (away from him after a terrible beating)... and I remember this cop car was rolling by, really slowly, so I ran up and I am all beat up eh? And I'm banging on the window, like, 'Hello, can you help me?' And he rolled down the window and he's, like, 'What's the problem here?' I said 'That guy over there he just finished beating me up badly.' I told him everything. And the cops just said 'We can't do this right now. You're going to have to go to Seven-Eleven and phone 911.' and I'm like, 'What are you talking about, you're 911.' And they said 'We have another call right now. This isn't our district. We can't help you.' And they drove away.

Looking back, Nena concedes, “if the cops can’t even help me, whatever? you know? What the hell, he might as well [do it]. If the cops can’t do anything about it, what am I going to do? They’re supposed to protect and shit like that and they didn’t do nothing. They just drove away. And you could tell there was something wrong. I had no shoes on, you know. I was bleeding.”

Some of the responding officers (mis)handled the situations in a creative, yet destructive way. A few months later, when Nena called for police assistance, her partner had already fled when police arrived. They asked for a picture of him and one of the officers added, "If we find him what do you want us to do to him?" Nena did not take them seriously and asked for clarification. He replied "Off the record, what do you want us to do?" Nena said "break his nose for me like he did mine." Nena heard nothing for a few days and then received a phone call. She recalls: "I get this phone call and you can hear a bunch of guys in the background and I'm all 'Hello?' The guy on the phone said 'Is Nena there?' and then he goes, 'Hang on.'" Her partner then got on the phone and says "You charged me didn't you?" Nena explains: "Not even two minutes later the cop calls me back and says 'Nena?' and I said, 'Yeah?' He said, 'OK. We arrested him and we did what you asked.' I said 'Did you?' He said, 'If he phones you tell us and we'll go and take care of him some more.'" She later learned that the officers had broken two of his ribs and cut his eye open, leaving a scar above his eye with their boots.

Although "they beat him bad," when I asked Nena about how effective the police were she compared their response to the other times when they ignored her completely or refused to listen. This time she felt that, "they were pretty good, because my statement was seven pages long and those were long pages and he had to write them out by hand so that was pretty good. And it took, like, an hour and a half for me to get it all out and for him to write it down word for word. So, they were pretty good and patient with me." In this instance, the police took the time and energy to follow proper procedure with the victim. We have to wonder, however, whether instances where police themselves resort to violence are not only

are unhelpful for the women, but exacerbate the women's situation by enraging their already violent partner.

Another time, when Nena and her partner were arguing, a neighbour called the police. The police again figured they knew what was best for her. When they arrived, Nena told them that (at this time) nothing was wrong. The responding officers disagreed and apprehended her partner. They refused to tell her what they were doing as they dragged him out of their apartment. Minutes later, she could see from the window that the police officers "beat him up outside, about four of them." She remembers:

I was watching. I said 'what are you guys doing to him? He 's not fighting you guys. And the cop that was a woman she said 'Why are you complaining- he beat you up?' And I said 'So, you guys shouldn't beat him up. It's not your problem.' I was on his side. Then she said 'Are you going to charge him?' and I said 'No. He didn't do nothing to me, I didn't tell you he did.'

Both of the above cases show an insensitivity to the implications for the women whose abusers already blame them for getting charged.

In a similar way, Celine found the police response to be lacking in sensitivity. Celine tried to pursue criminal charges against her husband for sexual assault. Although she was originally told there was sufficient evidence to proceed, later she was informed otherwise. She remembers,

[T]hese two detectives that broke the news to me about the rape charge not working did it in such a cold and unfeeling way. And they were in a big hurry to get to their next call. It was just awful. I had spilled my guts out about the most personal thing (the rape) that could ever have happened to me for nothing! It seemed like, 'Why did you put me through this? Why did you get me to report it? Why did you get me to spell everything out for everyone, and then, do nothing about it?' And years later after I've gone through counselling I felt even angrier that I'd been assaulted like that.

Roberta, too, admitted that at times interaction with the police “was like talking to a brick wall.” She stated that she felt treated like “just a name and number.” Other times, women felt that the police were at the very least uninterested in their complaints. Elizabeth explains:

Sometimes when I would call the police they would have this attitude, ‘Oh, we’ve been through this so many times.’ Like, you know, ‘Women always end up charging their boyfriends and then they don’t end up going to court. So are you sure? . . . We don’t want to do all this paperwork if you are not going to follow through with it.’ So sometimes they wouldn’t really be that interested in it ‘cause, like, I guess a lot of women end up charging their abusive partners and then they wake up later and they don’t want to go to court. So, sometimes it’s like that. Couple times I had a female officer and she was really there for me. Yeah, more sensitive. And she, she knew how to deal with it better. She didn’t ask me if I was sure if I wanted to do it and, you know, not worried about the paper work just going to press charges, eh?

Having a female officer, however, does not assure the women a sensitive response.

Roberta explains one of the most blatant cases of outright minimization cited by the women:

I had one cop, he’s interviewing [in my home] and he went to the washroom while I was talking! What’s that? If you have to go to the washroom, fine excuse yourself. Just say, ‘Hold on a second.’ So, I stop [talking] and he says, ‘Don’t stop, I can still hear you.’ It’s a fact of unprofessionalism I think.

Elizabeth believes, “sometimes its like they [the police] don’t really care. They don’t give a shit you know? Like, they’ve seen it and heard it so many times before. They’re just numb to it, you know?” After escaping a beating, she

. . . ran out the street. I was running down the street and he had a gun and he fired two shoots at me. And um, I made it to a pay phone and I tried to tell the police that my boyfriend was shooting at me and could they come right away. Then, I jumped in a cab and I went to the police station myself because they said they couldn’t answer the call because I was calling from a pay phone. So I went to the police station myself and when I got there I thought ‘Forget it.’ I don’t want to walk in there because I was covered in

blood. So, I went back home.

6. OTHERING: DISCRIMINATION

While misunderstandings, minimizations and misconceptions help to contribute to the view of the women as 'other,' 'othering' was more evident in comments the women made about the ways in which the police discriminated on the basis of stereotypes. Roberta, for example, commented on the racist implications inherent in comments which a police officer made to her:

They always stereotype it to poor neighbourhoods and a cultural thing, too. Like, I had an officer make a comment. He was, like, shocked that I wasn't Native when he came. He said, 'Oh?, You're not Native?!' Like what is that? Do you think it only happens in Native homes? It doesn't! There's just so many stereotypes. It's so hard. You have to break the stereotypes before you can teach people how to deal with it.

Roberta recounts that, on another call, "I got told that maybe if I had gave 110% in my relationship I wouldn't have got hit. That's what an officer of the law told me." Such sexist overtones in comments made by officers, as in Roberta's case, operate to block the women's choice to call for help.

For immigrant women, however, there are several obstacles to overcome to attend to their needs. Coming forward to reveal her husband's treatment is not only seen as a betrayal of him and his trust, but going against her family and her culture. In their patriarchal home countries, doing so is seen as disclosing personal, private information. Culturally, they are taught that family affairs should not be made public. Therefore, any problems should be kept secret, outside of public view, as it was in Canada until the mid 1980s. As in many cases of abuse in immigrant families, it is usually not the woman who makes the call. In Tina's case,

her doctor was responsible for contacting the police. Cultural prescriptions dictate that women be protective of their husbands and submissive. This hold over the woman and her children often is stronger than her desire to seek assistance. While, in Tina's case, the police drove her to a translator's home to assist her in making a statement, the two other women in this study who could not speak English were not provided with access to a translator. One of these women, Jeannette, told of how "mean" the police had been to her.

Jeanette's ex-partner had picked up their daughter for a visit. He became enraged that Jeanette had not packed a jacket for her. She recalls "The police charged me one year ago. He insulted me. He called the police to tell them this. Two police men came and he say that I shoved him. No [I didn't]. So mean, the police [were]. Inside they say, 'What is your problem? You're so stupid, you idiot. Don't be so stupid!'" When her boyfriend overheard what the police were saying, he asked for their badge numbers and threatened to report the incident. In reply, one said "I don't care, do it." Jeanette did not want him to charge them, so he let it go. Simply, Jeanette explains: "Police don't help me."

Language is often used by the women's husbands to exert a power over their wives, significantly limiting their 'choice' to call for help. It would appear that the police are often complacent in this, feeding into the husband's web of control. If he understands and speaks English and she is unable to communicate, when the police arrive they take a statement from the man who denies his culpability and sometimes will accuse his wife of wrong doing. Since the women often cannot express themselves, the police often leave with a one-sided, often fabricated, interpretation of the situation. Celine concludes:

From what I've seen, the system is terrible. I get calls on the Crisis Line from

women who say that after they have been assaulted the officers come on and say 'What did you do to cause this? What did you do?' So, they can talk all they like about all the big changes, but I think the mentality for police officers - if they hate going out to domestics and they make jokes about the women just going back to the man and some of them are abusive to their own partners and identify with the aggressor. I've seen that more than a few times.

7. SYSTEMIC/ORGANIZATIONAL BARRIERS

The discussion to this point has focussed on police practice, policy and procedure. Attention must also be directed to the organizational system with which women were in contact. Some of the barriers preventing women from accessing the help they required were systemic and organizational. Dealing with 'domestic violence' is only one small element of the police department's responsibility. Potentially, this is a barrier. These structures may have contributed to minimizing women's experiences.

Oftentimes, when the women asserted their rights, stood up for themselves (and their children) and questioned the response they received more obstacles were created. Celine recalled:

When I became not such a victim - sitting shaking and crying everytime I reported something - they treated me like a victim then and took action. But once I became stronger and started insisting they take notes, and telling them that I had a protective order and it said in there officers were supposed to enforce it, and reporting to superiors - then I lost all support. And my ex husband also went to the police chief and told him that the inspector that had been helping me was sleeping with me and stepping outside his boundaries, and so he got the inspector in trouble and none of that was true.

Suzanna, Karen and Janice, like Celine, found more obstacles confronted them and fewer resources were made available to them when they took a more active role.

The duration of the criminal justice process was an important variable for the women. In Roberta's case, the police department has still not located her ex-partner. She states, "it

makes it really hard for me, too, because the lawyer said I'm beginning to forget details and you just naturally do that. And when you go to court you need all the details. So, the longer it takes for the police to arrest him, the better chance he's got of walking." In other cases, what was troubling for the women was not the response time of the police, but the time lag between laying a charge and the first court appearance. This issue of time lag might provide some clues as to why women become reluctant to proceed with charges. As Elizabeth explains:

So, I don't know, their 'response,' like them coming there in a hurry? Yeah. That's good. If he's there by the time they get there and they take him away. Yeah, that's good. But, later on, like, sometimes they remand it, so the cops don't even remember or they forget about what's going on. It just doesn't matter anymore- you know? It's not a big deal. As time goes by they tend to fade, right? If they got in and they got the thing dealt with right away, say within a month, and the person got sentenced and bomb it was out if there, yeah, that would save women from changing their minds too, about testifying.

In terms of police commitment, Celine claims: "It's a joke!! They don't want to go. They hate them [domestics]. It's well known they hate going. They make jokes afterwards." In the end, Celine admits: "I really blame the system for me eventually having a breakdown." She states,

I know so much about their systems and how they fail that it's hard to have any faith at all in them. But all I saw was that it was panels of men that made these decisions. And I never was one to feel like a victim in the men-women (pause) what ever you want to call it. I always felt equal. But going through the system made me feel very unequal. And it made me feel a lot of inadequacies in the system.

It seems that priorities are somewhat amiss when the police respond almost immediately to (accusations of) a stolen hockey jersey, but dismiss the (alleged) sexual assault

of a woman. This was Celine's experience. When her partner filed a (false) report stating that she stole his hockey jersey, the police arrived on her doorstep to question her. She replied, "he raped me, he beat me, he stole from me, he burned my car down, slashed my coat- and you do NOTHING. And yet you come here because he says I stole a hockey jersey?"

WOMEN AND COURT ²

In Chapter Four, where I outlined women's needs, I referred to 'reprise' as the need for an escape, protection and/or safety. The women's need for closure, and for their partners to accept responsibility for their actions, was categorized as a 'remedy.' As these needs for 'reprise and remedies' represent only one dimension of women's needs, it follows that the courts will be able to meet women's needs in a limited sense. As the following comments will illustrate, the courts did help women a little, but also produced certain harms. For instance, many of the women agreed that their partners received the message that they could 'get away with it.' Celine argues, "and of course he's not gonna stop if he gets that message. He got away with every single thing he did. Never held accountable, never suffered any consequences. So, he learned to manipulate the police. He learned that if he cried a story to them they would believe him over me." This section explores the women's experiences during the court process, including the Family Violence Court and Divorce Court, and the themes or issues which emerged from their accounts. These include: 1. the criminal construction of

² Eleven of the women had the cases they were involved in heard in the Family Violence Court. Of the remaining four, Suzanna's and Jeanette went to Divorce Court for child custody trials; Lory went to court in rural Manitoba and I have no information about court proceedings for Tina. Thirteen of the women's stories are included in this discussion of the court system.

abuse; 2. women's role as 'criminal victim'; 3. othering; 4. (mis)understanding; 5. systemic/organizational barriers; and 6. (mis)communication.

1. THE CRIMINAL CONSTRUCTION OF ABUSE

As discussed previously, the law reads abuse only as physical assault. This was plainly apparent when the women found their way into court. Karen understands this as a failure to recognize the essence of abuse. On the basis of her experience in the Family Violence Court, she argues:

I think they look at it too constructively. They don't understand that abuse isn't constructive, it's destructive. They construct it as law and the way they go adhering to the law, but when you don't fit the formula, you know, you're not a person that's been in the relationship for ten years, or when you don't fit an idea (everybody has their opinion of domestic violence). And I think its law, law, law, law, law, judge, judge, court, court- it is not the person, the citizen that has been harmed, you know? They have a certain structure that they have to try to follow through, but abuse is not structured.

Suzanna's case raises questions around defining abuse only in narrow legal terms. Doing so invalidates women's experiences that fall outside these boundaries. While Suzanna's partner never faced criminal charges for abusing her, his abuse became an issue in the context of their divorce. Nevertheless, her abuse history was deemed to be inadmissible in Divorce Court. As Suzanna noted, "psychological abuse is not recognized. It wasn't by my lawyer and it wasn't something that they could take into court." She admits, "he wasn't going to put anyone in the hospital with bruises but he was certainly as destructive in what he would do mentally. My impressions from getting feedback with my lawyer in the court room was that, because I didn't come in with that type of horrendous physical abuse, it wasn't given credence."

Suzanna's lawyer indicated to her that, "not once were the threats valid for police assistance or for court," so she did not call upon police for support. Suzanna recalls, "when I told my lawyer, she said that people do awful things to each other when they're in a divorce. There was no recognition of the impact on myself. I got no response from my lawyer. She found it tedious to hear these things." When she obtained new counsel, she received the same message. Her second lawyer told her that bringing up the abuse would be irrelevant. For Suzanna, abuse was defined as "what is medically, physically provable." She now believes that "there is the understanding that sexual abuse doesn't occur unless physical evidence is there." We see here the same conception of abuse that was held by the police. Perhaps, as Karen argues, part of the problem is a constructive approach to a destructive problem? The definition of abuse is that which can fit within the legal code within only minor modifications. Karen laments: "And it says to me that women are not equal in this society. And so much time on this issue and yet nothing is changing? I expected that the human aspect of everything will be looked at . . . and it's beyond me how police officers and judges and magistrates have gotten away with this kind of treatment to women in this city, in this province."

2. WOMEN'S ROLE AS CRIMINAL VICTIM

Given the adversarial nature of the legal process and the limited role of victims generally, it is not surprising that the women found themselves marginalized once their case entered criminal court (see, for example: Brickey, 1986). What makes the role of women as victims of domestic violence distinct, and in this case their absence more problematic, is the centrality of the "crime" and the "criminal" to their daily lives. Nevertheless, many women felt

excluded from a process that would very much influence their lives. Janice “felt totally out of the loop.” When asked about her place in the court process, Julie exclaimed: “Absolutely none! Other than being the one to press the charges.” She admitted, that, if she had been more secure in testifying, things may have worked out better. But, she laments, “Really, who is? It’s a scary thing. And I was willing. I said ‘I am not dropping the charges if I have a choice.’ He gave me a choice - he said . . . ‘It’s been so long, he’s missed so many court dates’...and I’m like ‘O.K. So what you’re saying is because he hasn’t shown up to court a few times, oh, just forget the whole thing?’” The women’s discontent seems to stem from the fact that they were not a part of the system, and from the misrepresentation of their experience by those within it. Julie states, “I’m the victim - I should be. Not just you [the Crown Attorney] against him- but us against him.” Corrie, like Julie and Janice, agreed that she was not involved in the process. She states, “Yeah. It’s not up to them. It didn’t happen to them. They don’t know how it felt.”

Nena expected that her partner would be punished for his assaults. Before he went to court she honestly believed that “they’re not going to let him out this time ‘cause he’s a repeat offender and I’m not the first woman and I think there’s, like, three before me.” She states “I still don’t know why they let him out. I’m just going to say that to the judge if he asks me, I’m going to tell him, ‘Please don’t let him out, he’s a repeat offender. Obviously he’s going to do this to someone else, if not me, if you let him out. I don’t want him out. I don’t want him anywhere near me or my children.’” Unfortunately, Nena was never given the opportunity to tell this to the judge.

The comments of the women in this study suggest that women’s needs to be believed

and heard are not satisfied by the court system. Janice explains how she, like other women, never felt she was being heard. She states, "I think they have to look at the women's point of view seriously. The women aren't taken seriously. A lot of times it's just imagined."

Celine argues:

And after all that's happened that judge told them I wasn't a victim in "this" referring to me. Because I had answered the phone to confirm that it was his voice harassing me, after he'd been warned not to. So that was my fault! It was my fault he phoned and broke a law?

Women's agency appeared to have no place in the courtroom. Celine "wrote letters and protested the judge's language and said he put me in danger. And I had it investigated. And, of course, you can't fight City Hall. And if you're a woman, it's a man's system. And I never believed that before." Whenever she felt something was not quite right would try to discover the problem. Despite her numerous attempts to help herself, in the end, Celine was dissatisfied. She states, "I didn't just sit around and complain about it. I went and spoke to higher ups. And, in a way, I believe that did me in. In most situations, I think that did me in because the police are not about to admit that they are wrong. And they do not like being told what to do."

3. OTHERING

Much like their experiences with the police, many of the women felt discriminated against by the court process. Some were made to feel that they were to blame for their victimization. Celine commented: "The judge in his summation said something like 'It is the mysterious behaviour of the wife that draws suspicion and she's the author of her own fate,

her own misfortune in this.” Celine argues that, “judges have to be very careful in their language and we see all the time that there are alcoholic judges, there’s judges that hate women. Just because they’re judges doesn’t mean they’re fair . . . all-knowing, wise people.” Karen recalls, “you go through this and everything is in question [about you]. What kind of person you are, and it’s like- I’m not the one who did anything wrong! It just said to me that nobody looks out for my best interests or, for that matter, anybody else’s best interests when he starts phoning and threatening. Only his rights are considered.” Janice stated that the entire court process was like “being in a man’s world.”

Assumptions about women appeared to pervade the court room. Suzanna struggled against these while at the same time her partner confounded her difficulties by making every effort to make things more difficult for her in the divorce proceedings. “Every time he wanted he’d take what he wanted to court. Every two or so weeks I was going to court. This was due to the inability of a judge to use common sense.” She had enlisted a forensic psychologist to assess her husband. The report recommended supervised visits with the children. The judge, however, chose not to enforce it. When Suzanna’s children disclosed abuse by their father, little action was taken to protect her kids or to assist her. She asserts that, “when I complained [about the supervision of his visits] to the Child Protection Unit it was not well received.” She argues that “because I knew what the children said had meaning, I wasn’t taken as credible, being ‘versed’ in it. The more I tried to advocate on their behalf, the more damage I did for them.” She explains: “During the time in the court system they called me a vindictive wife. I was advised that it was not looking too good in the eyes of the court, that the children’s testimony could be prompted.”

Tina's and Lory's accounts suggest that they were cast as 'other.' Both had difficulty communicating in court, especially without an interpreter. Tina states: "[There was] not much I understand . . . Say little, but trouble answering them, respond(ing)." Lory recalls that there was "no interpreter and my English was poor." At the trial for her ex-husband's assault charge, the judge kept asking her if she wanted a separation. She states, "I was scared, you know?. . . The kids were small, the age too was hard for me to believe that everything would be OK at that time if I separated from him."

4. (MIS)UNDERSTANDING

Misunderstanding is especially disturbing considering that appearing in court and having to face their abuser is daunting and painful in itself. It seems, though, that few of the individuals the women came into contact with in the law courts comprehended their fear and anguish. Nena states, "it's really nerve wracking [in court] because I didn't see him since the last time. It hurts because he's the father of my children and we did have a good thing at one time. I just want to get it over with. I just want what I deserve."

For the Crown Attorneys prosecuting these cases, it seems the women were little more than names on a docket. Julie acknowledges that her interaction with the Crown Attorney:

. . . . was a very negative experience. Mine was a jerk. He was there to do his job. No sensitivity whatsoever. He was very snotty and short with me. He was very insensitive, as if he was 'Mr. Crown Attorney' and I was just this little person that was inconveniencing him. But the officer that arrested my ex-boyfriend said the Crown was excellent. The Crown Attorney just wanted to win (not get him). And he did, he got a guilty plea. That was his main focus.

She was disappointed with the Crown's attitude and approach. "With the attorneys I didn't

have any interaction. It's not me against him, it's the Crown against him." When she spoke with the Crown, she told him she was worried about testifying and indicated that she had been threatened. Julie felt that this was unimportant to him or his case. "I was scared and he didn't even deal with that, only with, 'Oh, we'll do whatever we can.'"

Julie concludes: "The thing is that I feel if the Crown Attorneys are going to be part of the justice system, if they are going to 'do justice' they have to care about it - that's not always the case. Sometimes it's the money, but I think they should have to care about matters that they will be [arguing], otherwise have certain Crown Attorney specializing in these cases." When I informed her that the FVC does, in fact, have specialized judges, she replied, "maybe then the people who specialize weren't available that day. The person who was assigned to me was just an ass-hole. He was so not into the issue. He didn't care what this guy did to me before. He didn't care if he was going to do it again. He just wanted him to feel guilty."

Suzanna's experiences with the court and social service systems have led her to believe that "there's a naivety that if men abuse their wives that they don't do it to their children. It's as if - if it is not blatantly evident (physical) it wouldn't be there- not mentally. The courts do not correlate that children may need to be protected. Assessments need to be done and family supports put in place . . . when there are allegations of abuse by either parents." This raises important questions about responding to child abuse, the impact of living with violence on children, and the place of such work with respect to wife abuse.

5. SYSTEMIC/ORGANIZATIONAL BARRIERS

Throughout the court process, systemic and organizational barriers created obstacles for the women. Time lags between court appearances, successive remands and court backlog made the process lengthy and alienating. For some women, the lack of communication between those who uphold the law and those administering justice was clearly problematic. Julie, in particular, found a gap between the police and the court. In her opinion, “the part of the system - Women’s Advocacy Program - I think there a lot of things could have been caught just at that level. They could have informed me more of the system and given me some pamphlets about testifying, just the whole deal. It’s, like, going through the system, what are the possible outcomes, what are the charges against him?” Julie’s comments suggest an expanded role of WAP. Interestingly, WAP’s mandate is to provide such a bridge Julie recommended.

Roberta understands that, “you have your court backlog so it’s, you’re looking at, another nine months onto the time when they arrest him. So, you’re looking at a couple years. And after that you just kind of want it to die and go away. You don’t want to have to live through it again, because every time it gets brought up or if the police come and ask something it’s like you have to live through it again.” Further, “a time lag between the time of arrest and court appearances and final court date of one to two years makes it difficult for women to remember important details and almost impossible to move on and gain closure.” In this way, the court process does not accomodate for women’s need to block memories and dissociate themselves from the violence. Elizabeth argues:

They need a faster response in the court system. They need to get it over

with, get it in there, get it done and get it over with. Because if it's going to take six to eight months, by that time, you know, the woman may have reconciled with him and it's going to be going on again. And then they are going to be getting another call from her again anyway- you know? So, if they just dealt with it right away and not take their time with it, maybe things could happen, but they don't. Like, the lawyers get remand dates for them all the time. You know, remand it, remand it, cause they want to keep him out on the streets longer, right? They don't want to go to jail so they keep remanding it. Sometimes it could get remanded up to six months if they want because they say they need to get all these progress reports and all this, and all this bull, right? Well, I think if they just made up their minds, charged them, let's have a fast trial or whatever, and let's get it over with while they're still sensitive to the issue right?

In Julie's case, "because the Crown Attorney figured there was no physical damage- they plea bargained- so he pled guilty to common assault or something like that." Her partner received a conditional discharge and, since he missed two court dates, he got a \$35 or \$40 fine and a \$40 fine for the assault. She acknowledges, though, "that it wasn't the judge's fault because - part of the plea bargain was that information was withheld from the statement in the event that he pleads guilty." What was most bothersome for her is that "the police officer that was involved in arresting him said to me 'Don't worry, Julie. This guy's a jerk and he's got such an attitude and the Crown Attorney that you have is so good. He'll do so much for you and this guy is going to get what he deserves.'" Since that is not what happened, Julie now believes, "it's a joke. It's a big joke! And I thought, I went through all this for nothing!" It seemed to Julie that "it wasn't right to not read what happened." She thought that she should have went on the stand to say, "No! This is not what happened!" She was both hurt by and angry at the system. She wonders:

What the hell is the point in even bothering my time, my energy and my totally anxiety provoking just thinking of going to that court? And the thing

is it got dragged on for a year and a half. And later I was already in another relationship and was already dealing with it and it's like, O.K. You got to go to court. And it's, like, 'Holy shit this is two years ago already'- you know? And it just wasn't speedy, and it wasn't the help I needed, but I got the help I needed through other avenues. But they [in court] were no help at all.

Plea bargaining had other implications, as Cassandra notes: “He made a deal and he plead guilty. I was in court, but they didn’t call me into the courtroom because he plead guilty. I never got to talk.” Indeed, many women alluded to law’s reality as separate and distinct from their own.

Comments, such as Kelly’s, provide further explanation for women’s reluctance to cooperate. Kelly found the process to be alienating and to work against what she wanted. She recounts:

There was a couple of times, I kinda helped him out in court. Which was true, because, like, I did tell them that, uh, well, I still cared about him. I love him and I want to try and help him. Even though there's this court order on him to stay away from me, it's not going to get us away [from each other]. That's not helping. That's not helping the problem, I told the judge.

For Celine, punishment of her ex-husband proved to make matters worse. Her partner was arrested 3 or 4 times, charged twice, and convicted once in a six hour trial. In addition, he was convicted for breaching a restraining order. Celine explains, “after that, that’s when my pay back really started. He was determined to make me spend a night in jail like he had. He told the kids ‘it wasn’t over till your mother spends a night in jail like I had to.’ He’s been convicted in criminal court and put on probation and his probation’s a joke, just a joke A total joke. And it was the second time around that I’m talking about that I got no, little or no police support.” Celine’s experience suggests that “probation officers need supervision. We

need to ask why, when a judge orders something if deemed necessary, that this person doesn't have to go through the treatment program." The outcome was similar for Nena who regrets, "and that's the very first time I went through with it all the way. And all he got was time served." Karen concludes:

I think it really became a roller coaster where one minute services are working well, or another time they stall, or they are dead. There's nothing out there for women, especially in Manitoba. You get a long list of people who will help you and, in the end, you really don't find that ability to get that help. There's just- can't reach out further, and they should be reaching. You should be able to go out and actually say this is what we need. But without the services and the money and the funding out there its almost impossible. When we have \$500 million dollars in gambling revenue alone and yet nothing is being spent to actually listen to the counsellors who work in the shelter and the directors and actually talk to the women who are survivors, not those who are dead. It's just beyond me. There is a lot more, a lot more that can be done and it's just surface, there's really no promise by the government.

6. (MIS)COMMUNICATION

Miscommunication and failure to provide women with important information continually created problems for the women. Brandy recalled that: "I wanted to go to court but no one informed me. It was too late for anything. He'd already been in court. I didn't know what it is (like) when someone goes for spousal abuse. Like, what it supposed to happen." Janice admits, "what I didn't realize and that nobody told me is that I could be in court when the charges came up and it came before the Crown Attorney. I had the opportunity to be in court, which I wasn't aware of." From then on Janice contacted the Crown Attorney regularly about her case. Janice explains, "So I phoned them and they said, 'Well, you talk to Women's Advocacy Program.' Cause I said 'Look, you guys told me this

and I want a say in this. You didn't give me a say in this before because you didn't tell me what was going on.'" Fortunately, when requested, she was provided with the necessary information. However, in other cases, women were forced to decipher conflicting information. Karen found that people were telling her "all these different things - no consistency! The hardest part was the constant shifting. There was no consistency!"

CONCLUSION

In Chapter Four, I argued that the needs of women in abusive relationships are not 'static.' The women's stories suggested that a more useful conceptualization would be to view women's needs as 'process'; their needs are in flux, change over time, and vary from the material to the intangible. The needs of the women in this study were identified under the following headings: the need for understanding (to be believed); reprise (protection/safety); survival (in the literal sense of the word); concerns for their children (including their safety); means (to cope with the abuse and/or to leave their partner); remedies (access to resources, support and advocacy); and rebuilding (to heal, emotional security and long term survival). As well, the women were seen as negotiating choice in their endeavour to manage their needs. The purpose of this chapter has been to explore the women's accounts of their involvement with the police and court systems, with a view to determining whether and in what ways these formal interventions have been effective in responding to women in need. After listening to the women's standpoint, it becomes apparent that, while the CJS has responded, many of the women have found that response to be lacking. The women's experiences seem to suggest that their encounters with the CJS have produced only minor benefits for them. First, some

of the needs the women identified are beyond the scope of the CJS (survival, rebuilding and means); and, second, the extent to which the CJS has attended to the women's needs which could, in fact, be met through criminal justice intervention (reprise, remedies, understanding, children) is limited in that, by and large, women's needs are narrowly viewed whereby, in the process of responding to women's need for protection and safety, such needs as understanding and information, are given little attention.

To a certain extent, the women claim that their rights as women have been breached. Some go so far as to suggest that the law is "man's law." Most recognize that law's account is different from their own. In many ways, myths, misconceptions and stereotypes have served to silence or exclude the women's accounts of their experiences, thereby limiting their ability to access the help they need. As Suzanna explains, "there is a basic misunderstanding of abuse, of women and their roles. It's sad when it comes from the highest level of our legal system." This ideology, when coupled with the systemic and structural barriers, makes it so that the women's experiences and their needs are often at odds with the system set in place to respond to them. Karen offers her own summary of the BWM's progress: "It's all based on secrets, myths and lies. Domestic violence is still a secret. There are lies about it, the abusers. The understanding society has about it is a myth. When all people know are secrets, myths and lies, we can't change anything." Many of the women were left to question: "Where is all the help and where's the justice?"

The women's accounts raise some very important questions: Why do the women find the police response to be so problematic? What about criminal law is at odds with women's needs? How does law work to disqualify women's accounts? The next chapter will endeavour

to address such questions by providing a feminist standpoint on the women's experiences with the CJS.

CHAPTER SEVEN

FEMINIST INTERPRETATIONS

Informing the feminist analyses of the BWM's engagement with the state has been the question: Can the state and law be 'reliable allies' in the endeavour to challenge the familial patriarchy at the root of wife abuse? While feminists have presented different ways of theorizing around whether or not feminist engagement with the state and the CJS has produced benefits for women in abusive relationships, I have argued that this debate cannot be resolved without hearing from the women themselves. Having explored the women's standpoint in the preceding chapters, I am now in a position to develop my own feminist standpoint on this issue. The purpose of this chapter, therefore, is to present a feminist standpoint which juxtaposes the CJS response to wife abuse with women's needs and experiences. As I argued in Chapter Three, such an analysis has the potential to contribute to feminist debate in a way that is practical, sensitive and relevant to the experiences of the women most closely affected by the problem of wife abuse.

Central to developing this feminist standpoint will be my attempt to situate the women's lives within the nexus of race, class and gender relations. Shelley Davis Finson speaks of a "hermeneutic of suspicion" that occurs in the process of interpretation, "not in regard to the words of the women, but rather in regard to the context within which and out of which they are functioning" (cited in Kirby and McKenna, 1985:115-117). In other words, women's accounts are, in large part, a function of their experiences not only as gendered

beings, but as women of different races and from distinct class positions. Further, women's needs and the criminal justice response cannot be examined in isolation; that is, decontextualized. In addition to her social context, the way a woman was treated by her abuser, his impact on her life, her being, her sense of herself and the world - these and other aspects of a woman's biography influence her decisions and her account of her experiences (as well as her decision to call on the CJS). Further, women's needs must also be understood within the context in which they arise; that is, they must be seen as 'process,' as evolving and continually being managed, and as intricately connected to a fluid notion of choice. Stated more simply, attending to women's needs requires understanding those needs.

From the accounts of the women presented in Chapter Six, it seems apparent that, for many of the women in this study, involvement with police and court systems has produced considerable **frustration** on their part.¹ This frustration, I would argue, finds its roots in the **disjunction** between, on the one hand, the women's perspective or standpoint and that of the CJS, on the other. Understanding the sources and manifestations of this disjunction goes a long way toward explicating some of the problems and pitfalls encountered in the CJS response to wife abuse. In the following discussion, I will identify these disjunctions along a number of 'fault lines' as they pertain to the foundational elements (and constraints) of law; individuality; unidimensionality and linearity; and the victim/offender dichotomy. Once outlined, these elements will then be examined in the context of women's needs and choices, and the larger question of whether engaging the CJS has been beneficial to women.

¹ Perhaps, too, frustration on the part of legal officials (for example, in terms of women's reluctance to report or to provide a statement).

FOUNDATIONAL ELEMENTS AND CONSTRAINTS OF LAW

Underlying the CJS's (in)ability to meet women's needs are inherent **foundational** elements of law itself, particularly in the criminal law and the operation of the CJS. As Ngaire Naffine (1990) has noted, law is premised on a particular view of itself, what Naffine refers to as the 'official version of law'; that is, it is an "impartial, neutral and objective system for resolving social conflict" (Naffine, 1990:24). This image is represented in the figure of the blindfolded maiden who holds the scales of justice. It is also reflected in the form which law adopts to resolve social conflict.

The form of law is partly reflected in its adherence to the adversarial system. Law is set up as a contest between two parties. In the criminal court, the key actors are the Crown Prosecutor, acting on behalf of the state, and the Defense, acting on behalf of the accused. The task of the judge is to discern the 'legally relevant facts of the case' - to find the 'truth' about the matter brought before the court. In the process, however,

Everyday experiences are of little interest in terms of their meaning for individuals. Rather these experience must be translated into another form in order to become legal issues and before they can be processed through the legal system . . . So the legal process translates everyday experience into legal relevances, it excludes a great deal that might be relevant to the parties, and it makes a judgement on the scripted or tailored account. (Smart 1989:11)

The form of law is also reflected in its adherence to the doctrine of the Rule of Law. The Rule of Law encompasses two broad claims: **everyone** is subject to the law and the law treats everyone the **same**, as 'legal equals' (see Hunt, 1976). "Equality of all before the law" and "blind justice" are hallmarks of the Rule of Law. The main intent of this particular legal form is to provide a barrier against the arbitrary exercise of the power of the state and a

guarantee of the rights and liberties of individual citizens (Comack and Brickey, 1991:26). However, as Naffine (1990) notes, this image of law is also premised on a particular kind of individual or 'legal subject.' The 'subject' of law is a universal, abstracted person. Indeed, law's claim to impartiality is derived from its commitment to the view that it does not deal with different types of people, but with legal subjects, "and the way it does this is to abstract people from their particular contexts and examine the merits of their individual cases" (Naffine, 1990:52). To the extent that law focuses on the 'legally relevant facts of the case,' and professes to be 'blind' - to not recognize individuals in terms of their class, their race and their gender - then to what extent is it able to respond to the experiences of women who have been abused?

In Chapter Three, I argued that women who have been abused must be located in structural terms as their experiences, needs and choices emerge in the context of societal structures. Nevertheless, when the women in this study came into contact with the CJS, they were understood - following law's logic - not in terms of their class, race or gender locations - but as undifferentiated 'victims.' Women's biographies and social locations, although they have everything to do with the experiences that brought them into contact with the CJS, appeared to have very little to do with their encounters in the CJS. For instance, the way in which economic marginalization and factors attending to citizenship status limit available options for women or the fact that a disproportionate number of women who come into contact with the CJS as victims are of Aboriginal origin (as are their abusers) are not deemed relevant in law's view. To the extent that law deals only in abstractions and treats all subjects as 'legal equals,' the complexity of women's lives and experiences is lost under law's gaze.

In other words, while gender, race and class hierarchies/inequalities impose particular constraints on the women's lives which are evident in their negotiations between their needs and choices, these remain, by and large, absent from law's view.

Martin and Mosher (1995:9) summarize the fundamental constraints encountered in the CJS response to wife abuse:

The current criminalization strategy, like other strategies of the past, continues to lay blame at the level of the **individual**, continues to **depoliticize** women's struggles for violence-free lives, and continues to **pathologize** the behaviours of individual abusers and/or victims of abuse- and thus **isolates** each case inside its 'individual' facts. By its very nature, a criminalization strategy is completely **inattentive to the role of power**, its inequitable distribution based upon gender, race, class, disability, and sexual orientation, and the role which the public state plays in perpetuating these imbalances of power. (Emphasis added)

Recognition of these fundamental elements (and constraints) helps to explain the differential impact of criminal justice policies and practices for women of different classes and races. Nevertheless, while we talk of the CJS as a structure or system, and the response to wife abuse as institutional (or at least organizational), it remains the case that it is **individuals** who work within systems. As such, individuality comes into play, as it did for the women in this study. However, disjunctions were also apparent at the micro-level of interpersonal interaction.

INDIVIDUALITY

The women came into contact not only with agencies, departments or institutions as systems - each with distinct policies and procedures - but with individuals working within the

system. These individuals bring a particularity to women's experiences with these systems that must not be overlooked. For the women in this study, harms were lessened and some benefits produced largely as a result of the approach of individuals who work within these systems. While the women sometimes encountered ethnocentric attitudes, masculine biases and stereotypical assumptions, some were also the beneficiaries of more sensitive and understanding treatment by CJS personnel.

Carol Smart (1989) argues that law has a 'juriodogenic' nature, whereby exercising law may produce effects that make conditions worse. The women's accounts provide several instances where the juriodogenic nature of law can be seen in terms of the significant risks and harms that the women experienced, particularly for those who are socially and culturally marginalized. The police not responding to women's complaints of abuse and criminal justice personnel not recognizing the women's experiences as abusive were two common problems the women recounted. Inequalities along the axes of race, class and gender are seen in racialized understandings and inequities, economic marginalization/privilege and the gendered nature of social relations, as the following discussion suggests.

Attention to race provides one way of reading the stories of the Aboriginal women. Recall the revictimization in Brandy and Corrie's stories, the exclusion in Elizabeth and Nena's stories and the othering that was characteristic of Cassandra and Kelly's experiences. Aboriginal women in this study were particularly victimized by humiliating questions, indifference and arrogance of court personnel and insensitivity.² Nena's partner was beaten

² In much the same manner, women expressed these concerns to The Manitoba Aboriginal Justice Inquiry (1991).

up badly by the attending officers. We might read this police violence as racially motivated or, perhaps, being that Nena is from the ranks of the underclass, it was an issue of class bias or an interconnection between race and class.

Similar concerns are warranted for immigrant women. For the immigrant women I spoke with, particular problems arose as a result of their inability to speak English and their unfamiliarity with North American culture and a foreign legal system. For example, one woman who feared deportation was unaware that her immigrant status would not be threatened. Of the three immigrant women, only one was afforded a translator by the police. Do we read this as insensitivity arising from carelessness or as evidence that the remnants of historical structures like colonialism and imperialism continue to persist?

Class positioning created obstacles which women needed to overcome if they were to attain protection and safety. The white women in this study were not afforded the privilege one may assume. Suzanna (recall her financial situation) explains: "It's just basic survival - which a lot of people don't understand because I lived in a large house, in an affluent areas and had two vehicles." In Suzanna's case, her affluence and education stood in the way of others recognizing the abuse. One explanation for this is the gendered nature of social relations and the extent to which assumptions about women pervaded police understanding (in tandem with the foundational failure of the law to recognize difference). In Roberta's case, the officers tried to convince her that she was abused. Was Roberta seen as the weaker sex, and thus as deserving of this "help" because she was white? In Julie's case, the officers assured her that the Crown Attorneys would definitely prosecute her partner to the fullest extent of the law. Did the fact that the officers attended to her call at her parents' suburban

home influence their reaction? Even if the officers did not **intend** for this reading, failing to recognize that difference structures the women's lives can result in problems for the women (that is, when women are seen as a homogeneous group).

The women's encounters with individuals within the CJS also show a disparity between policy and practice. Smart (1989) would refer to this as "the uneven development of law." To my mind, this is more indicative of the influence of individuality that weighs into the encounters which women have with the system. It is interesting to see that women still, in large part, refer to themselves as being responsible for laying charges against their partners. This is apparent in their language; "I charged him." Despite the change in policy, by which the police are the ones to lay the charge, both the women and their partners still viewed the women as being responsible for charging men. Change in policy does not necessarily mean change in practice, just as change in the rules does not imply that they will be followed. Given the comments of the women in this study, it would seem that policy change has been ineffectual in doing what it was intended to do - take the pressure off women to lay charges so that men did not blame women for police involvement.

Police officers themselves are not immune from perpetrating abuse. The Winnipeg Free Press (May 26, 1997) recently reported that a Winnipeg police officer faced several charges of domestic assault on his wife (from December 1996). I cite this case not to overstate a particular problem of wife abuse among police officers but to underscore the element of individuality that figures into these cases. That is, the beliefs, attitudes and assumptions about abuse, about women and about their needs strongly influence the way in which police officers handle domestic cases.

Criminal justice intervention has produced some benefits for the women. The positive comments that some women made directly allude to understanding or sensitivity on the part of police officers or other criminal justice personnel. I argue that many of the women's needs could only be met on a person- to- person basis. This suggests that change from within, such as increasing understanding and sensitivity, may, in fact, be beneficial for women in abusive relationships. Nevertheless, several issues which will be discussed in the following sections emanate from other foundational limitations of evoking a criminal justice response to wife abuse. In particular, I will discuss fundamental disjunctions **between** the CJS's approach to wife abuse, to women's experiences and to the women themselves **and** the women's standpoint. This 'lack of fit' finds its root in the CJS's unidimensional and linear approach.

3. UNIDIMENSIONALITY AND LINEARITY

...they take a constructive approach to a destructive problem...

It seems evident from the women's accounts that feminist calls for diversity and difference are not reflected in Manitoba's response to wife abuse. The CJS's response embraces a unidimensional view of women's experiences (and, in particular, their needs). Further, the women themselves become stereotyped through being conceptualized only by their master status of 'battered wife.' This understanding does not adequately capture women's needs and the troubles they encounter in their attempts to manage those needs. Rather, the complexities surrounding abuse, women's experiences and women's needs are obscured by the CJS's narrow view. The result is a unidimensional approach to a multidimensional issue. Law's ability to attend to women's needs is limited by its adoption

of this unidimensional view.

The criminal conception of abuse as linear and straightforward runs counter to women's experiences of abuse. The disjunction here lies in the CJS defining wife abuse as a 'thing' rather than an aspect of the women's lives experienced as 'process.' Consequently, forms of emotional and psychological abuse do not easily fit within this framework as crime categories, even though, as we saw in Chapter One, the Zero Tolerance policy's protocol defined 'domestic violence' as "violence, threats of violence, or acts of a criminal nature which may include elements of **emotional and psychological** abuse committed against a person by that person's spouse . . ." (Beiner, 1993; emphasis added). The dilemma, I would argue, lies in the phrase "of a criminal nature." For the women, emotional and psychological abuse were not seen as being "of a criminal nature." The women spoke of their experiences of all types of abuse, but only physical abuse was mentioned in discussions of their involvement with the CJS. The only exception found in the women's stories is that of uttering threats. Although officers acknowledged threats as abuse, no woman spoke of charges being laid in these instances. In defining wife abuse as a criminal matter, abuse almost exclusively becomes equated with physical assault and understood in that framework. Consequently, wife abuse is understood 'on law's terms,' rather than on the women's.

There are several reasons why this linear view (equating abuse with assault) is so problematic. First, and most simply, this view does not reflect women's lived realities. The women's accounts show that women do not experience abuse by the number and location of blows. The women do not interpret their experience(s) of abuse as separate and distinct from their everyday lives. Sheptycki (1991, cited in Martin and Mosher, 1995:43) points out that

wife abuse is a process, “a dynamic relationship between people who have an on-going history.” Linearity, though, assumes that abuse has a distinct beginning and an end. Viewing abuse as an incident, an event, decontextualizes abuse from women’s lives within the family and separates it from its roots in the larger society. It seems there is little understanding on the part of the police, lawyers or judges of the bond between the women and their partners (or, if present, it is often a stereotypical representation, for example, one which relies on formulae like the Battered Women’s Syndrome or the cycle of violence). Moreover, conceptualizing the problem as ‘domestic violence’ or ‘spouse abuse,’ as assaultive actions criminal under law, loses sight of the very real, very individual and very personal effects. Or, as Karen put it, “the human side.”

Second, the CJS’s gender-neutral discourse around intimate violence obscures the gendered nature of abuse. BWM feminists used the phrase ‘a crime like any other’ to emphasize the severity of abuse and call attention to the way law ‘condoned’ it. In the process of criminalizing wife abuse, although efforts have been made to incorporate the specialized nature of abuse within the home, to a large extent, the crime itself is represented as very similar to stranger assault. An exclusive Family Violence Court in Manitoba may have served to draw attention, and perhaps, increase sensitivity to violence within the home as distinct from that which occurs outside of it, but the same crime categories are still used, as are the same legal methods, as is the same adversarial system. The focus is not on the problem of wife abuse as a systemic, gender-related aspect of women’s experience, but on criminal activity which occurs between spouses.

Third, the CJS has, by assuming homogeneity of women’s experiences, the power to

continually render women's experiences invisible by defining abuse only as that which is physical as an assault. Hilton, Currie and Walker argued, as noted in Chapter Two, that the state had re-defined the issue of wife abuse when it responded to the problem. I would argue that, at the individual level, a similar process of redefinition occurs whereby abusive male behaviour directed at women is only seen as an abuse of control when physical force is used. As Barnsley (1988:918) speculated, "new problems rather than acceptable solutions result." The CJS continues to define for women every day that which is, and is not, abuse. It does so by limiting the experience eligible for arrest and worthy of prosecution, not only through policy but in practice. The multifactoral, multidimensional and complex nature of abuse gets reduced down to offences defined as criminal under law. But more than that, as law offers legitimacy to those issues addressed through its power, so too does it delegitimize that which falls outside; in this case mental, emotional and psychological abuse.³

Finally, at the practical level, the implications of this process manifest themselves in women's lives. One area where this is particularly so is with women's immediate encounters with the police. When the police expect women to be calm, cool and collected, and explain what happened in a concise and clear manner, they fail to acknowledge the reality of abuse as women experience it. Instead, such a response on the part of women was seen, by some, as women being anxious, irate and perhaps crazy. Myths and stereotypes about women are fuelled by such misunderstandings. It seemed apparent that the women, in turn, often internalized these assumptions.

³ This exclusion of experience may create divisions among women - as the plight of those who were physically assaulted may be seen as worse. It also potentially creates problems within shelters for counsellors who view abuse as inclusive of all types, when outside the shelter only one form is given priority.

Based on her research with women in New Zealand, Busch (1995:194) suggests that “there is a sufficient gap between the victims’ experience ... and the way in which the justice system responds to their victimization.” Further, she claims that, for many women, this gap manifests itself in the system’s trivializing of women’s experiences and in disbelieving women’s stories. The women in this study experienced such. Elizabeth and Nena saw minimization in its deepest form, as several times their experiences of abuse were not seen as worthy of attention. For some, after being asked for their input or recommendations, these were seldom consulted or carried little or no weight.⁴ Minimizing women’s experiences also took more subtle forms. As we saw in Chapter Four, many times the women expressed that they were simply not believed. One implication of disbelieving women is the message of tolerance their abusers receive. It also promotes a more general acceptance of the power and control exercised by men in the wider society.

Law exercises a power to define not only itself but to impose its definition on the events in women’s everyday lives. The questions posed to women by criminal justice personnel and the way in which women’s accounts were altered to fit into legal jargon suggests that much of the women’s experiences were disqualified as not being relevant, or not “legal relevances,” to borrow from Smart. In the case of plea bargaining, we see women’s experiences modified when abridged versions of their stories were told in court. Smart (1989) talks of rape and how law’s definition of rape takes precedence over women’s experiences. In the very same way, the law’s definition of abuse overshadowed the women’s

⁴ Ann Worall’s (1990) work in, Offending Women, presents similar findings on “taking instructions” from women.

understandings.

As we saw in Chapter Six, the women's experiences of abuse were minimized, revised and, in some cases, excluded, especially when they went to court. Insofar as women already take great risk (of further abuse) by breaking the silence, minimizing women's experiences re-victimizes women. As shown above, a woman whose experience differs from a prototypical case - a cycle of physical violence - can be 'othered' and excluded. This was most salient in Suzanna's case: "Psychological abuse is not seen as abuse, but feeling horribly . . . There's even a long way to go before abuse is accepted in its most extreme form."

The CJS's linear view of abuse, its homogeneous understanding of the women and its adoption of a unidimensional approach to the issue all serve to limit the system's ability to meet women's needs. We saw, however, that the women in this study were not only defined by the law as victims of abuse, but some were also deemed offenders. Therefore, the next section explores the victim/offender dichotomy, another area where a disjunction is seen between women's experiences and how the CJS responds.

VICTIM/OFFENDER DICHOTOMY

When we direct our attention to women's role in the criminal justice process, another disjunction is revealed. When I asked the women what role they had, especially in court, the overwhelming response was "We don't." As victims of domestic violence, women find themselves caught up in a system that is not at all about them. The disjunction is clear in that, for the most part, the women stood outside of a process which had its greatest impact on them. The responsibility which does fall upon the women, given law's evidentiary

requirements, is the burden of proof. For the women in this study, proving the abuse was exceptionally difficult because they did not experience it systematically, as something which could easily be recounted later.

As a problem under criminal law, the woman becomes not a victim of abuse, but a victim of assault as law views 'victim.' The nature of the women's experiences becomes translated into an assault against the state, or against society. In practical terms, given the adversarial nature of the court process, the key actors are in fact the defence and the Crown, not the woman and her partner. As such, women are represented by the Crown. The Crown acts on behalf of the state rather than for women. After all, the Crown's role is to prosecute the offender regardless of the wishes of the victim. Hence, the women's positioning as 'criminal victim' marginalizes them. So, too, are women further marginalized if they are also defined as offenders in domestic violence.

The binary constructions of women as 'victim' and/or 'offender' mask the blurred boundaries between women's contact with the law as 'victims' and their conflict with the law as 'offenders.' Four of the fifteen women in this study were defined as both victim and offender in law's eyes. This created particular problems given that different needs arise when women are themselves confronted with criminal charges. It is incongruent to be both an offender and victim simultaneously. If women are charged, their victimization and abuse history is given little recognition once they become labelled 'offenders.' Two of the women who were charged stated that they were acting in self-defence. Their partners were the initial

aggressors.⁵ Under the Zero Tolerance policy , police are directed to charge each individual who is suspected of domestic violence. In practice, police appear to look at each person's actions in isolation from the other, failing to contextualize the incident in the lives of the parties involved.

This section has briefly explored the place of the women in this process to highlight the dichotomous nature of criminal labels. Examination of these fault lines along which we find disjunctions as they relate to the women's experiences of abuse and within the CJS leads us to the central elements of this research: women's needs and women's choices. The following section will revisit the needs of the women in this study and consider the extent to which, given the disjunctions outlined above, engaging the CJS has produced benefits in the lives of women.

NEED/CHOICE REVISITED

The question at this point becomes: how do the disjunctions examined above relate to women's needs, their choices and the larger question of whether engaging the CJS has been beneficial for women? When we consider this important question, we find that these disjunctions serve to limit the CJS's response from fully attending to women's needs in a way which enables women to make choices which will produce benefits in their lives. To use the BWM's language, the women's experiences and their needs become the "criteria" with which to assess feminist engagement with the state.

⁵ According to the other two women who were charged, their partners lied to the police in making accusations of violence on their part.

Arguably, the state's response to the Battered Women's Movement's concerns has brought about quantitative change, most notably, Winnipeg's Family Violence Court (1990) and Winnipeg Police Services' Zero Tolerance policy (1993). From an objective point of view, there are more choices for women; choices defined as options, like more resources or supports from which to choose. However, I have argued that the relationship between women's needs and women's choices is not so straightforward. Both 'need' and 'choice' must be problematized. Rather than view choice in terms of suitable options available for women to choose from, choice for the women was more elusive, as something which is not absolute or dichotomous (either available or not). That is, choice was negotiated. In simple terms, just because the police will come to a domestic dispute and make an arrest does not imply that a woman is able to make the call to the police or that, if they arrive, she is able to explain what happened. For many women, the abuser's control and his influence over her behaviour constrains her "choice" to speak of the abuse. This is especially evident when the police take a statement from women while in front of their abuser. The women's stories tell us this is a practice 'off the books' today but not yet 'off the street.'

Rather than view women's needs as process, thereby acknowledging the complexity of their abuse, women's experiences within the CJS show that their needs are confined to protection and safety and interpreted within a criminal justice context (from a law and order framework). This is an approach which, if at all paying attention to the needs of women, does so in narrow terms (for example, as something static and stable, like a conviction of guilty for her abuser). Admittedly, the women in this study did raise concerns about their partners being

punished.⁶ Many women emphasized jailing their abuser, not so much for punishing him out of vengeance or spite, but to be safe from his abusive behaviour, for him to learn and change, and because his actions are against the law. In other words, he broke the law and consequently should be held accountable. Rather than interpret this as women being in favour of strengthening the criminal justice response, it would be more fruitful to pursue important questions such as: What other options do the women see as viable to keep him away from her? to keep her safe? to stop the violence? To the extent that wife abuse is seen primarily in criminal justice terms, women's needs which fall beyond the scope of the CJS (for example, housing, financial and counselling) are accorded low priority. In some way, we see that the women, too, have been, in a sense, socialized to see the abuse as a crime first and foremost, and to have faith in law as a means of resolving their troubles. This is seen in Elizabeth's comment: "That's all we have right now, is the police." At this same time, the women recognized that the abuse has become a crime against the state, not so much a personal, intimate violation and abuse of control.

As the women's accounts show, women's needs are more varied than protection and safety alone, but reflect not only a woman's physical situation, but her emotional and psychological state as well. Many of the women's needs, such as for understanding or sensitivity, cannot always be met by a tangible or material response (like the police apprehending her partner). Further, and sadly, some of the needs mentioned, simply as a function of being a need, imply they are unsatisfied by the current system. One example is the

⁶ Some women were concerned that a punishment be given to their partners, others saw punishment as more of a means toward an end.

need to be believed. It is a sad commentary on our CJS that, despite the efforts of the past two decades to break the silence around abuse, of the 15 women I interviewed each and every one spoke of their need to be believed. Women's needs, then, are multidimensional but the CJS has responded in unidimensional fashion. In this way, the women's choices are limited by the nature of the CJS understanding and response to the problem.

Law's definition of abuse as an assault, a discrete incident, or an event denies process. As a result, alternative accounts are silenced and women suffer. If not excluded, women's words are replaced with legal categories which may, but more often do not, reflect women's experiences. In summary, women find themselves caught up in a system that focuses on the abuser - a process that is not at all about them. The system is set up for women's exclusion so much so that, when the women in this study made attempts to include themselves in the process, they were frustrated. Implementing the FVC was supposed to provide victims of wife abuse with a victim-sensitive CJS. Similarly, changes in police practice, notably the Zero Tolerance policy and police training, endeavoured to offer victims a more sensitive police response. However, we see that even at its modest goals of meeting women's need for safety and protection, both fall short. Ostensibly, responding to women's need for protection and safety backfires. Despite the association assumed, there is no simple correlation between arresting and charging, and meeting women's needs, as two Canadian studies have found.⁷

Following Smart, we would do well to continue to problematize and challenge law's legitimate place. By revealing how the law operates, we are questioning law's power to define

⁷ MacLeod and Picard (1989) found that most women had little faith in the CJS to stop further violence. In Currie's (1990) study, only 12% of the women saw increased effectiveness of the police or the legal system as a first priority.

women and their experience only on law's terms. The feminist standpoint presented here has endeavoured to do just this.

CONCLUSION

In this chapter I have endeavoured to present my own feminist standpoint as a way to inform debates around feminist engagement with the state and law. To review, let us revisit the goals of the BWM as outlined in Chapter One. The movement did, in fact, pressure the state to respond to the problem of wife abuse but, more importantly, the BWM called for change at the ideological and material levels. Aggressive criminal justice intervention has **not** transformed the structure or ideology which sustains wife abuse. The CJS response has, to some degree, been able to satisfy women's need for safety and protection. The CJS misrepresents the problem of wife abuse, the women themselves and their needs. Consequently, women's needs have only been met in a limited way in that attention to women's broader needs is lacking. I have argued that this **lack of fit** between the women's standpoint and the CJS response can be attributed to several fundamental **disjunctions** which, upon closer examination of women's needs and choices, become evident along a number of **fault lines**.

The response to wife abuse assumes all women are the same and their experiences are homogeneous. When difference is recognized, through othering, it is often used against the women. As Smart (1989) argues, law's account alters, modifies and excludes important elements of women's experience. What gets defined as "legally relevant" is not necessarily what the women define as relevant. Further, what women view as important may vary by race

and class. The problem lies deeper than the oppressive nature of the CJS (Snider, 1994). Snider (1994) has raised important concerns about the CJS's inability to offer victims alternatives as its basis is social control and punishment. Rather, at its very core law does not promote formal equality, whilst it promotes itself as epitomizing equality. That is, law is blind to difference by assuming, as seen in its daily workings, that none exists. We see, in the way law operates in women's lives, that law's claims to truth are suspect.

Nevertheless, criminalization still remains at the forefront of the societal response to violence against women. With the preoccupation with criminal law, other areas of law which require change are ignored. That is, emphasis on criminal law directs our attention from the way in which the state uses its power to sustain the status quo through other forms of law. Consequently, criminal law is strengthened at the expense of changes in legislation or social policy which have the potential to produce greater benefits for women.

Like Snider does in her work (1991, 1994, 1996), we could read the criminal justice response as giving more power to the state to intervene in the lives of women. Nevertheless, police intervention today, albeit fallible, does offer women one avenue. Similarly, notwithstanding the nature of law, without legal avenues, many women would be blocked from accessing any means toward an escape. For some women who lack informal supports and internal coping strategies, formal state intervention may be their only recourse. In Snider's (1997) most recent work, she speaks of justice, transformation and remedial action as being incongruent with criminalization, incarceration and increased punitiveness. Rather than completely incongruent, I would argue that the potential of remedial action, transformation and justice through law and the CJS is limited. Nevertheless there is some transformative

potential. To a certain extent, feminists have been successful in calling upon the state to respond. What has been most problematic is the nature of that response. Remedial action has been and continues to be taken.

It is paramount that, as feminists continue the struggle to end violence against women, the voices of the women themselves who are victimized by male violence are heard. Invaluable lessons from the women themselves can provide insights into the work that needs to be done in reforming the CJS and transforming the material and ideological conditions that foster wife abuse in our society. Karen argues:

Dead women don't tell you how to change the system! Women I have been in contact with from the shelters, their opinions are the best to decide how to change things. They have gone through the process. We know first hand how emotional it is, how misunderstood domestic violence is, and we truly know what injustice means to us. I want to see that a system that is supposed to help people. That it changes and help is available there. It looks good on paper, but it didn't stop my partner or the partners of a lot of other women in the shelter.

In the concluding chapter, I will attempt to bring this work to a close by exploring the extent to which recent work in Manitoba can lead us in the direction toward ameliorative change that would better address women's needs.

CONCLUSION

My intent in these concluding remarks is to bring some sense of closure to this work. By no means are all the answers found, nor could they be. The women whose voices have been heard here have more to say. Their stories, and those of other women, are not fully told. In this respect, closure to these issues is premature. One of the most significant lessons impressed upon me in doing this research is the need to listen to the women and how much we have to learn from them. As Martin and Mosher (1995:37) argue, “the ‘yardsticks’ currently used to measure whether we are taking wife abuse seriously (charges laid and prosecuted, jail sentences imposed) yield highly inaccurate information about women’s well-being.” The first step toward better understanding the CJS’s response is the articulation of women’s voices as to what is needed. Given that we have only begun to listen to the women, those with the most at stake, perhaps “we are not ready for answers yet” (Comack, 1996:149).

The accounts of these 15 women provide insights into the CJS’s response that could only be gained by an in-depth analysis of the way the changes introduced in Manitoba get “worked out” in the lives of the women victimized by wife abuse. Manitoba’s justice system offers women more supports and alternatives than in the past. As Ursel (1991) suggested, there were some positive outcomes in calling upon the CJS for these women. Just as significant, however, fundamental concerns have been raised in this analysis. Although the state has responded to the issue, as Walker (1990), Currie (1990) and Hilton (1989) argue,

the state has not called into question abuse as a gendered feature of women's lives, nor has law recognized the inherent power differentials between men and women. The women's standpoint outlined in this thesis presents the experiences of women as complex and varied, and their needs as multidimensional and in flux. The feminist standpoint developed herein, in which I juxtaposed the CJS's response to wife abuse with women's experiences, found several significant disjunctions which limit the law's ability to meet women's needs. I acknowledge that I have examined the CJS's response at one point in time. However, the state is not monolithic, nor is its response to women's issues static. As I have given agency to the women, so too must I concede that the state and in particular, the CJS, are still responding to the issue of wife abuse. In Manitoba, this is most evident in the recent Commission of Inquiry into the Deaths of Rhonda Lavoie and Roy Lavoie (1997). The Lavoie Report presents several recommendations for change to Manitoba's justice system. An important question to pursue is: to what extent would the recommendations made bridge the disjunctions found in this study? Keeping in mind the inherent foundational constraints imposed when calling upon the law and criminal justice to act on behalf of women, the main purpose of this final chapter will be to explore whether the seeds of ameliorative change can be found on the pages of the Lavoie Report. Before doing so, however, I will discuss the limitations of this thesis project.

LIMITATIONS

This study is limited in several ways. One relates to the 'sample' of women on which the study is based. The sampling strategy I used to elicit responses was one of 'self selection.'

Self selection is problematic in that the women who came forward may have had particularly negative experiences with the system. In defence, however, I would argue that the remarkable similarity across the women's encounters, despite the diversity among the women themselves, suggests that even with a different sampling method, similar results would have been found. Second, it would have been beneficial to re-interview each of the women to ask them about issues which arose in the other interviews. Time and financial considerations won over my desire to be inclusive. Third, there are several drawbacks to research of this nature. Qualitative research allows participants input into the process. However, in a sense, the researcher relinquishes control over the interview process. In my case, I could not decide when to conduct my interviews or how long each would be. I was limited to whether and when the women called. With quantitative and historical research, the researcher can work on the project as her/his schedule permits. During the interview phase of this study, I was continually waiting for the women to call (and wondering if they would!).¹ Finally, this study represents only fifteen women's voices. It is authentic, though, in that each story represents one woman's experience with the CJS. However, the analysis presented here could have only been captured through in-depth qualitative study which necessitates a smaller sampling size.

RECOMMENDATIONS: TOWARD POSITIVE CHANGE

It has been almost thirty years since grassroots feminists first struggled to bring attention to the violence and abuses women experience at the hands of men. Largely as a

¹ The interview process took seven months to complete. For a period of almost three months I did not have any interviews.

result of their efforts to make visible and politicize abuse, the problem of wife abuse has been recognized. Wife abuse has become a public issue and the state has responded to the problem. Given that the most intensive and costly responses have been in the realm of criminal justice, it is not surprising that, in 1998, the other dimensions of women's needs have remained on the periphery. This study suggests that the feminist critiques put forth in the 80's and early 90's (Walker, 1990; Hilton, 1989; Currie, 1990; Snider, 1991, 1994) are still relevant today. Arguably, the experiences of the women in this study attest to the revision and reversion of the issue, as Hilton (1989) and Walker (1990) have argued. Despite the limited nature of the CJS response to women's needs, women will still call upon the CJS and the state will continue to intervene in women's lives when others call on women's behalf. Therefore, changes within the system are necessary to better address women's needs. The Lavoie Inquiry posits 91 recommendations to change the system to better suit women's needs. The remainder of this chapter will explore those recommendations which, to my mind, have the potential to address the problems and pitfalls raised in Chapter Seven. Twelve of the recommendations, if implemented would narrow the gap between women's needs and the way the CJS responds. These are examined below.

UNDERSTANDING AND EDUCATION

Pervasive misunderstandings and misconceptions about women, their abuse histories and their needs have direct bearing on the way in which police officers interact with women. One of the most inappropriate and insensitive aspects of women's encounters with the police department that requires changing occurred when the police took their statements. When the

women's partners were present at the time of questioning, no effort was made to separate the couple for private interviews. Elizabeth, Brandy and Jeanette, in particular, referred to the inappropriateness of this practice.

The women's experiences show that many of their encounters were characterized by misunderstanding, false assumptions and othering. Myths and stereotypes about women and their needs hinder effective change. As Karen puts it: "There's just so many stereotypes, it's so hard, you have to break the stereotypes before you can teach people how to deal with it." Many officers do not recognize the dynamics of abuse and are not able to empathize with women's experience. One such instance is the degree of danger in which women find themselves. If police officers cannot recognize abuse and do not understand the relational dynamics of it, they cannot be sensitive to women's needs. Corrie admits that (in her case):

... [T]hey (the police) don't see that maybe a woman is scared and can't say exactly what happened. I don't think so because when those cops came in there they were both standing there in my kitchen and they were holding him right there and they were talking to him right there and then all of a sudden the cop turns around and says 'Do you have anything to say?' or whatever. And that's when I looked at him (her partner) and said 'No, nothing happened. We just had a little argument.' I wanted to say it all, but they were standing right there holding him, right? And I felt really down. I wanted to, but (couldn't). It bothers me now.

Suzanna, in particular, was very concerned about:

... [E]ducation, especially of judges. I don't think adequate education is there. They swing with public opinion. Several friends and my lawyer's guidance tells me this. Professionals are not interest groups. They are not appointed to Family Court. Any place where there are family issues there is a need for more education and for people to know the limits. They judge didn't have the ego to do that, it was fragile. He turned to me and said 'men have rights too.' But children don't? The role of the parents is paramount in divorce court. I also see, just from recent media cases of violent and sexual assault, that judges should be more educated. In Quebec, mental abuse was

found to have no lasting physical affects- it was not validated.

With greater sensitivity to issues through police education and training, police officers could handle these cases in more appropriate ways. It follows, from the above, that the following two recommendations cited in the Lavoie Report are directly in line with addressing women's need for understanding and sensitivity:

14. The Winnipeg Police Service should provide ongoing seminars and programs on domestic violence for police officers of all levels. (Lavoie Report, 1997:34)

19. Provincial Court judges who hear cases where domestic violence could be an issue should attend seminars and conferences related to or associated with domestic violence. (Lavoie Report, 1997:43)

There is also an overwhelming and urgent need to educate children and youth about violence, healthy relationships and sexism, as the following recommends:

75. In concert with Family Dispute Services and the Department of Justice, the Department of Education and Training should develop educational packages about domestic violence for use in public schools. (Lavoie Report, 1997:100)

The question is, who will run these programs? Funding is desperately needed to administer programs within the schools, especially for those run from feminist principles with staff who understand the dynamics of abuse and are able to present the complexity of abuse in a way young people will comprehend. By extension, a necessary complement to such programming is a focus on the self esteem of young girls. Health education for girls is often limited to eating disorders and teen pregnancy- both crucial- at the expense of emphasis on the tendency still today for so many young women to define their identity through a male's gaze. In this context, Karen emphasizes:

There is so much knowledge, they don't utilize it. It's education of it.

Education of the children. Education of women. Education for abusers. Education as to why some of the abuse happens in our society. Because it's not all directly related to one thing. It could be an alcoholic. Somebody could have a drug problem, you know. Somebody could have emotional distress. It could be anything. You could be living in poverty. It does affect everybody, not just one element of society. Abuse affects us all . . . It's an issue that society has to deal with and they don't. I think the key funding should be for education.

COUNTER - CHARGING

As mentioned, four of the fifteen women were themselves charged under Zero Tolerance. The Report recommends that a **primary aggressor** be identified. Given that in the majority of these cases the charges against the women are dismissed or stayed, it seems like this recommendation better reflects what is actually going on for the women. Moreover, in many cases of counter-charging, there is a stay of proceedings for both parties. Perhaps, this policy change would do much to ensure that women are not arrested for defending themselves or that the Zero Tolerance policy cannot be used by male abusers as a way to lessen their own chance of getting charged and prosecuted by claiming their partners were also abusive.

Recommendation #4 suggests that:

4. The Policy should:

a) Direct police officers to identify, charge and arrest only the primary aggressor in domestic violence incidents where both parties claim to have been assaulted by the other. (Lavoie Report, 1997:29)

INFORMATION AND COMMUNICATION

Oftentimes, women are misinformed or remain uninformed. This lack of critical information cannot solely be the responsibility of the women. Rather, those working within the system need to be accountable to women. The following four recommendations, if

implemented, would go a long way toward ensuring better communication and providing women with important information.

28. The Family Violence Court should develop a system to ensure that:

- a) Victims are notified immediately of all court orders made in connection with outstanding charges against the offender; and**
- b) Victims understand the terms of the orders. (Lavoie Report, 1997:48)**

29. The Family Violence Court should prepare a pamphlet or video explaining the terms and conditions typically included in orders made in domestic violence cases. It should ensure that victims are aware of and have access to the pamphlet or video. (Lavoie Report, 1997:28)

30. The Family Violence Court should operate an information line to advise victims of domestic violence whether offenders' applications for judicial interim release have been granted. (Lavoie Report, 1997:48)

31. Crown Attorneys should initiate contact with victims as soon as possible and, in any event, prior to the day of trial. (Lavoie Report, 1997:49)

ADVOCACY AND DIRECTION

The Women's Advocacy Program needs to provide women with a bridge between the criminal justice and social service systems. Julie suggests that:

...[F]or the small number of women who do press charges there should be some kind of Victim Services where they come into the home and tell you, 'O.K.. The option (of charging) is taken away but' - to come in for debriefing what happened to you, about the relationship, telling you there's support groups that you can go to where other women have been through what you have. Like, some kind of free or low cost services that I could have if I had just wanted to talk one on one with somebody. Things that you need to know.

The recommendations listed below could assist WAP in being a better advocate for victims of domestic violence.

39. The Women's Advocacy Program should refine its intake to better track victims of domestic violence. (Lavoie Report, 1997:58)

41. The Victim Notification Form should indicate the language spoken by the victim, whether the victim is able to read, and whether the victim has a telephone. (Lavoie Report, 1997:59)

70. Family Dispute Services should increase funding to agencies and programs which provide services to victims of domestic violence. (Lavoie, 1997:97)

TREATMENT AND COUNSELLING

Although some women admitted that nothing would help their abusers, most saw a need for court-mandated treatment programs. Corrie states that, “they should order guys who are really abusive to their wives that they are charged, I think, that they should order them to some kind of program in court plus some time. That’s they way I look at it.” Cassandra would like to “see them get help or just get time to learn. Yeah, it should be so he can learn. Just do your time, get time. Gradually they’ll get more and more time or they’ll learn not to do it anymore.” For Cassandra, jail was the only option for her partner. “They shouldn’t get fines or they shouldn’t get fine option program or, um, [to serve time on] the weekends. They should get a sentence that runs different from their other charges, but they should get a lot of time, not running concurrent. Get an amount and do all of it, and not get a (what do you call those?) suspended sentence.” There is a sense from all the women that generally abusers get too many chances. This not only provides men with the opportunity - but the licence to abuse. The women’s standpoint on this issue is reflected in recommendation #53 in the Report:

53. Corrections should develop:

a) A second-stage spousal abuse treatment program for offenders. (Lavoie Report, 1997:72)

However, the Report focuses on treatment for male offenders, not counselling for victims. Viewing women's needs as multidimensional allows us to recognize that women who are victimized by abuse are struggling to recover from harms that run deep within their minds, hearts and souls. The damage to their sense of self, self esteem and identity requires, in some cases, intensive therapy to reverse. Many women do, in fact, present with severe depression and other mental health issues after living in an abusive relationship. Victim blaming discourse, however, seems to arise in the context of attending to women's emotive and mental health needs. It is imperative that service providers and government funding bodies resist the tendency to pathologize women's needs in this way, and to not focus exclusively on the treatment needs of offenders. Most of the women recognized a pressing need for more available, accessible and low or no cost counselling. In Kelly's view, "there should have been even something for the women, you know. Like, even though you're not the one being charged, there should be something for the women but there isn't. I guess you have to seek it out yourself." The only recommendation in the Lavoie Report that follows in line with the women's call for counselling programs is #70 (noted in the above section) which recommends increasing funding to organizations which provide services to victims of abuse.

COMMENTARY

A more thorough examination of the benefits and drawbacks of each recommendation is beyond the scope of this discussion. However, there are a few recommendations that I found particularly troubling which warrant attention. Given the emphasis in this analysis on

listening to, and learning from, the women who are victimized by male violence, one would hope that the women's input be sought in carrying out these recommendations. First, recommendation #88 states:

88. The Government of Manitoba should establish a committee, including both government and community-based members, to oversee the implementation and coordination of the recommendations herein in accordance with its long-term strategy. (Lavoie Report, 1997:116)

Granted, there may, in fact, be survivors of abuse on the committee, but their presence there is imperative, not coincidental. Almost all of the women in my study, either implicitly or explicitly, acknowledged a need to have their voices heard. Janice states, "I think they have to look at the women's point of view seriously." For Corrie, "well to me, I would have, I don't know, had a say, I guess." Brandy responds in similar fashion: "[T]here's already shelters but try to get them to understand things from our point of view." There is no requirement that government seek the input from the women who are, or have been, victimized by abuse.

Another recommendation that may be cause for concern is #22, which states:

22. Crown Attorneys should develop strategies to allow more domestic cases to proceed to trial without the victim's participation or cooperation. (Lavoie Report:1997:44)

Although the Report reads, "Crown Attorney's must be sensitive to the needs of victims when prosecuting domestic violence cases," further marginalizing women and decreasing their limited role may have particularly negative consequences. We need to ask whether this would further isolate women from the system and serve to silence their opinions? Some women want the charges against their partners stayed. On the other hand, there may be positive aspects to

this recommendation, such as not requiring women to testify against their partners. Admittibly, this issue is a complex one.

Finally, since women's dependence on men serves to limit their ability to leave an abusive relationship, accessible and affordable education for women in general is desperately required. So many of women's problems are tied to economic marginalization, especially since there are so many women who have left abusive relationships now relying of social assistance. Opportunities for educational programs need to be provided to women who have been in abusive relationships. Programs which work toward women's independence, through training and job placements, offer the means toward addressing women's needs. The Report speaks very little about women's economic situation, save for Recommendations #78 and #79, which emphasize domestic violence training for income security workers and including abuse history on application forms.

BEYOND CRIMINAL JUSTICE: TRANSFORMATIVE STRATEGIES

Reforming the CJS will not, in and of itself, transform the structural and ideological basis which sustains wife abuse. We must all direct our energies toward transformative strategies beyond criminal justice with the potential to meet women's diverse needs. Strategies that are amenable to helping women heal and rebuild their lives would be sensitive to diversity among women's needs, their experiences, their concerns and among the women themselves. Recommendations from the women themselves are most instructive: education; more smaller, informal support systems; and networks at the community level. Notice that law, rather than at the centre (although an integral part), is at the periphery. I have argued that

attention needs to be directed more toward the other dimensions of women's needs: economic, social, psychological, mental and emotional. Second stage housing, lower interest rates for single mothers and other such strategies bent on women's empowerment would provide women with the means to rebuild their lives. Women are afforded little protection if their communities continue to sanction abuse. Those working within the CJS may be setting women up to falter if support systems are not in place within their communities to meet the needs of women.² The communities where abusers return can either foster or abate their abusiveness. Viewing wife abuse as a complex, interactional social problem with systemic roots enables us to realize that transformative change can only occur by paying close attention to the material and ideological conditions which perpetuate wife abuse.

CONCLUDING REMARKS

Contemporary moves toward increasing criminalization, intensifying surveillance over individuals, more invasive intrusions into women's lives in the face of shrinking budgets, diverting money and support for feminist shelters, increasing economic disparity as seen in unemployment rates, the feminization of poverty, and racial, class and gender hierarchies and marginalization strike a sombre chord. Within this context, feminists today need to continue the struggle to respond to wife abuse. The work of the BWM is not yet complete. Responding to the problem (as has been said countless times before) means addressing more than the violence itself. Attention must be directed to the social, economic, cultural and political

² Many of the women admitted that identifying with other women who have similar experiences was helpful for them. This stresses the importance of places where women can go to feel like they are not alone, to learn from the experiences of other women and to find support from women who empathize with their experiences.

context surrounding abuse in tandem with a commitment to **address** the problem, not in isolation but at its roots, its outgrowths and its impact.

Alas, we are left with more questions than answers. We have only begun to break the silence around abuse. This is only the first step. How can we realize these recommendations? I have endeavoured to present an analysis of the impact which the CJS's response to wife abuse has had on some of the lives of the women directly affected by male violence, an analysis which starts and ends with the experiences of the women. I have attempted to contribute to the feminist literature by adding a central, yet largely absent, component to feminist debate around engaging the state: women's voices.³ In so doing, I have offered an alternative understanding of women's needs and choices. Through my feminist standpoint, I have argued that women's needs cannot be fully met by a system which, by its very nature, is contradictory to women's experiences. In short, foundational limitations hinder the CJS's ability to help women. From the women's stories, there is much to learn about how feminists can bring about transformative change which addresses women's needs and challenges the problem of wife abuse. In this concluding chapter, I have endeavoured to explore the extent to which the recommendations of the Lavoie Inquiry can potentially bridge the lack of fit found in this study between women's experiences or their needs and the CJS response. In these ways, this thesis project makes an important contribution to the social science and feminist literature.

The struggles of these women to save their children, to make ends meet, to heal, to

³ In addition, I have offered insights into the "method question" in feminist circles. That is, the importance of particular methods being suited to what is being studied.

rebuild their lives are telling stories of obstacles, of being silenced, of blocked opportunities, of sexism, racism - - basically of exclusion, difference and othering. But, on a brighter, more positive side, they are stories of courage, of hope and of survival and faith in new beginnings and a better tomorrow for women in need. It is up to us as feminists and as activists to not let their struggles be in vain.

To make changes you need the information from battered women

REFERENCES

- Acher, Joan et. al., 1983. In Gelesthrope, Lorraine and Allison Morris (eds). *Feminist Perspectives in Criminology*. Milton-Keynes: Open University Press.
- Barnsley, Jan. 1988. Feminist Action, Institutional Reaction. *Resources for Feminist Research*. Vol. 17. No. 3. (September): pp. 18-21.
- Beaudry, Micheline, 1985. *Les Maisons de femmes battues au Quebec*. (Montreal: Saint-Martin, 1984). Translated into English under the title *Battered Women*. Montreal: Black Rose. 1985. In Andrew, Caroline, and Sanda Rogers (eds). *Women and the Canadian State*, Montreal and Kingston: McGill-Queen University Press.
- Begin, M. 1997. The Canadian Government and the Commission's Report. pp. 12-26. In Andrew, Caroline, and Sanda Rogers (eds). *Women and the Canadian State*, Montreal and Kingston: McGill-Queen University Press.
- Begin, P. 1991. *Review of Domestic Violence*. Government of Canada: Ottawa.
- Blackstone, W. 1765. *Commentaries on the Laws of England*. London.
- Biener, Ken. 1993. *The Winnipeg Police Department: Family Violence Policy and Procedure*.
- Breines, Wini, and Linda Gordon. 1983. The New Scholarship on Family Violence. *Signs: A Journal for Women in Culture and Society*. 8(3) pp. 490-531.
- Brickey, S. 1986. The Marginalization of Victims and Offenders in the Criminal Justice System. In *The Social Basis of Law*. Toronto: Garamond Press.
- Burris, C, P. Jaffe. 1983. Wife Abuse as a Crime: The Impact of Police Laying Charges. *Canadian Journal of Criminology*. (3) 309-318.
- Cain, Maureen. 1990. Realist Philosophy and Standpoint Epistemologies or Feminist Criminology as a Successor Science. In Gelesthrope, Lorraine and Allison Morris (eds). *Feminist Perspectives in Criminology*. Milton-Keynes: Open University Press.
- _____. 1986. Realism, Feminism, Methodology and Law. *International Journal of Sociology of Law*. Vol. 14: pp. 255-267.
- Centre for Research on Family Violence and Violence Against Women. Family Violence Court Tracking Project. Unpublished results.

Centre for Research on Family Violence and Violence Against Women. Family Violence Court Tracking Project. 1995.

Clark, Lorene. 1997. Reminiscences and Reflections on the Twentieth Anniversary of the Commission's Report. pp. 3-11. In Andrew, Caroline, and Sanda Rogers (eds). *Women and the Canadian State*. Montreal and Kingston: McGill-Queen University Press.

Comack, E. 1996. *Women in Trouble*. Halifax, Nova Scotia: Fernwood Publishing.

_____. 1993. *FEMINIST ENGAGEMENT WITH THE LAW: the legal recognition of the Battered Woman Syndrome*. CRIAW Papers. No. 31.

Comack, E. and S. Brickey. 1987. The Role of Law in Social Transformation: Is A Jurisprudence of Insurgency Possible? *Canadian Journal of Law and Society*. /RCDS. Vol. 2:97-119.

Currie, Dawn. 1990. Battered Women and the State: From the Failure of Theory to a Theory of Failure. *Journal of Human Justice*. Vol. 1. No. 2 (Spring): 77-96.

Dobash, D. and Russel Dobash. 1992. *Women, Violence and Social Change*. London: Routledge.

_____. 1979. *Violence Against Wives*. New York: The Free Press.

Edwards, Susan. 1990. Violence Against Women: Feminism and Law. In Lorraine Gelsthorpe and Allison Morris (eds). *Feminist Perspectives in Criminology*. Milton Keynes: Open University Press. pp. 145-159.

_____. 1985. "Gender Justice?" Defending Defendants and Mitigating Sentences. In Edwards, Susan (ed). *Gender, Sex and the Law*. Kent: Croom Helm. pp. 129-154.

Faith, Karlene. 1993. State Appropriation of Feminist Initiative- Transition House, Vancouver, 1973-1986. In Faith, K. And D. Currie (eds) *Seeking Shelter*. Vancouver: Collective Press.

Findlay, Sue. Feminist Struggles with the Canadian State: 1966-1988. *Resources for Feminist Research*. Vol. 17. No. 3: 5-9.

Finson, Shelley Davis. 1985. *On the Other Side of Silence: Patriarchy, Consciousness and Silence - Some Women's Experience of Theological Education*. D. Min. thesis. Boston: Boston University.

Gelsthorpe, Lorraine and Allison Morris (eds). 1990. *Feminist Perspectives in Criminology*.

Milton Keynes: Open University Press. pp. 145-159.

Guberman, C. and S. Wolfe. 1985. *Violence Against Women*. Women's Press.

Harding, Sandra. 1987. *Feminism and Methodology*. Milton-Keynes: Open University Press.

Harstock, Nancy. 1987. The Feminist Standpoint: Developing a Ground for a Specifically Feminist Historical Materialism. In Harding, Sandra (ed). *Feminism and Methodology*, Milton-Keynes: Open University Press.

Health Canada. 1994. Unpublished Report

Hennessy, Rosemary. 1993b. Women's Lives/Feminist Knowledge: Standpoint as Ideology Critique. *Hypatia: A Journal of Feminist Philosophy*. 8(1). pp. 14-34.

Hilton, N. Zoe. 1989. One in Ten: The Struggle and the Disempowerment of the Battered Women's Movement. *Canadian Journal of Family Law*. 7 (Spring): 313-335.

hooks, bell. 1984. *Feminist Theory: From Margin to Center*. Boston: South End Press.

Johnson, Holly. 1996. *Violence Against Women in Canada*. Toronto: Nelson Canada.

Kelly, Liz. 1988. *Surviving Sexual Violence*. Minneapolis: University of Minnesota Press.

Kirby, Sandra, and Kate McKenna. 1989. *Experience Research Social Change: Methods From the Margins*. Toronto: Garamond Press.

Mackinnon, Catherine. 1987. *Feminism Unmodified: Discourses on Life and Law*. Cambridge: Harvard University Press.

_____ 1989. *Toward a Feminist Theory of the State*. Cambridge: Harvard University Press.

MacLeod, Linda. 1980. *Wife Battering in Canada: the Vicious Cycle*. Ottawa: Canadian Advisory Council on the Status of Women.

MacLeod, Linda and Cheryl Picard. 1989. *Toward a More Effective Criminal Justice Response to Wife Assault: Exploring the Limits and Potential of Effective Intervention*. Working Paper. Department of Justice. Canada Research and Development Directorate.

Martin and Mosher. 1995. Unkept Promises: Experiences of Immigrant Women With the Neo- Criminalization of Wife Abuse. *Canadian Journal of Women and the Law: The Legalization of Responses to Violence Against Women*.

- Martin, Del. 1976. *Battered Wives*. San Francisco: Glide.
- McGillvray, Anne. 1987. Battered Women: Definition, Models and Prosecutorial Policy. *Canadian Journal of Family Law*. Vol 6. No. 1.
- Naffine, Ngaire. (ed) 1995. *Gender, Crime and Feminism*. Dartmouth: Aldershot.
- Olsen, F.E. 1983. The Family and the Market: A Study of Ideology of Legal Reform. *Harvard Law Review*. 96: 1497-1578.
- Pearson, Patricia. 1997. *When She was Bad: Violent Women and the Myth of Innocence*. Toronto: Random House.
- Pedlar, Dorothy. 1991. *The Domestic Violence Review into the Administration of Justice in Manitoba (The Pedlar Report)*.
- Pizzy, Erin. 1974. *Scream Quietly or the Neighbours Will Hear*.
- Randall, Melanie. 1988. Feminism and the State: Questions for Theory an Practice. *Resources for Feminist Research*. Vol. 17. No. 3.
- Schecter, Susan. 1982. *Women and Male Violence: The Visions and Struggles of the BWM*. Boston: South End Press.
- Schneider M, Elizabeth. 1992. Describing and Changing: Women's Self Defense Work and the Problem of Expert Testimony on Battering. 14. *Women's Rights Law Reporter* 226 (originally published 1986).
- The Honorable Mr. Justice (Perry W.) Schulman. *Commission of Inquiry into the Deaths of Rhonda Lavoie and Roy Lavoie: A Study of Domestic Violence and the Justice System in Manitoba*. 1997. Government of Manitoba.
- Smith, Dorothy. 1987. The Ideological Practice of Sociology. *Catalyst*. 18. pp. 39-54.
- _____. 1979. *The Everyday World As Problematic: A Feminist Sociology*. Toronto: University of Toronto Press.
- Stanley, Liz, and Sue Wise. 1993. *Breaking Out Again: Feminist Ontology and Epistemology*. Toronto: Garamond Press.
- _____. (eds).1990. *Feminist Praxis: Research, Theory and Epistemology in Feminist Sociology*. London: Routledge.

Tigar, M and M. Levy. 1977. *Law and the Rise of Capitalism*. New York: Monthly Review Press.

Ursel, Jane. 1997. Considering the Impact of the BWM on the State: The Example of Manitoba. pp. 155-179. In Andrew, Caroline, and Sanda Rogers. *Women and the Canadian State*. Montreal and Kingston: McGill-Queen University Press.

Ursel, Jane. 1996. The Potential of Legal Reform Reconsidered: An Examination of Manitoba's Zero Tolerance Policy on Family Violence. In O'Riley-Fleming, Thomas (ed). *Post Critical Criminology*. Scarborough, Ont: Prentice Hall. pp. 56-77.

_____. 1992. *Private Lives, Public Policy: 100 Years of State Intervention in the Family*. Women's Press: Toronto.

_____. 1991. Considering the Impact of the Battered Women's Movement on the State: the Example of Manitoba. In Comack, E. and S. Brickey (eds). *The Social Basis of Law: Critical Readings in the Sociology of Law* (2nd ed). Halifax: Garamond.

Valverde, Mariana. Linda MacLeod, and Kirsten Johnson (eds). 1995. *Wife Assault and the Canadian Criminal Justice System: Issues and Policies*. Toronto: University of Toronto, Centre of Criminology.

Walker, Gillian. 1990. The Conceptual Politics of Struggle. Wife Battering, the Women's Movement, and the State. *Studies in Political Economy*. Vol. 33. (Autumn): pp. 63-90.

Winnipeg Free Press. May 17, 18, 19, 22 & 30; June 30, 1984.

Winnipeg Free Press. December 27, 1989.

Winnipeg Free Press. May 26, 1997.

Winnipeg Free Press. April, 1998.

Women's House Saving Action. 1985a. Vancouver Transition House: Current Refusal Statistics. Vancouver. June. In Faith, Karlene. 1993. In Faith, K. And D. Currie (eds) *Seeking Shelter*. State Appropriation of Feminist Initiative- Transition House, Vancouver, 1973-1986. Collective Press Vancouver.

Worrall, Anne. 1990. *Offending Women: Female Lawbreakers and the Criminal Justice System*. Routledge: London.

APPENDIX A
LIST OF WOMEN'S AGENCIES/ORGANIZATIONS/GROUPS

Downtown YMCA
Elder Abuse Resource Centre
Elizabeth Fry Society
Elmwood YMCA
Evolve
Family Dispute Services
Family Centre of Winnipeg
Feminist Therapy Offices
Fort Gary Women's Resource Centre
Immigrant Women's Association of Manitoba
International Centre of Winnipeg
Klinic
Native Women's Transition Centre
North End Women's Centre
Original Women's Network
Osborne House
Other Women's Resource Centres
Portage Provincial Gaol
Portage Shelter
Street Connections
South YMCA
University of Manitoba Women's Centre
University of Winnipeg Women's Centre
Women's Advocacy Program
Women Healing for Change
Women's Health Clinic

APPENDIX B
SIGN TO ADVERTISE STUDY
WOMEN'S EXPERIENCE
WOMEN'S STORIES
WOMEN'S WORDS

PLEASE READ

If you are a woman who has been abused by a male partner **AND** has been in contact with the police and/or courts for support, I am very interested in meeting you and hearing your story. My name is Joanne and I am a graduate student doing research on the effectiveness of the Criminal Justice System in Manitoba in responding to wife abuse.

In a private and confidential interview the women who participate will be asked about their experiences with the police and the Family Violence Court. Your participation is voluntary, so you can withdraw at any time. What you say will be kept completely confidential (except for the discovery of child abuse since the law requires these instances be reported).

If you are interested in taking part please call me at **783-5412**.

Thank-you, Joanne

APPENDIX C
SAMPLE LETTER TO CONTACT PLACES

To whom it may concern,

I am writing to you to request your support for a research project which is to be my Master of Arts thesis. I am a graduate student at the University of Manitoba undergoing the research phase of my degree. My research is an examination of the effectiveness of the criminal justice system's response to wife abuse in Manitoba based on the experiences of the women in abusive relationships, the supposed beneficiaries of reforms implemented within the system. To study the extent to which police practice (the zero tolerance policy) and changes within the court (components and personnel of the Family Violence Court) are sensitive to the varied needs, locations and experiences of women in abusive relationships I will endeavour to conduct open-ended semi-structured interviews with women who have been affected by such changes and seek to understand the impact of these changes on their day-to-day lives.

The support of your organization _____ is important for my research since I have decided to advertise my study and have the women wishing to participate contact me. I respectfully ask for your permission to place a sign within the office of your organization to advertise my research. Please see the enclosed copy of my sign. I would also benefit from verbal support for my study within your office. Ideally, if at all possible, I would like to meet with yourself and front-line workers at your convenience to further discuss my research and the potential of your involvement.

Thank-you. I am eager to hear from you. I can be reached on most days at work (204) 474-7043 or at home (204) 783-5412 (machine).

Sincerely,

Joanne C. Minaker

APPENDIX D
Referral Card

Studying Women's Experiences
with the Police &/or Court after Abuse

If you are interested in telling your story
in a private interview or would like more
information please call Joanne at
(204) 783-5412

Confidentiality Assured

APPENDIX E
INTERVIEW SCHEDULE

Introductory Comments

I want to thank-you for agreeing to meet with me today. Before we get started I would like to go over the consent form with you (explain consent and sign forms). As you know, my focus in this study is women's experiences with the police and the court (CJS). I am looking at how effective the police and the courts have been in dealing with the needs of women in abusive relationships. What I wanted to do first is let you know the different areas I hope we can cover today. I would like to talk about your experiences as a woman who has called upon the CJS for support and what sorts of things you encountered. Then, I would like to move on to discuss more specifically what happened with the police and the courts. To wrap up, I was hoping you could explain to me how you feel looking back on those experiences today and why. But maybe, it seems a good place to begin would be for you to tell me about yourself.

1. Probes below will be used to solicit information not generated from the general statement, "tell me about yourself":

Can you tell me your age?

Do you live in the city?

Do you have any children?

Do you work outside of the home?

Can you tell me what the last grade level you finished was?

How would you describe your ethnic background?

Are you married?

2. Can you tell me how you found out about my study? (To set the stage for questions around abuse experience)

3. Can you tell me how many times you, or someone else on your behalf has, called the police?

Probes below will be used to solicit information to clarify the experiences being referred to in the interview:¹

Can you tell me if there is more than one experience you would like to talk about today?

How long was the relationship?

How would you describe the abuse? How long did it go on for?

Unless there is anything more you would like to tell me now about yourself or the relationship(s), I would like to move on to talk more specifically about your own needs and expectations.

1. WOMEN'S NEEDS ²

Being a women who has called upon the Criminal Justice System for support, how would you describe your own needs at the time? (physical safety, emotional security, mental well being, immediate needs, long term needs, quality of life?)

What did you expect to happen when the police arrived?

What did you want to see happen?

*Did your case go to court?

What did you expect to happen in court?

What did you want to see happen?

¹ Different experiences of abuse will need to be accomodated. From this point forward if a women has had multiple partners abuse her then I will ask the women to make clear to which experience of abuse she is referring.

² Please note: the questions under the headings, Women's Needs, Criminal Justice Response, refer to each experience of abuse which resulted in contact with the CJS. That is, I am interested in the particular needs of women in each situation, for each partner and in each instance of abuse, and the response on the part of the CJS in each case.

Now I hope we could talk about what happened with the police and in court and your thoughts about how effective the CJS has been at responding to your needs.

CRIMINAL JUSTICE RESPONSE

POLICE

Can you tell me what happened when the police were called?

How did this meet your expectations? How so?

Can you describe how the police treated you? How was your partner treated?

In your opinion, how did the police respond to your needs?

COURT

Can you tell me what happened when you went to court?

Were you contacted by Women's Advocacy? Can you tell me about that? How helpful were they?

Can you describe how you were treated in the court? How was your partner treated?

What was the sentence he received? What did you think about that? What is effective? (e.g. did anger management or counselling work?)

Most importantly, I am interested in your own thoughts and feelings about your experiences we have talked about today. Basically, I would like to know the reasons behind your attitudes and opinions of the police and courts. Keeping this in mind, I would like to ask you to reflect on your experiences.

CONCLUSIONS

Looking at the effectiveness of the police, what are important considerations for your assessment? What about for the FVC? (What sorts of things come into play in your own evaluation, in how you view what happened?)

Looking back at your experience, are there benefits you can see from police and/or court

involvement? What makes you feel that way?

Was there anything you would say was harmful? What makes you feel that way?

What do you think needs to be done about wife abuse to help women in need?

We have covered everything that I was hoping we would today. Before we go, though, do you have any other opinions or attitudes you want to share about your experiences, or anything else we have talked about today? Or, is there anything else you feel should be covered?

(If not, or after) I appreciate your meeting with me today. I want to thank you for speaking so honestly and openly with me (provide woman with a listing of support groups and services if applicable)

I appreciate your meeting with me today. I want to thank-you for speaking so honestly and openly with me.

Debriefing

APPENDIX F
CONSENT TO PARTICIPATE IN STUDY

Name of Study:

**Juxtaposing the Criminal Justice System's Response to Wife Abuse With
 Women's Words: Parallel or Paradox?**

I understand that Joanne Minaker is undertaking a study of the effectiveness of criminal justice intervention for wife abuse based on the experiences of women in abusive relationships. I understand that my participation will involve an interview (possibly two) which will require 1-1 1/2 hrs. Participation is voluntary. I understand that at any time during the interview I may refuse to answer a question or withdraw from the study without any consequence. The interviews will be tape recorded (unless I object). Only the researcher, Joanne Minaker, will have access to the tapes. My information may be used word for word (verbatim), but my identity will remain confidential. Once the information is used by the researcher, it will be destroyed. I understand that all information will be kept in strict confidence, with one exception: any information related to the abuse and/or violence against children must be reported to the appropriate authorities.

I understand the purpose of the research and what my participation will involve. I am willing to take part in this study and discuss my experiences with the Criminal Justice System with Joanne Minaker. I give my permission to Joanne Minaker, the researcher, to use my interview for her research. If I wish, I can receive a copy of the final report by calling the researcher at 783-5412 or her Advisor Dr. Elizabeth Comack at 474-9673. This study has been approved by the Department of Sociology Ethics Review Committee. Any complaint regarding procedure may be reported at the Head of the Department of Sociology at 474-9260 for referral to the Ethics Review Committee.

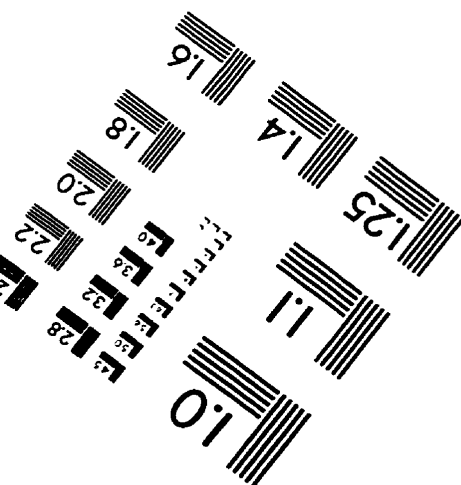
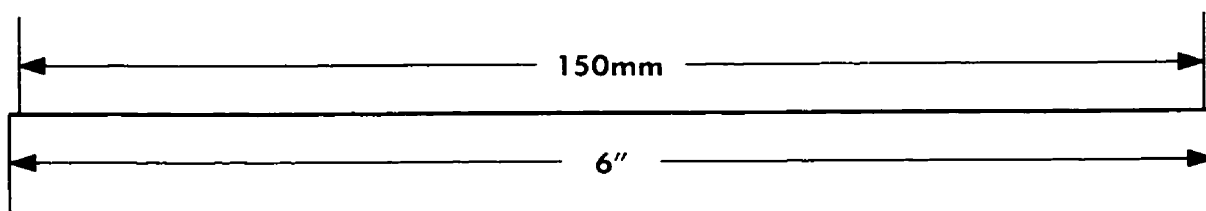
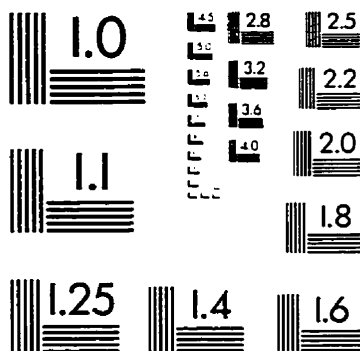
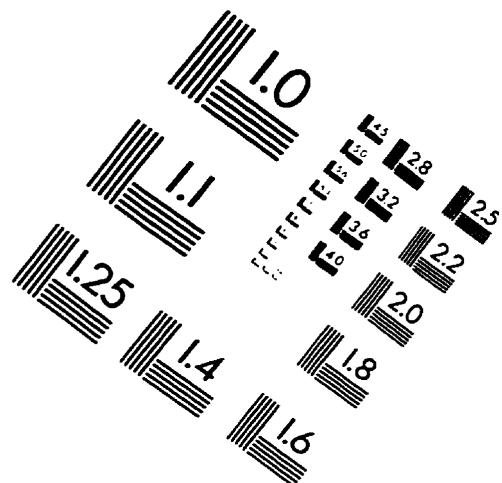
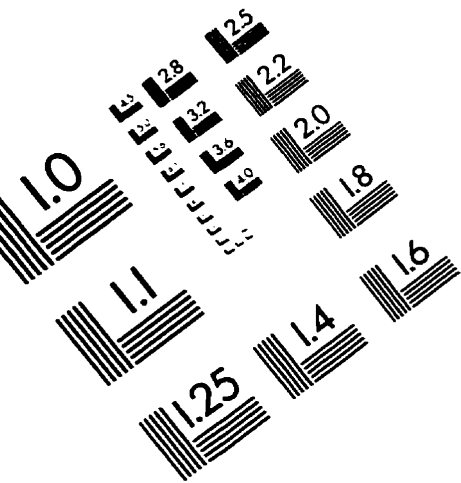
 Signature of Participant

 Date

 Signature of Researcher, (204) 783-5412

 Date

IMAGE EVALUATION TEST TARGET (QA-3)



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