

**Doing Policing:  
An Inquiry into the Rhetorical and Argumentative Skills  
of the Police**

by

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# Doing Policing: An Inquiry into the Rhetorical and Argumentative

## Skills of the Police

### Abstract

This thesis examines the spoken and written discourse of uniformed British police officers. Utilising a rhetorical and discursive analysis, the study considers firstly how officers use their considerable powers of discretion to deal informally with crime and criminal incidents. Focusing on a form of discretion that the police refer to as *cuffing*, two specific discursive practices were identified as being used by police to informally resolve crime: these were the giving of *suitable advice* and the *that's civil* device. The second part of the study was concerned with the formal prosecution process and how officers construct prosecution case files. Specifically, how they reformulate and précis evidence in 'domestic' violence cases to assist a Crown prosecutor in making a charging decision. In this normally confidential and non-public discourse, officers rely upon a very narrow range of linguistic devices and *speech genres*; these are combined with an equally limited array of gendered stereotypes and legal myths, with the result that prosecution cases can be 'subverted' (Sacks 1995) and thus discontinued. In both studies, the *doing* of policing was consistent with two occupational ideologies that are influential within police operational subcultures: the ideology of pragmatism and the ideology of self-preservation. The findings raise concerns about some of the working practices of the police.

Nicholas John Lynn.

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## AUTHOR'S DECLARATION

At no time during the registration for the degree of Doctor of Philosophy has the author been registered for any other University award without prior agreement of the Graduate Committee.

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Signed Nicholas Lynn

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*If you simplify your English, you are freed from the worst follies of orthodoxy*

George Orwell, 1946

## CHAPTER ONE

### INTRODUCTION

*“If it please your honour, I am the poor Duke’s constable, and my name is Elbow. I do not lean upon justice, sir; and do bring in here before your good honour two notorious benefactors.”*

Measure for Measure, Act 2: 1

This thesis is concerned with the rhetorical and argumentative skills of police officers. Its purpose is not to examine what the police do, but to understand how the police *do* policing. Admittedly, success with the latter, involves paying attention to the former. However, it does not follow that one is the logical consequence of the other: *doing* policing involves a great deal more than simply carrying out the activities that the police are expected to perform. The unique window that police work offers on the social world, and the daily experiences of dealing with the seedy and ignoble aspects of human activity, fosters the myth that *their* understanding of human behaviour and psychology is nonpareil (Skolnick 1966; Rubinstein 1973; Van Maanen 1978; Holdaway 1983; Punch 1983; Chatterton 1983; Waddington 1999). This, in turn, perpetuates another myth

. . . the mysteries of the occupation are so profound that one not immersed repeatedly in police operations could not possibly understand the constraints as well as the possibilities of particular circumstances. . . (Bayley & Bittner 1984: 35)

This 'you can't possibly understand it because you are not involved in it' notion underlies the sense of 'mission' (Waddington 1999; Reiner 2000) that is said to be a defining characteristic of the police; it alludes to a 'we know best' ethic that engenders resistance to change, provokes hostility to the ideas and influences of outsiders (Brown 1996; Ainsworth 2002), and reaffirms the unerring belief of police officers that they are indispensable in keeping anarchy and lawlessness at bay (Skolnick 1966; McConville et al., 1991; Reiner 2000).

Attractive though it may be to suggest that policing is esoteric and accessible only to others skilled in understanding the criminal wiles of human activity, such an approach imbues policing with a mystique that it does not possess: this is not to denigrate exponents of the police officer's craft, or to infer that the police have no expertise or insight into matters of social psychological importance. It is, instead, to acknowledge, as Van Maanen (1973) does that

. . . the police, like other stigmatized groupings, have invented sophisticated coping mechanisms designed to present a certain front to the non-police world (Van Maanen 1973: 4)

One purpose of this thesis is to demystify policing and go beyond the 'front' that the police present. Whilst there is nothing revelatory in observing that the police are inclined to obfuscation or that social scientists have worked hard to pierce

and unscramble this sophisticated police façade, two factors are advanced to support the claim that this research project offers a genuinely fresh and original view on policing.

Firstly, a radically different, non-cognitive, social psychological approach is employed that is quite distinct from the traditional and predominantly sociological research that has gone before. Secondly, this alternate epistemological approach is bolstered by my “insider status” as a serving police officer (Taylor 2001: 321). Historically, researchers or observers have struggled to overcome the suspicion and, at times, hostility of police officers to ‘outsiders’ (Brown 1996). Academics in particular, often find the police organisation ‘closed’ to them (Ainsworth 2002): by comparison, no such barriers or prejudices were encountered during my research. But, to suggest that the impetus for this thesis resides only in a desire to demystify and debunk the police is simplistic and inaccurate. The seeds of my argument and the genesis of this project may be traced to a number of serious dilemmas of ideology (Billig et al., 1988).

This opening chapter examines those dilemmas and how they were the provocation for this thesis. The chapter itself, which is intended to be reflexive and to make explicit my identity as a researcher, begins by examining the background to the project. Throughout, considerable attention will be paid to the researcher - to me. In many respects, I am as much a topic of this research as the stated topic itself. Consideration will be given to my relationship with the

wider police organisation and to the organisational and sub-cultural ideologies that exist within it. A consideration of these matters moves me on neatly to explore some of the dilemmas these ideologies posed, and still pose for me. Some of these are necessarily intertwined with the folk psychology and the operational or working methodology of police. Unpicking these issues allows me to set out the rationale for the study, which in turn invites further discussion about the general aims of the research. Finally, I will conclude with an outline of the chapters.

### **1.1. Irony and disquiet**

It is with a certain irony and some measure of hypocrisy that I confess I am uneasy about the institution that employs me. My disquiet stems less from the role that the police have in society [although this is not without its difficulties], and more from the practices that the police employ in carrying out that role. By practices I refer to the formal and informal rules and procedures that police officers adhere to as they go about their daily business. Some, such as the Police and Criminal Evidence Act 1984 [hereafter sometimes referred to as PACE] and the associated Codes of Practice, are the product of jurisprudence and the process of law which enshrines these practices and 'guidelines' in legal statutes and the formal policy documents of police organisations. Of greater interest to this research project, are the larger numbers of informal practices or so-called 'working rules' (Waddington 1999; Reiner 2000). These are the

operational axioms of police sub-cultures and underwrite police 'occupational ideology' (Van Maanen 1973:34); furthermore, they contribute to the *common* or shared knowledge of the police that has been accumulated over a long period of time. Such informal practices vary in their legitimacy and use. As some fall from favour so others gain greater currency; they nevertheless reflect the prevailing *sensus communis* of the police as much as they constitute it (McNulty 1994).

To the uninitiated, the commonplaces of the police can appear confusing and often obtuse: like all *common* sense it is contradictory and, as we shall see later, it is frequently at odds with the common sense of everyday life (McNulty 1994).

Understanding why this might be requires us to breach the crusty and often brusque conservative exterior of the police organisation (Skolnick 1966) and access the clandestine and occasionally seething sub-cultures of the 'federated' or lower ranks of the police (Reiner 2000). Senior officers may have their own sub-cultural cliques and associated practices; but, while the ability to formulate policy and the authority to issue orders and edicts is theirs (Walklate 2001), the implementation or subversion of both the law and police organisational policy ultimately lies with police officers of the lowest ranks (Westley 1970). To put it another way

. . . the police organisation is directed not by legal and administrative rules to which police actions approximate but by a series of *interpretations* by lower ranks which vie with legalistic and other rules. (Holdaway 1983: 17 my emphasis)

Hence it is important to acquaint ourselves with the knowledge and the 'logic' that informs *their* thinking; to recognize the practices through which this knowledge and logic is enacted; and to understand and analyse *their* interpretations. There is nothing esoteric about these things, the problem lies in gaining access to some of them.

Academics and researchers have traditionally found it difficult to penetrate the police occupational environment (Brown 1996; Ainsworth 2002). 'Reality' television's passion for real-life police drama may have lowered the police organisation's resistance somewhat; but, the camera's intrusive gaze, like the attention span of its audiences is limited. The more subtle [and often less visual] day to day craft aspects of policing remain closed to the 'outsider' - those that are illegitimate even more so (Van Maanen 1973; Ainsworth 2002). As self proclaimed experts in their field, the police resist knowledge or expertise from without (Skolnick 1966; Sacks 1972; Ainsworth 2002). The strong *esprit de corps* that exists amongst police officers both sustains and is sustained by these enduring and occasionally coercive occupational sub-cultures (Skolnick 1966; Bittner 1970; Van Maanen 1973). To those initiated into it at an early age, or who have little or no occupational experience elsewhere, the police world is compelling. Even those of us with eclectic life experience - I trained as a visual artist and sculptor before running away to sea for a few years – and who have developed an irreverent approach to orthodox thought, and a recurring tendency to insubordination, still find the police culture difficult to resist. Whether we like it



or not, these subcultures remain intrinsic to the police officer's craft (Skolnick 1966) and to the *doing* of policing (Reiner 1992; Waddington 1999; Wilson et al 2001). Chessyre offers a not altogether inaccurate analogy when he describes the police organisation as being like

. . . a giant school with too many pupils in the D stream. The bright kids do okay, but they are rapidly removed to the sixth form, from where their impact on the school culture is minimal. Out on the playground it is easy for those left behind to lapse into an uncritical acceptance of some pretty negative attitudes. (Chessyre 1989: 150-1)

Predictably perhaps, 'insiders' who remain in the 'playground' and take the path that I now tread, also encounter resistance and hostility when daring to offer a critical view (Holdaway 1983). Given the police organisation's traditional inability to deal well with criticism (Brown 1996), coupled with the strong tribal bond that the police sub-cultural milieu promotes, it is no surprise that officers who are seen to 'break ranks' are regarded [by some at least] as disloyal or unprofessional and not to be trusted. That certain irony and hypocrisy that I referred to earlier, now becomes apparent.

Eleven years ago the police provided me with the opportunity [and the funding] to return to academic life: were it not for the police organisation that I now appear to slight, this research project would probably never have come about. The consequences of my academic enlightenment are that my understanding of the social world, and the police perspective on it, was irrevocably changed. Subsequent advancements in my intellectual prowess are reflected in the

increasingly incisive gaze that I now cast. Such a gaze provokes a number of dilemmas. Some are profound and all are *ideological* in nature (Billig et al, 1988). Indeed, for someone in my position, even the question of how to resolve those dilemmas is dilemmatic: my response is this thesis. From a personal perspective, the cathartic and 'self enlightening' (Fuhrman & Oehler 1986) value of this enterprise is no less important than the academic one. What then, are the dilemmas that led me to embark on this project?

## **1.2. Dilemmas? What dilemmas?**

Firstly, it must be conceded that what I consider to be dilemmas may not be regarded as such by other police officers. Indeed, there are a great number of police officers who are entirely comfortable with the office of constable and who carry out their duties with integrity and professionalism: the ideological quandaries that beset me rarely trouble or constrain them. On the street they go about their daily duties confident in the knowledge that their socio-legal authority is enshrined in legal statutes such as PACE or vested in the common law. This authority is made manifest through the practices and procedures of the police organisation and the guidelines set out in the Police and Criminal Evidence Act 1984, as well as by the police sub-cultural groups in which they operate. Officers go about their business on the understanding that they operate according to a 'communal will' or for a 'greater good' (Mark 1977: 12) and that they are somehow neutral or impartial in their approach to the legal, social and moral

obligations they discharge (McConville 1991). For many, the ethos of policing is simple

*. . . We are here to enforce the law. We are not wardens. We are not here to sort out arguments between girlfriends. We are not here to be sworn at and we do not warn people – we arrest people, we put them in jail and then we come out again for the rest of you. (Copperfield 2006: 173 emphasis in the original)*

PC 'Copperfield' (2006) is a serving police officer who has gained celebrity and some notoriety through his online blog <http://coppersblog.blogspot.com/> and subsequent book. His observations and anecdotes have an enthusiastic audience, and he provides them with tales of what police officers 'really' think and do. The approach to policing that Copperfield articulates is one that is widely held in the police. For many police officers their work is dichotomous: the social world, the people in it, and their behaviour are reducible to either 'this' or 'that'. Dealing with the bits in between, as police officers will often tell you, is a job for 'social workers' (Graef 1989; Stephens & Becker 1994). In many instances, this dualist approach to the world and to policing is amplified by the removal of police discretion in certain circumstances. 'Domestic' assault for example was traditionally regarded by the police as not their business. It is a crime that is replete with moral and cultural contradictions, and discretion was regularly used to avoid arresting perpetrators. Subsequently, police policy has been amended to ensure that 'positive action' [which is not defined] must now be taken at all domestic incidents. By removing discretion in specific instances, legislators and Chief Officers acknowledge the dilemmatic nature of police work or of particular

events and they have tried to alleviate those dilemmas through the creation of a “just following orders” (Copperfield 2006: 246) ethos. In this way, dilemmas of ideology and conscience are externalised (Edwards & Potter 1992) with the result that for some officers their dilemmas are minimised, for others they may even be resolved.

Yet, even before my academic epiphany, it was apparent to me that ‘just following orders’ was a widespread and pragmatic device that was useful in absolving officers of personal responsibility; I was aware too, that its use extended beyond those instances where police discretion had been removed or was limited. For me, rather than easing or minimising my ideological and moral dilemmas, its use became an added dilemma. The quasi-military “punishment centred bureaucracy” (Waddington 1999a: 301) of the police compounds this dilemma all the more because it ensures that objections or dissent amongst officers is stifled (Stephens & Becker 1994: 221). A police officer interviewed by Roger Graef nearly twenty years ago summed up the difficulties

There's been lots of times I wanted to complain about things that are wrong in the police . . . But I've reached for my pen, and I've thought about the wife and kiddies and the mortgage. I can't risk anything happening to my career. So I swallow my frustration. It's a shame, but that's the way things are in the police. Sorry if I sound paranoid, but everyone watches their backs in the office and their fronts on the street. (Graef 1989: 148-9)

This is why PC Copperfield, and other career officers like him, must resort to using a pen-name and a web log to voice dissent. But if unquestioning

adherence to organisational and procedural rules proved to be a dilemma for me, the same is also true [as domestic assaults have shown] for the use of unfettered discretion that is still available to police officers in much of their work.

Few who join the police, will be prepared for the degree of autonomy that the activity of policing and the office of constable permits. It certainly surprised me. From the outside, the police organisation presents a stern image of a “classical bureaucracy overlain by the rituals and insignia of military practice” (Punch 1983: 228). Senior officers have the authority to issue orders and the lowest tiers of the police, so one would presume, carry them out. However, from the inside, although a quasi-military discipline is evident, and officers are controlled or constrained in many ways, I find, like Maurice Punch (1983) that the police are prone to be “casual, lackadaisical, offhand, ad hoc, and lowly motivated . . .” (Punch et al., 1983: xii). With hindsight, and the benefit of academic experience, I realise that if I had read any of the research on the police before joining, I would not have been so surprised (see Banton 1964; Skolnick 1966; Bittner 1970; Cain 1973; Rubinstein 1973; van Maanen 1973; Manning 1977; Holdaway 1983; Punch et al., 1983; Reiner 2000). But if I was taken aback by the degree of autonomy that police officers have, and the contradictions and contrasts that characterise policing, I was equally unprepared for the way in which the police go about their work.

### 1.3. Folk Psychology and policing

Psychology is intrinsic to the business of policing and to the criminal law (Shapland 1981; Allen 1991; Ainsworth 1992; Harrower 1998). For more than 150 years the police have plied their trade and are the self-proclaimed experts in all matters criminal (Skolnick 1966; van Maanen 1973; Manning 1977; Holdaway 1983). Police officers may know little of established psychological or sociological theory [although of course some do], but as criminal justice practitioners required to intervene in the lives of other people on a daily basis, they have developed a practical understanding and awareness of human behaviour and psychology, and a corpus of knowledge and experience to match.

Naively perhaps, when I joined the police I had presumed their operational methodology would be reasonably systematic, and perhaps even analytically fairly rigorous. Instead, I and my fellow novices found that we were tutored in a farrago of lay socio-psychological 'techniques' or strategies (McNulty 1994). This 'folk psychology' has a strong pseudo-Lombrosian and behaviourist bent and, like many folk psychologies "is generally conceived cognitively as people's *mental models and representations* of human life. . ." (Edwards 1997: 250).

McConville et al put it well when they write that policing on the street "continues to operate with nineteenth-century methodologies" (McConville et al., 1991: 206).

The folk psychology of the uniformed police officer and the plain clothed detective relies upon gross categorisations and particularisations, labelling,

stereotyping, intuitive hunches, confessions, and a fair slice of luck. In this method, being “known to the police” (McConville et al., 1991: 23), acting in a furtive or ‘unusual’ manner (McNulty 1994), delivering a ‘seven-second stare’ or making direct and prolonged eye contact, being disrespectful, lacking deference, recalcitrance, swearing, drunkenness and generally failing the ‘attitude test’ as police officers call it, are all forms of incongruity that guarantee close attention from the police. I may not have known it back then, but what Sacks (1972) called the ‘incongruity procedure’ was an essential if unaccredited element of my police apprenticeship and that of every other officer before or since. Having spent ten weeks at police training college prior to my first period of tutorship out on the streets, and where we were instructed on how to enforce the law according to the guidelines in the Police and Criminal Evidence Act [which expressly forbid a reliance on stereotypes and categorisations]; it was unsettling to find that this was how operational police officers worked – more so, how I was expected to work.

Unfortunately, any scepticism or apprehension about the effectiveness or legality of this ‘method’ must be put to one side if the student officer is to progress his or her apprenticeship. As novice constables we quickly came to understand that successfully completing your tutorship requires you to make this method work. Our dilemma, for it was not just I who had a problem with this, was made only slightly more manageable through the apparent effectiveness of this method which, superficially at least, appears to ‘work’. Bending the formal legal rules, so

we learned, is part of the informal working culture of the police. Often known as the 'Ways and Means Act' (Reiner 2000: 87), the ends are used as justification for the means because they get the job done. PACE may be the theoretical ideal, but the Ways and Means Act is about pragmatism: this is what Skolnick (1966) referred to as the 'working personality' of the police. Thus, every stop and search carried out according to these procedures, and which yields a controlled drug or an offensive weapon is held up as 'proof' of the procedure's validity: those encounters that yield nothing are not discounted either, as they are still taken as evidence of what is called a 'proactive' policing approach – all of which 'generates' the common-sense on which they rely (McNulty 1994). It became obvious during the early part of my tutorship that I, and my fellow novices, were being encouraged to understand policing as little more than a target or performance-led game: the wider *human* consequences of our actions, which were not so easily quantified, were frequently overlooked and almost always subordinate to the police imperative of detecting crime and prosecuting offenders (McConville et al., 1991).

Similarly, the folk psychology of the police that persuades novice constables to be suspicious of anyone and everyone also encourages them to regard the general public as unreliable and 'disorderly' (Holdaway 1983). The public, it seems, cannot report events 'accurately': either they have a tendency to 'overstate' or 'exaggerate' reports of crime [this is why police officers invariably take statements from witnesses] or, conversely, they are inclined to 'invent'



crimes where none exist. This observation, so my tutor constable assured me, was sufficient justification for making sure that we, as police officers, learn how to define, re-define and interpret [or re-interpret] incidents and events – often in quite arbitrary ways. Police perceptions of the seriousness of events might vary from those of the public at large (Jones et al., 1986; McConville et al., 1991); but there is certainly a sub-cultural view of the general public that some officers actively adopt which can only be described as patronising (Holdaway 1983). These are the commonplaces of the police occupational environment.

Of course, the folk psychology that the police use is not exclusive to them alone. The criminal law and adversarial advocates rely upon many of the same cognitivist, pseudo-Lombrosian and behaviourist presumptions (Williamson 1996); but there are some additional caveats

The criminal law does not seek to punish people for their evil thoughts; an accused must be proved to be responsible for conduct or the existence of a state of affairs prohibited by the criminal law before liability may arise . . . A Latin maxim encapsulates this principle – *actus non facit reum, nisi mens sit rea* – the act itself does not constitute guilt unless done with a guilty mind. (Allen 1991: 15)

Criminal law thus assumes a number of mental components and other de facto elements. Not only is the dualism of mind and body accepted, the concept of 'mind' is central to it. For the criminal lawyer and the police officer, a number of other presumptions follow on from this. Firstly, that access to a persons 'mind' is possible. Secondly that language is the "conduit for transporting thoughts

between minds” (Potter 2005: 741), and thirdly, that adversarial advocacy is conducive to that task. Before I undertook my academic journey none of this was particularly problematic: but since my turn to language, the belief that mental predicates such as ‘intent’ and ‘motive’ occur “in my head” (Ryle 2000: 38) and are assessable through the referential and representational qualities of language, is one that is no longer acceptable. As Ryle puts it

. . . to follow what another person says or does is to make inferences somewhat like those made by a water-diviner from the perceived twitching of the twig to the subterranean flow of water . . . (Ryle 2000: 52)

The belief that “psychological divining” (Ryle 2000: 52) or “mind reading” (Antaki 2004: 680) as others have described it is entirely possible, is at the heart of law and legal presumptions: given that psychological divining is central to the doctrine of orthodox psychology, its ubiquity in social and academic life is hardly surprising (Antaki 2004; Watson & Coulter 2008). As my ideological dilemmas increased, and the possibility of a doctoral thesis became a realistic possibility, it began to occur to me how different any study of the police or the law might be if an alternate psychological approach were taken.

#### **1.4. The rationale**

Good critical research into the police has, in the past, prompted hostility from the police organisation. The consequence of this has been that there is “no natural sympathy towards research” within the police (Brown 1996: 178). Traditionally,

access to the police for research purposes has always been difficult (Ainsworth 2002) and the frosty relationship that has developed with academics means that access for them is tougher still. The distrust that the police exhibit to anyone other than police officers, and the professional and social isolation this engenders, ensures that much of the police officers craft remains inaccessible to academic scrutiny. Those facets that are obscured from view are inclined to be those which are at odds with public expectations of policing. The concept of a 'Ways and Means Act' for example, is not intended to be public knowledge; its power and effectiveness depend upon its relative invisibility, as does its continued use – if it were common knowledge, its dubious status would soon attract adverse comment. The success that the police have had in keeping facets of their craft away from the public or academic gaze prompts Rubinstein's observation that

Despite the attention of countless writers, reporters, and scholars, our understanding of what policemen do and what police work is remains murky. (Rubinstein 1973: ix)

Ten years later, Holdaway (1983) lamented that things had still not changed. Unacceptable though this may be, it occurred to me that an opportunity to address this situation now presented itself; although the police would be less than enthusiastic about it. The police, as we know, are not particularly good at accepting criticism from 'outsiders' (Brown 1996; Ainsworth 2002). However, their response to the 'insider' who adopts a critical gaze or a challenging stance attracts an even greater level of vitriol (Holdaway 1983; Young 1991): the "inside

outsider” (Brown 1996: 183) may have some advantages in avoiding predetermined hostility or suspicion as ‘outsiders’ do, but when *any* whiff of dissent toward the received wisdom of the occupational police milieu is detected, at least some, if not all of those ‘insider’ privileges are likely to be surrendered. The binary structure of the police world means that anyone who is not seen to be ‘with’ them is against them (Waddington 1999; Reiner 2000). Or, to put it another way the vitriolic police response comes from the belief that

To publish accounts for police conduct is to break the solidarity and secrecy of a culture which seeks to keep the washing of dirty laundry private. (Brown 1996: 182)

Whilst many organisations and institutions are reticent about their internal affairs being made public, few have an organisational ethos [supported by a rigid discipline code] that is as proscriptive as the police. In addressing the ideological and ethical dilemmas of my everyday working life I, like PC Copperfield and the disgruntled officer in Graef’s research, accept that most cannot be alleviated from within the police organisation or with the blessing of many of its members. But, while dirty laundry remains hidden from view, there is no incentive to wash it. If policing is to progress, we need to understand *how* and *why* it is that the laundry remains unwashed. Given the circumstances, that can only be done by applying pressure from without, and a focused, well researched, comprehensively evidenced, and analytically rigorous exposition from a researcher with ‘insider knowledge’ (Brown 1996) would seem to be the appropriate vehicle for doing just that.

### 1.5. The aims of the study

Policing, as the reader will see, is an occupation that is rife with contradictions and competing aims (Banton 1964; Cain 1973; Holdaway 1983), hence the profusion of dilemmas that exist for the police officer (Brown 1988). Sociologists, ethnographers and the occasional journalist have recorded and speculated upon many of the informal practices that the police use; but, simply identifying and enumerating these less visible and often esoteric practices (Suchman 1987), and moving them into the analytical foreground is one thing: knowing *how* police officers go about accomplishing them is quite another task. A principal aim of this study is the *knowing how*; for it is here, I will suggest, that we gain our greatest insights into the doing of policing.

The epistemology of this endeavour also encourages two other equally ambitious aims. The first is to re-establish a strong and dynamic social psychological presence in police research which for too long has been monopolised by the sociologist. There may be many overlaps between the disciplines, but the fact remains that the social psychologist, especially a discursive or rhetorical one, asks different questions, looks and searches in different places and enquires of other things. The relevance of psychology to the business of policing and to the criminal law extends beyond the occultist divinations of cognitive and 'forensic' psychologists as they are applied to individuals, to a truly *social* psychology that occurs outside of people's heads, in their dialogue with each other and in their

social practices (Bakhtin 1981; Volosinov 1986, 1987): these things are as much psychological as they are sociological.

Secondly, applying a non cognitive, discursive psychological approach to a study of the police, promises to reshape the current academic landscape of police research – to what degree, will remain to be seen. And whether the police care to admit it or not, if that occurs it will filter back to them. The influence of previous academic research has been considerable, even if it has also been tortuously slow. Much of the pioneering work from thirty or forty years ago is now percolating into the police organisation (Banton 1964; Bittner 1967, 1970, 1974; Cicourel 1968; Cain 1973). On a formal level at least, these and other academics have re-shaped a great deal of what the police do and how they do it; but, on an informal and sub-cultural level, their influence has been less successful and it is with the practitioner that I hope to provoke debate.

### **1.6. A brief outline of the chapters**

My thesis consists of six chapters, including this introduction. Chapter 2 sets out my framework for analysis and explores, in detail, the three closely aligned but theoretically distinct approaches that inform my research. Having made my theoretical approach explicit, Chapter 3 provides an opportunity to consider some of the existing literature. In doing so, the reader is offered some contextual background to the police and the business of policing, and some comparison with

the different approaches that other writers and theorists have adopted. Three specific areas of police research are considered and the chapter begins by examining and comparing the two competing genres that are a distinct feature of police histories. Historical accounts inevitably raise questions about policing and the function of the police and so it is appropriate that this is the second area of police research to be explored. Finally, the business of policing is inseparably linked to the informal organisational sub-cultures of police officers. The ideologies of these sub-cultures exercise a powerful influence on officers and the way in which they work, and it is with a detailed examination of this literature that the chapter concludes.

Chapter 4 is the first of two analysis chapters. The first analysis concentrates on spoken police discourse. Here the data consists of the 'naturally occurring talk' (Edwards & Potter 1992: 28) of police officers as they interact with members of the public. The chapter includes a detailed section on the method employed to gather the data. And, as the chapter unfolds, a number of distinct and informal discursive practices and sub-cultural ideologies are examined and discussed. From these, the notion of 'subversion' (Sacks 1995) emerges, as does the importance of the occupational philosophy of 'covering your arse' (Chan et al., 2003; Chan 2007).

Chapter 5 is the second analysis. Where the previous analysis concentrated on the informal resolution of crime and the use of subversion, here my interest is in

whether subversion is feature of the formal prosecution process. The data from which this analysis derives consists of written texts taken from an assortment of police prosecution files. Specifically, attention focuses on the short report form that police officers must use when submitting a prosecution file to a Crown Prosecutor for a decision on whether a prosecution case will go ahead or be discontinued. Three genres of police discourse, 'impartiality', 'credibility' and the '*real* victim' feature in this analysis. As with the previous analysis, the chapter includes a detailed section on method.

Finally, in Chapter 6 both analyses are considered together and conclusions drawn. Comparisons are made with other police research and I assess the fruitfulness of employing a discursive approach, and the implications of my findings for the police and the criminal justice system as a whole. The thesis concludes by offering some suggestions for further discursive and rhetorical research.



## CHAPTER TWO

### GOING BACK TO THE FUTURE: RHETORIC, DISCOURSE AND DIALOGISM A FRAMEWORK FOR ANALYSIS

*“One word, sir. Our watch, sir, have indeed comprehended two auspicious persons, and we would have them this morning examined before your worship.”*

Much Ado about Nothing, Act 3:5

#### 2.1. Introduction

The ‘crisis in social psychology’ (Elms 1975) that occupied the pages of important journals and provoked debate amongst traditionalist and ‘dissident’ (Kristeva 1986; Gergen 2007) academics, has long since passed. Almost forty years on, the ‘official doctrine’ (Ryle 2000) of the cognitive psychologist continues as the dominant paradigm in psychology and social psychology: yet, the epistemological dilemmas that prompted the ‘crisis’ remain unresolved (Henriques et al., 1998). For the traditionalist “the crisis is settled” (Gergen 2007: 52), and the “intellectual snobbery” (Billig 1996: 6) that was itself part of the ‘crisis’, and which alienated and antagonised many of those who would become

dissident, still exists. If the 'crisis' is to be regarded as the first serious argumentative skirmish in a scientific and social psychological revolution, then we should expect to see

. . . an increasing shift in the distribution of professional allegiances . . . if the paradigm is one destined to win its fight, the number and strength of the persuasive arguments in its favour will increase. (Kuhn 1996: 158-9)

Indeed, that is exactly what has occurred; far from quietly conceding defeat, the dissidents have been busy. Unlike forty years ago, the epistemological ideas which the dissidents used to berate their cognitive peers have grown in stature: more importantly, new and equally persuasive arguments are being made (Potter 2003). Moreover, the ranks of the dissidents have swelled and a flourishing disciplinary heritage now exists, the success of which is evident in the trappings. The dissident or 'critical' paradigm now has its own journals and research grants and its own elite of senior academics. What is more, ". . . for an increasing number of young academics the critical paradigm is the major paradigm in their academic world" (Billig 2000: 292). Within this academic landscape, the rules of argumentative engagement are shifting.

One consequence of this altered environment is that the 'dissident' researcher no longer feels obliged to offer apologies for not adhering to psychology's 'official doctrine' (Ryle 2000); or for employing its methodologies or analytical frameworks which are invariably orientated to laboratory experiments, statistical analysis, or de-contextualised [re]testable modelling (Billig 1996). But, success in

challenging the traditionalists and ensuring that the issues that led to the 'crisis' are not ignored are not without difficulties. The dissident or 'critical' researcher must still contend with some practical and theoretical dilemmas. When it comes to published work for example, or as in this case, the production of a thesis, the point is made that

Critical academics use entirely conventional formats for citing previous work and situating their own studies. Thus, the critical paradigm takes on the style of the established paradigms, as it establishes itself in the academic marketplace . . . It needs . . . young academics, especially those without established positions, to criticise the language and rhetoric of the established critical writers – even to expose the self-interest and political economy of the sign 'critical'. (Billig 2000: 292)

The observation that dissident researchers “adopt a mode of writing that has a fairly standard academic character . . .” is also reiterated by Hammersley (2003).

Tamely, I must concede that a conventional format is all too evident here:

however, resistance to orthodox conventions is not entirely absent. In particular, the traditionalist will find no *general* exploration of orthodox social psychology, as might have been expected. Justifying my analytical approach is one thing; but justifying it by reference to the 'official' doctrine infers that that remains some sort of benchmark or standard from which all else deviates, and that, in turn, would only perpetuate the intellectual and methodological snobbery of the traditionalist.

Thus, other than that which is required to set a rhetorical and discursive approach into context, or where a contrast or comparison with the 'official doctrine' is necessary, my analytical framework will concern itself primarily with the debates that exist within the dissident or critical paradigms.

It is from these dissident paradigms that the three major theoretical perspectives that inform my thesis are taken. The purpose of this chapter is to consider each in turn and to explicate my analytical framework.

## **2.2. Rhetoric, Discourse and dialogism**

Central to my framework of analysis is the rhetorical psychology of Michael Billig (1996). Like other discursive approaches, rhetorical psychology seeks to “elucidate social psychological processes through an understanding of discourse” (Billig et al., 1988: 4). Rhetorical psychologists understand the ‘ideological’ nature of thinking: “our thought, its content and processes, are provided by wider, socially shared concepts and issues” (Burr 1995: 84). The rhetorical psychologist also views thought and thinking as ‘dilemmatic’, a two-sided ‘rhetoric of disagreement’ (Shotter & Billig 1998). For every view there is a counter-view and so on (Billig et al., 1988). Unlike more modern discursive disciplines, some of which inform this thesis, a rhetorical approach does not always concern itself with the “ums and ahs of talk . . .” (Antaki 1994: 161); for in accepting the ideological significance of talk or text, the rhetorician is aware that it is often necessary to go “. . . beyond the texts themselves” (Billig et al., 1988: 38). Thus, “fine-grain methods” of analysis are not an essential requirement of a rhetorical psychology.

However, this absence of micro-conversational detail prompts Billig (1996) to highlight a potential analytical stumbling block concerning the thoroughness of a

rhetorical approach. Critical scholars, he argues might suggest that on its own, a rhetorical analysis risks being seen only as a “preliminary study in discursive psychology” (Billig 1996: 21-2). For the conversation analyst and some discourse psychologists, the absence of close analytical detail is certainly a valid criticism (Myers 1989). Yet, the attentive rhetorical psychologist *is* well aware that there will be occasions when a close analysis is required. Such methodological flexibility is entirely in keeping with Billig’s analytical philosophy

. . . rhetorical meaning must be constructed by the analyst. This construction does not require a specific methodology, or a defined set of procedures. . . The reliance upon a single methodology would inevitably dull the critical edge. (Billig 1991: 22)

This point is reaffirmed by Wetherell (1998: 388) who espouses an “eclectic approach”. This thesis echoes both sentiments and is therefore replete with close and detailed analysis, for in addition to being a rhetorical psychological enterprise, it is also a discursive analysis.

Any reference to ‘discourse analysis’ must, of course, be qualified as the term describes several different methods of analysing discourse (Potter et al., 2002). ‘Discourse analysis’ more accurately refers to a “field of research rather than a single practice . . .” (Taylor 2001: 5). The particular form of discourse analysis that is used in this analytical framework, and which will be explored in greater detail throughout this chapter, is of the ‘bottom-up’ variety: specifically the ‘micro’

analytical form advocated by Potter & Wetherell (1987)<sup>1</sup> and which continues to be developed in the ongoing discursive project of Edwards & Potter (1992) and others. Such analysis now increasingly falls under the banner of 'discursive psychology' (Hepburn & Wiggins 2005). The practical value of this discursive approach is that it provides the analyst with ". . . both the theoretical apparatus and the methodological tools" (Billig 1996: 21).

Wide ranging though the rhetorical and discursive approaches are, one more theoretical perspective is required to complete the triad of approaches. Once again rhetorical psychology overlaps with this third approach, for in addition to the emphasis on the ideological nature of thought, rhetorical psychology also acknowledges the "*dialogical* nature of thinking" (Billig 1996: 22 my emphasis). A dialogical approach to the social world and to a *social* psychology is one that has been extensively developed by Mikhail Bakhtin (1981, 1986) and Valentin Volosinov (1986, 1987). Shotter (1992) explains the basic model from which they work

They introduced a very different metaphor into our discussions: They asked us to imagine people in dialogue . . . Primarily they are in dialogue with others, speaking from within a certain speech genre, in a certain type of "voice," continually responding to each other's utterances. (Shotter 1992: 10-11)

Dialogical psychology emphasises the uniqueness of each and every dialogical moment; it also reaffirms the overwhelmingly social nature of thought and

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<sup>1</sup> I am aware that Wetherell has developed her view.

dialogue (Bender 1998). 'Voice' (Shotter 1992) and Otherness are tacit elements of dialogism. As far as Bakhtin and Volosinov are concerned, there is nothing ghostly or unseen about psychological processes (Shotter & Billig 1998).

Volosinov explains

Every utterance is *the product of the interaction between speakers* and the product of the broader context of the whole complex *social situation* in which the utterance emerges. . . Inner speech is the same kind of product and expression of social intercourse as is outward speech. (Volosinov 1987: 79)

This 'out of the head' psychological stance mirrors that pursued by rhetorical and discursive psychologies. But, whilst there are many overlaps and areas of agreement, dialogical psychology offers much in the way of difference. Multi-layered and complex, those aspects of Bakhtin and Volosinov's philosophical and psychological thinking that are incorporated into this analytical framework are what will require some detailed discussion.

Finally, credit must be given to three other influential and original thinkers whose ideas have found their way into this thesis. All three: Harvey Sacks, Ludwig Wittgenstein, and Gilbert Ryle occupy 'cameo' roles by comparison with the principle theorists previously mentioned, but the fact remains that elements of their thought are present in my research project and I acknowledge that here.

With the preamble complete, it is appropriate to consider Michael Billig's rhetorical approach to psychology and why it is appropriate for this research thesis.

### **2.3. Ancient Greece and Sophistic: Back to the Future**

The revival of rhetoric in the human sciences once again re-establishes a discursive tradition that was originally crafted 2,500 years in ancient Greece. Rhetoric's most recent incarnation differs from its previous guise in that it rediscovers aspects of the discipline that have been disregarded or marginalised. The 'new' rhetoric is an "argumentative rhetoric, rather than a rhetoric of adornment" (Billig 1996: 64). The pedantic obsession with style at the expense of content is redressed and the spirit of invention and contradiction is restored (Booth 1974; Billig et al., 1988; Nelson et al., 1987; Simons 1989; Billig 1996; McCloskey 1998; Perelman & Olbrechts-Tyteca 2000). Not confined to any specific geographic location or academic discipline (Nelson, Megill & McCloskey 1987; Billig 1996; Shotter 2002) the rhetorical revival

. . . has emerged, not as a single perspective, but as a way of re-conceiving the debates – linking them, for example, to Greco-Roman conceptions of rhetorical invention, or to neosophistic conceptions of style and impression management. (Simons 1989: 5)

Within psychology, the rhetorical return is most persuasively advanced by Michael Billig (1987, 1991, 1996). His 'rhetorical approach' to social psychology is eclectic and specific. Critics suggest that "he is interested *only* in argument" (Myers 1989: 230) and whilst this view is contestable, it is clear that a focus on argument is the dominant theme in his approach. His spirited return to antiquity cuts through centuries of Platonic prejudice (Vickers 1988) by going back to the



teaching and philosophy of that unfairly denigrated group of intellectuals and practitioners of rhetoric known as the Sophists (Havelock 1957). In particular, he directs us to the genius of Protagoras of Abdera: the rhetoric of argumentation *is* the rhetoric of Protagoras. The 'new' rhetoric might better be described as Sophistic rhetoric (Leff 1987). Aside from the remarkable and prolific insights that Protagorian rhetoric provides, by returning to the philosophy of the Sophists Billig, more than any of the contemporary dissidents, offers a pragmatic and moral precedent for a truly social, social psychology. Argumentative rhetoric brings with it particular implications and inferences for a *social* psychology, and these flow almost seamlessly from the ubiquitous activity of engaging in dialogue (Nelson et al., 1987; Billig 1991).

A distinctive feature of Protagorian and Sophistic rhetoric as opposed to Socratic dialectic is *dialegesthai* - that is "to render and to receive discourse" (Havelock 1957: 213). Havelock goes on

Sophistic 'rhetoric' so-called should really be translated as the technique of linguistic expression. Sophistic argued that as this was studied and clarified and made more effective the norms of justice and social order became clearer. Moreover, discourse is social or it is nothing; its topics and problems are by definition common ones, group notions; the words of men act on other men and vice versa. There is an exchange of opinion, alteration of opinion, discovery of opinion, consensus and decision. It is not a discourse carried on in the private soul. (Havelock 1957: 193)

This emphasis on dialogue and on the social is overwhelmingly pragmatic.

Protagoras was concerned with the everyday business and politics of living: there

was nothing metaphysical about his philosophy. He was a professional orator, and his “discourses could ‘bowl over’ an opponent” (Havelock 1957: 214). Words and language were the tools of Protagoras’ trade; as now, words construct the social world (Nelson, Megill & McCloskey 1987; Shotter, 1992; 2002). This world-view acquires additional social significance when we consider an ideological and contextual caveat on Sophistic thought that Havelock has already alluded to.

Bakhtin explains

For the classical Greek, every aspect of existence could be *seen* and *heard*. In principle (in essence) he did not know an invisible and mute reality. This applied to existence as a whole, but pre-eminently to human existence. A mute internal life, a mute grief, mute thought, were completely foreign to the Greek. All this – that is, his entire internal life – could exist only if manifested externally in audible or visible form. (Bakhtin 1981: 134)

Descartes’ Myth (Ryle 2000), the division between ‘mind’ and body, had not, of course, been proposed. Sophistic rhetoric therefore was never constructed to discuss or debate unseen, individual, and ghostly machinations of ‘the mind’: it was concerned with the pragmatics of disputation in a shared social, as opposed to individual world (Billig et al., 1988). Even so, the Sophist [like the contemporary rhetorical psychologist], is not disbarred from seeking “psychological insight” (Billig 1996: 83). Such insight comes from an understanding of the way in which we think. Social psychology, as Volosinov informs us “. . . is not located anywhere within . . . but entirely and completely *without* – in the word, the gesture, the act” (Volosinov 1986: 19). Arguing is thinking and our private discourse replicates public debate (Billig 1996).

Protagoras understood that the process of thinking is rhetorical in that it is argumentative, and that it has ideological content or form

The very contents of everyday thinking – the maxims, values and opinions which are commonly held, etc. – are themselves cultural products. In ordinary thinking, people use a ‘common sense’, which they do not themselves invent but which has a history. As critical theorists from Marx onwards have stressed, common sense is a form of ideology.  
(Billig 1991: 1)

Common sense however, is a particular form of ideology - it is ‘lived ideology’ (Edley 2001). As useful a resource as common sense is it is also provocative: rather than having a unifying quality, common sense is recognised as being contradictory. This, it is suggested, allows for the “possibility not just of social dilemmas but of social thinking itself” (Billig et al., 1988: 17).

#### **2.4. Arguing and thinking: contrary views and dilemmas of ideology**

Of all Protagoras’ ideas, those which relate to and spring from his acknowledgement of the “two-sidedness of human thinking” (Billig 1996: 71) are what concern Billig most of all. A feature of Protagorian rhetoric is that it is “committed to there being at least two sides to every question, and being able to speak for either” (Vickers 1998: 210): the process of thinking comprises contrary and contradictory thoughts. Disputation is potentially open-ended as ‘facts’ and opinions become contestable. There is always a counter view, which in turn may be contested by another and another – *logos* opposed to *anti-logos* ad infinitum

(Billig 1996; Dillon & Gergel 2003). Consequently, there can be no *absolute* proof. In contrast, the “Cartesian method of doubt” (Shotter 2002: 166) upon which the Western intellectual tradition has rested for over three hundred years (Derrida 1974; Nelson et al., 1987; Burr 1995; Perelman & Olbrechts-Tyteca 2000) is quite different. Cartesian inquiry holds that when two people reach opposing decisions over the same matter, then one of them must be wrong. For the Cartesian, the “self evident” is judged the “mark of reason” (Perelman & Olbrechts-Tyteca 2000: 1-2). Protagoras meanwhile, “. . . would not, of course, accept that anyone has a ‘wrong’ opinion – simply that people have contradictory opinions, some of which are more useful than others” (Dillon & Gergel 2003: 18). For the latter day rhetorical psychologist or other rhetorical inquirer, this means that

The domain of argumentation *is* that of the credible, the plausible, the probable, to the degree that the latter eludes the certainty of calculations. (Perelmen & Olbrechts-Tyteca 1970: 1 my emphasis)

The implications of this are that the legitimate grounds upon which argumentation and persuasion may be based are much wider than Cartesian and modern thought would have us believe (Feyerabend 1987; McCloskey 1998). For the Cartesian, the sceptical and relativist nature of Protagorian rhetoric is a source of irritation because it implies, quite mistakenly, that ‘anything goes’ (Feyerabend 1975). It also encourages a nagging unease amongst traditionalists that the foundations on which ‘official doctrines’ rest are not so secure (Pollner 1973; Nelson, Megill & McCloskey 1987). Relativism and what has been described as

“vicious” scepticism are predictably put forward as barriers to rhetorical inquiry being truly critical (Keith & Cherwitz 1989: 195). Relativist critiques, by their nature, are philosophically complex (Burr 1995), and any meaningful exposition is beyond the scope of the present work. But, at the risk of being accused of a gross oversimplification, Billig, who has provided a thorough account of at least some relativist critiques (see *Ideology and Opinions* 1991, 22-26), offers a succinct rebuttal

The argumentative act itself constitutes a denial of the sort of strict relativism, which precludes moral and critical stances. In arguing, one is criticizing the counter-position, claiming the argumentative superiority of one’s own position. Thus, argumentation is a practical denial of this strict scepticism (Billig 1991: 25)

Protagorean rhetoric may originate in antiquity, but it is distinctly *post* or ‘anti’ modern in its outlook (Nelson et al., 1987; Billig 1996; Shotter 2002).

If the two-sided and contrary nature of thinking is important in allowing scholars and analysts to look beyond the received method, it also provides alternative insights into the ideological aspects of thought. Bakhtin (1981), in his analysis of discourse, as it is found in the genre of the novel, argues the “impossibility of representing a character’s ‘ideological world’ without representing his or her discourse” (Vice 1997: 25). Burr (1995) elaborates

The concepts, values and beliefs of the society into which we are born shapes what we will think about, but it also shapes what we see as two sides of an argument or issue. . . it takes the form of a dilemma, a two-sided question to which there is no easy answer (Burr 1995: 84)

Billig et al., (1988) suggest that as thinkers, we are, on a daily basis, presented with dilemmas of every kind, including dilemmas of ideology. The analytical gaze of the rhetorical psychologist is not concerned with decision-making itself, but with the “social preconditions” that precipitate dilemmas and which shape our social lives (Billig et al., 1988: 9). In teasing out and inquiring into the ways in which people manage and produce arguments in the course of their general everyday conversation or dialogue (Wetherell et al., 2001) – their use of ‘witcraft’ (Billig 1996) - the rhetorician’s focus must, at times, go beyond the text

. . . to understand the meaning of a sentence or whole discourse in an argumentative context, one should not examine merely the words within that discourse or the images in the speakers mind at the moment of utterance. One should also consider the positions which are being criticized, or against which a justification is being mounted.  
(Billig 1996: 121)

To do this, the analyst “should not be afraid to engage in hermeneutics in order to read these implicit meanings (Billig et al., 1988: 23). Any mention of hermeneutics, or more specifically, the “interpretive procedures and devices” (Potter et al., 2002) employed by discursive disciplines, predictably encourages the traditionalist to run for the methodological high ground. A similar tendency is also to be found among some of the exponents of various latter-day discursive disciplines, although they, of course, do not rely upon the “spectator” theory of the received view of science (Nelson, Megill & McCloskey 1987: 4).

Greg Myers has argued that Billig's particular style of rhetorical analysis "never has anything to say about the linguistic details of a text . . ." (Myers 1989: 231). There may, at first sight, be some substance to this claim as much of Billig's work, does not scrutinise text at a 'micro' level – timed pauses and inhalations of breath are not part of his analytical style; however, the insights Billig seeks lie beyond this level of detail. Myers, more generally, also takes issue with those who use rhetoric as a "general methodology" (Myers 1989: 236). But, like many other rhetorical inquirers, Billig is not wedded to a single methodology, he is aware that utterances have form as well as content (Billig 1996) and that a rhetorical approach forms only a part of any thorough discursive analysis. Thus, the important analytical insights to be gained from a close analysis of talk or text which conversation analysts and discursive psychologists employ are not lost on the rhetorician. Billig (1991, 1996) himself argues that there will be occasions when micro-analytical techniques of the conversation analyst or the discursive psychologist are needed where it is appropriate for the rhetorical inquiry; however, he cautions too that a total or over reliance upon the "sociological microscope" that conversation analysts favour, is restrictive

To continue the metaphor: the tissues of a biological sample might be enlarged in wondrous detail by a microscope, but still a story needs to be told about the evolutionary history which has produced the specimens on the slide. (Billig 1991: 17-18)

In understanding the rhetoric of the police, this analysis seeks to cut a balance between the microscopic and the macroscopic. As insightful as the rhetoric of

argument and inquiry is to any analysis, it is not enough to uncover all of the “unnoticed habits of life” (Billig 1999: 548) including the workings of power (Myers 1989). Other analytical tools are required. To that end, this thesis is not only a rhetorical analysis it is also a discourse analysis; the latter being an approach that is “embedded in a web of theoretical and metatheoretical assumptions” (Potter 2003: 784-5).

### **2.5. Discourse: Whose discourse?**

Whilst Billig's academic philosophy of not adhering to a single methodology is one that is embraced in this research project, Jonathan Potter (2003) rightly cautions against ill-considered “methodological eclecticism”; by that, he means attempting to combine methods that make “different assumptions about discourse” (Potter 2003: 787). To do so, he suggests, is a “recipe for incoherence” (Potter 2003: 785). Since discourse analysis has many variants, some of which are less well suited to being allied to a rhetorical approach, it is important to be clear about the form of discourse analysis used in this thesis.

Potter et al., (2002) suggest there are at least four different sorts of research work that have been described or may be termed discourse analysis. These range from sociolinguistic and speech act work to a sociological concern with the discourse of science. The particular form of discourse analysis employed in this thesis is that favoured by Potter & Wetherell (1987). This explicitly *non cognitive*



approach to discourse draws heavily on conversation analysis, ethnomethodology, post-structuralism, semiology, the sociology of science and many of Wittgenstein's philosophical insights (Edwards 1997; Potter et al., 2002; Edwards & Potter 2005). This particular discursive approach has subsequently been evolved through the work of Edwards & Potter (1992) and others [including Billig] into what is now increasingly referred to as 'discursive psychology' - see also Potter & Edwards (2001) or Hepburn & Wiggins (2005) for a more recent overview.

Discursive psychology applies itself to all the topics of traditional social psychology (Hepburn & Wiggins 2005); although Edwards & Potter make no secret of the stake they have in attempting to

. . . counter and invert what mainstream psychology has done *with discourse*, which is to treat it as the *expression of* thoughts, intentions and cognitive structures (Edwards & Potter 2005: 242).

Discursive psychologists therefore reject the dogma of cognitive psychology. Instead, the analyst is offered a means by which psychology can be 're-specified' and, where appropriate, critiqued (Edwards & Potter 2005): it becomes an "object *in and for interaction*" (Potter 2005: 739 emphasis in the original).

Discursive psychology is 'constructionist' rather than 'constructivist' in its approach: the latter doctrine is that of developmental psychologies where concepts such as 'minds' are assumed to be actual entities with mental

structures (Colman 2003; Edwards & Potter 2005). The constructionist, on the other hand, is concerned with “. . . the constructive nature of *descriptions*, rather than of the entities that (according to descriptions) exist beyond them” (Edwards 1997: 48). The difference is one of ontology (Hammersley 2003). This constructionist orientation is a constituent part of discursive psychology unlike some ethnomethodological and conversation analytic work which argue “against constructionist positions” (Potter 2005: 743).

A central concern of the discursive psychologist is that psychology is

. . . bound up with people’s practices. Descriptions (of psychological, material or social objects) can be studied for the way they are invoked in activities such as blaming, complementing, inviting and so on. (Potter 2005: 740)

This is achieved by recognising “talk-as-action” (Edwards 1997: 84) and eschews the “factors-and-outcomes model” (Potter & Edwards 2001: 107) of much social cognition work. Discourse is constitutive in that it “creates what it refers to” (Taylor 2001: 8). It is also understood as being occasioned and rhetorical (Edwards & Potter 1992; Potter & Edwards 2001). Discursive psychologists, like the rhetorician, the conversation analyst, and the ethnomethodologist, treat discourse as a *topic* of analysis not as a resource (Wetherell et al., 2001).

Unlike those discursive analysts who operate from a ‘top down’ or macro perspective (Parker 1992; Fairclough 1992; Parker & Burman 1993; Van dijk

1993; Howarth et al., 2000), discursive psychology operates from the 'bottom-up' (Gough & McFadden 2001): there is no attempt to make ". . . an equation of 'discourse analysis' with the 'analysis of *discourses*' as Parker does . . ." (Potter et al., 2002: 164 emphasis in the original). Discursive psychology therefore stresses the importance and the value of carrying out close and detailed analyses of talk and text (Billig 1999). In keeping with the conversation analytic view upon which it draws, the discursive psychologist uses the language and the concepts of the *participant* as opposed to that of the spectator (Hammersley 2003), thereby encouraging an analytical approach that is 'emic' rather than 'etic' (Edwards & Potter 1992; Wetherell et al., 2001; Potter et al., 2002; Potter 2005).

A valuable, and until recently, well used analytical feature of discursive psychology is the 'interpretive repertoire' (Gilbert & Mulkay 1984; Potter & Wetherell 1987). Potter et al., (2002) explain

By interpretive repertoire we mean broadly discernible clusters of terms, descriptions, common-places . . . and figures of speech often clustered around metaphors or vivid images and often using distinct grammatical constructions and styles. (Potter et al., 2002: 168)

They draw a useful analogy with the "repertoire of moves of a ballet dancer" (Potter et al., 2002: 169). Repertoires, whether interpretative or choreographic, are situated in the moment, in the process of interaction: thus they allude to spontaneity and flexibility of use. Useful though interpretive repertoires are, there is a sense in which they are also restrictive. To return to the dance analogy,

ballet is, after all, more than just an array or inventory of distinct moves - those are observable facets of the artistic and performing philosophy – ballet is also a *genre* of dance and artistic expression within which those repertoires are situated. Ballet has its own ideology that is distinct, but at the same time intertwined with other ideologies of dance and performance. As we move shortly to consider the work of Bakhtin and Volosinov, the notion of the ‘speech genre’ (Bakhtin 1986) will be introduced and explored. Speech genres, it will be suggested, provide the discursive psychologist with an additional, wider-ranging, and nuanced analytical tool. Variations or different “registers” of speech or ‘voice’ become discernible (Wertsch 1991: 111); discursive or interpretative repertoires exist within them as “. . . speech genres are typical models for constructing a speech whole” (Bakhtin 1986: 127). The current re-assessment of the interpretive repertoire goes beyond this thesis, as confirmed by Potter in a personal communication with Hammersley (2003): Potter suggests the concept “has been dropped by many discourse analysts, especially those involved in discursive psychology” (Hammersley 2003: 776 #27). Aside from the additional analytical caveat on ‘interpretive repertoires’; the present research makes use of the other analytical tools available to the discursive psychologist.

## **2.6. Reflexivity and analysis: knowing *who* is doing the talking?**

Clearly, the critical challenge that the discursive psychologist throws out to cognitive psychologists, orthodox analysts, and other dissident researchers is a

provocative one. Discursive psychology provides the observer [and the critic] with the analytical equipment by which to scrutinise not just the analytical project in question, but the discursive psychological project itself. In doing so, the discursive psychologist makes a stout rod for his or her own back. Deficiencies of analytical rigour can no longer be excused or obfuscated as happens in orthodox scientific discourse (Gilbert & Mulkay 1984; Woolgar 1988). Perhaps it is also the case that this sort of provocation and transparency prompts misunderstandings and apprehension too.

Hammersley (2003), in his detailed 'collegial' exchange with Potter (2003) for example, takes issue with some of the constructionist aspects of the discursive project

The central message of DA [discourse analysis] is that phenomena could always be constructed differently: and that how they are constructed has consequences, or fulfils certain social functions. But this raises questions about the appeal to data, and to consistency of argument, which discourse analysts make in supporting their own analyses. Why is their analysis itself not to be treated as a series of rhetorical moves designed to have particular affects on readers? (Hammersley 2003: 765)

Without attempting to put any 'scientific' or academic pretensions on the point, the simple answer to his question is that it should be – just as it should be for any other 'scientific' or academic enterprise (Gilbert & Mulkay 1984; Woolgar 1988).

The discourse of the discursive psychologist is as much a topic of analysis as any other phenomena and the discursive psychologist should be as attentive to their own discourse as to others (Edwards 1997). People [including the

researcher or analyst] as “users of rhetoric” are themselves understood to be “objects of rhetorical argument” (Billig 1996: 285). The point is made elsewhere that even “reflexive moments are *themselves* constructed to perform actions” (Potter et al., 2002: 166). The discursive psychologist, like the rhetorician and the dialogical psychologist is always interested to know just *who* is doing the talking (Wertsch 1991). The work of those who have studied the sociology of science (Barnes 1974; Gilbert & Mulkay 1984; Woolgar 1988; Latour & Woolgar 1986) has been influential in shaping the ethos of discursive psychology and is embedded in the analytical machinery.

As we saw with rhetorical inquiry, the spectre of relativism [and the implied ‘threat’ it poses to the foundational status of the academic discipline] is once again invoked as a disincentive

In short, constructionism seems logically to imply the reflexive application of DA to itself: having documented the discursive production of some phenomenon, it apparently then requires a reflexive analysis of how that documentation was itself discursively constructed; and so on, ad infinitum. . . this endless reflexivity undermines any claim for research as an activity distinct from fictional writing (Hammersley 2003: 765)

Hammersley’s invocation of the relativist argument betrays a lingering traditionalist and intellectual snobbery. To paraphrase Latour and Woolgar (1986: 277) relativism is not only the “bogey” of radicalism “. . . there is a tendency to use it indiscriminately . . . .” Whilst Hammersley’s objections may not necessarily

be a prelude to “ontological gerrymandering” (Woolgar 1988: 99), a charge ironically, that he levels at discursive psychology, they do overlook the fact that

The relativist argument highlights the susceptibility to relativism of one set of claims and assumptions while simultaneously backgrounding the fact that the very assumptions of relativism are themselves equally susceptible. (Woolgar 1988: 99)

Hammersley concedes in a footnote (2003: 776, 30) that for some researchers, this is not necessarily a problem; after all, the demarcation between science and art is not a given. What is more, the move “toward an aesthetic rather than an epistemic criteria . . .” (Potter 2003: 790) is, for some of us, not a bad thing either, as it has the potential to open up “new academic frontiers” (Lynn & Lea 2005).

Practically speaking, such close attention to reflexivity has been long overdue in both the social and the natural sciences. Lynn & Lea (2005) in their examination of visual methodology, found that when working with and creating visual data such as photographs, the presence of the researcher in the data collection and construction process is more obviously apparent than when working with orthodox or lexically-bound projects

When the visual researcher looks through the lens of a digital camera, or contemplates a sheet of blank paper prior to drawing or constructing an image or graph, the finite space of the paper or viewfinder is clear. . . Where we position that image in relation to the picture edge, what size it will be, what orientation it will take are *our* decisions. These are determined by *our own* preferences, tastes and mood; the dictates of the conference, journal or art gallery for which it is intended; and a host of other factors internal and external to us. The subjectivity of the

researcher(s) must be acknowledged within the research process (Lynn & Lea 2005: 221 emphasis in the original)

The ethnographer's field notes and narratives by comparison evade the scrutiny of their construction, even though the process is no different – how do we know where one written vignette ends and another begins? What other details and descriptions were excluded and so on? The fact is, in most instances, we don't. Even discursive psychologists have yet to fully explore and resolve these issues satisfactorily. Is, for example, the 'contextual' information that frequently precedes extracts of text in the bulk of discursive analyses, a case of discourse being used as a *resource* rather than a *topic*, as (Hammersley 2003: 769) claims? Certainly, this is a consideration that will be acknowledged [though not necessarily rectified] during the course of my analyses. The problems of narrative form and the limitations inherent in presenting radical and reflexive data in relatively conventional formats, remain as 'work-in-progress'.

What discursive psychologists assert in response to their critics is that the analytical practices that discursive psychology employs are "strongly empirical" (Potter & Edwards 2001: 106) and actively encourage reflexivity to an extent that has been noticeably absent in other areas of social psychology (Edwards & Potter 1992; Edwards 1997). Indeed, this strict attention to reflexive practice will ensure that any 'aesthetic' leanings which develop retain an academic edge or distinctiveness. Of course, attending to one's own methodology, is a radically different enterprise (Latour & Woolgar 1986).



Meanwhile, where matters of interpretation are concerned, the discursive psychologist suggests these are more rigorously facilitated, in that the analytical process is systematic. As with the artist, blinding flashes of inspiration and intuition are not denied or ignored: indeed, they are an important aspect of discursive work (Potter & Wetherell 1987); the difference is that the processes, through which they may be made to occur, are not, for the most part, unfathomable or riddled with taken-for-granted assumptions. In other words

. . . analysis is made accountable to the detail of empirical materials, and these are presented in a form that allows *readers to make their own checks* and judgements (Potter & Edwards 2001: 108 emphasis in the original).

Discursive psychology, like conversation analysis, seeks to “retrieve some of the craft character of scientific activity” (Latour & Woolgar 1986: 29) and make it explicit.

Thorough though the discursive psychological project may be, there are some discourse analysts who argue that the ‘bottom-up’ approach to talk or text is not well suited to understanding the wider social, political and ideological orientations of discourse (Fairclough 1992; van Dijk 1993a; Fairclough & Wodak 1997).

Rhetorical psychology, as discussed earlier, does consider wider matters of ideology – but only to a degree. A more detailed and meta-theoretical philosophy that knits rhetorical and discursive psychological endeavours together is

required. Such a philosophy is to be found in the work of Mikhail Bakhtin and his fellow dissident Valentin Volosinov (Shotter & Billig 1998).

Debate continues as to whether Volosinov was actually Bakhtin writing under a pen name (Wertsch 1991); however, I do not propose to speculate on that here. Suffice to say that there is much about their philosophical and dialogical outlook to align them closely with one another. So panoramic and fully-formed is the philosophy of Bakhtin and Volosinov, that I can only explore a very few specific issues in what remains of this chapter. This philosophy is necessarily accompanied by Bakhtin's own thesaurus of terms. In gaining a feel for the sublime and intricate nature of Bakhtin's work, it is vital to first understand the importance and the concept of the *word* and the *utterance* before moving on to consider three other concepts that are of particular relevance to this research: *addressivity*, the *speech genre* and the *extraverbal*.

## **2.7. Words and voices everywhere**

The dialogical philosophy of Bakhtin and Volosinov is, as Shotter reflects, grounded in the ubiquitous

They introduced a very different metaphor into our discussions: they asked us to imagine people in dialogue. For them, speakers do not primarily speak with a certain "view" in mind; they do not always speak *about* something . . . Primarily, they are in dialogue with others, speaking from within a certain speech genre, in a certain type of "voice," continually responding to each other's utterances. (Shotter 1992: 10-11)

As a psychology, it is entirely social. There is nothing 'inner' about it, the psychology occurs in the space between speakers "in the word, the gesture, the act" (Volosinov 1986: 19). From this seemingly simple model, a host of complex and subtle ideas flow and develop. Speech, as opposed to language, is always ". . . cast in the form of an utterance belonging to a particular speaking subject, and outside this form it cannot exist" (Bakhtin 1986: 71). The *utterance* is the "social phenomenon" (Volosinov 1986: 82) upon which all Bakhtinian philosophy rests (Bakhtin 1981; 1986). It may consist of one word or many

. . . utterances are constructed from language units: words, phrases, and sentences. And an utterance can be constructed both from one sentence and from one word . . . (Bakhtin 1986: 75)

The "microworld of the word" (Bakhtin 1986: 127) is deceptive in its import, and the *word* is an important constituent part of the utterance: indeed, an utterance may consist of one word alone. Volosinov gives us some idea of just how pervasive and significant it is

The word is implicated in literally each and every act or contact between the public - in collaboration on the job, in ideological exchanges, in the chance contacts of ordinary life, in political relationships, and so on. Countless ideological threads running through all areas of social intercourse register effect in the word . . . it is the most sensitive *index of social changes* . . . (Volosinov 1986: 19)

We get some idea too, of the sense of interdependence and 'intertextuality' (Kristeva 1986) that defines Bakhtin's philosophy. The more we learn of the dialogical approach, the more we realise how the dialogical world may be

understood as an incredibly fine discursive lattice or matrix of words, utterances, voices, ideologies and signs. The 'micro' and the 'macro' components of the word and the utterance are intertwined. Wertsch reiterates that for Bakhtin "there is no such thing as a voice that exists in total isolation from other voices" (Wertsch 1991: 51-52) – *voice*, in the dialogical world, is synonymous with word and utterance. For Bakhtin, the notion of voice

. . . cannot be reduced to an account of vocal-auditory signals . . . It applies to written as well as spoken communication, and it is concerned with the broader issues of a speaking subject's perspective, conceptual horizon, intention, and world view. (Wertsch 1991: 51)

Voice is integral to the notion of *dialogism* or the "constant interaction between meanings . . ." (Emerson & Holquist 1981: 426). Dialogism, which means "double-voicedness" refers to the "presence of [at least] two distinct voices in one utterance" (Vice 1997: 45). Each utterance is itself understood to be a link in a "chain" of utterances and words (Bakhtin 1986: 84). The implications of this are that a temporal element permeates both the word and the utterance. Like the ethnomethodologist and discursive psychologist, the dialogical psychologist acknowledges the indexical qualities of the utterance

The *living* utterance, having taken meaning and shape at a particular historical moment in a socially specific environment, cannot fail to brush up against thousands of living dialogic threads . . . (Bakhtin 1981: 276 my emphasis)

But, Bakhtin also understands that

The word in language is half someone else's . . . the word does not exist in a neutral and impersonal language (it is not, after all, out of a dictionary that the speaker gets his words!), but rather it exists in other people's mouths, in other people's contexts, serving other people's intentions: it is from there that one must take the word, and make it one's own. And not all words for just anyone submit equally easily to this appropriation (Bakhtin 1981: 294)

Speakers may exist and talk in the 'conversational' moment, unfolding as it does, through the spontaneous and dialogical ebb and flow of the turn-taking procedure. But, at the same time, our use of words that are partly someone else's introduces other voices, sometimes with different 'accents'. How many of Bakhtin's words have I used directly or indirectly in this text thus far? In turn, the words of others recall different contexts from past or present, they introduce other ideologies, for "each and every word is ideological" (Volosinov 1987: 94). All these are then appropriated and recast in the moment, for that moment, but also with a future moment in mind. Each utterance is *always* constructed in anticipation of a response (Bakhtin 1986). Tacit in this process is the notion of *addressivity*. As with everything else in the dialogical world, addressivity is interwoven with other concepts. In the context of this research project, a concept that is of particular interest and which is intrinsic to the utterance itself is that of the *speech genre*.

## **2.8. You, me and the superaddressee**

If, as Volosinov suggests ". . . every verbal performance has its theme" (Volosinov 1986: 22), it is also right to say that such performances are *always*

addressed to someone – this is true whether or not the performance occurs in conversation with or in the presence of others, or whether it takes place as part of a silent soliloquy. Bakhtin elaborates

Any utterance always has an addressee . . . whose responsive understanding the author of the speech work seeks and surpasses . . . But in addition to this addressee (the second party), the author of the utterance, with a greater or lesser awareness, presupposes a higher *superaddressee* (third), whose absolutely just responsive understanding is presumed either in some metaphysical distance or in distant historical time . . . Each dialogue takes place as if against the background of the responsive understanding of an invisibly present third party who stands above all the participants in the dialogue. . . (Bakhtin 1986: 126)

The idea of a *superaddressee* is an inherent and “constitutive” (Bakhtin 1986: 126) aspect of the utterance. McGee draws a religious or spiritual analogy for the presence of superaddressee when he suggests that “without faith that we will be understood somehow, sometime, by *somebody*, we would not speak at all” (McGee 1986: xviii emphasis in the original). Volosinov, captures the concept better when he describes the superaddressee as

. . . merely some inanimate thing, some occurrence or circumstance in life. How often we shake our fist at “someone” in a fit of temper or simply scowl at empty space, and there is literally nothing we cannot smile at – the sun, trees, thoughts. (Volosinov 1986: 103)

For those police officers, whose discourse is the topic of this research, the rhetoric of justice, of law and order, the ‘public interest’, the adversarial court process, or the concerns of the ‘reasonable man’ are rarely, if ever, absent from his or her thinking. The practical upshot of addressivity is that the utterance is

shaped and styled and conceived by taking account of *all* those to whom it is addressed as much as by the theme and the context in which it occurs. The form the utterance takes is always generic

We speak only in definite speech genres, that is, all our utterances have definite and relatively stable typical *forms of construction of the whole*. Our repertoire of oral (and written) speech genres is rich. We use them confidently and skilfully *in practice*, and it is quite possible for us not even to suspect their existence *in theory* . . . we speak in diverse genres without suspecting they exist. (Bakhtin 1986: 78)

By speaking, listening and participating in dialogue and by being exposed to written texts of assorted kinds in the course of our everyday experiences of social and cultural life, we are exposed to and assimilate different genres of speech. This is how we learn to be conversationalists (Shotter 2002). Genres organise our speech and when we speak

. . . we are always aware of the whole of our utterance: both in form of a particular generic plan and in the form of an individual speech plan. (Bakhtin 1986: 86)

We gain experience of when and where to use what genres or not, as the case may be. The diversity and extent of human activity ensures that speech genres are almost limitless in number

. . . each sphere [of human activity] has and applies its own genres that correspond to its own specific conditions. There are also particular styles that correspond to these genres. A particular function (scientific, technical, commentarial, business, everyday) and the particular conditions of speech communication specific for each sphere give rise to particular genres. . . (Bakhtin 1986: 64)

Genres may be discerned from the 'thematic content', from 'style' and from the 'compositional structure'. But, he stresses that in determining genres, the utterance must also be considered in its entirety not just its component parts. As we become accustomed to genres of speech our experiences of conversation and of the social world allow us to distinguish the discourse of the police officer from that of the soldier or the medical practitioner or the artist. Earlier, I discussed the concept of the interpretive repertoire, and there are many overlaps between the two. The speech genres of the police officer will be characterised and organised around specific metaphors and figures of speech and involve the use of expressive intonations and tone of voice. But, in comparison with the interpretive repertoire, the speech genre is wider

We learn to cast our speech in generic forms . . . when hearing others' speech we guess its genre from the very first words; we predict a certain length (that is the approximate length of the speech whole and a certain compositional structure; we foresee the end . . . (Bakhtin 1986: 79)

Speech genres allow for greater conversational [and analytical] subtlety and greater creativity – although speech, no matter how creative, will always be shaped within specific generic forms (Wertsch 1991). Genres can be “mixed” or “re-accentuated” - they are not all of a standard form - however, this sort of use requires that they be “fully mastered” (Bakhtin 1986: 79-80). Our choice of genre is determined by where we are, who we are addressing, what we are *doing* combined with the “expressive” aspects that the speaker imbues the utterance with. The nuances of speech genre permit 'accents' or 'dialects' [beyond the



audible and regional] to be discerned (Wertsch 1991: 111) – the ex World War two fighter pilot may still retain the twang of the military, and specifically the RAF, in his discourse even after sixty years.

Bakhtin offers us an insightful explanation of what occurs when we are not well versed in a particular genre of speech

. . . genres must be fully mastered in order to be manipulated freely . . . Frequently a person who has an excellent command of speech in some areas of cultural communication, who is able to read a scholarly paper or engage in a scholarly discussion, who speaks very well on social questions, is silent or very awkward in social conversation. Here it is not a matter of an impoverished vocabulary or of style, taken abstractly: this is entirely a matter of the inability to command a repertoire of genres of social conversation . . . (Bakhtin 1986: 80)

In all, there is something less formulaic and more fluid about the concept of the speech genre which offers exciting analytical possibilities and considerable explanatory power. The use of the speech genre within a discourse analysis is, of course, still novel and exploratory. Developing and refining its use will be part of the *post* doctoral research to come.

Meanwhile, if the notion of addressivity is useful in assisting our understanding of speech genres, it is equally useful in understanding another concept that has been touched upon from slightly different directions in our earlier exploration of rhetorical and discursive psychology. Bakhtin and Volosinov's focus on dialogue,

and the unique and unrepeatable contexts in which it occurs, also led them to consider what they term the 'extraverbal' (Volosinov 1986, 1987; Bakhtin 1986).

## **2.9. Well! The said and the unsaid**

The point has already been made more than once, that to be insightful in our discursive and dialogical endeavours it is important to know "*who* precisely is speaking, and under *what* concrete circumstances?" (Bakhtin 1981: 340).

Discursive psychology's constructionist outlook, as we saw from Hammersley's critique, poses some difficult philosophical and methodological dilemmas for the dissident analyst. As constructionists we understand that our discourse constructs what it refers to: it is both "constructed and constructive" (Potter & Wetherell 1987: 35): not surprisingly, the question of whether there is anything 'beyond' discourse or text is a question that has been posed and debated many times. Such a debate could, of course, occupy an entire thesis and my purpose in raising the issue is not to become deeply embroiled in arguments about 'ships in bottles' (Collins 1985) or the world that exists 'out-there' (Potter & Wetherell 1987; Woolgar 1988). Neither is it my aim to return to the methodological and relativist arguments from earlier; although the circularity of these arguments is such that this is where we will end up. Rather, my interest is in an analytical and methodological dilemma posed by Volosinov (1987) who suggests that verbal discourse, as a topic on its own is insufficient for the purposes of analysis.

In a remarkable piece of social psychological text, Volosinov puts his case for the “*extraverbal situation of the utterance*” (Volosinov 1987: 98 original emphasis); this, he claims is just as important for the analyst as the speech itself

Two people are sitting in a room. They are both silent. Then one of them says, “Well!” The other does not respond. For us, as outsiders, this entire “conversation” is utterly incomprehensible. Taken in isolation, the utterance “Well!” is empty and unintelligible. Nevertheless, this peculiar colloquy of two persons, consisting of only one – although to be sure, one expressively intonated – word, does make perfect sense, is fully meaningful and complete. (Volosinov 1987: 99)

Volosinov rightly notes that any analysis of the discourse itself would be difficult. Our inability to carry out any meaningful or detailed analysis, he suggests, is due less to the paucity of text [although clearly this does not help] and more to the fact that we have not been made party to the ‘extraverbal’ context. It is this that gives the exclamatory remark meaning. He goes on

We lack the “extraverbal context” that made the word *well* a meaningful locution for the listener. This *extraverbal context* of the utterance is comprised of three factors: (1) the *common spatial purview* of the interlocutors (the unity of the visible- in this case, the room, the window, and so on), (2) the interlocutors’ *common-knowledge and understanding of the situation*, and (3) their *common evaluation* of that situation. At the time the colloquy took place, both interlocutors *looked up* at the window and *saw* that it had begun to snow; *both knew* that it was already May and that it was high time for spring to come; finally *both were sick and tired* of the protracted winter – *they both were looking forward* to spring and *both were bitterly disappointed* by the late snowfall. . . (Volosinov 1987: 99 original emphasis)

Volosinov’s point, as he goes on to make explicit, is that the extraverbal situation “does not operate on the utterance from the outside” instead, it “*enters into the*

*utterance as an essential constitutive part of the structure of its import*" (Volosinov 1987: 100 original emphasis). Thus, in Volosinov's example, the snowflakes outside the cabin, the time and the date of the utterance, the calendar itself, the ambient temperature, the emotional disposition of the participants and much more are, as he puts it, "*assumed in the word well*" (Volosinov 1987: 99). Once we are made aware of these extra-linguistic 'assumed' aspects, a meaning becomes apparent. Putting aside, for the moment, any reflexive arguments about Volosinov choosing and constructing this vignette to suit his argument; or about the use of discourse [extraverbal or otherwise] as a resource rather than a topic, as we did when discussing Hammersley's (2003) critique of Wetherell (1998); there is a genuine analytical point to be made about such texts.

Is it the case that a discourse analyst can only ever examine conversational fragments where there are sufficient words and metaphors and figures of speech to elicit meaning? Certainly, conversation analysts like Sacks (1995) have shown that a great deal of analytical insight can be gained from analysing relatively short fragments of text – "The baby cried. The mommy picked it up" (Sacks 1995: 236) being a good example. Likewise, Heritage (1984) and Hutchby (2001) have focused their attention on the uses of the exclamation 'Oh' in conversation; although this 'marker' has always been analysed as part of larger fragments of text and not in isolation as in Volosinov's example.

But if one or two word utterances are considered to be beyond the discursive and rhetorical analyst's gaze, then there will be areas of social life and discourse that evade scrutiny. If this is not the case, then it would seem to require some acknowledgment, on the part of the discursive psychologist, of an *extra-verbal* context that is itself realised in a textual form as any part of an analysis; and which shapes utterances from within. This, in turn, returns us to those earlier methodological and reflexive criticisms made by Hammersley (2003) about discourse as a topic not a resource and which are, for the discursive and rhetorical psychologist still 'work-in-progress'. One word utterances do not feature in this research, but even so, the analytical conundrum remains. What a dialogical inquiry does is require us to [re] consider the concept of context in light of the *extra-verbal*. Such inquiry is, of course, double-edged

. . . Bakhtin offers new windows on our work – but at a price. The new possibilities inevitably entail new doubts (Dickerson 1997: 530)

Insofar as the *extra-verbal* is concerned, this research project can, for now, do little more than highlight the analytical difficulties it raises: tackling them must be the task for me and for other analysts in the months and years to come.

## **2.10. Summary**

This brief exploration of Bakhtin and Volosinov's dialogical psychology neatly, and provocatively, ties together the analytical framework of this thesis. My

tripartite analytical approach began with the Sophistic rhetoric of Billig's rhetorical approach to social psychology. Lively, idiosyncratic, and often irreverent, Billig's dissident approach is attuned to the argumentative and ideological aspects of discourse as it unfolds through the use of 'witcraft' (Billig 1996). His is the rhetoric of invention, not adornment: the intricacies of form are no longer privileged over content, and a sense of balance is restored to the antiquarian discipline. But form is not disregarded entirely. In studying witcraft, the analyst must not only listen to *what* is being said to understand the positions that are being challenged or defended, they must also look at *how* the arguments are constructed (Billig 1996).

For the rhetorical psychologist, the processes of thinking are modelled on the "cut and thrust" (Myers 1989: 231) of public argument. Arguing and thinking are overwhelmingly social processes, for it is through dialogue and discourse that we conduct our daily lives. This is a psychology that is social, existing outside of the head. Thought, like argument is, at the very least, two-sided - to espouse a view is to counter or acknowledge [either implicitly or explicitly] an opposing view in a potentially infinite process (Billig 1991). On a daily basis, we always have choices to make and dilemmas of ideology to deal with (Billig et al., 1988). The task of the rhetorical psychologist is to seek out these dilemmas in the "unnoticed habits of life" (Billig 1999: 548).

There is nothing stuffy or dull or obscure about the rhetorical psychology that Billig advocates. Like his or her discursive counterpart, the rhetorician is also engaged in a vigorous process of 'respecifying' social psychology (Edwards & Potter 2005). But, true to the spirit of argumentation, the rhetorical analyst must also concede that on its own, a rhetorical approach goes only so far (Leff 1987; Myers 1989) and in this thesis, rhetorical psychology is augmented by discursive psychology (Edwards & Potter 1992; Potter & Edwards 2001; Potter et al., 2002; Edwards & Potter 2005).

Building on the discourse analytic work of Potter & Wetherell (1987), 'discursive psychology' re-specifies and critiques cognition (Potter & Edwards 2001) as it [re]engages with many of the subject areas of traditional social psychology.

Respecification occurs because discursive psychology understands discourse as "*situated, action-orientated, and constructed*" (Potter & Edwards 2001: 104 emphasis in the original). In contrast to the traditionalist, the discursive psychologist accepts that people *do* things with their talk or their written texts: discourse is seen as a *topic* of inquiry, not a resource.

Micro-social in its analytical outlook, discursive psychology has developed an impressive array of analytical and interpretive procedures (Potter et al., 2002) that set it apart from, and make it critical of, other forms of discourse analysis (Parker 1992). Proponents of discursive psychology stress the empirical nature of their enterprise and the comprehensive meta-theoretical philosophy that

accompanies it. Critics, on the other hand, suggest that discursive psychology's focus on the micro-social means that it is not well suited to the examination of wider social, political and ideological issues (Fairclough 1992). Furthermore, the constructionist approach to discourse that discursive psychology takes, coupled with the methodologically open and reflexive stance it encourages seems to irritate and provoke the traditionalist. Aside from the often cited 'concerns' about relativism and the threat this might pose to the status of the academic researcher as a purveyor of specialist knowledge (Hammersley 2003); discursive psychology has yet to resolve some methodological and analytical issues: in particular, whether the notion of discourse as *topic* is one that can be fully applied to the discourse of the researcher. There is, as yet, no ready solution to this dilemma and aside from my reflexive acknowledgements this thesis remains susceptible to those criticisms. If the combined efforts of the rhetorical and discursive psychologist whet the analytical cutting edge, it is honed still more by being allied to the dialogical insights of Bakhtin (1981; 1986) and Volosinov (1986, 1987).

Dialogical psychology envelops both the rhetorical and discursive psychological endeavours. Bakhtin's dialogism has much in common with the Sophistic rhetoric of Billig's approach. Sophistic privileges the social, the ideological and the two-sided ebb and flow of discourse and thought: dialogism does the same, but has a much greater theoretical breadth. Where rhetoric is a means of inquiry, dialogism is akin to a socio-cultural philosophy. There are many overlaps too with discursive psychology, but where the discursive psychologist is said to struggle



with wider political and ideological matters, the dialogical approach seamlessly encompasses the macro with the micro in a most unique and insightful way.

Bakhtinian thought, Dickerson remarks

. . . encourages us to recognize that utterances are unavoidably located within specific conversational sequences *and yet* they are fuelled by and impact upon wider socio-historical contexts (Dickerson 1997: 528 emphasis in the original).

Dialogical psychology takes as its focus the *word* and more particularly the *utterance*. These two concepts prove fruitful in the ideas they generate. In many respects, those ideas are as simple as the basic model on which Bakhtin bases his work – that is, two people in dialogue with each other at a particular time and place (Emerson & Holquist 1981).

When we analyse utterances from a dialogical perspective, we begin to hear 'voices', both past and present: the words of others become our words, though they always retain a semblance of the other. As the words, cultures and ideas of others enter the utterance so it acquires a temporal and spatial aspect. A dialogical approach encourages us to become more attentive to who is doing the talking, who is being addressed, and under what circumstances the utterance takes place: these become fundamental to our analysis and consequently to our understanding of what is said and the meaning[s] we elicit. The world of dialogue is interdependent and intertextual (Kristeva 1986). Verbal performances (Volosinov 1986) though generic in form are as diverse as the human activities

that inspire and inform them. These verbal performances are also shaped by the *extra - verbal* context (Volosinov 1987) which shapes them from within, *not* from without.

If Bakhtin's world is complex and subtle, his philosophy is sufficiently developed that he is able to offer an extraordinary array of insights that extend across a range of disciplines. Such a philosophy compliments discursive and rhetorical approaches well. It stimulates creativity and unorthodox thought as by posing a different set of questions, we obtain a different set of answers. My tripartite approach is, of course, not to be regarded as a finished or fully developed analytical model – it remains very much work-in-progress. As we move now to consider the existing literature on the police we will have the opportunity to gauge how radical or revolutionary this present analysis is likely to be in any study of the police.

## CHAPTER THREE

### OPERATIONAL CULTURES AND POLICE DEVIANCE

*“O Villain! Thou wilt be condemned into everlasting redemption for this.”*

Much Ado about Nothing, Act 4:2

#### **3.1. Introduction**

Over the last 50 years, research into the police and the business of policing (Lentz & Chaires 2007) has blossomed and this plethora of interest shows no signs of abating. As the police have come under greater scrutiny, there has been a distinct change in academic opinion which has shifted from a deferential, often celebratory tone, to an overtly critical and, at times, inherently political one. Over this same period, the relationship between the general public and the police has undergone a similar transformation (Emsley 1996). This change in public opinion coincides with the demise of the so-called ‘Golden Age’ of British policing. This, so the legend has it, was a time when society was policed ‘by consent’; when crime rates were low and police officers, who patrolled their beat on foot, were known by all those in their neighbourhood (Reiner 2000). The ‘Golden Age’

however, has given way to a more “coercive” style (Hall et al., 1978: 218) of policing that has distanced police officers from the public they are duty-bound to serve and protect. As they struggle to maintain order and enforce the law they find that their role, along with their powers, are being increasingly questioned (Wilson et al., 2001). Consequently, these are proving to be difficult times.

The police of course have faced difficult times before and have survived them. But, whilst the challenge of ‘traditional’ crime is undiminished and places constant demands on the police, it is now matched by the organised activities of ‘criminal entrepreneurs’ from abroad – many of whom never even leave the relative safety of their home lands. As if this were not testing enough, the threat from Islamic fundamentalists – many of whom have been radicalised here places new demands on the police and legislators. For an institution whose activities are recognised as “profoundly old fashioned” (Manning 1977: 118) and whose outlook and values continue to be politically and morally conservative (Reiner 2000: 95), the police struggle to deal with the demands of a more ‘permissive’, ethnically diverse, and culturally progressive society. Not only are members of society less deferential and more rebellious in their responses to authority (Cohen et al., 1982); the police, as the most visible and iconic of all the agents of social control, find that they must now conduct their business under the intrusive and critical gaze of the media and academe. In an effort to defuse what continues to be an ongoing “crisis of hegemony” (Hall et al., 1978: 291) and to stave off the accusation that policing is now coercive rather than consensual, the

police have doggedly 'reinvented' themselves on a continual basis (Wilson et al., 2001). Unfortunately, they have been unable to recapture or recreate the policing spirit of those halcyon days of 1950's England (Reiner 2000).

The constant academic and media focus on the police and their activities has ensured that we have learned much about the police and the work they do.

Historians, criminologists and political scientists (Rawlings, 1999; Brogden 1987; Emsley 1996; Jones & Newburn 1998; Mawby 2002; Zedner 2007) have widened our knowledge of the origins, evolution and political functions of the police.

Sociologists who, more than any other, have pored over the specific activities of police officers as they go about their business, have unravelled much about the interactional dynamics of the police/citizen encounter (Skolnick 1966; Bittner 1970; Sacks 1972; Cain 1973; Manning 1977; Lundman et al., 1980; Sykes & Brent 1983; Holdaway 1983; Van Maanen 1983; Brown 1988). Sociologists and ethnographers have also been successful in penetrating the previously clandestine and informal subcultures of the police (Shearing et al., 1981; Ericson 1982; Punch et al., 1983; Punch 1985; McNulty 1994; Chan 1996; Chan et al., 2003; Ford 2005). In addition, organisational theorists, legal scholars, and cognitive and forensic psychologists continue to contribute to our overall knowledge of the police and the business of policing. Yet, regardless of the theoretical window through which they are viewed, it seems that the police and their world are characterised by contradiction, paradox (Manning 1977; Brown

1988; McNulty 1994; Chan et al., 2003; Smith et al., 2005) and a tendency to dualism (Brown 1988).

The purpose of this chapter is to explore at least some of those contradictions and paradoxes, and acquaint ourselves with the 'two-class' (Sacks 1995) thinking of the police. I will do this by focusing on three distinct areas of police research. Firstly, historical accounts, though they are not obligatory to an understanding of the police, can provide a valuable starting point. Police history may be divided into two distinct and contrasting genres (Emsley 1996; Reiner 2000). Regardless of whether or not we agree with or accept these competing histories as either valid or reliable (Hay & Snyder et al., 1989), it is important to have an appreciation of them; not only does this material shape the received wisdom (Lentz & Chaires 2007) it also makes visible ". . . the assumptions by which modern policing is governed" (Manning 1977: 38).

Exploring the origin and histories of the police invariably raises questions about the business of policing itself and in some respects the two seem inseparable. However, the police are not alone in carrying out a policing function (Zedner 2007) – social workers 'police' families and children; customs officers 'police' borders; tax inspectors for the exchequer - yet, each remains identifiably distinct. The police then cannot be defined simply by what they do; but unravelling the relationship between the police and policing is no easy matter and remains the subject of much conjecture and debate. This conundrum and the research that

addresses it will be the second area on which I focus. In doing this, our gaze unavoidably extends to the occupational and operational subcultures of the police. Here, in the minutiae of these less visible police worlds, the craft skills of the police officer are learned and sharpened: this is where the ethos of policing is shaped (Holdaway 1983) and the 'common sense' that the police rely on is "generated" (McNulty 1994: 292). Every aspect of policing is touched upon and regulated by the subcultures of the police and these are instrumental in shaping how police officers operate (Van Maanen 1983; Ericson & Shearing 1991; McNulty 1994; Ford 2005). Although in recent years the influence [and the theoretical usefulness] of the police culture has been questioned (Chan 1996; Waddington 1999), in drawing together the various elements of the research that exist, and with one eye to the analyses to come, the pervasive influence of this private police world will be the final area of police research to be examined and evaluated. Having set out our plan, let us begin by turning our attention to the two distinct histories of the police.

### **3.2. Police History: Orthodox or revisionist?**

During the last 30 years, historical accounts of the police have invited much debate amongst theorists and scholars (Brodgen 1987; Emsley 1996; Dodsworth 2007; Lentz & Chaires 2007). Prior to the mid 1960s an "orthodox" (Reiner 2000) or "Whig" perspective (Wilson et al., 2001: 11) fashioned the received view.

Since then, criticism of this older existing literature has been blunt

Ethnocentricity, inadequate comparative knowledge of policing, and a-historicism are the hallmarks of the Anglo-American sociology of the police . . . Explanations have been bound by context and by an insular historiography. (Brogden 1987: 4)

Those writing in the orthodox tradition adhered to a deterministic view of policing as an *inherent feature* of human society (Mawby 1990). The Industrial Revolution, so this perspective suggests, brought new challenges that the 'old police' were ill-equipped to deal with (Emsley 1996). Plagued by ineptitude, riddled with corrupt officials, and incapable of dealing with the threat posed by "the mob" (Brogden 1987: 5); the move to create a 'new' police was seen as part of a 'natural' evolutionary progression with a lineage that can be traced back to our early tribal origins. Robert Reiner defines the orthodox perspective well when he writes

In the orthodox account, the social impact of the police was the clearly benign one of solving the problem of order and checking the spread of lawlessness . . . not only did the police benefit society as a whole but, contrary to initial fears, their major impact was on the welfare of the working class and the poor. They were the guardians of the weak against the strong . . . While on the one hand the poor and the working class were singled out by the orthodox histories as beneficiaries of the police, they were also pinpointed as the source of most crime. (Reiner 2000: 20-21)

Orthodox historians presume the police and the law to be independent of ". . . sectarian or class interests" (Bunyan 1976: 58): they also presume a consensus for the new police (Emsley 1996). Detailed and extensive (Reith 1938; Critchley 1978) though many of these orthodox works are, there is an unwillingness to admit or acknowledge the extent to which the new police were opposed by



politicians and public alike (Reiner 2000; Wilson et al., 2001). Overwhelmingly celebratory, the discourse of the orthodox theorists retains an enduring idealist [some might say imperialist] appeal for some sections of the establishment which is discernable in the rhetoric of politicians and senior police officers today (Alderson 1979; Mark 1977). Whilst this is not altogether unexpected, given that the police “lie at the root of political order, and authority . . .” (Manning 1977: 5), it is a discourse that has not fared well in the face of greater analytical scrutiny. Academic opinion has taken a different turn.

The early 1970s saw a more critical ‘revisionist’ history of the British police emerge which regarded the orthodox view as a “serious distortion” (Emsley 1996: 248) of police history and the policing function

Revisionist interpretations of the origins and development of the New Police probably start with Robert Storch (1975), who, unlike those writing within the Whig tradition, began to see the police as an instrument to be used by those with power to discipline the growing urban, working class. And while this crude oversimplification does not do justice to the far more sophisticated arguments of the revisionists, it ably demonstrates that the idea of ‘consensus’ in society – taken for granted in Whig interpretations – was instead something which was contested. (Wilson et al., 2001: 11)

The revisionist perspective is, of course, as much a product of its time as the orthodox view. The ‘social revolution’ of the 1960s had been a time of momentous and rapid social change. Increasing civil unrest saw relations between the police and the public deteriorate (Emsley 1996) and it was from this crucible that the politically inspired and less deferential approach to the police

and police history poured. Authority, in all its forms, was challenged by a dissenting and discerning populace in what became known as the “crisis of hegemony” (Hall et al., 1978: 291). In short, people demanded to know more about “the hidden reasoning behind the claims to authority” (Banton 1973: 26) that issued from those who were considered to be part of the establishment. Academics were no different. Where orthodox historians were celebratory, revisionists were critical. The ‘science of discipline’, the power of ‘normalising judgements’, and the ‘mechanisms’ of power and punishment (Foucault 1977) were all part of this revised view of police history and a political [predominantly Marxist] imperative was introduced (Bunyan 1976; Brogden 1987; Sharpe 1988; Dodsworth 2007). For the revisionist

. . . the motive for the formation of the new police was the maintenance of the order required by the capitalist class, with control of crime, riot, political dissidence and public morality being separate subsidiary facets of this overall mission (Reiner 2000: 28)

Some revisionist historians view the later urban disorder of the 1980s as part of the same ideological tradition that motivated those who objected to the new police during the 1800s (Cohen, 1979). Revisionist history was certainly valuable in forcing a radical re-examination of the received view of police history. But, revisionists were not immune from the claim that they too might be as guilty of ‘distorting’ history as those they railed against, and that their understanding of police history was just as “teleological and unilinear” (Reiner 2000: 33). As a consequence, revisionist critiques have themselves been subject to revision.

Predictably perhaps, a synthesis of the two views has now emerged. The political and ideological extremes of orthodox and revisionist histories have been tempered through subsequent review. Reiner (2000: 14-46), in his very thorough critique of the two approaches works up this “Neo-Reithian/Revisionist synthesis”

This is a perspective that gives due weight to the success of the police reformers and the tradition they created, but also recognizes that policing is embedded in a social order riven by structured bases of conflict, not fundamental integration. (Reiner 2000: 45)

Consent for the new police may not have been as unreserved as the orthodox historians claimed (Sharpe 1988); but, neither was the hostility and resentment as unanimous as the revisionists would have us believe. Somewhat unimaginatively perhaps, there is an acknowledgement that the British police were [and are] “. . . *both oppressive and benign*” (Waddington 1999: 22 emphasis in original). The police are certainly an enduring phenomenon. Spawned as they were in an atmosphere of resentment and hostility, they have survived some of the most testing periods of recent social history that have contributed to the ongoing ‘crisis of hegemony’ (Hall et al., 1978). Indeed, some writers claim that survival is their “principal concern” (Manning 1977: 102). The architects of the ‘new’ police were well aware that the key to public acceptance, and therefore survival, lay in the image they presented (Reiner 1994; Mawby 2002) and this is a wisdom the police continue to adhere to. Unfortunately, despite numerous ‘reinventions’ and ‘re-brandings’ (Reiner 1994; Wilson et al., 2000) they have not been entirely successful in restoring public confidence. Many now feel that, “we

lack any clear consensus of what the police role is in a liberal democratic society” (Wilson et al., 2001: 30). The debate over consensus remains ongoing. The recent amendments to the prevention of terrorism legislation, increasing the police’s powers to detain suspects without charge to 42 days, demonstrate how deep the strength of feeling is. That the police have survived 180 years is testament to their durability. How it is that they have survived may well offer clues as how they will continue and it is appropriate to consider that next.

### **3.3. Old police, New police: from buffoons to Bobbies?**

It is a curious fact that, in Britain at least, many of our most famous and iconic police officers are fictional (Reiner 1994). Shakespeare’s Dogberry, the bumbling master constable with a gift for malapropism, personifies the old English village constable (Kent 1981). Where Dogberry’s shortcomings and ineptitude are cited as symptomatic of all that was wrong with the ‘old’ police, the attributes and abilities of another fictional character, PC George Dixon, are, with monotonous regularity, held up as all that is right with the ‘new’ police. Even now, Dixon remains the archetype to which all British police officers are encouraged to aspire (Reiner 1994; Emsley 1996). Over time, the power of these and other fictional stereotypes has captured and diverted our attention: the archetype has become a stereotype and our focus on fictional ideals or bumbling caricatures overlooks the social context in which flesh and blood officers operate (Emsley 1996).

Distracting though these fictional icons have been, they are an important part of the social construction of the police. We have already seen how they have been incorporated into police history and folklore; but, they are also part of a broader historical and social *narrative* which constructs them as part of a tribal and social tradition extending back, in one form or another, to Saxon times (Manning 1977; Ascoli 1979). Kent explains

In origin, the English constable was an officer of the village, tithing, or township and known variously as tithingman, headborough, borsholder, or even reeve. . . . (Kent 1981: 30-31)

Unpaid, time consuming and often unpopular, the role of the village or parish constable was not easy. The office of constable, originally held to be one of “authority and dignity” (Ascoli 1979: 17), was never considered “a privileged position” (Ascoli 1979: 18). Although it became increasingly formalised and onerous, this form of policing retained its parochial or local character. Localising the law in this way was popular and remains an enduring theme even today. Village people, irrespective of their social position, showed a willingness to use it (Sharpe 1988) and the constable, when required, had powers “to call upon neighbours to keep watch, to pursue hue and cry, and to assist him in making arrests” (Kent 1981: 32). In towns and cities, local accountability was also attempted though not always accomplished. The 1285 Statute of Winchester decreed that in towns and cities the practice of ‘watch and ward’ (Ascoli 1979) should be established and the organisation of this form of policing was quite specific - responsibility for the ‘watch’ fell to the parish constable. According to

Ascoli (1979: 17) watch and ward was “preventative policing with a vengeance.” Until the introduction of the ‘new’ police in 1829; policing in England and Wales was a “private, non-professional and unspecialized” activity (Mawby 1990: 20).

With the Industrial revolution a new bourgeoisie of merchants and manufacturers (Reiner 2000: 27) challenged the established social order (Hay 1975; Brogden 1982). Unlike their titled feudal contemporaries, this urban bourgeoisie “. . . did not have the ecological safeguards of large estates and lack of proximity to the ‘dangerous classes’ . . . nor did they enjoy the services of private retainers and guards” (Reiner 2000: 27). The ‘ward and watch’ system of policing that existed in cities, especially London, was the best that was on offer. Often dependent upon the active involvement of shop and property owners, many of whom actually lived elsewhere; it became common for them to hire others to ‘police’ their shops and properties (Manning 1977). Unfortunately, drunkenness and greed affected the competence of many of these hired men. Corruption and collusion amongst constables, watchmen [also known as ‘Charlies’], and paid ‘thief-takers’, though commonplace, was not as extensive a problem as orthodox historians insist and had less to do with the “individual character” of those involved and more with the “social processes” (Dodsworth 2007: 439) of the time. If crime and disorder were a problem, the seriousness of that problem is open to debate

If the fear of riot and the 'dangerous classes' was as acute as both orthodox and revisionist historians suggest, the long delay in police reform remains a baffling mystery (Reiner 2000: 35)

This is not to say that policing, as it existed in all its various guises prior to the 1829 Metropolitan Police Act, was not ripe for reform. A number of influential figures were already active in considering how the Metropolis might be policed more effectively (Lentz & Chaires 2007). Patrick Colquhoun, an Irish businessman, stipendiary magistrate and "seminal architect of crime prevention" (Zedner 2006: 86) wrote a 'Treatise on the Police of the Metropolis' in 1797. Two years later, he established the Thames River Police to combat the growing amount of crime that had become endemic amongst the dock workers of London. For Colquhoun 'crime' was opportunistic rather than pathological and was, with careful consideration, capable of being managed and controlled.

Henry Fielding, the novelist and magistrate also wrote on the subject of crime, his 1751 'Enquiry into the Causes of the Late Increase of Robbers' defines "the problematic of the prevention of crime" Dodsworth (2007: 441). As Fielding understood it, crime and disorder did not arise out of poverty, ". . . but the fact that the poor had been emancipated from their condition of dependence (Dodsworth 2007: 442). Like Colquhoun, Fielding and later his half brother John, believed that prevention was preferable to prosecution (Zedner 2006). As a 'trading justice' or one who "opted to profit from the fees paid for performing judicial tasks" (Emsley 1996: 18), he actively intervened in policing the Borough of Westminster in London [for which he had jurisdiction] by employing a group of

professional 'thief-takers'. [In] famously known as the 'Bow Street Runners' (Manning 1977; Emsley 1996) few, if any had ever worked as constables or watchmen. The 'runners' operated as investigators and detectives and with a degree of professionalism that separated them from many of their contemporaries (Manning 1977). But, policing in this period was not just about parish constables, or watchmen or thief-takers

The eighteenth century market in policing was extensive. It reached well beyond the thief-takers and the monied police to include turnpike keepers, pawnbrokers and innkeepers in a complex of policing relations that anticipated the dispersed 'security networks' that increasingly characterise today's provision (Zedner 2006: 84)

The influence of what Brogden (1987: 8) calls "commercial policework" on the new police is, he suggests, mostly omitted from the competing histories of the police. Only latterly are these influences now being examined (Zedner 2006).

It was against this background that the Home Secretary, Robert Peel introduced the 1829 Metropolitan Police Act. A skilful politician and administrator (Manning 1977) there were many who also saw him as lacking originality – regarding him as an artful purveyor of other people's ideas (Ascoli 1979). Whilst the 'new' police were distinct from those they would replace in many ways, they were not entirely 'new'. Emsley (1996) echoing the sentiments of Brogden (1987) points out that

. . . the uniform, the discipline, and the organisation of the new force suggest that Peel had imported into London many of the policing practices developed in Ireland to deal with civil disorder (Emsley 1996: 25)



Brogden (1987) argues that orthodox histories of the British police are inadequate for a number of reasons: one of which is that they do not acknowledge the influence of colonial policing, and Britain's position as an imperial power. Peel, who was appointed Irish Secretary in 1812, had been directly responsible for reforming the Irish Constabulary (Ascoli 1979). He clearly learned much from his foray into "colonial policework" and the parallels between the colonial model and new police are difficult to ignore (Brogden 1987: 9).

Such was the social climate of 1820s England that when Charles Rowan and Richard Mayne, the first commissioners of the Metropolitan Police devised their plans for the new police with Peel, they did so on the premise of *preventing* rather than detecting crime (Wilson et al., 2001). We have already seen how prevention, rather than detection was considered to be the most desirable form of policing by Colquhoun, Fielding and other thinkers of the time. The decision to deploy distinctively attired police constables patrolling in public view was more political than pragmatic (Gilling 1996; Reiner 2000) – although it did distinguish them visually from their predecessors (Styles 1987). The preventative "scarecrow" value of uniformed police is debatable (Gilling 1996: 102) and the initial decision to deploy only uniformed constables was primarily to allay the suspicions of the general public, who were fearful of a covert, Gallic style police (Banton 1973). The formation of a uniformed quasi-military organisation also risked arousing the English suspicion of "a standing army quartered at home" (Emsley 1996: 26).

Attending to these concerns dictated, to some degree, how the new police' would look and act. Conscious efforts were made to ensure that the uniform of the new police appeared 'non-military', hence the top hats and blue swallow-tail coats (Emsley 1996). Rowan and Mayne were also careful to set out the demeanour and tone of discourse they expected from their 'new' police constables (Mawby 2002).

During the early years of their existence, the new police had to work hard to placate a mistrusting and often hostile populace. Initially, they made little impact upon levels of crime and were no more efficient than the constables and watchmen who they replaced. But, over time, levels of crime were reduced as they became effective in dealing with petty street crime. Even allowing for the effusiveness of orthodox accounts, it was especially apparent that the new police were a marked improvement to their predecessors when dealing with serious disorder. As Emsley puts it

Within 25 years of his first manifestation, the English 'Bobby' was becoming, in the perception of the propertied and respectable classes of Victorian society, a pillar of the constitutional and legal structure of that society . . . (Emsley 1996).

Where colonial policing had been seen as "pre-eminently missionary work to legitimise external governance" (Brogden 1987: 9), the new police became 'domestic missionaries' (Storch 1976), "apostles of the Westminster law enforcement gospel. . ." (Brogden 1987: 14). The fictional era of George Dixon

might still have been some way off, but it was clear that the age of the parish constable had passed.

Exploring early police history invariably raises questions about the business of policing – the purpose and functions of the police. As we have seen, the public acceptance and legitimacy of the new police was bound, at least in the beginning, to allaying the public's fear that they were a "tyrannous agency of the Crown (Banton 1973: 18). We have seen how the architects of the new police were particular in attending to the visible aspects of policing and were keen to reassure the public that the ideology of crime prevention would dictate how the new police worked. The police and the policing function were effectively blurred into one. But, much time has elapsed since then and many changes have taken place in both the social world and the police. Nevertheless, what the police do remains important in how they are perceived, for these activities, no matter how mundane ". . . communicate images of policing" and it is through these that "the social meanings of policing are produced" (Mawby 2002: 1).

Differences in ideology and interpretation between orthodox and revisionist historians provoke different interpretations of the history and origins of the new police. But, the orthodox/revisionist polemic is not entirely one of dispute, there are areas of consensus. The belief that Peel's new police were, for a variety of social and political reasons, committed to an ethos of crime prevention is one that is not disputed. However, as with any historical analysis or account, there is

a danger that we allow a contemporary view to frame our interpretation of events and ideas that occurred nearly two hundred years ago. Lentz & Chaires (2007) citing Paley (1989), have revisited the notion of 'preventative' policing. They suggest that *our* understanding of crime prevention may well be different from the way in which pre-Victorian police reformers understood it.

The same authors also challenge the "textbook history" of Robert Peel's 'principles of policing' and conclude that "as they are generally presented and understood today, [Peel's principles] are an invention of twentieth century policing textbooks" (Lentz & Chaires 2007: 70). Whilst this does not make the principles themselves a fiction, it does emphasise the constructed nature of historical endeavour and it invites an even more wide-ranging re-assessment of what has gone before and the conclusions that have been drawn. For Lentz & Chaires, the previously uncritical acceptance of many historical 'facts' [and here they direct their criticism primarily, but not exclusively at orthodox histories] results in "simplistic generalizations" (Lentz & Chaires 2007: 75).

Brogden (1987) following Monkkenen (1981) is equally critical of the way in which police histories, of whatever genre, have been less than searching in their analysis. He objects to many of them on the grounds that

Like the previous explanations, they contain a causal flaw. They confuse what the police ended up actually doing with the reason for their coming into existence. Police duties are conflated with police functions . . . it is

equally plausible to argue that the police were created to look for lost children because that was what they ended up doing. (Brogden 1987: 6)

After 180 years, the social environment in which the police operate has changed enormously, so it is no surprise that many of the functions that the police perform are also different. Whilst the debate over the original functions of the police is interesting, it has only a limited relevance to this thesis which is concerned with policing as it is now. If we are to expand our knowledge of contemporary policing, it is appropriate that we move away from historical matters and examine the business of policing as it takes place in the present day.

#### **3.4. The business of Policing: Crime prevention to Crime control**

When we start to consider the question of what it is that the police now do, we find ourselves confronted, like everything to do with the police, by contradiction and dualism. Crime prevention though it remains a 'principle' or, an ideal to which the police aspire (Alderson 1971), has, over the last 180 years, been less than successful. This is not entirely unexpected, given that the police have not been enthusiastic or consistent in their approach to preventing crime (Gilling 1996). Not only has there has been "a lack of clarity" about what crime prevention means in practical terms (Newburn 2003: 87) and historically (Lentz & Chaires 2007); there has been a realisation that preventing or even controlling crime, is beyond the capability of the police alone (Gilling 1996; Waddington 1999). The

best they can do is “. . . give the *appearance* that things are (more or less) under control (Ericson 2005:222 original emphasis).

Perhaps as a consequence, the operational and ideological focus of the police has, like the office of constable itself, changed (Banton 1964). In the process, another dualism is constructed. Modern policing has moved from an emphasis on crime prevention to one of investigation and detection. Crime ‘fighting’ is now considered [by the police at least] to be the “. . . *raison d’être* of policing” (Waddington 1999: 23) and police officers of all ranks construct their occupational world around this ideology (Cain 1973; Holdaway 1983). As Reiner notes “the main substance to which the police are addicted is adrenalin” (Reiner 2000: 89): unfortunately, the empirical evidence for this ‘police imperative’ suggests that it is more fanciful than factual (Cain 1973; Holdaway 1983; Sykes & Brent 1983; McConville et al., 1991; Kemp et al., 1994; Stephens & Becker 1994; Chan et al., 2003) and that to sustain this view, the police must operate under a “collective *delusion*” (Waddington 1999: 117 original emphasis). Worse still, as ‘crime-fighters’, it seems that the police are not particularly good (Waddington 1999; Manning 2005), being heavily reliant on the public [and luck] to help them identify and apprehend those who perpetrate crime (Holdaway 1983). If ‘fighting’ crime and the associated mythology that goes with it – fast cars, danger, excitement, and the thrills and violence which surround the exercise of power - are the lure that draws many into the police fold; the ‘lived ideology’ (Billig 1991) turns out to be different.

Chan et al's research with police recruits found that

Police work was routine and monotonous rather than diverse and exciting. Police spent most of their time doing paperwork and 'covering their arses' rather than catching criminals (Chan et al., 2003: 209).

Such responses are not unusual and reaffirm what other theorists have written about the day to day business of policing. Ethnographies abound (Banton 1964; Rubinstein 1973; Cain 1973; Manning 1977; Chatterton 1983; Sykes & Brent 1983). These sociological studies confirm that the everyday activities of the police are at odds with the all-action, 'thief-taking' image that they regularly portray as being their occupational 'reality'. An additional irony here is that even when police are able to focus their efforts upon 'crime-fighting' researchers record that "most of the time, discretion is exercised in favour of non-enforcement" (Waddington 1999: 5). Senior officers may have the authority to issue directives to the rank and file about enforcing laws (Walklate 2001), the two may even share some of the same organisational aims; but, the way that the "street cop" operates differs from the way in which senior officers *expect* them to operate (Reuss-Ianni & Ianni 1983: 251). This disparity of purpose is said to reflect an "institutional schizophrenia" (Punch 1985: 4; Walker 1994: 33) which is present within the police organisation and ensures that the rank and file become skilled at subverting the policy doctrines and operational edicts of senior officers (Punch 1985; Gelsthorpe & Padfield 2003). Police officers are sufficiently autonomous that they are able to accomplish this (Smith et al., 2005), for it is yet

another irony that those on the lowest tier of the organisational hierarchy have the most influence over policing policy (Punch 1985).

A review of the literature makes it clear that reducing policing to the activities or duty functions of uniformed officers, or viewing what they do as a series of “discrete episodes” (Waddington 1999: 18) is too simplistic. The business of policing is elusive and appears to exceed the sum of its parts. Sykes & Brent (1983: 26), in their symbolic interactionist study, offer what is perhaps the most pragmatic notion of the police and their work, when they refer to them as “professional interveners”. Other individuals and organisations may undertake specific policing functions, they may even be entitled to intervene in certain situations; but only the police intervene in *all* spheres of social life. What is more, this is understood, even if it is not accepted, by most members of society (Rubinstein 1973; Manning 1977).

Stephens and Becker (1994: 8) add flesh to this idea of the police as professional interveners [and so reaffirm another dualism] by seeing these interventions [and policing generally] as a “*matrix* of control and care.” Edwards explains

Nowhere is the dual function of police as ‘carers’ of victims and ‘controllers’ of offenders more apparent than in areas of police work where the police are charged with both the investigation of crime and apprehension of the suspect in securing the best possible evidence and in providing support necessary to the future protection and wellbeing of victims (Edwards 1994: 131)



Of course, as we now know, in spite of their addiction to adrenalin (Graef 1989; Reiner 2000), investigation, prosecution and law enforcement occupy only a relatively small amount of police time; by far the greater share of their working day is spent intervening in mundane, non-crime situations: neighbour and property disputes, 'sudden' deaths, 'nuisance' children, stray dogs etc. It is here that the care or 'service' function of the police, sometimes referred to contemptuously as 'social service work' (Kemp et al., 1992) is most in evidence. Within the police occupational milieu 'service' functions are generally accorded little status (Stephens & Becker 1994). Perhaps in an effort to sustain the 'collective delusion' (Waddington 1999) under which they operate, police officers use the considerable operational autonomy they possess to 'manage' their time carefully (Cain 1973; McConville 1991). One way in which they do this is by drawing a distinction between the kinds of work they are required to deal with. This kind of distinction is known as "a two-set class" (Sacks 1995: 47) and is, as Sacks puts it "a method of doing things": thus, a police officer's daily business is divided between "quality" jobs (McConville 1991: 99) and "rubbish work" (Edwards 1996: 196) and the informal occupational cultures of the police have long ago determined what qualifies as what.

### **3.5. Quality jobs, rubbish work and the exercise of power**

Quality jobs are 'real' police work and usually involve professional or career criminals, serious or fatal violence, and high value thefts or fraud (Chatterton

1983; Punch 1985; Kemp et al., 1992; Fielding 1994; Stephens & Becker 1994). Police officers manage their time to try and maximise the amount of 'quality' work they deal with: after all, 'thief-takers' are the stuff of police mythology and careers and reputations are made from such work.

In contrast, 'rubbish work', extends from non crime matters to include what officers regard as 'minor' crime – such as very low value thefts, harassment, nuisance children, or those crimes they deem as having little chance of being successfully prosecuted such as 'domestic' violence<sup>1</sup> (Cain 1973; Edwards 1994 & 1996; Walklate 2001). Such work has no kudos and every effort is made to deal with these jobs as quickly as possible and with a minimum of fuss or bureaucracy. To do that, the jobs [and the officers themselves] must retain a "low visibility" (Ericson 2003). Low visibility is a "resource available to police officers to maintain control over their decisions" (Ericson 2003: 223). What is important here is not the breadth of work that policing embraces or even the wealth of legislation at the officer's disposal; but the way in which the police officer intervenes

The power officers have here is that their interventions are presumed to be authoritative simply because they are the interventions of the police . . . when the police arrive at an incident the ownership of the dispute passes, in a very real sense, from the disputants to the police . . . it is a highly significant decision whether the police define the incident in which they intervene as a dispute or a crime. (Kemp et al., 1992: 17)

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<sup>1</sup> As mentioned earlier, 'domestic' violence is now subject to rigorous organisational policies that remove police discretion to ensure 'positive action' is always taken at the scene.

Given the social and legal status accorded them, officers are aware that *they* have “control over the production of ‘facts’ . . .” (Ericson 2003: 224); this control is tacitly reaffirmed by their legitimate recourse to coercive physical force (Bittner 1970; Shon 2005) should they require it. The power to define or redefine a crime to a non crime or vice versa is considerable. For the apprentice police officer, the realisation that they have this power [through the exercise of discretion] is always a defining moment in their apprenticeship. With it, comes the understanding that *how* the matter is defined, will dictate how it may be dealt with. Kemp et al’s., (1992) ethnographic study of the way in which police officers handled disputes makes exactly this point and it is a process that is central to the way in which policing is done. The essence of policing, if indeed there is an essence, would seem to lie in the exercise of authority. Waddington explains

What the police *do*, as opposed to have the potential to do, is *exercise authority*. They do so not only when they intervene in some incident, but also when they wander aimlessly about asserting their right not only to pass through public space, but also to *command* it by watching whoever they choose and tacitly granting permission to others to go about their business . . . it is not exercised episodically when police become involved in some incident, but imbues *everything* that the police do. (Waddington 1999: 20 emphasis in the original)

The thread that links the modern British police officer to those constables who set out on patrol for the Metropolitan police on the 29<sup>th</sup> September 1829 is the exercise of authority. Over time, functions and duties may have changed and styles and techniques of policing have evolved: but the ability to exercise authority over the civil population remains undiminished and if anything, it has

been strengthened (Banton 1964). Although the exercise of authority is a defining characteristic of policing, perhaps *the* defining characteristic (Waddington 1999; Shon 2005), *how* the police exercise that authority is a topic that is less well researched.

Shon's (2005) and Shon & Arrigo's (2006) interactional socio-linguistic and conversational analyses of police discourse is useful in this respect as he takes as his data the 'naturally occurring talk' (Edwards & Potter 1992) of police officers in police/citizen encounters. Among his specific interests are the 'threats' or 'warnings' issued to motorists by the police. To date, there has been little discursive or conversation analytic work on the police and these 'street' encounters, although there is slightly more discursive work on police/suspect interviews – see Jönsson & Linell (1991), Auburn et al., (1995), Edwards (2006), Komter (2002, 2006) Edwards & Stokoe (2007) Stokoe & Edwards (2008).

Welcome, though Shon's contribution is, a cautionary note about his data must be struck. Firstly, the data itself was not obtained by the analyst: a serving police officer collected the data for him, and then made it available to Shon for secondary analysis. Secondly, the rest of his data set consists of material taken from a 'reality' television programme. In both cases, the analyst had no direct knowledge of the context or the 'extra-verbal situation' (Volosinov 1986) in which the talk occurred, and little or no control over the data obtained. Whilst this does not necessarily detract from the insights that his analyses provides, we have no way of knowing what determined the police officer's selection of data offered for

analysis, nor do we have any details of the editorial policy or decision making processes of the programme makers who collected the original data from which Shon later worked.

That said, by adopting a discursive approach we at last gain some insight into *how* police authority is exercised during the interactional process that occurs in police/citizen encounters. Shon concluded that police warnings and threats may be seen as “fraternal speech acts because they share the essential genetic trait of their rhetorical parent: force” (Shon 2005: 829). He goes on

The central factor that differentiates speech acts that cops make is force (coercion). The capacity to exercise coercive force is precisely what provides commands, orders, requests, and threats their differential infrastructure, and by definition, it is what separates ordinary citizens from police officers . . . there is no time out from coercion in police work. (Shon 2005: 842)

Whilst there is nothing particularly revelatory in Shon’s conclusions, which support the findings of earlier theorists (Skolnick 1966; Bittner 1967; Westley 1970; Holdaway 1983; Waddington 1994), his work at last addresses the “knowing how” aspects and not just the “knowing that” (Ryle 2000:26).

By now it should also be apparent that the police exercise of authority is not governed or regulated to any great degree by the workings of legislation (McAra & McVie 2005). Neither is it regulated by the formal codes of conduct or the directives of the police organisation itself (Waddington 1999a; Shon 2005) - the modern police officer is “anything but a Weberian bureaucrat whose discretion

and authority are checked rigidly" (Van Maanen 2003: 293). From an institutional and cultural perspective the police officer may "represent the extreme-end of the 'carcereal continuum' (Ericson 2003: 219) and the legislative and duty-bound expectations that go with it, but she or he, is also an individual; informed by social, cultural, biographical and contextual factors, and with at least some measure of agency and 'subjectivity' (Henriques et al., 1998; Fielding 1994; Shotter 2002). Consequently, as Edwards writes, "the process of applying law . . . becomes selective and inconsistent" (Edwards 1989: 25). Many theorists attribute this 'inconsistency' in applying the law to 'personality' or 'attitudes' (Muir 1977; Brown 1988); others to differences in individual officer's belief systems about policing (Bittner 1967; Goldstein 1977).

No matter how these differences are accounted for, it is a clear theme in all of the literature that the 'law in action' as opposed to the 'law in books' (McBarnet 1983; Luban 1988) works differently. The former is indexical and pragmatic, and unlike the law in books, it is enacted on a face-to-face, moment by moment, basis. To get a feel for why this might be, and in the process broaden our understanding of the police, we must devote some time to exploring the 'common sense' (Billig 1996; Shotter 2002) that permeates the police milieu (McNulty 1994). Like all 'common' sense, the *sensus communis* of the police is contradictory and dilemmatic (Billig et al., 1988); nevertheless, it provides the police officer with another set of values and norms – the so-called 'working rules' (Waddington 1999) or the 'cop code' (Chan 1996) - upon which they draw.

### **3.6. Police cultures: The private worlds of the police**

The Police and Criminal Evidence Act 1984, together with the formal rules and regulations of the police organisation provide guidance to officers as to how and when 'the law' is to be applied. Organisational directives also offer more general directives such as the permissible standards of dress and behaviour and other sundry guidance. The police organisation takes pride in its reputation as a 'disciplined service'. Structured on a quasi-military model, with a clear rank structure and a proscriptive discipline code (Stephens & Becker 1994) it is also unfortunately renowned as a

. . . 'punishment-centred bureaucracy' in which officers are rarely praised for good practice, often because it is invisible to the organization . . . [officers] face draconian penalties if they are deemed to have behaved improperly. (Waddington 1999a: 301)

However, in spite of this, it is erroneous to assume that policing is all about rule-following (Ericson & Shearing 1991; Chan 1996; McAra & McView 2005) – whether it be the organisational directives, the law, or the informal 'working rules' otherwise known as the 'cop code' (Chan 1996). Psychologically, such a 'bureaucratic' model of thought, as rhetorical psychologists know, is "one-sided" and "incomplete" (Billig 1996: 158-9). Indeed, Chan (1996) is quite right to point out that

Police practices have the appearance of rationality but the 'cop code' is more the result of 'codification' by researchers and police officers than a set of rules which generate practice. (Chan 1996: 115)

A more balanced and two-sided approach is to see rules as "objects of argument" (Billig 1996: 50). A great deal of research on the police and police cultures, although it does not conceptualise it in this way, takes as its starting point the idea that police officers 'argue' about rules; that is, they 'bend', break or create them (Shearing et al., 1981; Punch et al., 1983; Punch 1985). To put it another way, police actions like other social actions are ". . . not rule-governed, but rule-orientated" (Edwards 1995: 587). Of course, it is not simply the case that police officers merely break or bend or disregard rules because they exist [although they may do]; rather, as writers on police subcultures stress, police officers break or bend the formal rules as they orient to alternate and informal sets of subcultural values and norms (McAra & McVie 2005). Punch suggests they do this because

. . . the policeman [is] an actor faced with an impossible and ambiguous job, based on a set of legal recipes from training that do not work in practice. (Punch 1985: 4)

Policing, as has been stressed before, is "more craft than science" (Bayley & Bittner 1984: 51), and the craft aspects of the police officer's trade (Skolnick 1966) play a significant part in determining and shaping how policing is done

There is an inescapable contradiction between a policeman's obligation to enforce the law and preserve order, and the necessity of acting within the



moral consensus of the community being policed. It is through the exercise of discretion that the police continually confront and adapt to this contradiction . . . It [discretion] is a necessary element in adapting to the social and political forces which impinge upon the police, and in sustaining the legitimacy of police authority. (Brown 1988: 38)

What Brown fails to add here, is that the police officer must also contend with the moral consensus of the sub-cultural or occupational community of which she or he is also a part. The predominantly informal, hands-on, practical and practicable craft knowledge that is called upon to address these contradictions is learned via a 'telling' or narrative process (Punch et al., 1981; Chatterton 1983; Holdaway 1983; Punch 1985; Shearing & Ericson 1991; McNulty 1994; Ford 2003), and is usually achieved [in the early stages at least] through mentoring or tutoring.

Of course, the police organisation is not unique in having an organisational culture or cultures<sup>2</sup> "Doctors, janitors, lawyers, and industrial workers develop distinctive ways of perceiving and responding to their environment" (Skolnick 1966: 42). The concept of police culture in its 'monolithic' incarnation (Reiner 2000) refers, for the most part, to uniformed patrol officers of the lowest ranks. Although senior police officers also have their own organisational and sub-cultural cliques they are researched less often - Reuss-Ianni & Ianni's (1983) work on the conflicting subcultures of 'street cops' and 'management cops' and Reiner's (1991) research on chief constables being two major exceptions. What is clear is that the subcultures of the police are more numerous than theorists at

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<sup>2</sup> Researchers now acknowledge that police culture is not singular, but comprises many 'sub-cultures' (Shapland & Vagg 1988).

first assumed (Shapland & Vagg 1988; Chan 1996; Foster 2003). For all the importance that theorists attach to them, police 'cultures' are criticised on the grounds that they are "poorly defined", of "little analytic value" and have become "a convenient label for a range of negative values, attitudes and practice norms among police officers" (Chan 1996: 110). Nevertheless, a range of studies have concluded that there is strong evidence to show that police cultures legitimise malfeasance and Machiavellian practice (Skolnick 1966; Westley 1970; Reiss 1971; Rubinstein 1973; Manning 1977; Punch et al., 1981; Punch 1985; Hobbs 1988; Chan et al., 2003 amongst others): by comparison, far less effort has been directed towards any positive aspects (Waddington 1999a; McNulty 1994; Chan 1996). What all theorists agree upon is that police cultures operate out of public view. In some instances, they also operate out of earshot of other officers as well (Rubinstein 1973; Cain 1982; Chatterton 1983; Punch 1983, 1985; Reiner 2000).

Like most other organisational cultures, police cultures are 'members only' clubs. The occupational working culture of the uniformed patrol officer is distinct from that of the detective or the traffic officer. To the outside world, and even to the police themselves in times of crisis, police officers are all members of the wider police club – which may explain why police culture was originally considered to be 'monolithic' (Reiner 2000). However, within the police world the private occupational enclave of the detective for example, is not one that is readily accessible to the uniformed patrol officer; likewise, the dog handler will not be readily accepted into the traffic officer's working environment. Each enclave has

its own common sense and common knowledge. Undoubtedly, elitism plays its part in keeping these culture separate, especially where uniformed patrol work is concerned: this, after all, is where *all* police officers begin their careers and unlike specialist departments, it is not a role attained on merit (Manning 1977). Indeed, many regard it as the most menial and least regarded of all police roles and do all they can to escape it (Chan et al., 2003; Reiner 2000). Police cultures may foster elitism, but they also function as a source of collective strength and identity (McNulty 1994) – above all, they operate as self-preservation ‘societies’ (Manning 1977). Each culture acts as

. . . a source of direction and guidance- the “rules of thumb” of police work . . . that rank-and-file police officers can turn to as they go about their work. It derives its authority and legitimacy from the fact that it is perceived by these officers as the embodiment of the collective wisdom of generations of police officers. It is viewed like tradition . . . (Shearing 1981: 30)

If the nature of policing means that “the audit of workmanship” (Bittner 1983: 8) is always a public affair; the acquisition of informal craft skills, especially the techniques of self preservation (Manning 1977), are more private and take place within the comparative safety of the relevant police cultures (McNulty 1994). Such secrecy fuels the notion that what occurs in those private spaces, whether it is the police canteen or patrol car, is at best dubious, at worst illegal (Galliher 1971; Cain 1973). Intriguing and tantalising though this idea might be, not all the private activities of the police are as necessarily conspiratorial or illegitimate (McNulty 1994; Waddington 1999).

McNulty's (1994) research is particularly helpful in explaining why. She studied how police officers collectively "generate" the common sense on which they draw. She suggests that this begins in basic training

Instructors incorporated common sense assumptions of working police officers into many of their presentations and employed interactive scenarios, jokes, and "war stories" to reinforce these themes. As such, the information contained that ad hoc quality so representative of any common sense knowledge. (McNulty 1994: 282)

Central to police common sense is the belief that police work is characterised by "situational uncertainty" (McNulty 1994: 283-4). In contrast, the acquisition of police common sense is, she suggests, achieved through adherence to 'routines' such as the booking in of prisoners, the morning 'tea' stop, or the informal *post* incident debrief. Significantly, she observed that these routines usually take place away from public view and in periods of transition between events or incidents. How well the police officer assimilates this common sense knowledge is gauged by how she or he subsequently performs (McNulty 1994). In a similar vein, Ford (2003) studied the way that 'war stories' and 'parables' are used by police instructors to introduce recruits into the ideology of the patrol officers culture. He found that through this process new recruits quickly adopted the cultural values of the police world

By the end of field training, the adoption of a set of values and attitudes distinct from the value set that brought them to the profession is well under way. (Ford 2003: 86)

If Ford's study provides confirmation that the informal cultures and knowledge of the police have a powerful influence on those who operate within it, Ericson & Shearing's (1991) study, which pre-dates McNulty and Ford, and which is built around a similar theme, offers some comfort to police reformers. Ericson & Shearing put forward the idea that police cultures rely upon a "figurative logic that constitutes a way of being in the world" (Ericson & Shearing 1991: 487). They explain

In their street talk police officers use stories to represent to each other the way things are, not as statements of fact but as cognitive devices used to gain practical insight into how to do the job of policing. (Ericson & Shearing 1991: 491)

The narrative and conversational emphasis of this study reaffirms the 'telling' process that other researchers have also observed (Punch et al., 1981; Chatterton 1983; Holdaway 1983; Punch 1985; McNulty 1994; Ford 2003). It also underlines the fact that while police cultures may be influential in altering the values and beliefs of those in the police organisation, as Ford (2003) has shown, police officers are not, in the language of the ethnomethodologist, "cultural" or "psychological dopes" (Garfinkel 2007: 68). In other words, they are not passively bound by informal subcultural 'rules' as others have suggested (McAra & McVie 2005). Instead, they can "accommodate or resist its influence" and often do (Chan 1996: 111) – see also Fielding (1988). What these studies tell us, is that just as convicts learn the 'rules' and the etiquette that constitute their 'code' from those they mix with, the activities they engage in, and the things they talk about

(Weider 1974): so the police learn theirs in the same way (Chatterton 1983; McNulty 1994; Ford 2003). The mentoring or tutoring process then, as I mentioned before, is integral to the way in which police officers learn their trade (van Maanen 1973). Sacks' (1972) work on the "Police Assessment of Moral Character", gives an insight into how student officers or novices learn "how to see" (Sacks 1972: 285) like a police officer

As he walks through his beat with a mature officer, persons who to him appear legit are cast in the light of the illicit activities in which the latter knows they are engaged. The novice is shown that he ought to see persons passing him in terms of the activities in which they are engaged . . . objects and places having routine uses are conceived in terms of favourite misuses. Garbage cans are places in which dead babies are thrown, schoolyards are places where molesters hang out, stores are places where shoplifters go, etc. (Sacks 1972: 285 & 292)

The ideologies and the 'common-sense' of the patrol officer's culture are embedded within these ideas and this process (Chatterton 1983; McNulty 1994). Mission, action, cynicism, pessimism, isolation, stereotyping and suspicion are all learned in this way; although generally speaking, these features of a police officer's 'psychological make-up' are often attributed to biology (Rubinstein 1973; Muir 1977; Brown 1988; Waddington 1999) rather than social construction. Skolnick, for example, conceptualises them as part of a 'working personality'

. . . certain outstanding elements in the police milieu, danger, authority, and efficiency . . . combine to generate distinctive cognitive and behavioural responses in police: a "working personality". Such an analysis does not suggest that all police are alike in "working personality", but that there are distinctive cognitive tendencies in police as an occupational grouping . . . Thus, the police, as a result of combined features of their

social situation, tend to develop ways of looking at the world distinctive to themselves, cognitive lenses through which to see situations and events. (Skolnick 1966: 42)

As useful as the notion of a 'working personality' might be, the 'working personality' is predominantly descriptive; which makes it very good as far as 'knowing that' is concerned, but analytically, it is less useful in assisting us in 'knowing how' (Ryle 2000).. Furthermore, the psychological baggage that accompanies the concept of 'personality' roots it within the dualist psychological tradition of cognitivism. The focus on the individual that this promotes, tells us little about the workings of police ideology.

### **3.7. The ideology of self preservation: 'covering your arse'**

Any reviewer of the literature on police cultures is quickly confronted by references to police 'deviance' (Cain 1973; Muir 1977; Brown 1988; Punch 1983; 1985). Like many of the dualisms in police research the two seem inseparable.

Deviance in the police takes many forms

General police deviance can include brutality, discrimination, sexual harassment, intimidation, and illicit use of weapons. There are disciplinary and legal infringements related to citizens, suspects, and criminals where policemen, individually or in groups, opportunistically or systematically, abuse their authority in ways (not principally aimed at personal gain) *which are externally considered to be illegitimate and improper.* (Punch 1985: 12 my emphasis)

The relatively orthodox nature of police research means that theorists invariably rely upon traditional socio-psychological concepts to explain these “seamy tactics” (Punch 1985: 203). These psychological concepts, by their nature, concentrate attention on the individual (Henriques et al., 1988) as the source of the deviance. The result is that debate on police cultures and on police deviance has acquired a certain circularity in the arguments made (Chan 1996). In focussing on individual psychology, these same texts are also guilty of making a number of uncritical assumptions about the Law and ‘due process’ (Packer 1968). McBarnet explains

In conventional sociological studies of criminal justice then, ‘law’ stands merely as a supposed standard from which the enforcers of law routinely deviate; legal procedures are simply *assumed* to incorporate civil rights. (McBarnet 1983: 5)

In her incisive critique of the ‘construction of justice’ Doreen McBarnet (1983) approaches the ‘Law’ and the concept of ‘justice’ from a different angle; one that is germane to the workings of police culture and the notion of police deviance. Amongst the numerous conclusions she draws from her research are that the adversarial legal system [of which the police are part] and adversarial advocacy, construct people, behaviour, and ‘reality’ – the ‘what really happened’ bits - in particular ways. Adversarial advocacy she insists

. . . helps solve the philosophical problem of reproducing reality quite simply by not even attempting it. Instead the search for truth is replaced by a *contest between caricatures*. (McBarnet 1983: 16 my emphasis)



Although the police, when they were formed, did not directly involve themselves in court processes other than to give evidence; over time, the adversarial court process has become an arena in which they do operate. Until relatively recently they were directly involved in the presentation of criminal cases – including advocacy (Emsley 1996). They only relinquished this function with the creation of the Crown Prosecution Service in 1986, but not before the legal language games of the advocate had been assimilated into the common sense knowledge and working practices of the police. If adversarial advocacy and the process of law rely upon and perpetuate caricatures and stereotypes (Taylor 2004), it can be no surprise therefore that the received wisdom of police cultures does likewise. But McBarnet's (1983) research leads her to make another claim that also has particular relevance to deviance and the 'working rules' of the police

Police and court officials need not abuse the law to subvert the principles of justice: they need only use it. *Deviation* from the rhetoric of legality and justice is *institutionalised in the law itself* (McBarnet 1983: 156 my emphasis).

Ericson (1981) also reached a similar conclusion. If these theorists are right, and there is no reason to suppose that either is wide of the mark, then it may be that police cultures are less malign than many theorists surmise. The idea that 'deviance' may have as much to do with social, legal and institutional processes as it does with individual psychology moves deviance away from the 'rotten apple' theories which are still favoured and touted by senior police officers (Punch 1985) and some Independent Inquiries (Scarman 1981), to a

reassessment of the institutional shortcomings of the law itself. For the police on the other hand, Ericson and McBarnet's findings may come as less of a surprise. Given the police' proven record for ingenuity in circumventing rules and procedures (Shearing et al., 1981; Punch 1985), we can be sure that after 180 years of acquired common sense knowledge, if the law permits deviance, then the working ethos of the police officer will already be attuned to it. It is here that the value of research which strives to 'know how' is useful in making explicit the way in which "seamy tactics" (Punch 1985: 203) are actually accomplished. Whilst police officers rarely discuss these things openly, police officers do

. . . refer to dark areas of their work obliquely, through story-telling or humour . . . but evidence indicates that they avoid open consideration of occupational hazards, pitfalls, and 'trade secrets'. . . (Punch 1985: 124)

We have already seen from McNulty's (1994) work how the common sense knowledge of police officers is 'generated' and drawn upon in their private cultural spaces. But, as organisational theorists point out, police subcultures, like other organisational cultures, have many functions (Sackmann 1991; Hatch 2006).

Police research has recognised these organisational subcultures as a valuable resource for officers in providing guidance on occupational 'self-survival' (Manning 1977; Chan 1996). In police speak, this means the "avoidance of 'trouble' from organisational or legal regulation" (Kemp et al., 1994: 88-89); otherwise known as "in the job" trouble (Chatterton 1983); and also to the

avoidance of 'trouble' from without; from the people they police (Holdaway 1983; McNulty 1994; Chan et al., 2003; Ford 2003; Smith et al., 2005). Brown (1988) in his study of how police officers 'work the streets' describes one of the paradoxes of policing. Police officers he writes

. . . are enmeshed in a system of rules designed to govern their behaviour, and subject to watchful supervisors . . . [the police officer] is both autonomous and controlled. This paradox is the root of many of the conflicts and moral dilemmas faced by street-level bureaucrats. (Brown 1988: 29)

Little wonder then, that the police have become "mainly concerned with protecting themselves from all criticism from whatever source" (Galliher 1971: 314). The "punishment-centred bureaucracy" of the police organisation (Waddington 1999a: 301) and the public accountability that is all part of policing ensures that police officers quickly become adept at what they call 'covering their arse' (van Maanen 1973; Chatterton 1983; Chan et al., 2003; Chan 2007). As a philosophy, 'covering your arse' is central to everything a police officer does "it represents a sort of bureaucratic paranoia which is all but rampant in police circles" (van Maanen 1973: 52). Chan et al's (2003) work with new recruits to the Australian police show how an adherence to the 'cover your arse' philosophy is a recurrent theme. An experienced officer had this to say

The problem of poor or weak management is complicated by a culture in which managers are afraid of making mistakes. As a result . . . managers avoid making hard decisions for fear that if the decision goes wrong they would be subjected to disciplinary actions. This produces a 'cover your arse' approach to work. This means that at every decision point one has to

ensure that there is no room for any problems or recourse to occur. (Chan et al., 2003: 225)

In addition to this, officers also complained that because managers and supervisors employ this self-survival policy, when members of the public made complaints, it always resulted in those officers being dealt with “. . . more harshly than criminal offenders” (Chan et al., 2003: 226). Reliance upon the ‘cover your arse’ maxim therefore encourages police officers to anticipate such complaints and prepare themselves for the managerial response; thus reaffirming the front line officer’s belief that “management cops” are not “street cops” (Reuss-Ianni & Ianni 1983: 251). Perhaps as a response to the ‘situational uncertainties’ of their occupation, many studies of the police (Banton 1964; Cain 1973; Manning 1977; Chatterton 1983; Holdaway 1983), have identified how some police officers use the relative autonomy they possess to seek “day-to-day compensations” (Manning 1977: 151) as some kind of justifiable recompense for all the dangerous and ‘dirty work’ (Westley 1970) that policing entails

On a day-to-day basis, policemen attempt to line up “easy numbers,” jobs that allow them to take it easy, to be out of sight, to enjoy the comfort of the station, or to follow a regular nine-to-five schedule. (Manning 1977: 151)

Such ideologies are ingrained in the common sense knowledge of the police and for those theorists who are also active reformers (Chan 1996; Taylor 2004) this is a particular challenge. Chan meanwhile believes the key to understanding and therefore changing police cultures lies in dealing with the social and political

context of policing. Her approach to the perceived problem of police cultures is pragmatic and sociological. Drawing on Bourdieu's concept of *field*, "a social space of conflict and competition" (Chan 1996: 115) and *habitus*, a set of principles that "produce and reproduce the 'practices' of a class or a class faction" (Jary & Jary 2000: 257), she suggests that previous efforts to change the police organisational culture and subcultures have failed because reformers have only ever attempted to change the *habitus* of the police. Changes to the *field* she insists are an essential first step, as these "inevitably alter the way the game is played" (Chan 1996: 131). Analytically, her approach is insightful and makes a serious attempt at 'knowing how'; but, like most of the research on police cultures, it remains rooted in a non discursive, cognitively orientated, predominantly sociological outlook.

### **3.8. Summary**

During this chapter, we have seen how research work on the police and policing is diverse in its subject matter. Even allowing for the selective nature of my review, there are few areas of police work or the police organisation that have not been explored. Predictably perhaps, I began with a brief look at police history. Many police histories are distinctive in that they may fall into one of two opposing genres. Early expositions [the so-called orthodox accounts] are renowned for being 'celebratory' and relatively uncritical (Reiner 2000) and for many years, these works constituted the 'received view' of police history. During the 1970s

another, predominantly Marxist view, emerged to challenge the orthodox histories. These 'revisionist' accounts were more critical than celebratory and injected police histories with a new dynamic. Valuable though the revisionists were in prompting a reassessment of police history, ultimately they proved to be as unbalanced and selective as those works they railed against. If police history is relatively unfashionable as far as police research is concerned, it remains a subject that would benefit from a further reassessment and greater critical analysis (Brogden 1987; Lentz & Chaires 2007): for as Lentz & Chaires suggest "the history of policing in the nineteenth century is still being written" (Lentz & Chaires 2007: 78). What then, is the relevance of police history to this thesis?

Tempting, though it might be, to view the last 180 years of police history as only of passing interest to this thesis; it is a temptation that I felt it was important to resist. As our brief exploration of the literature shows, past events and experiences continue to have a tangible presence in the occupational lives of serving police officers. We should not forget that when a new recruit is inducted into the police fold, they are initiated into 180 years of tradition, experience, and accumulated wisdom: these things permeate *every* aspect of police practice as Manning explains

The implicit model against which policemen judge "good" or "bad" police work is derived from an evocation of the work and cognitive style of the mythical "old copper," who walked a beat in the old fixed-point system . . . it was thought that he was not "bogged down in endless trivialities and paperwork" . . . The old copper image is a base line for other conceptions of good police work . . ." (Manning 1977: 144)

Furthermore, to overlook how the police and the business of policing has emerged and evolved would be unwise, as these are likely to provide clues as to how and why police officers are the way they are and they also provide us with some valuable evolutionary reference points.

In sketching a history of the police, the researcher is irresistibly drawn into debate about the very business of policing, and the transition to the literature on this topic is relatively seamless. What is most evident from the research, is the way in which the police see 'crime-fighting' as their remit rather than crime prevention: more interesting still, is that the police organisation's collective perception of *what they think they do* is at odds with what they actually do (Banton 1964; Cain 1973; Manning 1977; Holdaway 1983; Waddington 1999; Reiner 2000; Wilson et al., 2001). The occupational dissonance this provokes for the police has encouraged some theorists to suggest that the police are collectively delusional (Waddington 1999). Others make the claim that the police are beset by an "institutional schizophrenia" (Punch 1985: 4) and certainly, throughout my exploration of the police literature, a strong tendency to dualism exists and in particular, what Sacks calls the "two-set class" (Sacks 1995: 47) is evident in everything that the police do: from the pragmatic ideology they rely upon to divide their workload into 'quality jobs' and 'rubbish work', to how they conceptualise people and events – guilty or not guilty, suspect or witness, criminal or civil and so on.

If dualism is a recurrent theme of the police and policing: so too is ambiguity. The business of policing has an elusive quality. It is much more than simply a repertoire of activities or functions that are duly enacted during the course of an unending series of “discrete episodes” (Waddington 1999: 18). Lots of other individuals and organisations are also involved in ‘policing’ (Zedner 2007), but they are unmistakably not the police. If policing has a defining characteristic, it is the exercise of authority (Waddington 1999), which is always implicitly backed by “the capacity to exercise coercive force” (Shon 2005: 842). Policing, law, and the police organisation may be dominated by legal rules and procedures and be reinforced by a military style discipline code, but time and again the literature on the police demonstrates that the operational autonomy of the police officer means that they are not slavishly bound by these rules (Punch et al., 1983; Punch 1985; Brown 1988). If the police officer ‘orients’ to any regulatory force, then it seems he or she is inclined to rely upon the informal wisdom and practices of the police subculture in which they operate (Shearing & Ericson 1991; McNulty 1994; Ford 2003). If the essence of policing resides in the exercise of authority, it is also to be found in the numerous beliefs and customs and practices of informal police cultures. Having studied their early history and then mused on what it is that the police do, the third and final phase of this chapter concentrated on those customs and practices that police officers have developed to ensure their own ‘survival’ as they go about their daily business.



Policing is a risky and 'dirty' occupation (Westley 1970; Holdaway 1983) replete with uncertainty and ambiguity (Skolnick 1966; McNulty 1994) yet with a constant pressure to deliver results and to get the job done (Brown 1988). In doing that, the police officer must guard against 'management cops' who have a different agenda to the 'street cop' (Reuss-Ianni & Ianni 1983) and also protect him or herself from members of the public who are also not to be trusted (Holdaway 1983; McNulty 1994). Moreover, the received wisdom has it that the law, as it is written, is ineffective out on the street; hence, the police officer's tendency to deviate from it and to make it work. Punch (1985) and others observe that these pressures ensure that

Techniques have to be developed to create appearances, to construct feasible accounts, and to control information reaching superiors. (Punch 1985: 2-3)

As a result, police officers become well versed in the ideology of self preservation - what they call 'covering your arse'. Arse covering features in just about everything that police officers do (van Maanen 1973; Chan et al., 2003). Regardless of whether officers are engaged in legitimate or illegitimate activities, the 'cover your arse' philosophy is a fundamental principle of police common sense: so much so that all who join the police are indoctrinated with this maxim from the start (Chan et al., 2003). Secrecy, aside from being a constituent part of police subcultures generally, is a vital element in the ideology of self survival: although its use invites adverse comment. Whilst secrecy itself is not necessarily

indicative of malfeasance, it does nothing to discourage it either (Manning 1977).

Maurice Punch (1983, 1985), laments that

. . . a review of the standard literature on the police and journalistic accounts does reveal graphically and indubitably that practical policing is characterised by deviant behaviour which is built into the routine way work is constructed and which performs functions in terms of cementing solidarity . . . a battery of seamy tactics are resorted to by some policemen in some situations as legitimate techniques in getting their work done. (Punch 1985: 203)

Whilst the widely held view that police cultures are entirely dubious holds fast within the literature, a less well aired view offers a partial challenge to that received wisdom. This alternate view posits that the law itself is sufficiently permissive and ambiguous to allow those who apply it, be they court officials, lawyers, magistrates, and police officers to subvert justice without transgressing the letter of law (Ericson 1981; McBarnet 1983). McBarnet (1983) confidently asserts that “deviation from the rhetoric of legality and justice is institutionalised in the law itself” (McBarnet 1983: 156). Whilst this in no way undermines the received view of police deviance, it certainly offers an opportunity to break free from some of the rather circular arguments that have held sway for some time. Appropriately enough, as this chapter closes and the first analysis beckons, I invite the reader to keep this notion of legal permissiveness uppermost in your thoughts as you study the analyses to come.

## CHAPTER FOUR

### **“WHAT I DON’T WANT TO DO IS MAKE THE SITUATION WORSE”**

#### **THE INFORMAL RESOLUTION OF CRIME**

*“. . . The most peaceable way for you if you do take a thief is to let him show himself what he is, and steal out of your company.”*

Much ado About Nothing. Act 3: 3

#### **4.1. Introduction**

Diverse and unpredictable, routine and banal: uniformed policing is a fascinating mix of contradictions and extremes. In recent years, so-called ‘reality’ television has focused upon the “thief-taking” (Chan & Dixon 2007: 459), adrenalin charged aspects. For many police officers this form of law enforcement remains the epitome of uniformed police work (Chan et al., 2003). In practice, such work features sporadically in a police officer’s daily life (Punch et al., 1983; Sykes & Brent 1983). The tasks that routinely fill the uniformed police officer’s day and which feature in this research corpus will never be the stuff of reality television. Often unrewarding, occasionally irksome, and stifled by bureaucracy; most

uniformed police work is remarkably mundane (Banton 1964; Skolnick 1966; Manning 1977; Black 1981; Sykes & Brent 1983; Chan et al., 2003; Chan 2007).

We saw in the last chapter how police officers 'manage' their time by differentiating between what they regard as 'quality' jobs, and those they dismiss as "rubbish work" (McConville et al., 1991: 33 & 99; Edwards 1996: 196). Officers have learned that the most notable consequence of establishing such a bifurcation is that it allows them to determine *how* they deal with the matter. If the use of discretion is a legitimate option available to all police officers; exercising it is more specific, in that it "clearly takes place within a particular environment or cultural context" (Gelsthorpe & Padfield 2003). Discretion is not a default option; but, in certain situations when it is available to be used, it offers considerable scope for police officers in dealing with incidents and crimes. Brown (1988) describes it as "an inescapable element of police work, and it arises from two factors: the ever-present reality of scarce resources and the ambiguity of the law" (Brown 1988: 4)

Actively enforcing the law is a labour intensive activity. It requires formal legal processes to be instigated and crimes recorded: this is a time consuming business. Arrest may be the most dramatic and draconian means of entering people into the criminal justice process, but it is also the most procedurally and bureaucratically convoluted. But, arrest is not the only method of instigating the prosecution process. In certain circumstances, those suspected of transgressing

the law may be dealt with summarily, as in the issue of fixed penalty notices for example, or through the roadside 'report for process or summons.' Discretion on the other hand, offers police officers the opportunity to resolve crime or settle "disputes" (Kemp et al., 1992) *informally*; that is, matters may be dealt with without recourse to formal legal procedures. Utilising the implicit threat of prosecution, backed by the "capacity and authority to use coercive force . . . ." (Chan et al 2003:33); admonishment, or the administering of 'advice', becomes the means to resolve the tasks at hand (Shon 2005). In these circumstances, crimes necessarily go unrecorded and some criminal behaviour may be overlooked. In recognition of this operational and prosecutorial trade-off, a tacit understanding or agreement between the police officer and the perpetrator(s) of the *at issue* deed takes place: the exercise of power occurs in such a way that although things are *seen-to-be-done* (Banton 1964; Kemp et al., 1992), the stigma of arrest and prosecution is avoided - an ideology of pragmatism if you like.

The preceding chapters have provided a good *general* knowledge of the police, their activities, and the occupational and operational culture they work in.

Analytically, this is important because:

. . . an understanding of how police officers see the social world and their role in it – "cop culture" – is crucial to an analysis of what they do, and their broad political function. (Reiner 1992: 107)

Gaining a feel for the particular 'extra-verbal' or 'extra-linguistic' (Volosinov 1976; Bakhtin 1986) environments and contexts in which discretion and informal resolution may be used offers insight into the 'ideological dilemmas' (Billig et al., 1988) that confront police officers as they go about their business. These ideological dilemmas are fermented by a variety of legal, organisational, and sub-cultural pressures and practices: some of which are legitimate, others not (Manning 1977; Punch et al., 1983; Gelsthorpe & Padfield 2003; Chan 2007). Dilemmas of ideology also arise from wider social and moral pressures. Police officers are no less susceptible to these pressures than other members of society. Indeed, it may be that police officers succumb to them all the more, for as public servants in a liberal democracy, they are always accountable for their actions.

The right to complain or object to what police officers do, and how they do it, is one that the public increasingly exercises. We saw in the last chapter how officers are only too aware of this (Chatterton 1983; Brown 1988; Reiner 2000) and in deciding whether to deal formally or informally with the task at hand, officers not only weigh the public, moral and ethical consequences of their actions against the occupational and disciplinary requirements, we saw how they do so by adhering to the mantra of "cover your arse" (Chan 2007: 339; Chan & Dixon 2007: 459) –this is the ideology of self-preservation (Manning 1977). All of these pressures and influences combine to 'frame' the way in which policing is done (Goffman 1974). Hawkins (2003) describes Goffman's concept of 'framing'

as “a structure of knowledge, experience, values and meanings that decision-makers employ in deciding” (Hawkins 2003: 190). Adherence to the philosophy of ‘covering your arse’ ensures that officers remain attentive to their own discourse, whether it be talk or text; it also determines the sort of “speech genres” (Bakhtin 1986) that police officers call upon in their interactions.

#### **4.2. Subversion, discourse and doing discretion**

Police officers, like all other members of society, are aware that their activities are ‘observable’ (Sacks 1995 Vol 1: 119) and open to public scrutiny (Goffman 1969). In learning how to ‘cover their arse’ the police therefore become adept at what Sacks (1995) terms ‘subversion’. Edwards describes it thus

It consists in the *enlisting*, by participants, of actions’ visibility, such that actions will be taken for what they appear to be. . . (Edwards 1997: 98)

‘Subversion’ is an activity that we all engage in, it “is a part of talk’s normal operation . . . and by no means restricted to lies and deceptions” (Edwards 1997: 119). For those police officers who engage in activities that teeter on the cusp of illegitimacy [and/or legality], and even for those that do not, the potential consequences of failing to ‘cover your arse’ include disciplinary action, sacking or enforced resignation and at worst prosecution (Ericson 1981; Punch et al., 1983). Police officers therefore have a considerable *stake* in “inoculating” themselves from what they do or don’t do (Edwards & Potter 1992: 158 & 164) and the

common sense knowledge of police cultures consistently reiterates that in doing policing and in 'covering your arse' (Chan 2007: 339; Chan & Dixon 2007: 459), certain activities should appear to be presumptively "correctly occurring" (Sacks 1995 Vol 1: 253); even if what is seen to be occurring is not what is taking place. As Chatterton (1983) found, when it comes to police work, police officers are aware that one can

. . . never be certain that the actions one took would be seen in retrospect as the most appropriate ones . . . PCs claimed that a feature of their position was that "you are always in the shit – the only thing that varies is how far into it you are." (Chatterton 1983: 201)

Hence the sub-cultural emphasis on 'covering your arse' at every stage of the process: this is true regardless of whether officers are 'bending' the rules or not.

The recognition that police officers routinely bend the legal rules or stretch operational procedures to the limit (Skolnick 1966; Manning 1977; Shearing et al., 1981; Sykes & Brent 1983; Reiner 2000) is certainly useful, but analytically it takes us only so far. As we know from Ryle, "knowing that" is different to "knowing how" (Ryle 2000: 26). Having referred to these two sorts of knowledge on more than one occasion, it is only right that I now make the distinction clear.

'Knowing how' relates to understanding

. . . the boy is not said to know how to play [chess], if all that he can do is recite the rules accurately . . . His knowledge *how* is exercised primarily in the moves that he makes, or concedes, and in the moves that he avoids or vetoes. (Ryle 2000: 41 original emphasis)



It is one of the central tenets of this thesis that by moving away from the “official doctrine” (Ryle 2000: 13) that is, the orthodox philosophical and scientific view which posits language as a ‘representative’ medium (Shotter 2002); and accepting instead, that language is a ‘performative’ (Austin 1961) “medium of *social action*” (Edwards 1997: 84 original emphasis); a fundamentally different view of policing becomes available. Liberated from an existence in a “non-discursive realm which discourse relates to” (Potter & Wetherell 1987: 181), police organisational practices and procedures may be understood or re-specified (Edwards & Potter 2005) as *discursive* practices - facets of a linguistic toolkit or “language game” (Wittgenstein 2001: 10) that is central to the craft of policing and to enforcing or subverting the law (Skolnick 1966; Manning 1977; Shearing et al., 1981; Chatterton 1983; Bayley & Bittner 1984; Chan et al., 2003).

In spite of the attention that researchers [and television producers] have paid to uniformed police work, these ‘knowing how’ aspects have, with a few exceptions, evaded the scrutiny of more orthodox research. As Sykes & Brent suggest:

Virtually no research exists on why one non-arrest alternative rather than another is chosen. (Sykes & Brent 1983: 76)

Bayley & Bittner make a similar observation when they point out that “. . . little is known about the degree to which police exercise discretion” (Bayley & Bittner 1984: 38). By concentrating our analytical gaze on the discourse of police officers as they deal with the banal tasks that occupy the majority of their time, we are

not distracted by the thrill of the chase associated with “thief-taking” (Chan & Dixon 2007: 459). The focus on banality allows us to see *how* police officers reconstruct the events and the context to allow them to employ discretion; this in turn allows us to gauge the extent of its use (Wortley 2003; Smith et al., 2006). The focus of this first analysis therefore, will be on how police officers *do* discretion in the informal resolution of crime or in dealing with ‘disputes’ (Kemp et al., 1992).

The specific discretionary practices that are of interest to us here are ones which are well known to police officers. These are the giving of *suitable advice* and the *that’s civil* device. Both can, in some circumstances, be considered to examples of a wider practice known as *cuffing*. The descriptive labels I use here are ones that the police themselves apply – for this is how they know and understand these practices. In doing policing, an officer is unlikely to complete a working day without doing discretion in one or other of these ways. The expediency of giving *suitable advice* is recognised as being useful in some situations (Copperfield 2006), and so the police organisation regards it, for the most part, as a legitimate practice. That it is also effective in reducing workloads and cutting down on bureaucracy and paperwork (Banton 1964; Skolnick 1966; Black 1970; van Maanen 1973; Rubinstein 1973; Manning 1977; Reiner 2000; Chan 2007) is something that is not lost on police officers either. If expediency is justified in the giving of *suitable advice*, when its use is not deemed to be legitimate it will be regarded instead as an instance of the dubious and duplicitous practice of

*cuffing*. Generally frowned upon by the police, “cuffing” (Chatterton 1983; Shapland & Vagg 1988: 157; Edwards 1989: 109; Waddington 1999: 33), in its most extreme form is, to put it simply, the practice whereby “reported offences disappear up the officer’s sleeve” (Davies, *The Guardian* 10<sup>th</sup> July 2003): a broadly similar practice among American officers is known as “unfounding” (Rubinstein 1973: 145). In both instances, crimes are reformulated and redefined, so that they vanish. With no crime, there is no legal or occupational procedure to enact and no record or crime report will be made. For some officers, minimising the time spent on “rubbish work” (Edwards 1996) is justified by the claim that greater effort can be directed towards ‘quality’ jobs or ‘real’ crime (van Maanen 1973; Paoline 2004). Of course for a small minority of police officers, *cuffing* offers the potential to minimise or avoid even the latter (Reiner 2000; Paoline 2004). Regardless of the extent to which police officers make use of the practice, and the degree to which they may justify it, *cuffing* remains accountably risky. But, before we turn our attention to the texts themselves, mention must be made of how my data was obtained and what it consists of.

### **4.3. The method**

Data for this analysis consists of the “naturally occurring talk” (Edwards & Potter 1992: 28) of uniformed police officers as they spoke with members of the general public during the course of their day to day police duties. I accompanied various police officers for all or part of their shifts and recorded their verbal encounters

using a small, high quality digital Dictaphone. Eight police officers [four male and four female] volunteered to take part in the project: seven were of the rank of constable and one had the rank of sergeant. Four of the officers had between ten to sixteen years service with the police, the remaining four had been police officers for two to three years. All were aware that I was [and still am] a serving police officer in addition to being an academic researcher.

The four most experienced officers, including the sergeant, worked as 'Neighbourhood Beat Managers' or NBMs: such officers were previously better known as 'Community Constables'. Each NBM has responsibility for his or her designated patrol area or 'beat'. Crime prevention and the fostering of good and close relations with residents in the beat area is the primary role of the NBM; however, some crime investigation is also undertaken. The majority of NBMs patrol on foot; this is done to encourage personal contact with the public and allow them to 'manage' the beat area more effectively. The NBMs in this study all worked in a city environment.

The remaining four officers, worked as uniformed 'response' or patrol officers. Patrolling in cars, the patrol officer responds to incidents and crimes as they are reported to the police. Crimes, traffic collisions, suspicious or sudden deaths, missing persons, public disorder, neighbour disputes, domestic incidents and so on, are all part of the patrol officer's remit. An emergency call will almost certainly result in a patrol officer being deployed.

When the patrol officer is not being deployed to any of these, they are expected to progress crime enquiries that are allocated to them, or to 'self generate' work: this may consist of targeting drivers for traffic violations or drink driving, dispersing 'nuisance' youths or drunks, or seeking out 'known' or 'target' criminals. As McConville et al., (1991: 23) found, anyone "known to the police" or who has "previous" [convictions or criminal antecedence] is always more likely to come under greater police scrutiny – this is just as applicable to the work of the NBM as it is to the patrol officer. Unlike the NBM who usually works a limited range of shifts, patrol officers work a twenty-four hour rotating shift pattern; consequently the type of incidents and crime they deal with are often dictated by the time of day or night. All of the patrol officers I accompanied worked in or around busy semi-rural market towns. During my time with all eight police officers, over an eight week period, I recorded data at forty two separate encounters between the police and public.

Many of the police/public interactions where I was present were 'non-crime' incidents in that they were not linked to specific crime investigations; a smaller number were crime related. These latter encounters ranged from the updating of 'crime victims' to the taking of witness statements and the administering of *suitable advice* to a crime 'suspect'. Of course, the unpredictable nature of police work meant that it was often not possible to determine if a police/public encounter would or could be resolved informally. A police officer may stop the driver of a car for driving with a defective light having decided beforehand to deal

with the misdemeanour informally; however, if it emerges that the driver is under the influence of alcohol or is legally disqualified from driving, the officer's powers of discretion to deal with the matter informally would generally be curtailed. A small proportion of the incidents I recorded, especially those involving patrol officers, developed in this way and when it became clear that this was how it was evolving, I stopped recording the event. Since my analytical focus was on the 'informal' resolution of crime, a considerable amount of data was either deleted at the scene of the encounter, or was necessarily excluded from the analysis on those grounds later on. Other crime related events, such as the taking of witness statements, though analytically interesting would also not qualify as an 'informal' resolution and were therefore excluded from the analysis.

At, or near to the beginning of each encounter, the police officer involved explained my presence to the member of the public involved. I was identified as an academic researcher and wherever possible I introduced myself and explained briefly that I wished, with their permission, to record the event and why. On a few occasions the conversational flow between the officer and member of the public prevented me from making a personal introduction, but when the conversation and turn-taking allowed, this was completed at the earliest opportunity. The digital recording equipment was sufficiently sophisticated and sensitive that during each police/public encounter I was able to maintain a reasonable distance from the interlocutors such that my presence was not intrusive. No member of the public objected to my presence or my recording of

the event in which they were participating throughout the entire data collection process. One patrol officer withdrew from the study after several hours; but, she did consent to my use of the data collected prior to her withdrawal.

Conversational exchanges between the officers involved and myself in between the police/public encounters were also digitally recorded and supplemented by brief written notes. All the participants in this research project gave their written consent and were fully apprised of the objectives of this research. The project's alternate epistemological emphasis on the non-cognitive and 'performative' nature of language was discussed with the participants in non technical terms. I explained to the police participants in particular that I wished to understand how they constructed their conversations; to examine the various arguments they used, and to explore the sort of rhetorical devices and figures of speech they employed and how these were relevant to and arose out of the specific and unique circumstances of each and every conversational encounter. From the replies of the participants it seems that generally they understood this to mean that my research was concerned with how police officers 'communicated' with the public: although all the police participants grasped the idea of a psychology occurring 'out of the head' in the dialogue between speakers. All participants were aware of their right to withdraw at any time and that their confidentiality and anonymity were guaranteed. Names and personal details have been changed and any place names and geographical locations substituted for fictitious ones. The British Psychological Society Code of Ethics and Conduct has been adhered

to throughout, as have the ethical guidelines of the Faculty of Science at the University of Plymouth.

In addition to the digital recordings of the police/public encounters, I kept brief written notes of each event and these were usually completed when each encounter was over. These notes consisted of extra-verbal information such as the location, the demeanour of the participants, and any other situational or indexical observations that might make for a more detailed vignette.

The collected data was then transcribed, by me, using the transcription conventions devised and used by conversation analysts (Jefferson 1985; Hutchby & Wooffitt 2007). The process of transcription is itself a form of analysis (Ochs 1979); however, both the data *and* the transcripts were then subjected to a *process* of analysis using the rhetorical, discursive and dialogical apparatus set out in my framework for analysis: there is, as Potter & Wetherell (1987: 175) say, “no *method* to discourse analysis” in the traditional sense. Throughout the analytical process, the admirable, though “implausibly naïve” (Edwards 1997: 89) concept of ‘unmotivated looking’ (Sacks 1995; Psathas 1995) was adhered to. Moreover, Harvey Sacks’ dictum that “. . . what you want to do is pose the problem the data bears” (Sacks 1995: 471) also proved to be excellent advice during a process of analysis that was, at times, difficult and frustrating, and which lasted for more than eight months.



The extracts that appear in this chapter were arrived at through a process of elimination as the analysis developed. When interesting problems or lines of inquiry began to emerge and certainly when the particular discursive practices that feature in the analysis were pursued, the corpus of data was whittled down. With my analytical focus settled a small core of relevant data was identified and at this stage editorial considerations also became relevant – my analytical aims and the practical business of writing become interdependent and various presentational and analytical permutations needed to be explored. Different combinations of extracts coupled with alternate narrative approaches were attempted to see how my analytical goals might best be articulated until an effective mix was achieved.

But before tackling the analysis itself, one further reflexive observation needs to be made concerning the format and the presentation of the data and the analysis. During my earlier discussions on the framework for analysis, considerable effort was devoted to discursive psychology's imperative that discourse is a topic of analysis, not a resource. The point made by Hammersley (2003) and others was that the discursive psychologist, in presenting his or her findings, is inclined to deviate from this methodological tenet: specifically, at those points where extracts or segments of text are prefaced by some contextual or extra-verbal scene setting. At these points, discourse appears to become a resource for the analyst rather than a topic.

I was obliged to concede that those shortcomings afflict this project also; in my defence, I suggested that the constraints of working within an orthodox academic format mean that that 'problem' is not easily resolved. However, in an effort to redress [at least partially] this unsatisfactory situation, it is important for the reader to be aware that in the descriptions and summaries that preface or segue extracts of text in this analysis, every effort has been made to construct them [through the use of paraphrase or indirect discourse] so that they exhibit, at the very least, the flavour of what the *participant(s)* understood them to mean, as they articulated that meaning to me in our prior conversations. Clearly, as discourse analysts we are the first to point out that *all* descriptions can be constructed differently and that I, as analyst, also have a *stake* (Edwards & Potter 1992) in how these sections of text are constructed. As I conceded earlier, letting the reader or critic know that I know that s/he knows may not be ideal, but it is better than overlooking it. On that note, it is with a mixture of relief and anticipation that we can at last move on to the analysis itself and consider the discretionary practice known as giving *suitable advice*.

#### **4.4. "we've got no proof. . ." Justifying discretion**

The act of giving of *suitable advice* should not be confused with the everyday conversational practice of offering 'advice'. The latter is a ubiquitous activity that extends beyond the police organisation and, for the most part, implies no sanction or rebuke. *Suitable advice* on the other hand, though it appears to be

just as innocuous, is imbued with an ideological complexity that belies the ease with which it can be used. This highly elastic discursive practice works as a means to an end, and an end to a means. Extracts 1&2 give us some idea of how the concept may be invoked

**Extract 1: PC K and the malicious letter writer**

PO: yeh can I sort of leave it with to speak with your staff members

M: yeh 'course

PO: and make sure that nobody (.) goes down

M: yeh

PO: and approaches Mr M

M: yeh

PO: at all

M: yeh

PO: when when they see him out in the street (.) or whether they erm (.) or if he comes (.) you know obviously I dunno if he's been barred from the (.) premises

M: yeh yeh he 'avent been coming in the store as a=

AM: we haven't seen 'im

he haven't been coming into the store so=

PO: but to keep away from (.)  
he's been warned (.) er and given advice about (.) giving giving out  
letters bh we've got no proof (.) on that side

AM: yeah

PO: erm but he has been given um suitable advice

Here, the police officer (PO) has called in on a local supermarket to update the store manager (M) and assistant manager (AM) about the progress of a police investigation. A disgruntled employee has been sending malicious letters to supermarket staff and generally harassing them after being dismissed from his job. The officer has gone to the store to inform the manager that the police have not been able to prosecute the man. Instead the matter has been dealt with informally - he has been warned to stay away from the store and given *suitable advice* about writing any more letters.

Having checked with the Manager that staff members have been briefed on what they should and should not do if they encounter the ex-employee. PC K responds to the assistant manager's observation that the letter writer has not been seen at or near the store, by telling the assistant manager that the man concerned has been warned off " (.) he's been warned (.) er and given advice about (.) giving giving out letters bh we've got no proof (.) on that side". The police officer explains and then justifies the informal action taken by the police in respect of the malicious letters by attributing blame to the evidential shortcomings of the case.

Without proof, a prosecution will not succeed and the police are limited in their response. This point of law frames his discourse and the rules of evidence and the rigor of legal procedure become an 'externalising device' (Edwards & Potter 1992; Hutchby & Wooffitt 2007) that works to justify why the police have failed to prosecute the letter writer. This lack of evidence is presented as being beyond the police officer's control and by accounting for his actions in this way the officer tacitly rebuts any suggestion that he or the police organisation have failed to do their job properly or that they have deliberately chosen the easier informal option over the more elaborate and time consuming formal prosecution process. What appears at first hearing to be a simple communication of 'fact', is performatively, much more complex. Rhetorically, the evidential shortcomings of the case work as a *prolepsis*. In this particular context, the *prolepsis* is close to being a 'disclaimer' (Hewitt & Stokes 1975) in that

. . . disclaimers try to emphasise common ground. . . However, in the disclaimer there is more than an identification, or an attempt to manage the impression which the audience might form of the speaker. There is also the element of contradiction . . . It is as if the speaker clears the way for the sort of anti-logoi which might otherwise invite the hisses and boos of a hostile audience. (Billig 1996: 269)

With his qualifying "bh we've no proof (.) on that side", the officer anticipates and acknowledges the expectations of those staff members who were offended by the letters and who reported the crime to the police so that the letter writer could be prosecuted. He prepares the discursive ground for complaints or objections that might be forthcoming from some or all of those employees involved. By

using legal procedure to account for the failure of the prosecution, the officer effectively 'covers his arse' (Chan 2007: 339; Chan & Dixon 2007: 459): as a 'speech genre' (Bakhtin 1986) it is predominantly one of damage limitation and self-survival.

But, PC K's discourse is even more sophisticated, for by constructing a "justification" rather than an "excuse" (Potter & Wetherell 1987: 75) informal resolution is presented as a better-than-nothing option. Prefaced by another qualifying 'but', the police officer reclaims some measure of legal authority and seen-to-be-doneness by announcing [more articulately this time] that, "erm but he has been given um suitable advice". The nefarious letter writer may have evaded prosecution but we are made to feel that he has not escaped censure entirely.

Undoubtedly, PC K's second response benefits from the maxim-like quality that the phrase "suitable advice" possesses: the contrast with his prior utterance, "he's been warned (.) er and given advice about (.) giving giving out letters" could not be greater. Tucked away mid utterance and faltering in delivery, there is no maximal quality to his first utterance and it lacks rhetorical weight. Maxims, like slogans are very useful because

[They] meet the requirements of a specific action. They are designed to secure attention through their rhythm and their concise and easily remembered form . . . their function is essentially that of compelling our

attention to certain ideas, by means of the form in which they are expressed. (Perelman & Olbrecht-Tyteca 2000: 167)

Moreover, maxims “invest a speech with moral character” (Aristotle, Chapter II 1359b). This one also benefits from an air of “officialese” (Fowler 1972: 411) that adds to its legitimacy. Together, these rhetorical characteristics assist in selling the informal action of the police to the letter writer’s victims.

What actually constitutes *suitable* advice is never elaborated upon or even discussed and the specifics of the advice, in this context, are subordinate to the act of administering it: indeed, the non-specific nature of the concept contributes to its utility. With the advice given, the matter is concluded. The maxim - like quality of the phrase, the structure of the officer’s discourse, and the legal authority of the speaker combine to close off any further debate. We know from Billig’s work that, “the use of witcraft cannot be seen merely as a mechanism for achieving persuasion . . . its use is linked to the search for the last word” (Billig 1996: 136). Within the particular context that PC K employs it, *suitable advice* has a powerful ‘defensive importance’; rhetorically, it is designed to function as the *last word* on the matter (Billig 1996: 137).

In extract 2, *suitable advice* is used in the same rhetorically defensive way. A resident explains to PC Y how youths on mopeds congregate outside one particular young person’s house in the locality and create a nuisance. As the neighbourhood beat manager for the area, it is PC Y’s responsibility to alleviate

and satisfy the concerns of her local residents. As a police officer she is expected to enforce the law: as the 'neighbourhood beat manager' for the area, they know it is her job to address local problems and disputes.

**Extract 2: PC Y and the 'nuisance youths'**

Mr S: they they're just a bit overzealous with their bikes sometimes (.hh) but they do tend to charge down this road (.h) and (.h) I did actually ring um Haydon Court (the local police station) and I gave some=

PO: =and you report on this because >I'm the local neighbourhood beat manager for this area (.) and what I can do is get obviously patrol if I'm not on duty if I'm on duty myself then obviously I'll do it<=

Ms D: yeh

PO: come up and down and check the are::a (.hh) and Fridays and Saturdays we tend to work 'til midnight anyway we work like a late shift but I can get you know (.) high visibility patrol in the a::rea to just check the area when they are on late (.h) and just give [them suitable words of advice rea::lly!]

Ms D: [one of em had a bad accident and he is in hospital and it's sort of touch and go whether he's actually going to survive



Like the previous extract, *suitable advice* is invoked as a discrete, seen-to-be-done activity that the police use in the enforcement of law and the maintenance of order. The sort of complaint that the residents make here is one that the police are well used to receiving. Primarily involving children and young people, the behaviour that the residents complain of is often described as 'anti-social' rather than criminal. Such behaviour can be problematic for the police who find their legal powers are limited. Discretion and informal resolutions are often the only means of dealing with those involved (Kemp et al., 1992).

In extract 2, PC Y seems to acknowledge these difficulties by the way she constructs her response. She is specific in making it clear that the officers' actions in dealing with the problem youths will be limited. Her use of the discourse marker "just" (Schiffrin 1987) when she advises that the police will "just check the area" downplays the police role. She minimises further by specifying that any action the police officers take will be strictly verbal, the extent of their action will be to "just give them suitable words of advice really!". The officer makes it clear that any resolution will not be attained by singling out particular individuals – they will all get 'advice'. Her use of the adjective "really" to conclude the utterance cleverly evokes a *this-is-the-best-I-can-do* feel.

The use and positioning of "really" also serves another function in that it closes off debate on the topic of what the police will do. It bears all the hallmarks of a *last word* (Billig 1996: 137). In outlining exactly what the police can and will do,

the rhetorical weight of the statement is bolstered by the implicit authority of the officer [as it did in the last extract]. As a “specialist in crime” (Skolnick 1966: 197), police officers are not only confident in their professional expertise, they are aware that the social and legal power they possess works to dissuade overt challenges to that authority or judgement (Kemp et al., 1992). Other writers have observed that many police officers expect deference and respect from the general public; equally, they noted also that many people actively give it (Bittner 1974; Shearing et al., 1981). Whilst Ms D concedes the last word to the police officer on the action the police will take, her reply is not entirely conciliatory. She has her say on the troublesome youths and recounts, via a series of extreme formulations, a particular incident involving one of the youths, “one of em had a bad accident and he is hospital and its sort of touch and go whether he’s actually going to survive”. . Speakers are inclined to employ extreme case formulations when “attributing cause”, or to “invoke the rightness (or wrongness) of a state of affairs or action” (Hutchby & Wooffitt 1998: 211). Ms D’s vivid and dramatic reply is at odds with the officer’s rather low-key take on the problem and through its use, Mrs D lets it be known that she is not necessarily in agreement with PC Y. In both extracts, *suitable advice* is invoked as a better-than-nothing, seen-to-be-done, palliative rather than an example of *cuffing*. There is also a euphemistic quality about the concept. Located at the lower end of the police officer’s arsenal of crime-control options, the recourse to coercive force that is latent within each and every encounter that police officers have with those they police (Banton 1964; Bittner 1970) differentiates this ‘advice’ from the kind that friends or work

colleagues or other professionals might offer. As part of a 'speech genre' (Bakhtin 1986) it has the "taste" of the police profession and of the legal and social context in which it is being used (Bakhtin 1981: 293). The social and cultural forces that encourage Ms D to concede the last word to the police officer are integral to the concept of *suitable advice*. More than just specific or appropriate 'advice', it is close to being considered an admonishment; although we saw in the first extract how a demarcation was made between being 'warned' and being given 'advice'. Drew & Sorjonen (1997) in drawing on the work of Schegloff (1992) suggest that "through the details of their language use, participants orient to their respective institutional identities, roles and tasks" – their discourse is understood to be "*procedurally relevant*" (Drew & Sorjonen 1997: 111 emphasis in the original). In extracts 1 & 2, *suitable advice* is formulated as a means to an end – the end being the cessation of criminal activity or loutish behaviour. However, at some point in the process, *suitable advice* also becomes an end to that means: its use in this form, as we shall see in the next extracts, is less clinical. It also gives us the opportunity to see how *suitable advice* can be employed in the practice of *cuffing*.

#### **4.5. "... the best way forward": Giving suitable advice**

Extracts 3 & 4, offer us the opportunity to see how *suitable advice* is administered. Extract 3 is a precursor to the act itself. Analytically, the discursive

preliminaries that are involved assist us in *knowing how* the practice is organised and located in the dialogue

Analysis proceeds from the general observation that in talk participants display to each other, as they perform their own contributions, their understanding of the setting and context, and their grasp of the emergent activities. Members of society display what they know – their practical reasoning skills and competencies. It is possible to see, for example, how utterances are designed to do tasks while the replies or turns of other participants demonstrate how those utterances are intersubjectively understood and are taken up (Wetherell 1998: 391)

The circumstances that have led the officer to giving *suitable advice* are complicated and riddled with uncertainty. In reformulating them again to assist the reader, I fully acknowledge that the indexicality and selectiveness of my gist assists my argument: every effort is made to 'capture' how the events in question were understood by the participants; but it is still *my* discourse and it could always have been constructed differently. With at least four competing or contrasting accounts of this event to choose from, my reformulation is based upon the account that PC Y gave to me.

Mrs L is mother to a six year old boy and is suspected of threatening a ten year old girl called Natalie. The threat was made after Natalie and a group of teenagers, had assaulted the boy in a local park. The first assault was carried out by the teenagers who held him down, twisted one of his teeth, and drew on his face with an indelible marker pen. For whatever reason, he remained in the park and the second assault, this time by Natalie, took place shortly after the first.

She pushed the six year old from a swing. Immediately after this, Mrs L's son ran home in tears and told her of his ordeal. She went to the park to confront the bullies, but only Natalie remained and a confrontation took place during which some kind of threat was made by Mrs L. Having been threatened, Natalie returned home and told her mother who later complained to the school and the police about Mrs L's behaviour. An evidential difficulty for PC Y is that there were no witnesses to either assault or to Natalie being threatened. The officer has made it clear from the outset that she is not entirely convinced by Natalie's claims ". . . obviously she's she's [Natalie's] obviously not (.) maybe told the same story to her mum as she has [to the school]." Moreover, Natalie has since written a letter of apology to her victim which she has passed to the Head teacher of her school. In her discussions with the Head teacher about how to deal with the matter, the police officer articulates the view that ". . . I'm thinking what I don't want to do is obviously make the situation worse if if things uv gone quiet and Natalie's written a letter to apologise".

True to her word, PC Y deals with the teenagers and Natalie by way of informal resolution. PC Y has also made it clear in earlier conversations that provided she can identify Mrs L as being the adult who threatened Natalie she will also deal with her by giving *suitable advice*. Having done some detective work to identify Mrs L and her son, the officer goes to speak with her. As we move to extract 3, the circumstances are that PC Y has just informed Mrs L that Natalie, and the group of teenagers who assaulted her son, have been dealt with by way of

“strong suitable advice”. This news is not well received and the officer has now to determine if Mrs L was the adult who threatened Natalie. If she is, there remains the task of administering *suitable advice* and thus *cuffing* the job.

**Extract 3: PC Y The Playswing Trilogy- Natalie & Mrs L**

PO: (.) what (.) the reas the other reason I'm he::re is 'cos normally we we don't try we try to not get involved > because on a level like this because obviously once the police step in you know we we don't . like to take it make it more serious than it really needs to be be and if the school can be involved and if its nipped in the bud at an early stage then that's the best way forward< .hhh U:m (.) what what's happened is .h one of the children's mu:ms has made a complaint (.) saying that her daughter was threatened

MrsL: no I just went out to her

PO: Oh right well did you actually spoke (.) to her did (.) was this Natalie you're talking about

MrsL: yeh

PO: Oh right okay .h well what actually happen::ed

MrsL: I just said to her I said what happened!=

PO: =right

MrsL: um (.) with uh the kids down the pa::rk I said you're not so funny now you're on your own

PO: ri:ght

PC Y's hesitant start is quickly followed by a self-repair, "(.) what (.) the reas the other reason I'm he::re . . ." that reveals the officer's discursive trajectory. Mrs L can be in little doubt that whatever topic is about to be broached, it is the principle reason for the police officer's presence. Recovering from her slip of the tongue, PC Y continues by building the rationale for her visit in the abstract - by reference to what would "normally" happen. Understated and provocative, she utilises the rhetorical power of lists, specifically the 'three-part list' (Edwards & Potter 1992: 163) and hierarchies (Perelman & Olbrechts-Tyteca 2000: 80). Although she stresses that the police "try to not get involved", quite what it is that the police try not to get involved with is not yet revealed. Whatever is *at issue*, she makes it clear that in 'normal' circumstances it would be positioned at the less extreme end of a hierarchy of seriousness. She hints too, at the benefits to be had from an [early] intervention by the school rather than the police "and if the school can be involved and if it's nipped in the bud at an early stage then that's the best way forward". Of course by arguing that in 'normal' circumstances the police wouldn't usually be involved, the officer, by her very presence, alerts Mrs L to this being something other than ordinary. The inference can only be that this is more serious and the whole episode begins to assume the status of a 'special' case (Billig 1996: 173).

Speaking as if she expects Mrs L to know what it is she is referring to, PC Y goes “fishing” for information (Hutchby & Wooffitt 2007: 126). We must not forget that although the officer suspects Mrs L of being the adult who threatened Natalie, she does not know for sure. If Mrs L is the perpetrator, then the utterance works to prime her for whatever is to come. Additionally, by justifying informal resolution as the “best way forward”, the officer is engaged in covering her arse (Chan 2007; Chan & Dixon 2007). Her use of the “idiomatic expressions” (Drew & Holt 1989) “nipped in the bud” and “the best way forward” point to this being a defensive rhetorical strategy

. . . because these expressions are largely figurative and formulaic they have a robustness that makes them hard to challenge with specific facts or information. That means they are well suited to inauspicious environments, where a speaker’s version of events is not being well received. (Edwards & Potter 1992: 115)

Unlike the police officer in extract 1, who justified the informal action of the police by externalising it on the grounds that there was no proof to allow a formal prosecution to take place; PC Y’s suggestion that an informal resolution is the “best way forward” is altogether more subjective and arbitrary – as a result, the timbre of her argument is less convincing, and seems more akin to an “excuse” than a “justification” (Potter & Wetherell 1987: 75).

Having constructed an intricate “my side” telling (Pomerantz 1980), PC Y completes it by cutting to the discursive chase, “hhh U:m (.) what what’s happened is .h one of the children’s mu:ms has made a complaint (.) saying that



her daughter was threatened". Addressing or orienting to a "topic" (Sacks 1995, Vol 1: 535) in conversation is a highly organised part of the machinery of talk

You probably won't start off the conversation with that; you'll allow it to be something that comes up in the course of conversation. And there are things which 'come up' in conversation which you can figure the person was perfectly well going to tell you. (Sacks 1995, Vol 1: 535)

PC Y's initial hesitation suggests that this topic is not easily broached. The vague, third person formulation is constructed in anticipation of a knowing response (Bakhtin 1986): a hypothesis that is confirmed by Mrs L's reply. Without any further prompting she takes the discursive bait "no I just went out to her". Conversation analysts call this interactional understanding the "next turn proof procedure" (Hutchby & Wooffitt 2007: 17. But, as Sacks explains this is an interactional machinery that is immensely subtle

That others see that you understand an utterance is something they can show via a next utterance . . . not only will a person eventually have a chance, say, to show that *they* also understood some utterance you showed you understood, but in doing that they will show that they understood that *you* understood. (Sacks 1995 Vol 1: 719)

The confirmation that Mrs L was the adult involved with Natalie manifests itself as a pronounced "change of state" marker (Heritage 1984) "Oh right". Clarifying that Mrs L did indeed speak with Natalie, "was this Natalie you're talking about" PC Y claims the rhetorical initiative as Mrs L now finds herself on the defensive in being asked to explain "Oh right okay .h well what actually happen::ed". Mrs L then goes on to offer her account of events to the officer who must now resolve

the matter by administering *suitable advice*. The ideological and occupational dilemma facing PC Y is that to properly 'cover her arse' (Chan 2003) she must ensure that hers is the "last word" (Billig 1996: 136); however, the last word must be had without disaffecting Mrs L to the point where she complains about the way the officer has dealt with the whole incident. In extract 4 PC Y goes about that task.

**Extract 4: PC Y Playswing trilogy-Mrs L**

PO: because I I'm a parent myself and I (.) would be (.) the same (.) as you (.) and I would be up in arms about it (.) and would be wanting to get hold of the per:son who (.)

MrsL: um

PO: tr (.) or assaulted my child=

MrsL: [>yes if I'd got hold of them I would have wanted to bloody have her YES but the law of the la::nd!<]

PO: [*unintelligible* so but you don't want to get yourself in trouble]=

MrsL: no I'm not even going to go [down that ro:ad]

PO: [you don't] want to go down that ro:ad really=

MrsL: no

PO: >what you want to do is go through the right channels  
what what I would suggest next time is to try to avoid confronting  
them yourself<

MrsL: *unintelligible*

PO: and either (.) go right to the police if I leave you my my card with my  
number on and also inform the school=

MrsL: he's SIX and they were  
what – thirteen fourteen!

PO: yeh they were all in their yeh yeh is to inform the school but I think it  
is important that you do speak to Mr K (the Head) and let him  
know=

MrsL: yeah

The police officer begins with a disclaimer (Hewitt & Stokes 1975) that emphasises the common ground that exists between the two women (Billig 1996: 269). PC Y is a parent and a mother too and these credentials allow her to legitimately draw on the *sensus communis* of parenthood to empathise with Mrs L. The focus on parenthood and commonality also directs attention away from PC Y's role as an officer of the law and keeps the encounter reasonably informal. Mrs L's reply suggests that she is still angry and upset; but, her reply also demonstrates that she is aware of the predicament she now finds herself in. She too faces a number of ideological dilemmas: how to express the depth of her anger, but at the same time making it clear that she was, and still is, aware of the

legal boundaries and sanctions that exist “[>yes if I’d got hold of them I would have wanted to bloody have her YES but the law of the la::nd!<]”. PC Y may be a parent and a mother, but Mrs L has not forgotten that she is also a police officer who could exercise her formal legal authority given the admission she has just made. In the giving and receiving of suitable advice the asymmetrical power relationship that exists between police officers and those they police is reproduced and ‘frames’ both the dialogue and the whole encounter (Banton 1964; Bittner 1970; Shearing et al., 1981; Kemp et al., 1992; Chan et al 2003). Mrs L knows she must show deference. The tacit incentive for her to do so is that no visit to the police station will ensue and a criminal conviction will be avoided: whilst deference need only be brief, it must be “observable” (Sacks 1995 Vol 1: 190) and so her active participation is integral to the process. For PC Y, it is the symbolic value of the act that matters: the requisite point is being *seen-to-be-made*, the status quo is re-established and the “last word” is had by the police (Billig 1996: 136).

Having set out her credentials as a parent PC Y qualifies her shared parental inclination to retaliation. Reasserting her authority as a police officer, she offers a disclaiming but, “. . . but you don’t want to get yourself in trouble]=”. Mrs L’s acknowledgement that she does not want to get herself “in trouble” invites PC Y to administer *suitable advice*. When it comes, the advice consists of a clichéd directive to “go through the right channels” followed by a smidgen of common-sense “tr:y to avo:id confro:nting them yourse::lf<”. As a ‘last word’ (Billig 1996:

136) it is not a particularly sparkling or decisive example of witcraft and it is far from persuasive. Given the arbitrary and subjective feel that permeates PC Y's argument for informal resolution, it may be that the search for the last word in these circumstances serves an additional rhetorical purpose,

One may not search for the last word to persuade the other, but to persuade oneself that one's own arguments have escaped unscathed by criticism. In this sense, the momentum of argumentation can be a process of self-persuasion, or perhaps self-protection . . . (Billig 1996: 138)

Having been given *suitable advice*, Mrs L makes no further reference to the way in which the young people involved have been dealt with by the police, and she appears to concede the last word on that matter. However, she does not stay silent on the sense of injustice she feels toward the young people concerned “=he's SIX and they were what thirteen fourteen!”. Mrs L leaves the officer in no doubt that she is not persuaded by the outcome. PC Y meanwhile, works to retain the rhetorical high ground by doggedly steering the conversation away from that debate and back to the benefits to be had from a minimal police involvement and an informal resolution “yeh they were all in their yeh yeh is to inform the school but I think it is impor::tant that you do speak to Mr K (the Head) and let him kno::w=”.

#### **4.6. Making sense of suitable advice**

In this section we have looked at three ways in which the practice of *suitable advice* is used by police officers. Firstly, *suitable advice* is a device that police officers use to placate, persuade or reassure victims of crime or members of the public that something has or will be done. It is used in those situations where a formal prosecution does not take place. Reified as a pseudo-legal alternative to prosecution, it is used to satisfy the demands of a public who expect the police to enforce the law regardless of the evidential strengths or weaknesses of the case. *Suitable advice* also satisfies the demands of the police themselves, in that it offers an “observable” (Sacks 1995) *seen-to-be-done* palliative.

As a device, it relies for its success on the asymmetrical power relationship that is recognised as existing between police and public and on the vagueness of the concept itself which allows it to be used in variety of ways. The implicit authoritativeness of police officers, coupled with their professional ‘expertise’ in dealing with crime, permits them to define and to close any debate on the matters *at issue* (Kemp et al., 1992): rhetorically, it is a device that assists the police in having the “last word” (Billig 1996). Whilst the “last word” (Billig 1996) is an important aspect of argumentation, for the police, its use has an additional significance in that it allows them to adhere to a philosophy that is central to their occupational and sub-cultural ethos. Embedded in the wider credo of “risk aversion” (Flanagan 2008: 50) it is an ideology of self-preservation; officers refer to it colloquially as the practice of “covering your arse” (Chan et al., 2003).

Thus, in extract 1, PC K justified the use of *suitable advice* on the grounds that a prosecution would not succeed. Having externalised the failure of the prosecution case to the rigors of due process, the officer formulates *suitable advice* as a better-than-nothing option. By constructing his discourse in this way, the recipients of the offensive letters may be placated and the investigation finalised. In the event that anyone challenges the police handling of the case or the outcome, PC K can rebut any suggestion that the police have done nothing by pointing to the fact that *suitable advice* was given and through the visibility of this practice he “covers his arse”. If *suitable advice* is a means to a number of ends, its second use is as an end in itself. Once again, the woolly or non specific nature of what actually constitutes *suitable advice* together with its generally undefined legal status allows officers considerable flexibility in how they use it.

In this second incarnation, the police use *suitable advice* as a direct exercise of power in dealing with people suspected of committing crime. In extract 4, PC Y administered *suitable advice* to a mother who had confronted a ten year old girl. The evidential specifics of the incident coupled with the highly emotive nature of events meant that the potential for one or other of those involved to be dissatisfied with an informal resolution was considerable. The police officer officer’s decision to deal informally was, in terms of her accountability, quite risky. Indeed, her decision to resolve the matter through the use of *suitable advice* is a reasonably blatant example of the third use to which *suitable advice* may be put – that of *cuffing*.

In administering *suitable advice* the officer relies heavily on the tacit threat of coercion [that is a feature of the relationship between the police and the general public] to cajole the mother into actively participating in this exercise of power (Shearing et al., 1981; Kemp et al., 1992). For the errant mother, a few minutes of contrition spare her the ordeal of arrest and the possibility of a criminal record. For PC Y, and for the victims of the crime, some form of justice is seen to be done as the recipients of the advice are made to accept some responsibility for their actions. In successfully resolving the matter, PC Y's 'arse' is covered and the last word has been left with the police.

Some theorists regard discretion as the "stuff of justice" (Gelsthorpe & Padfield 2003: 1). As the extracts so far imply, discretion is important to the sort of street level diplomacy (Muir 1977) or 'street level bureaucracy' (Lipsky 1983) that police engage in. Discretion is also useful as a tool that officers use to regulate their workload (Rubinstein 1973; Paoline 2004). The volume of work that uniformed officers are expected to deal with, and the accompanying bureaucracy that goes with it (Flanagan 2008) encourages them to differentiate between "quality" jobs and "rubbish work" (McConville et al., 1991: 33 & 99; Edwards 1996: 196). The latter are more likely to be dealt with informally. We have already seen the autonomy that officers have in dealing with and defining crimes. And, as Mrs L, the errant mother found, challenging the decisions that police officers make is socially and procedurally difficult. What is more, police officers themselves are fully aware of this social imbalance and make use of it (Ericson, 1982; Kemp et



al., 1992). So, when victims of crime are told by the police that a crime may not fit the legal criteria required to record it as a “crime”, or as PC K did in the first set of extracts, that the malicious letter writer could not be prosecuted because “we’ve got no proof on that side”; not only will those involved, more often than not, defer to the expertise and authority of the police officer, the police will expect them to do so (Shearing et al., 1981; Kemp et al., 1992).

Like everyone else, the police “. . . perform actions, and say things, for the kinds of actions they will be taken to be” (Edwards 1997: 99): and this fact is useful for those police officers whose work ethic is such that they choose to be selective in the jobs they deal with, or those others who seek to actively avoid recording or investigating crime (Reiner 1978; Paoline 2004). In police slang, such behaviour is known as *cuffing* (Chatterton 1983; Shapland & Hobbs 1987; McConville et al, 1991; Davies, 2003): the practice whereby criminal offences are not recorded (Waddington 1999). In the previous extracts involving PC Y, Ms L and Natalie we saw how the officer took the decision to deal with the incidents informally. By exercising her discretion on the grounds that “. . . I’m thinking what I don’t want to do is obviously make the situation worse if if things uv gone quiet and Natalie’s written a letter to apologise”, at least two physical assaults and an instance of threatening behaviour go unrecorded: whether or not the police officers actions were appropriate in the circumstances is another matter; as far as the police organisation is concerned, PC Y has *cuffed* the job and from a police disciplinary perspective, this is risky.

#### 4.7. "... it's a civil dispute": Discretion, cuffing & subversion

Whilst discretion is an invaluable part of the police officers craft, the potential for misuse or abuse is considerable. Gelsthorpe & Padfield (2003: 2) suggest that it provides police officers with "... the space to engage in discriminatory activities and to subvert policies they do not agree with." For discursive psychologists, the concept of "subversion" (Sacks 1995) is much wider and has a somewhat different emphasis than Gelsthorpe & Padfield's usage: nevertheless, there are elements of commonality. For Sacks, 'subversion' in talk and social action is pervasive and is the norm (Edwards 1997). Sacks describes "subversion" in this way

. . . I will call it, in principle, such things as people 'passing' under such rules, 'subversion'. When a woman walks away from a supermarket with the baby carriage filled with a baby that's not hers, that's the sort of thing I'm talking about with 'subversion.' It's not seeable. (Sacks 1995 Vol 1: 254)

The commonality lies in the issue of (*in*) *visibility* combined with the apparent *seen-to-be-doneness* of talk and social action whereby "presumptively correct descriptions and behaviour produced to fit those descriptions" may be applied to "illegitimate" as well as legitimate activities (Sacks 1995, Vol 1: 118-119). The power to exercise discretion, as we will see, and as Gelsthorpe & Padfield (2003) have already suggested, facilitates these aspects. Whilst *cuffing* is an activity that has been part of the police officer's craft for a long time, it is one that the police organisation generally frowns upon. Work avoidance practices or "easing

behaviour” (Punch et al., 1983: xii) are not unique to the police of course, but given the legal, and publicly accountable duty of police officers to investigate and deal with crime, added to the supposedly vocational nature of policing (Reiner 2000; Waddington 1999), it is a practice that few outside of the police are aware of; or more importantly, would *expect* the police to engage in (Ericson 1982).

When *cuffing*, police officers undoubtedly rely upon this cultural presumption: the problem for police officers is that this discursive sleight-of-hand is one that others in the police organisation as exponents of the police officer’s craft are also aware of (Shearing et al., 1981).

We saw how PC Y justified her actions and police officers routinely defend *cuffing* on the grounds that it was “what people wanted” (Shapland & Vagg 1988: 157). However, subjective or arbitrary justifications such as these are, as PC Y was aware, not as persuasive as some other externalising devices. In extracts 5, 6 & 7, the police officers involved employ a method of *cuffing* that is used frequently; perhaps because it appears to be a particularly versatile means of refracting the critical gaze of other police officers as well as that of the public. As a consequence, it is also a robust method of ‘covering your arse’ (Chan et al., 2003; Chan & Dixon 2007). I will refer to it as the *that’s civil* device, and it requires that police officers recast events from the domain of the criminal law – the arena in which the police have jurisdiction, to that of the civil law, where they do not. Clearly, there will be a few circumstances when the events *at issue* may genuinely be regarded as a ‘civil matter’ [boundary disputes between neighbours

for example]: but even here, *how* the distinction is applied and the extent to which it is used, are matters that are open to creative interpretation by an officer who may want to *cuff* the job.

In extract 5, Mr G, the estranged husband of Ms P has called the police and asked for an officer to come to the luxury flat that they jointly own. Intending to remove items of property and then reclaim the flat, he has called a locksmith to allow him to gain entry and then to change the locks to keep his wife out. Aware that his wife was also on route to the address he asked that the police come to the address to ensure that matters did not escalate to violence when his wife arrived. Police officers are often called to incidents like this and the orthodox police view is that their role is to ensure that no “breach of the peace” (English & Card 1996: 608) takes place. The conversation between PC B, the estranged wife Ms P and the errant husband Mr G, takes place shortly after Ms P arrives at the scene.

**Extract 5: PC B, Marital dispute between estranged partners**

Mr G: Pamela (.) I'm quite happy to change that lock back it takes thirty seconds (.) and I will do it instantly=

Ms P: if you change that lock back then I want it changed and kept like that (.) back

Mr G: fine then you change Ash Road locks tonight so that I can get in there!

Ms P: FINE no probs

Mr G: fine alright fine 'cos I'm on my way there

Ms P: fine you go up (.) there the locks aren't changed

Mr G: (*murmurs*) (0.08)

Ms P: can you write this down

PO: sorry? (*officer turns around from looking out of the window*)

Ms P: can you write this down (.) that the locks have been changed (.) in my property is there any way in a report that you can=

PO: You've got (.) to sort this out with your solicitor um as I said I'm just purely here (.) to prevent (.) the breach (.) of the peace.

Ms P: (*unintelligible as locksmith uses a power tool*)

PO: and I'm not be here to write down any documents about what's been going on (.) >your best advice is to contact your solicitor and let him know everything that's happening< (*unintelligible*)=

Ms P: (*unintelligible as locksmith uses a power tool*)

PO: it's a civil dispute! I'm basically here to stop any=

Ms P: it's all in writing I've got no no worries  
it's all in writing

The extract begins with the estranged couple squabbling over the change of locks. Ms P then seeks to break free from the tit-for-tat argument by attempting to embroil PC B in the dispute as an official note-taker and witness “can you write this down (.).”. The officer, who appears to be taken by surprise and perhaps even challenged by the request in replying “Sorry?”, sidesteps the question and offers a directive instead, “You’ve got (.). to sort this out with your solicitor . . .” By answering as she does [a simple no would have answered the question] the officer accomplishes a number of discursive tasks at once. Firstly, she puts the onus of responsibility for the events now taking place back onto Ms P and therefore away from herself. Second, by directing Ms P back to her divorce solicitor, the officer orients to the activities of divorce solicitors which are quite different to those of police officers. She reinforces this in the second half of her utterance as she sets out the particular terms under which she is present “I’m just purely (.). here to prevent (.). the breach of the peace”. Defining her role as “just purely” that of a peace-keeper, the officer makes it clear that any direct involvement will only occur if disorder ensues. Ms P’s short reply is unintelligible, but the officer’s frostier and even more specific response [which veers close to being an admonishment] suggests Ms P does not grasp what is being said.

And I’m not here to write down any documents about what’s been going on (.). >your best advice is to contact your solicitor and let him know everything that’s happening<

The terse directive “your best advice . . .” lends weight to the observation that Ms P’s request for the officer to make notes on the events unfolding was perceived

by PC B as a challenge to her authority or operational role, and it is unmistakably different in what it does when compared to the sort of 'suitable' advice we have just been considering. Once again the noise of the locksmith's drill drowns out Ms P's reply; whatever it was, it prompts PC B to finally explain why her involvement is limited, "it's a civil dispute! . . ." This clarification appears to resonate with Ms P who then backs away from her original request for the officer to act as a witness by defending her legal position "it's all in writing I've got no no worries it's all in writing."

Throughout, the police officer is at pains to define the terms under which she is present, for there is a sense, as Kemp et al., note "when the police arrive at an incident, the ownership of the dispute passes, in a very real sense, from the disputants to the police." (1992: 17). As a public servant whose basic duties include 'keeping the peace', the officer may not have been able to refuse the initial request to be present; but she can, and does, put limits on the extent of her involvement. The *that's civil* device is an exceptionally powerful one in allowing her to do that, for in defining her specific role and the activities that are bound to it, PC B pre-emptively *cuffs* any legitimate complaints of criminal activity that either of the participants might make. She does this by placing the whole event into a legal realm that is apparently beyond her jurisdiction. Externalised in this way, the *that's civil* device is also highly effective in fulfilling the 'cover your arse' requirement too.

In extract 6, PC C uses the device slightly differently when she visits Ms J, a young woman who is involved in a long running and acrimonious dispute with her next door neighbour. The police officer, who is also the Neighbourhood Beat Manager for the area, has been involved with both sets of neighbours for some time. Although there is an uneasy truce at present, the dispute shows no signs of being resolved.

### Extract 6: PC C and the neighbour dispute

PO: well hopefully when you d:o (.) hit snags like (.) to do with the porch and the window sill you (.) can can speak to them about it really but if you do get any problems I mean obviously it's um (.) circumstances like that become civil

Ms J: yeh

PO: and when it's over property but if there are problems (.) that you think we can help with then (.) that's my card and there's my phone number okay!

The police officer's utterance, which comes at the end of a long conversation with Ms J, is a *prolepsis* that again takes the form of a 'disclaimer' (Hewitt & Stokes 1975). She begins by making it clear that although she expects the dispute to continue "when you d:o (.) hit snags" the recent improvement in relations which she and Ms J have worked at might allow a negotiated resolution without police



intervention. But, the common-ground that exists between them serves only as “a brief exordium to a critical assault” (Billig 1996: 269). The “critical assault” in this instance, is the disclosure that the police will be unable to help Ms J in any further dispute. The use of the *that’s civil* device once again externalises matters by placing the dispute into a legal domain that is beyond the police officer’s occupational remit. We saw in extracts 3 & 4 how PC Y’s verbose conversational style faltered as she approached a contentious topic. Interestingly, PC C’s previously eloquent discourse also begins to falter just prior to invoking the *that’s civil* device “but if you do get any problems I mean obviously its um (.) circumstances like that become civil”. The use of “obviously” assists PC C in retaining the rhetorical high ground by making the criminal/civil distinction unproblematic: positioning it within the realm of common-knowledge, she infers that anybody would recognise it as a civil matter and her utterance actively invites Ms J to agree with her or risk being seen as ignorant or foolish.

I have already commented on the difficulty that members of the public have in challenging police officers and not surprisingly perhaps Ms J’s response is to agree. However, PC C does not disbar the police from assisting Ms J entirely; to do that would be to cast aside reasonableness (Billig 1991) and appear unwilling or unhelpful which could well result in a complaint being made. Perhaps with one eye to her public accountability and to ‘arse covering’, she first reemphasises that it is the issue of property over which the police have no jurisdiction, before then making a very general offer of help “. . . but if there are problems (.) that you think

we can help with.” Although the circumstances under which the police might assist Ms J are not set out, and responsibility for deciding what problems the police might be able to help her with is left entirely with Ms J, the offer of help ensures the encounter finishes on an upbeat note; although one cannot help but feel that the ‘last word’ (Billig 1996) has been spoken on the matter. As we move onto the final extract we will see how, in addition to managing a workload, *cuffing* may also be used to manage the presentation of self.

In extract 7, PC K visits a junior school that is part of his neighbourhood beat. During the course of his conversation with the Head teacher (H), the Head directs the conversation onto parking problems outside of the school. These are being caused by a removal firm whose employees continually park the firm’s vans outside the company office which is opposite the school entrance gates.

#### **Extract 7: PC K - traffic problems outside the local school**

H: but sometimes they park qu::ite close to where we would where we would turn in (.) which means that turning in here is therefore dangerous >I mean they shouldn't be there at all< but if they're gunnu (.) the further back (.) they are the better because=

PO: yeah well what I

mean (.) all I can say on that I mean (.) if I see the vans there I

usually get em moved on (.) I officially I can't move them on (.) I haven't told them this but officially I can't move them on

H: why

PO: because it's double yellow lines

H: so it's a what=

PO: so it comes under=

H: traffic wardens

PO: no it comes under the city council

H: oh does it oh right

PO: they decriminalised it

H: oh right

PO: a couple of years back oh well=

H: oh to be fa:ir (.) they do move it right away

PO: yeah

H: what worries me is that (.h) we are gonna have a=

PO: well (.) I will speak with them anyway::y

As we join the conversation, the Head has already explained the parking problems in some detail prior to where the extract begins. The officer responds with a variation of the *that's civil* device. We have seen previously that just before the device is invoked or a contentious topic is broached that the "speech plan"

(Bakhtin 1986: 77) of the police officer involved appears momentarily disrupted. The same occurs here, and PC K falters just prior to invoking the device “yeah well what I mean (.) all I can say on that (.) I mean . . .” The phrases “what I mean”, “all I can say on that” and “I mean” though they signal a forthcoming re-statement (Schiffrin 1987) also suggest he is having difficulty in [re]formulating the utterance to come. When he recovers, the *that’s civil* device is incorporated into a ‘disclaimer’ (Hewitt & Stokes 1975).

Following the specific format that we recognise as being a characteristic of disclaimers: he begins by aligning himself with the Head teacher “if I see the vans there I usually get em moved on” before offering the customary ‘but’. The contradiction that then follows is a qualified and tautological one “(.) I officially I can’t move them on I haven’t told them this but officially I can’t move them on”. PC K, it seems, is acting outside of his ‘official’ legal remit in dealing with the offending vans. In ‘admitting’ this fact to the Head teacher, he lets it be known that he has concealed his impropriety to the offending van drivers “I haven’t told them this”. Entering the Head teacher into this confidence and making him party to the deceit, infers that the officer anticipates some consensus. By indicating that he is prepared to disregard the legal rules in assisting the school staff, the officer’s actions become more than those of a diligent and conscientious neighbourhood beat manager, they are almost akin to a favour. In effect, PC K’s utterance works as a form of “sin license”, in that there are “occasions on which rules may legitimately be violated without questioning the status of those who

violate them.” (Hewitt & Stokes 1975:5); furthermore his discourse is constructed to encourage dialogue, and the Head is prompted to enquire as to why the officer’s actions are unofficial; this in turn creates an opportunity for the *that’s civil* device to again “come up” (Sacks 1995, Vol 1: 535) in the conversation. This time, PC K is explicit in invoking the *that’s civil* device, “they decriminalised it”. What is interesting about the rhetorical work being accomplished here is that although the officer is correct in setting out the changed legal parameters for this specific misdemeanour, he is selective in how he [re] formulates the revised legislation and what he discloses. What the Head teacher is unlikely to know, because it is not common knowledge, is that PC K, as a police officer, does possess powers under Road Traffic legislation that do allow him to deal with vehicles that are dangerously parked or which cause an obstruction. In practice, he can act ‘officially’ to move them; but, through the management of “undisclosed” information (Goffman 1963a: 58) a quite different presentation of self is provided.

Like the officers in the previous extracts, the *that’s civil* device allows PC K to retain almost complete control over a situation that potentially lacks resolution and in which he could, as neighbourhood beat manager for the area, become embroiled. By doing policing in this way, he retains the option to enforce the law when he chooses, but at the same time he pre-emptively saves ‘face’ (Goffman 1963b) with the school Head for those times when he is either unable or unwilling to act, or in other words, when he wishes to *cuff it*. His disclaimer is therefore,

also a *prolepsis*. Walklate (2001), in paraphrasing Lukes (1974) on the exercise of power and the police, notes that power also extends to “the ability to control agendas, information flow and self-perception. . .” (Walklate 2001: 146).

Clearly there are similarities between this and the two previous extracts. On each occasion, the *that's civil* device is used to exclude criminal or potentially criminal activity from the police jurisdiction. By defining an event or incident as 'civil' and thereby binding certain activities to it, any lack of action on the part of the police officer can be accounted for and be seen, as “correctly occurring” (Sacks 1995, Vol 1: 253). In this way officers *cuff* the job, manage their work load *and* 'cover their arse' at the same time. In this respect the *that's civil* device is very useful in facilitating 'subversion' (Sacks 1995). Furthermore, by externalising in this way, the police also manage the 'dilemma of stake' in which they are [potentially] caught - the dilemma of 'stake' being “how to produce accounts which attend to interests without being undermined as interested” (Edwards & Potter 1992: 158). Generally speaking, 'subversion' is “not seeable” (Sacks 1995, Vol 1: 254 ) and the responses of those members of the public involved in these incidents seem to suggest that they did indeed see the actions [or inactions] of the officers concerned as “presumptively correctly applied” (Sacks 1995, Vol 1: 118) or if they did not, they were not prepared to challenge it for the reasons that we have already discussed (Ericson 1982).

Of course, from the perspective of another exponent of the police officer's craft, the discourse and actions [including inactions] of the officers involved have a

greater degree of visibility and the presumption that they were correctly applied is contestable. Like the magician who watches a fellow magician performing a trick that she herself knows [and has performed], the sleight-of-hand is virtually impossible to conceal completely, and to one with 'insider knowledge' (Brown 1996) the unseeable becomes seeable. Thus, in the first two extracts, the officers concerned made it clear that they were not able to deal with disputes over property: whilst that may be true to some degree, the laws relating to theft or criminal damage [amongst others] are predominantly concerned with issues of property so the demarcation being made by PC B and PC C is not as clear cut or extensive as both imply; whilst in the final extract, PC K tells the Head teacher that he cannot "officially" move the parked vehicles as that particular parking offence has been "decriminalised". Although in that respect the officer is correct, what is not disclosed to the Head teacher is that the officer retains other powers that mean he can legally request the vans to be moved. In each instance, the officer's *cuff*, to varying degrees, the jobs they have been called to deal with and in some cases the way in which they have recast events will have a marked effect on those they may be called to deal with in the future, if indeed they are called again.

#### **4.8. Summary**

This chapter has been concerned with how the police deal informally with crime and non crime incidents or 'disputes' (Kemp et al., 1992). Whilst the lure of 'thief-

taking' (Chan & Dixon 2007) draws many a recruit into the police fold, the operational reality of policing can often be disappointing (Chan et al., 2003). A great deal of police work is mundane and has little to do with enacting the police imperative of detecting crime and securing prosecutions (McConville et al., 1991; Reiner 2000). One of the 'craft' (Skolnick 1966) aspects of policing is learning to manage what the police culture views as the more tedious aspects of police life. Since police officers have considerable autonomy in their working practices they have traditionally [but quite informally] been able to manage their workload. In doing this, the police culture itself makes an informal distinction between 'real' police work (Stephens & Becker 1994), the so-called 'quality job' (McConville et al., 1991), and those jobs, which officers consider to be "time consuming, unresolvable and with no clear finality" (Edwards 1994: 133). The latter are defined as "rubbish work" (Edwards 1996: 196) and the police culture [and at times, the police organisation] has, over the years, encouraged officers to deal with 'rubbish work' through the exercise of discretion.

Although the use of discretion is recognised as a legitimate, perhaps even essential feature of the police officer's craft (Gelsthorpe & Padfield 2003), the extent to which it is used has always been unclear: more importantly, how it is employed has evaded sustained critical analysis (Sykes & Brent 1983; Bayley & Bittner 1984). Yet, despite being a valuable and pervasive feature of the police officer's working ethos, officers also know that the use of discretion can be risky (Shearing et al., 1981; Chatterton 1983; Holdaway 1983).



As public servants and custodians of the law, police officers are *expected* to deal with crime and general misdemeanours and *to be seen* to deal with these things. Any failure to do so risks a complaint being made, which may have repercussions for an officer's career and the reputation of the police generally. Given that the police invariably deal with both 'victim' and perpetrator, to satisfy the competing demands of the criminal justice system is a difficult, if not impossible task (Reiner 2000). In response, the police have learned to adhere to an occupational ideology of self-preservation that is intended to guard them against complaints. Vulgarly but succinctly known as "covering your arse" (Chan et al., 2003; Chan & Dixon 2007), this ideology, 'frames' (Goffman 1974) how police officers *do* discretion. In studying the data, three particular discursive practices were examined. The first is the [mostly] legitimate practice of giving *suitable advice*, whilst the second is the discursive practice I have termed the *that's civil* device. Both can form part of the illegitimate practice known as *cuffing* (Shapland & Vagg 1988: 157; Edwards 1989: 109).

One of the great advantages of *suitable advice* is that it is not contingent upon the rigour of 'due process' (Packer 1968), and the police recognise it is a useful palliative that has the added benefit of little or no bureaucracy. Its maxim-like qualities (Perelman & Olbrecht-Tyteca 2000) lend it a pseudo-official air. More than simply 'advice', but recognised as different to a warning, *suitable advice* nevertheless has a euphemistically punitive quality which is reinforced by the lawful authority [which is backed by the implicit threat of coercive force] vested in

the police officer offering it (Bittner 1974; Reiner 2000). Moreover, *suitable advice* is versatile and sufficiently vague that it can be employed in different ways – in addition to its use as a as a punitive or draconian device it may also be utilised in a sagely or compassionate way. Thus it provides the police officer with a variety of discursive options when dealing crime suspects or those who are perceived to be wayward, recalcitrant or simply argumentative. It is equally useful in ensuring that the expectations of those who contact the police to report a crime or a dispute, and who expect the police to 'do' something about it may also be satisfied or placated. This is especially so in those instances where the expectations of the public are not matched by the 'evidence' and where a dissatisfied crime victim may be prompted to make a complaint: as the analysis showed, in these cases *suitable advice* was presented as a 'better than nothing' or 'this is the best I can do' option. However, it is here that the use of discretion can be seen to facilitate *subversion* (Sacks 1995) for it is here that *suitable advice* can also be used as a method of *cuffing*.

As highly visible public servants, officers are aware that they are under constant public scrutiny. Part of the police officers' craft is in learning to attend to that visibility and to their discourse – indeed, I have stressed that this is a crucial requirement of the 'cover their arse' philosophy (Ericson 1982; Chatterton 1983). Moreover, the power and importance of that which is visible or 'seeable' (Sacks 1995) though it is a social skill that we all learn and make use of, is one that the police actively cultivate through their role as "occupational specialists" (Sacks

1972: 282). After all, the operational methodology of the police relies upon “. . . inferring the probability of criminality from the appearances that persons present in public places.” (Sacks 1972: 282). What is more, in learning this, they also come to understand the power of *invisibility* or that which is ‘not seeable’

. . . given the orientation of the police, those routinely engaged in illegal activities will attempt to construct a front that their routine appearance in a territory will (or can) be treated as a normal appearance of the territory by its patrolmen (Sacks 1972: 288)

*Subversion* trades on ‘invisibility’, and is contingent upon activities, and descriptions of those activities, appearing to be “presumptively correct” (Sacks 1995, Vol 1: 118). Children, for example

. . . learn from their parents’ reactions which aspects of their own conduct are visible . . . and, of course, how such evidence can be subverted for such readings. (Edwards 1995: 588)

It is this realisation, coupled with the knowledge that not only does a police officer have the ‘expertise’ to define what crime is and what it is not, but that few people will be prepared to challenge many or any of the decisions he or she makes, that sets up an extraordinarily powerful situation and opens up discretion to a number of illegitimate uses, one of which is *cuffing* (Chatterton 1983; Shapland & Hobbs 1987; Shapland & Vagg 1988; McConville et al., 1991). The analysis included one instance of *suitable advice* being used to *cuff* a multiple assault; but we also saw a second method of *cuffing*; this one involves the police officer re-defining or

recasting criminal or potentially criminal events and incidents into non criminal or 'civil' matters – the so-called *that's civil* device.

The effect of employing the *that's civil* device, is to put some or all aspects of the event beyond the jurisdiction of the police. The upshot of this is to limit or preclude any police action. Externalised in this way, officers 'inoculate' (Edwards & Potter 1992) themselves from any claim that they may have acted subjectively or, worse still, were neglectful of their professional duty. Having attended to the problem of 'arse covering', the other practical implications of the device are that officers were able to restrict their involvement in tasks that they were not initially able to refuse, as we saw with PC Y who dealt with a complex double assault and PC B who was called to prevent a breach of the peace between an estranged husband and wife. Alternatively, the *that's civil* device was also used to extricate officers from long running and potentially un-resolvable situations as happened with PC C and her neighbour dispute and PC K with his problem parking. In addition, the *that's civil* device, as we saw with PC C and most obviously with PC K, allows the police officer to actively attend to the management or presentation of self (Goffman 1974).

Having seen how police officers might subvert the process of law or their organisational procedure as they *do* policing on the street, it is not unreasonable to ask whether this also extends to the formal prosecution process. Although other theorists are unequivocal in suggesting that it does (McBarnet 1983;

Edwards 1989; Shearing et al., 1981; McConville et al., 1991); as before, 'knowing that' is quite different from 'knowing how' (Ryle 2000: 28). Not only is the medium of discourse different, in that it is predominantly written as opposed to spoken; the participants and the power relationship between them are also changed. It is to the construction of the prosecution case that we now direct our attention.

## CHAPTER FIVE

### CONSTRUCTING THE PROSECUTION CASE

*“You are thought here to be the most senseless and fit man for the constable of the watch, therefore bear you the lantern.”*

Much Ado about Nothing, Act 3:3

#### **5.1. Introduction**

The glimpses of policing that the first study provided, revealed how the *informal* resolution of crime is intrinsic to the police officer's craft and the day to day business of policing (Bayley & Bittner 1984). We saw also, how the law, as it is used on the streets, commonly operates at a rudimentary level (Skolnick 1966; Bittner 1967; Sykes & Brent 1983; McConville et al 1991). Whilst the application and enforcement of the law is often as unsophisticated as it is discretionary, the interactional discursive machinery involved is complex. In diverting matters away from the formal prosecution process, the skills of 'witcraft' can be taxed to the limit. *Cuffing* a crime or administering *suitable advice* can be an accountably risky business (Chatterton 1983). Such practices may be operationally expedient in the doing of policing, but they run counter to the rhetoric of the police and the

criminal justice system: this is a rhetoric that promotes policing as an activity which operates 'by consent', that is impartial, and is fairly administered (Reiner 2000; McConville et al 1991). Quite clearly, the law as it is found in books is different from the law *in-action* (Pound 1910; McBarnet 1983; Luban 1988; McConville et al 1991): the finer points of jurisprudence and 'due process' (Packer 1968) are of little interest to the majority of police officers as they enforce the law. Their concern is with practicalities - what the law permits them to do and, even more importantly, what it prohibits them from doing (Shearing et al., 1981; Punch et al., 1983)

Whilst police officers spend a considerable amount of time diverting people away from the prosecution process, the fact remains that every day they do enter a large number of individuals into the criminal justice system. Any study that wishes to understand how policing is done, and which extols the virtue of a rhetorical approach to social psychology along the way, would be decidedly one-sided and analytically deficient if the formal legal process were overlooked. It is important that policing be examined [as far as practicable within the parameters of this thesis] in its entirety; for if, after having cast an alternate epistemological gaze over the practicalities of policing on the streets, these are seen to be at odds with the rhetoric of jurisprudence; then extending that same gaze over the next stage of the process, from arrest to the point where charges must be considered, might elicit similar discretionary and subversive practices. If this is the case, and I shall argue that it is, not only are orthodox views of policing

challenged still further, but the concept of adversarial 'justice' will again be called into question.

## **5.2. Due Process: the rules of the legal language game**

For the police officer, one of the most attractive [and compelling] features of *cuffing* or offering *suitable advice* is that the formal and intensely bureaucratic legal process is minimised. Informal resolutions involve processes and procedures over which the police officer has, in most cases, almost complete control (Kemp et al., 1992). In contrast, when a person is arrested on suspicion of having committed a crime, 'due process' (Packer 1968) compels the police to adhere to a plethora of legal practices and procedures. Figure 1 offers a simplified overview of the decision-making processes that must be considered by the police.

Successful prosecutions *depend* upon the police observing [or being seen to observe] these legal rules. Any breach or transgression is likely to lead to the case being discontinued, and as the formal legal process progresses, the finer points of jurisprudence play a greater part in the proceedings. When the investigation reaches the point where charges against the accused are ready to be considered, the police then relinquish control over the process to prosecution lawyers and advocates. In England and Wales, the recognised prosecuting agency is the Crown Prosecution Service [CPS].



## Decision-Making in the prosecution process

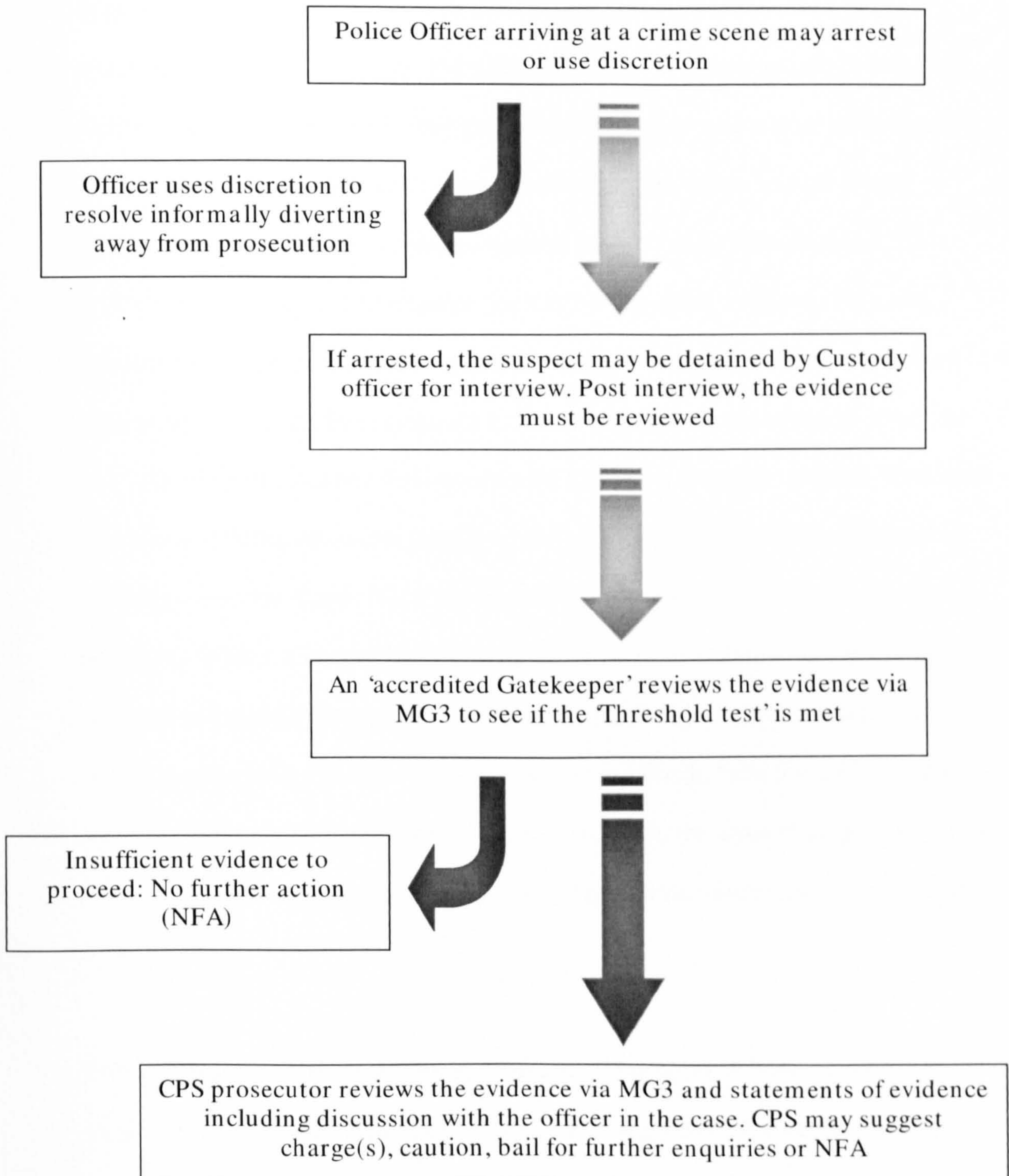


Figure 1.

The point at which criminal charges need to be considered is a defining moment in *any* prosecution case. Those cases that are deemed to fall short of the required standard for a successful prosecution will be discontinued at this point. Some may be deferred for further police investigations and a later re-evaluation of 'the facts': others will meet the prosecution requirements and go ahead - frequently by way of laying charges against the accused. This phase of the process is the focus of this chapter, for it is here that the 'officer in the case', henceforth known as the OIC, argues the case for the prosecution to a Crown prosecutor who must then evaluate it. Those arguments are made in writing on the 'MG3 Report to Crown Prosecutors for Charging Decision' (ACPO Manual of Guidance 2004/5), hereafter known as the MG3. A now mandatory element of the prosecution or 'case' file, it provides the prosecutor with the *only* opportunity to assess what the suspect has to say on the matters *at issue* [except for any verbal exchanges the prosecutor may have with the OIC] and to weigh that information against the other evidence that is available. How the OIC argues 'the facts', and the significance for the direction in which the case may go, cannot be overstated. The ability to support or subvert the prosecution case is, above all, a rhetorical one.

At this point, it would usually be appropriate to consider at least some of the existing literature; however, as I have already suggested, the contents of the prosecution file have, as far as I have been able to determine, never before been accessed or analysed as part of a social scientific or social psychological

endeavour. Some discursive work has been done with police/suspect interviews in Europe (Jönsson & Linell 1991; Komter 2002, 2006) in the past, and there has also been discourse analytic work using data from tape-recorded police/suspect interviews in this country (Auburn et al., 1995; Edwards 2006; Haworth 2006; Stokoe & Edwards 2008). Scheffer's (2006) research involved a discursive or what he calls a 'trans-sequential' and 'trans-textual' analysis of a barrister's notebooks and notations in constructing a defence case for the Crown Court. But, whilst all of these studies have some overlaps with my research, the fact remains that there are no direct comparisons to be made. From an analytical perspective, the pioneering nature of this work adds additional excitement [and pressure] to this enterprise. However, before moving to the analysis, a word or two about method is required.

Until now, the data that has been subjected to analysis in this thesis has consisted of the 'naturally occurring talk' (Edwards & Potter 1992: 28) of police officers as they go about the business of policing. But, written texts are an equally important part of that occupational environment also. Witness statements, updates on crime investigations, internal reports, and the creation of prosecution or 'case' files are a fundamental, though less public facet of *doing* policing.

Where the courtroom and the business that takes place within it are publicly accessible; the day to day business of the police station remains, for the most

part, shrouded from view (Shearing et al., 1981; Punch et al., 1983). There is no public gallery from which members of the general population can eavesdrop upon the investigative process. Even 'reality' television shows that feature the police as they go about their work rarely devote much time to the bureaucratic tasks that characterise criminal prosecutions. Snippets of police interviews with convicted criminals whose crimes have gained particular notoriety, occasionally provide the television public with glimpses of this hidden and less action-filled world, but the voyeuristic appeal they have is limited and provides only a brief respite from what is, generally speaking, a pedestrian and visually dull set of activities. It is in penetrating this closed world and gaining access to the prosecution or 'case' file that the researcher with 'insider' status (Brown 1996) is provided with some ethnographic advantages.

The case file is where the dialogue between police and prosecutor may be found. In the same way that what is said between a client and legal advisor is subject to legal privilege and Public Interest Immunity [PII]; the exchanges between the police and prosecutor are also confidential and protected from disclosure. Access to the case file, makes this normally confidential dialogue available for scrutiny. As a serving police officer, prosecution case files are a necessary part of my occupational routine and my 'insider' status (Brown 1996) undeniably assisted my request to use them as data for this research project. That my employer would be so generous in the degree of access I was granted proved an unexpected bonus. All files that had completed their prosecutorial journey were

made available to me. Although many had completed that journey publicly, via the trial process; a majority of the files involved cases that had finished their journey within the confines of the police station, having been deemed to fall short of the required evidential standard for charging. With much of the legal process done away from the public gaze, the opportunity to access these files seemed to offer an opportunity to analyse data that has rarely, if ever, been scrutinised before.

Case files are the heart of the prosecution process, and as predominantly *written* documents [although they may include visual images and spoken text], they are endowed with a certain status

The creation of a written statement . . . exploits one of the major things that written texts afford, which is the establishment of authoritative, textually fixed, and *for-the-record versions* (Edwards 1997: 129 my emphasis).

The purpose of the case file is to construct, articulate and work up the prosecution's version of the events *at issue* and, in so doing, negate any specific defence(s) that the crime suspect [or his legal representative] has offered. The file contains 'the facts' of the case. This is not to say that there may not be other 'facts' available that could also be relevant to the prosecution case, but if they are not included in this file, they cannot be used (McBarnet 1983; McConville et al 1991). In most instances, the case file itself will be *all* that the prosecutor knows about the events and the participants, and it is from these 'facts' that the

prosecutor decides whether the case can be proved, 'beyond reasonable doubt' (Allen 1993: 12). Moreover, the prosecutor must also believe that there is a 'realistic prospect of conviction' and that it would be in the 'public interest' for a prosecution to go ahead (Code for Prosecutors 2004). Common knowledge and the rhetoric of criminal justice may encourage the idea that the legal process is concerned with a search for 'the truth' and the pursuit of 'justice' (Luban 1988; Taylor 2004); but the workings of English adversarial law and more fundamentally, the mechanics of discourse mean that

An incident and a case made out about the incident are not the same thing. Conceptions of reality are multifaceted and unbounded; cases are 'the facts' as abstracted from this broad amorphous raw material. The good advocate grasps complex confused reality and constructs a simple clear-cut account of it. A case is thus very much an edited version. But it is not just edited into a minimal account – a microcosm of the incident – it is an account edited with vested interests in mind. . . The good advocate is not concerned with reproducing incidents but producing cases, not with truth but with persuasion. (McBarnet 1983: 17)

As rhetoricians know, even if persuasion fails, the 'search for the last word' will ensure that the argumentative drive does not falter (Billig 1996: 136): we should remember too that, 'Every skill the advocate is taught is bent to winning cases . . .' (Luban 1988: 76). Such a 'stake' (Edwards & Potter 1992: 110) will be instrumental in any evaluation of 'the facts' that a prosecutor makes.

If the evidential content of each prosecution file is unique, the basic layout is the same. Every prosecution file is constructed around a set of forms known as the MG series (ACPO Manual of Guidance 2004/5). Numerically identifiable and

individually titled, each form serves a specific purpose: thus, an MG1 or 'File Front sheet' records the personal details of the defendant(s); the type of incident being dealt with ['racist' or 'domestic violence' for example] and various other pieces of information such as occupational status and details of any legal representation. An MG5 is a 'Case Summary' which is intended to provide a 'quick overview of the case' whilst an MG 6 is a 'case file information' form, a confidential 'memorandum between the police and CPS' (ACPO Manual of Guidance 2004/05 Section 3: 84). Each form has a distinct function and each is vital in its own way, although clearly some play a greater argumentative part in the prosecution process than others. The form that this analysis is centred on is the MG3 'Report to Crown Prosecutor for Charging Decision: Decision Log and Action Plan'.

The MG3 is a relatively recent addition to the prosecution file, being introduced across England and Wales in 2006 as part of the 'Statutory Charging Scheme'; this scheme requires CPS lawyers to decide what, if any, charges will be laid in a prosecution case. Prior to the introduction of this scheme, police would often proffer the charge or charges (McConville et al., 1991). Discussion with the CPS did take place in some cases – usually the more sensitive or complex ones - but consultation was not mandatory and the process was far less formalised with the result that charging lacked consistency. With the advent of the MG3 the OIC must now impart sufficient information to a prosecutor to allow a decision on charging to be made. Although there is no specified format for constructing MG3

texts, the brief guidance provided on the form itself, encourages the OIC to provide a “summary of the circumstances of the case.” It also invites listing any other information that might inform a charging decision such as the strengths and weaknesses of the case or “possible lines of defence” (ACPO Manual of Guidance 2004/05 Section 3: 47). As there is no facility for the prosecutor to actually hear the tape recorded interview with the suspect, the OIC must also provide a summary of the interview; in particular, any evidentially significant comments and admissions, including silences or a failure to account for any actions.

Within a prosecutorial process that is characterised by a continual round of accounting and recounting, telling and re-telling, the MG3 offers the OIC an opportunity to present the Crown Prosecutor with a *critical* exposition of ‘the facts’ rather than another reformulated descriptive narrative. However, before the prosecutor can consider the case for the prosecution, the MG3, and the rest of ‘the facts’ as they are constructed in witness statements, photographs, and other documentation etc, must first be reviewed by an intermediary - a so-called ‘gatekeeper’.

A gatekeeper may be a police officer who is not connected to the investigation, and acknowledged as a gatekeeper by way of accreditation; or a civilian working for the police who is accredited in the same way. Gatekeepers are intended to act as a form of quality control and it is their task to decide if the case in question



meets basic evidential standards: the so-called 'Full Code Test' (Code for Prosecutors 2004). If it does, then the case passes to the on-duty prosecutor who will evaluate 'the facts' before making a charging decision. Should the case fall short of the required standard, the gatekeeper [or the prosecutor, depending upon who is evaluating it] can discontinue the case or suggest further actions, having first applied what is called the 'Threshold Test' (Code for Prosecutors 2004) to bring the case up to the required evidential standard. Whatever decision is reached, both gatekeeper and prosecutor will endorse the MG3 with the decisions they make and the reasons for those decisions.

### **5.3. Method**

During the course of this research project, 19 case files were read, these ranged from those crimes that the criminal justice system regard as 'minor' offences<sup>1</sup> to more 'serious' ones. Cases files involving 'serious' offences included: 'Attempted Murder'; 'Rape' [including incestuous rape on children]; 'Grievous Bodily Harm' and 'Possession of Drugs with intent to supply'. 'Minor' offences mostly involved 'Common Assault' or low value 'Theft' and 'Criminal Damage'. Although 'serious' offences are prosecuted in Courts throughout England and Wales every day, 'minor' ones occupy a far greater percentage of police and court time and are the staple fare of the criminal justice process (McBarnet 1983; McConville et al.,

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<sup>1</sup> The terms 'serious' and 'minor' are ones that the Criminal Justice system uses to define crimes according to their legal [and actuarial] severity. They can impact upon the evaluations made by police and prosecutors and they can also determine the mode of trial which dictates the likely sentence if guilt is established. I acknowledge the relative nature of these terms for those involved and use them with reservation.

1991). In relation to the police and the performance culture in which they operate, 'minor' offences are useful in that

. . . the constant supply of relatively low-level arrests satisfies the demands both of the organization and the occupational culture for a regular volume of relatively easy and trouble-free transactions to process, in the interests of "efficiency". (McConville et al., 1991: 206)

This same ethos is also applicable to other elements of the criminal justice and court system – including the CPS (McBarnet 1983).

As interesting as the more 'serious' cases may be, it is important to hold fast to the belief that greater insight may be gained from studying the commonplace or mundane events that come to the notice of the police – for these are the ones that are regularly overlooked or ignored. As this is a belief that has underpinned this project from the beginning it seemed entirely appropriate to direct the analytical focus towards the 'minor' offences. As with the first study, the corpus of data presented a number of incidents and events that would previously have been informally categorised by the police as 'rubbish work': specifically, heterosexual, 'domestic' assaults. As a 'Domestic Violence Officer' [DVO], the author is well aware of the cultural and evidential difficulties these cases provide for the police, the adversarial system of justice, and for victims and survivors of domestic abuse. Nowhere are legal commonplaces [many of which are simply gendered presumptions and gross stereotypes] more apparent, or their use more contentious (Taylor 2004).

The choice of case files was initially opportunistic. Ten cases were studied first and these were chosen after the author had invited detectives and uniformed colleagues to nominate prosecution cases they had been involved with. These officers were asked to reflect upon cases where they felt that 'justice' had been served well, or cases where they felt it had been served badly. As the files were read and re-read, it became apparent that cases involving 'domestic' violence and abuse were not only well represented in the corpus, but that a great many of these had been discontinued at the *post* interview, pre-charge stage. A further 9 cases, all involving 'domestic' violence were then obtained –many of these were brought to the attention of the author by the officers involved with them, whilst a small number were cases where the author had direct knowledge of the investigation.

To begin with, the case files were read and re-read several times in their entirety: this included witness statements and other evidence. Although the MG3 texts of the OIC were the specific texts of interest, as part of the analytical process it was important to read and examine original witness statements and summaries of police/suspect interviews to see the ways in which the *at issue* events were recounted. A comparison could then be made with the 'gists', 'upshots' and reformulations (Heritage & Watson 1979) produced by the OIC in the MG3. Examining *all* of the evidence in the case was also useful in evaluating the arguments put forward to gatekeepers and prosecutors and the decisions these people arrived at. Having gained a 'feel' for the data [and the prosecution

process itself], the MG3 texts of each case were then subjected to a detailed discursive and rhetorical analysis.

Considerable space has already been devoted to explaining the occupational practices and legal procedures that police use as they investigate crime and interview those persons suspected of committing it. I have stressed throughout this thesis, that knowledge of the wider institutional and social context in which police officers operate, as well as the local or specific *extra verbal context* (Volosinov 1976: 99) within which their talk and text occurs, informs our understanding of the texts in question. Bakhtin makes a striking metaphorical point when he suggests that:

All words have the “taste” of a profession, a genre, a tendency, a party, a particular work, a particular person, a generation, an age group, the day and hour. Each words tastes of the context and contexts in which it has lived its socially charged life . . . . (Bakhtin 1981: 293-294)

As we would expect, many discursive constructions and linguistic devices – the ‘interpretive repertoires’ that police officers use (Gilbert & Mulkay 1984; Potter & Wetherell 1987) are present in the corpus data and these do show considerable rhetorical diversity. However, where wider ‘speech genres’ are concerned, the ‘thematic content’, ‘style’, and compositional structure’ (Bakhtin 1986), showed less variation and three distinct genres of speech were found to recur. Given the uniqueness of the events and happenings that form the basis of each prosecution case, together with the “could-have-been-otherwise” (Edwards 1997:

8) nature of accounts and descriptions, which encourages *variability* within the interpretive repertoires used (Gilbert & Mulkey 1984; Edwards & Potter 1992) such similarities are intriguing. There seemed to be considerable analytical merit in exploring these three genres as they appeared to be influential in determining or influencing the outcome of prosecution cases.

#### **5.4. Police talk: Three speech genres.**

The first and broadest of the three will be described as the genre of *impartially*. In the first study, we saw how the notion of 'impartiality' was embedded in the inferential and interactional discursive machinery of police officers, and how it could be accentuated or down-played as the conversational ebb and flow required. All of the MG3 texts and police witness statements in this second study are constructed around the genre of *impartiality*. In itself, this is perhaps not surprising: after all, common knowledge and legal ideology [including PACE] encourage the belief that the police are gatherers of 'facts', and that these 'facts' exist *out there*, awaiting discovery (McConville *et al.*, 1991). Later on, 'the facts' are woven into witness statements and police reports whose "authoritative, textually fixed, and for-the-record" status (Edwards 1997: 129) lend credence to the idea that they are accurate factual accounts. A tacit feature of police reports and accounts is that the police are impartial in what they do (McConville *et al.*, 1991). As a discursive resource the genre of *impartiality* is a prerogative of the police.

Second, there is the genre of *credibility*. Evident in the first study, its appearance in the second study is much more extensive. Unlike *impartiality*, the genre of *credibility* is a discursive resource available to all the participants in the prosecution process. Even so, whilst its availability as a resource is unrestricted, not all the participants profit from its use to the same extent. Malleable, specious, and highly effective (Luban 1988; Taylor 2004), this is a genre that relies for its success upon a small number of legal stereotypes, some sweeping and highly gendered presumptions (Walklate 2001), and a variety of rhetorical [and oratorical] devices. Its effectiveness [particularly in the field of adversarial advocacy] is such that it not only perpetuates the stereotypes and presumptions it relies upon; its use serves to legitimise them as well. The relative ease with which *credibility* can be tarnished or inferences drawn is apparent from Keith Evans' advice in his 'Golden Rules of Advocacy' (1993)

When you do reduce it [the evidence] to hard facts you will almost *always* find that those hard facts come in a surrounding package of uncertainty. If you explore that *Perimeter of Uncertainty* you will get a lot of *Don't Know* answers. The more *Don't Knows* you get, the less reliable the evidence feels . . . The more 'I don't remembers' you get the more unreliable the evidence tends to seem. (Evans 1993: 99 original emphasis)

The police officer, like the criminal advocate, makes use of the same legal language games.

The final genre in this discursive trinity is that of the '*real* victim'. '*Real* victims' are distinct from 'crime' victims or 'complainants'. The '*real* victim' is not always

apparent at first as the assignment of '*real* victim' status tends to emerge during the interview process. As the sequential process of telling and retelling unfolds, so the *at issue* events and happenings that are at the hub of each prosecution case are formulated and re-formulated and the concept of the '*real* victim' evolves. The '*real* victim' genre is inextricably linked to the dialogical and turn taking processes of 'naturally occurring talk' (Edwards & Potter 1992: 28): but, its availability, as a discursive resource, is not universal. Only those perceived to be police 'suspects' may lay claim to the status of '*real* victims', since its use is indexed to police/suspect interviews. However, since police officers are a feature of these interviews, and their occupational role obliges them to retell and reformulate the accounts of suspects, 'crime victims' and witnesses, it is a genre that they can and do make use of. Indeed, the genre of the '*real* victim' cannot be accomplished *without* the assistance of the Officer in the Case.

The genres of *impartiality* and *credibility* were present in all of the MG3 texts I analysed. The genre of the '*real* victim' occurred in five; although as will become clear, there are specific circumstances under which this genre is used – four of these MG3 texts are included in chapter 5. Deciding what extracts to include in the thesis and which ones to leave out was no easy matter. The analysis chapter was written and rewritten many times in a variety of ways using different extracts and different combinations of extracts. My analytical and critical aims had to be weighed against more basic authorial and editorial considerations of clarity,

narrative flow, style, readability, and the length of the chapter. It was through this process that the chapter is as the reader now finds it.

Of course, 'identifying' and labelling these genres from the discursive raw material provided by the participants is one thing; but as Potter & Wetherell (1987) point out, for an analysis we need to know the uses, functions, and problems that might be created by their use. It is to these matters that the rest of this chapter is devoted.

### **5.5. "The police were called . . . ." A genre of impartiality**

Extracts 1 - 4 are the opening lines from four separate MG3s. As I discussed earlier, MG3 texts are gists that synthesise the "second stories" (Sacks 1995 Vol 2: 25) of the crime victim, other witnesses' testimony [including other police officers], the suspect's interview with the OIC, and any other information or 'evidence' [police computer logs for example] considered relevant to the prosecution case. A 'second' story' as Sacks puts it "could perfectly well be a third or fourth. A fifth story is for our purposes a 'second'. . . Its production turns on it being 'second'" (Sacks 1995 Vol 2: 25). The OIC then distils these 'second stories' into a short narrative summary.



### **Extract 1: R v S MG3 of the OIC**

On Thursday 7<sup>th</sup> October 2005 at 1435 hrs the D/P [detained person] was arrested at Ramblers Cottage, Dennison, his home address which the D/P shares with the aggrieved. At the time of the arrest the D/P was heavily in drink and was reported to have been drinking heavily throughout the night.

### **Extract 2: R v D MG3 of the OIC**

Police attended the Red Lion Pub in the early hours of 23/07/05 after a report of assault, on attendance they spoke with Monica B and James B who stated an altercation had taken place. Monica B claimed that her partner the D/P [detained person] had grabbed her by both arms with his hands and officers have witnessed this. James B claims that he has punched the D/P in self-defence after being set upon, he claims that the D/P has further punched him which has resulted in a small red mark to his right eye and slight swelling and he also has red marks to his arms which officers have witnessed . . .

### **Extract 3: R v H MG3 of the OIC**

Police were called to Bramley Park after a call from A/P [aggrieved person] Ms L to say that she was being assaulted.

Upon arrival H was seen to be standing over Ms L in the caravan.

Mr H was arrested assault ABH as Ms L had a small cut to her finger . . .

### **Extract 4: R v N MG3 of the OIC**

The aggrieved, Ms T and the defendant N are in a relationship and have cohabited for the past 6 months. In the early hours of Saturday 19<sup>th</sup> August, officers were called to the couple's home address regarding an alleged incident that took place at their home at 2230 hours Friday 18<sup>th</sup> August . . .

'Style', McCloskey tells us, 'is often an appeal to authority' (McCloskey 1998: 11), and the style of writing in these extracts is similar to the formal report writing of scientists. In scientific discourse, "recurrent stylistic, grammatical and lexical features" contribute to what has been called an 'empiricist repertoire' (Gilbert & Mulkey 1984: 55). This repertoire assists in constructing, amongst other things, an aura of 'objectivity' that distinguishes scientific texts from non scientific texts. 'Empiricist' repertoires are characterised by an impersonal style whereby

. . . references to the authors' actions and judgements [are] kept to a minimum. . . it portrays scientists' actions and beliefs as following unproblematically and inescapably from the empirical characteristics of an impersonal natural world. (Gilbert & Mulkay 1984: 56).

In these MG3 extracts, the police officer, like the scientist, "avoids being questioned for his reliability by disappearing into the third-person narrative" (McCloskey 1998: 10). She/he appears detached and distanced from the events described, "officers *were called* to the couple's home address . . ." [my emphasis]. Each extract includes precise factual information: times, dates, specific locations and some personal details of those involved, "On Thursday 7<sup>th</sup> October 2005 at 1435 hrs . . ." Observational accuracy and an almost pedantic attention to detail add a pseudo-scientific and clinical feel to the narrative. Events and actions seem to be chronologically ordered and reported as they happened, evoking a strong 'this-is-the-way-it-was' or *as was* feeling. A sense of inevitability pervades the events and actions described. The OIC, as author of the text, creates the impression of being a medium through which factual information, or 'the facts' as they are commonly known in legal parlance, are relayed. A third person perspective not only accentuates the omniscient feel of the narrative so that we sense events and happenings take place, 'out there' (Potter & Wetherell 1987; Woolgar 1988; Shotter 2002); it also embroils the reader in an "unequal dialogue" with ". . . observations and facts" (Mulkay 1985: 66).

A dry, stilted and occasionally gauche style distinguishes these extracts and works to minimise any obvious rhetorical flourishes or overt subjective

judgements: extract 3 in particular, is brief and almost perfunctory. Such a style is inclined to pretentiousness and pomposity in the language and grammar used. Words like 'attended', 'assault', 'altercation', 'the aggrieved', and 'the defendant' are a well known and almost stereotypical part of police discourse; as are inferential prefaces like, 'alleged' and 'claimed'. These lexical and grammatical elements create a rhetorical style that teeters, at times, towards burlesque (Emsley 1991); even so, these are exactly the sort of words and utterances we expect police officers to use. In spite of the stylistic, grammatical and lexical similarities between police texts and scientific reports, the two genres have an unmistakably different 'taste' (Bahktin 1981). We know this to be the discourse or speech genre of police officers and not that of scientists, or artists or physicians or plumbers. (Bahktin 1986; Drew & Sorjonen 1997).

Common knowledge and legal rhetoric both stress that the police role is an 'impartial' one (McConville *et al.*, 1991; Reiner 2000; Gelsthorpe & Padfield 2003). Where 'objectivity' is an accomplishment of science and scientists' talk; 'impartiality' holds a similar position in the occupational discourse of the police. There may be overlaps and similarities, but the accomplishment of the scientist is different to that of the police officer as is the genre of speech being used. The construction and function of the MG3 texts, of which these extracts are a part, is to create the impression of neutrality and impartiality. Whilst the style of the text is a vital facet in this achievement, on its own it is insufficient to complete the task convincingly. In the 'pursuit' of neutrality or impartiality (Clayman 1992: 169)

something else is required. In these texts, we find that 'footing' (Goffman 1981) is an effective and indispensable discursive accompaniment. The technique of 'footing' is useful in that it has a double edged and paradoxical quality that allows the OIC to engage in some highly inferential and subjective discursive work whilst appearing not to. Extracts 1, 2 & 4 show some variability in the way that footing is used.

Extract 1, sees the OIC 'foot' in a way that demonstrates that he is attentive to his own discursive accountability. He attributes an inferential and potentially contested 'fact' to an unidentified other

At the time of the arrest the D/P was heavily in drink *and was reported* to have been drinking heavily throughout the night. (my emphasis)

The first observation, that the arrested man was in a drunken state at the time of arrest, is entered into the narrative without issue; since the police officers involved in the arrest are 'professional' witnesses with direct experience of the arrested man, their occupational authority lends evidential weight to the assertion. However, the suggestion that he had been "drinking heavily throughout the night" is more contentious and speculative. It is sufficiently problematic for the OIC to shift his discursive footing and distance himself from the claim, so he qualifies its inclusion: hence, the detained person "was reported" to have been drinking heavily. The identity of the person who 'reported' this information is not revealed, nor who it was reported to. Through footing, the OIC signals his

acknowledgement that though this statement has some inferential and evidential weight, it is also open to debate. The way in which the officer foots is important too - 'reported' has a certain blandness about it that counters any claims to partiality or investigative bias; lexical choice helps sustain the OIC's neutral or impartial stance.

As Clayman's (1992) research into how professional news interviewers *do* neutrality in interview situations revealed, interviewers shift their discursive footing 'in hostile environments' (Clayman 1992: 178). Footing shifts tend to occur just prior to the making of "relatively controversial opinion statements" (Clayman 1992: 169). In extract 1 the footing shift takes place after the officer has proffered the uncontested statement that, "at the time of arrest the D/P was heavily in drink and was reported to have been drinking heavily . . ." Clayman noted, how the "authoritativeness" of the person or persons being quoted was important in lending weight to the controversial claim or position being offered (Clayman 1992: 169): police officers are not only lawfully empowered, they are considered to be trustworthy and honest. Even though the data in this research are written rather than spoken, and the achievement of neutrality is rather less of a "joint achievement of interactants" (Clayman 1992: 194), many of Clayman's observations are pertinent.

Extract 2, offers a variation in the footing technique. In this extract a number of controversial statements are attributed to specific people. Concerning the

incident, all the participants agree that an 'altercation' took place. The prefacing the OIC uses reflects this, as where Monica and James "*stated* an altercation took place" (my emphasis). Billig suggests that

Phrases and single words carry definite implications of accusation and justification, so that a term which implies praise can be considered the contrary of one exuding blame. (Billig 1996: 237)

The use of the verb 'stated' as a preface has an authoritative or definitive ring to it that lends credence to the statement that comes after it. One has no sense that any ambiguity is inferred in what is being reported – an element of consensus is implied. Contrastingly, when the OIC refers to the acts of violence that are at the heart of the prosecution case, she then shifts her discursive footing. Each act, as described by the two crime victims, is qualified with the verb 'claims' or 'claimed': "Monica B *claimed* that her partner . . ."; "James B *claims* that he has punched the D/P in self-defence. . ." (my emphasis). Constructing her discourse in this way, the OIC is able to maintain her apparently neutral or impartial stance; but, unlike the previous extract, the chosen prefaces cannot be considered so bland. Our everyday conversational experiences teach us that a 'claim' has an element of uncertainty attached to it and given the authoritativeness of the police as 'experts' in crime and criminal behaviour (Skolnick 1966), it is difficult not to feel some scepticism mounting. But, meaning does not reside in the word itself. In focussing attention on the use of *specific* words it is important to remind ourselves that "*Who* speaks and under what conditions he [sic] speaks . . . [as this] determines the word's actual meaning" (Bakhtin 1981: 401). As

conversationalists we know that lexical choice is rarely random and that the 'inference-making machine' is powerful (Sacks 1995). In this context, the OIC's cloak of 'impartiality' conceals some highly subjective and inferential discursive work. Rhetorically, the seeds of doubt that this inferential preface introduces, weaken the assertions that Monica and James make. Volosinov, reiterating and expanding on Billig's earlier comments on specific words and phrases makes the additional point that

Any word used in actual speech possesses not only theme and meaning in the referential, or content sense of these words, but also value judgement. (Volosinov 1986: 103)

Moving on, to extract 4, another and equally subtle variation of footing is employed that further exemplifies both Billig's and Volosinov's observations.

In extract 4, the OIC reports how police are called to a residential address after a report of a 'domestic' assault:

In the early hours of Saturday 19<sup>th</sup> August, officers were called to the couple's home address regarding an *alleged* incident . . . (my emphasis)

Attributing this description of the incident to any one person or group in particular, including the OIC, is difficult. Since there are no quotation marks to separate it from the rest of the text, it is neither a direct quote, nor is it a description that is regarded as contentious in some way. Seamlessly woven into the fabric of the narrative gist, the tacit assumption must be that it is derived from the same



sources as the other factual information; that is, from those officers who visited the address. The assumed authoritativeness of the police further works up the *as was* quality of the statement. Of course, prefacing the incident with the fashionably clichéd legal disclaimer 'alleged', does more than just report matters. An 'incident' has a quite different rhetorical sense when prefaced with this adjective. Ontologically, the status of an "alleged incident" is questionable and an air of scepticism is introduced from the start. The reader cannot help but cast a mistrustful eye over the events in question and those participating in them: as the author of the text, the OIC is discursively accountable for it. The function and construction of this textual fragment is ironic: the inference-making machine works to undermine the factual status of the event in question, whilst the OIC is 'inoculated' (Potter & Edwards 1992: 164) from any accusation that he has taken a stance.

In these extracts, we have seen how police officers *do* impartiality through the use of a distinctive grammatical style that creates an 'empiricist' air. Similar to the way in which scientists construct their discourse when writing or articulating formal 'scientific' reports; it is a form of argument that relies upon the erroneous assumption that 'facts speak for themselves' (Perelman & Olbrechts-Tyteca 2000: 17). A particularly important discursive feature that is incorporated into this style and which allows the argument to 'develop' (Perelman & Olbrechts-Tyteca 2000: 18) is the technique of 'footing' (Goffman 1981). The double-edged nature of this discursive tool is useful, in that it allows the OIC to engage in some

extensive inferential work whilst at the same time giving the appearance of working to exorcise or minimise any hint of subjectivity on her or his part.

Although the contexts are quite different, like Clayman's (1992) news interviewers, the authors of the MG3 texts in this study 'manipulate' footing to "actively shape the course of the debate without entering it as a participant" (Clayman 1992: 177).

In *doing* impartiality and in making effective use of the footing technique, much has been made of the 'authoritativeness' of those whose discourse is cited (Clayman 1992: 187). I suggested earlier, that as far as the authors of the MG3 texts are concerned, the tacit authoritativeness that is a category entitlement of all police officers imbues their reported utterances and observations with a greater inferential power. As we move to consider the genre of *credibility*, the issue of authoritativeness remains important: the process of constructing or undermining the credibility of those involved in criminal prosecutions actively shapes the argument constructed by the OIC.

#### **5.6. "an unlikely explanation . . ." The genre of credibility**

'Credibility' is a highly malleable concept that features prominently in the witcraft of police and prosecutors. In spite of what police officers and barristers would have us believe, it is a highly debatable and fundamentally relative particularisation. Specious and tendentious, the rhetorical versatility of 'credibility'

helps facilitate the obsfuscatory and diversionary tactics that adversarial justice permits (Luban 1988; Taylor 2004). In an arena where 'the facts' and 'the truth' are consistently touted as the only discursive currency of any worth; 'credibility' offers the forensic orator and the police officer some respite from this rigour. Assigning people to categories to encourage prejudicial and often spurious inferences to be entered into the argumentative fray has less to do with getting at 'the facts' of the case, and more to do with winning it (Luban 1988). The genre of credibility is an obligatory facet of forensic oratory; not only do the rules of the legal language game allow it, such disputation is considered to be "good legal skill" (Taylor 2004: 23). In learning their craft, police officers also become fluent in this legal language game.

'Inference-making', as we have already seen throughout this analysis and the previous one, is a discursive 'machine' that is well equipped to "deal with and categorize and make statements about an event it has not seen" (Sacks 1995: 115-116): its power is no less potent when categorising and making statements about people

The fact that some activities are bound to some categories is used . . . it's not the case that deviant activities are especially problematic, but there are categories of persons who do deviant activities and you've got a solution to a deviant activity if you've got a member of a category which is known to do this. (Sacks 1995, Vol 1: 180)

Throughout this and the previous analysis, category binding is routinely used. In the first extract of this section, two obvious and stereotypical categorisations are

employed. The creative way in which they are used shows how insidious the genre of credibility can be.

**Extract 5: R v H MG3 of the OIC**

Mr H was arrested assault ABH as Ms L had a small cut to her finger.

During interview H denies assaulting Ms L he states that they both suffer from mental health problems and are both alcoholics. They had both been drinking that evening.

He also states that Ms L is not taking her medicine and becoming increasingly paranoid and aggressive.

Here, denial and explanation are woven into one to take the form of a rhetorical syllogism or enthymeme (Aristotle: 1354a) and the genre of impartiality is intertwined with a genre of credibility.

As we saw in the previous extracts, when *doing* impartiality an OIC will continually shift his or her footing to maintain the illusion of detached neutrality. This text is sufficiently well crafted that the assignment of the categories 'mentally ill' and 'alcoholic' appear to be assigned solely by the suspect. An absence of any critical or reflexive comment by the OIC concerning the assertions that H makes, mark out the text as an active co-construction between the OIC and the suspect; in this extract, the *doing* of impartiality also involves *doing* credibility.

Thus, when the OIC writes, “H denies assaulting Ms L he states they both suffer from mental health problems and are both alcoholics”; or “*He also states Ms L is not taking her medicine . . .*” (my emphasis), he not only works to sustain neutrality through the use of inferential prefacing, he also constructs the credibility of those others involved. His use of the attributive verb ‘states’ does a great deal of rhetorical work in this respect: it not only marks off subsequent statements as being the discourse of someone other than the OIC [part of the genre of impartiality], it also lends inferential weight and authoritativeness to the suspect’s statements [as part of the genre of credibility]. ‘Stating’, as I have already suggested can, in particular discursive contexts *and as part of an utterance*, be considered different to ‘alleging’ or ‘claiming’ and such words allow the speaker to perform different discursive tasks. However, lexical choice alone is not enough and specific words must be considered in relation to the other linguistic elements of the utterance if we are to elicit meaning. Again, we must always be attentive to the “concrete situation of its implementation” (Volosinov 1986: 101) – which in this instance is as part of an official written summation of the evidence in a prosecution case file written by the investigating officer. My point here is that

When selecting words we proceed from the planned whole of our utterance, and this whole that we have planned is always expressive. The utterance is what radiates its expression (rather, our expression) to the word we have selected, which is to say, invests the word with the expression of the whole . . . The neutral meaning of the word applied to a particular actual reality under particular real conditions of speech communication creates a spark of expression. (Bakhtin 1986: 86)

Throughout this narrative, there is no sense that the police officer finds any of these statements controversial, as the use of “he states” suggests. H’s account, as constructed by the OIC in this textually fixed prosecution document seems increasingly to be the basis on which the ‘evidence’ rests. The conventions of the speech genres which the officer is using “. . . prevent the individual author from appearing as a significant textual agent” (Mulkay 1985: 70): although in this and the other extracts so far we can see how the “textual voice” that is discernable “. . . tends to remain constant although the particular author changes” (Mulkay 1985: 70). This is also true of what occurs *within* the text itself: even though the speaker changes [as acknowledged by the footing device] the ‘textual voice’ is always that of the OIC. In its various forms, inferential prefacing is a necessary element in the doing of credibility; but, inference-making is not confined to, or achieved by, prefacing alone.

The uncritical inclusion of ‘factual’ statements also lends them credibility; by implication they are endorsed by the OIC which in turn, credits them with a “for-the-record’ status” (Edwards 1997: 129). Furthermore, when the OIC writes that “they had both been drinking that evening”, and “. . . Ms L is not taking her medicine and becoming increasingly paranoid and aggressive”, directly after the disclosure that both are ‘mentally ill’ and ‘alcoholics’, the reader is invited to consider events in terms of cause and effect. A “symbolic connection” (Perelman & Olbrechts-Tyteca 2000: 331) between alcoholism, mental health, and the *at issue* events directly alludes to the credibility of those involved. Of course,

success with this argument relies upon the audience making an overwhelmingly pejorative connection between alcoholism, mental illness and violence. If common knowledge, stereotypical presumptions, and legal ideology all encourage the idea that violence is a category entitlement of those who are mentally ill, the text functions to reinforce those beliefs and hints at a 'well what do you expect, this is the way we are' form of absolution. Together, H and the OIC [as author of the text] transform the event from a criminal assault into an everyday happening for an alcoholic and psychiatrically disturbed couple. In doing so, they offer an *explanation* (Sacks 1995 Vol 1).

Harvey Sacks understood that in making sense of happenings and events:

. . . one can choose among facts according to the presence or absence of an explanation. It's absolutely routinely used. . . Something proposed to have occurred can be treated as not so, by virtue of the fact that there's not an explanation for it. That's important in this society given that miracles are no longer usable. (Sacks 1995 Vol 1: 124)

Explanations reside in the 'infrastructure' of common knowledge or common sense. Such knowledge is, "entirely tacit and beyond the reach of argument" (Sacks 1995 Vol 1: xiii). This is a "knowing of the third kind"; that is, an "extraordinary form of non-representational, embodied or sensuous, practical-moral knowledge . . ." (Shotter 2002: 40). The upshot of which, is that when other explanations are offered that run counter to this 'knowing', it takes some considerable effort to overturn or disregard the maxims of common knowledge

that we adhere to (Billig 1991; 1996; McNulty 1994). In practical terms, this means that

If an explanation is available, then it's *that* explanation that is *the* explanation, and formulates what it is that's happened (Sacks 1995 Vol 1: 412 emphasis in the original).

The 'conversational reality' (Shotter 2002) is that the availability or non availability of an 'explanation' is an essential part of *doing* credibility. Here, the unorthodox and decidedly lateral masterstroke that makes this argument all the more powerful is that H debunks his own credibility as well as that of his partner. As a self confessed alcoholic with a mental 'illness' he seeks no exemption from being bound to this category by pleading a "special case" (Billig 1996: 173): indeed, his self assignation lends him a greater authority – he can argue with insider knowledge of what it means to be an alcoholic with a mental illness. The argumentative hierarchy (Perelman & Olbrecht-Tyteca 2000: 80) that is more usually constructed in doing *credibility* is, instead, being demolished.

Paradoxically, H works to invert the genre of credibility so that neither he, nor his partner, can be regarded as credible; yet, at the same time, he expects the audience to accept his word over hers. The difference between the two is that the *explanation* he offers appears to be the only explanation offered. In the MG3 text, Ms L's voice is absent.

With categories come *entitlements* (Edwards & Potter 1992: 160). Credibility brings with it certain entitlements [and exclusions], just as a lack of credibility



brings with it a different set of entitlements and exclusions. Within the context of this argumentative situation [and the ideology of the law], these entitlements are more persuasive for H in pleading his innocence. It might be suggested that H offers no specific rebuttal or account of how Ms L sustained her injury because he does not need to. All that is required is for him to utilise the unspoken but observably negative and commonplace aspects of mental illness and alcoholism, which are “*the explanation*” (Sacks 1995 Vol 1: 412 emphasis in the original). Moreover, the process of undermining or lauding the credibility of witnesses serves another discursive function. It *misdirects* the audience. Argument by diversion consists “in turning the discussion onto secondary points . . .” (Perelman & Olbrechts-Tyteca 2000: 485). With the focus firmly directed towards the psychology and sobriety of the participants, attention is directed away from the specific detail of the *at issue* actions that prompted the call to the police. The ‘burden of proof’ that exists in criminal prosecutions is that a case must be proved “beyond reasonable doubt” (English & Card 1996: 148). Even if the focus of the interlocutors were to return to the specifics of the assault, the previous imputations are sufficient to ensure that a ‘reasonable doubt’ can never be dispelled.

In contrast, the next set of extracts shows how the genre of credibility can be constructed differently. Extract 6 again involves a heterosexual domestic assault. The male suspect, R, is interviewed about two assaults on his former partner Ms M.

### Extract 6: R v R, MG3 of the OIC

He starts to shout abuse at her [Ms M]. She does not say she is frightened even though he has tried to strangle her previously. She turns over to put her ear-plugs in. He bites her finger; blood everywhere; she phones her ex-husband. This must be a truly frightening experience, yet she phones him back, tells him not to come and spends most of the night on the phone to her sister; not the police. She does not say she has not pursued this due to fear or threats made by him. It is presented in her statement as her decision. She does not go to the hospital until the afternoon.

This MG3 is unusual by comparison with the majority of the texts in the corpus in that the OIC's *voice* can be discerned. One is aware that a critical, if overwhelming negative, examination of the evidence is being put forward. The genre of credibility consists of a series of factual statements, some of which are vivid in their descriptive force, that are constructed in the negative. The syntax used by the OIC is distinctive and draws the reader's attention to the 'untypical' responses of the crime victim all the more "She does not say she is frightened even though he has tried to strangle her previously". The use of a co-ordinate sentence and "even though" as a conjunction provokes a very clear inference that Ms M does not respond as common-sense suggests a victim of crime might. The use of litotes or deliberate understatement, "she does not say" and "she does not go", intensifies the incongruity. The OIC uses the coordinate sentence again when he writes, "This must be a truly frightening experience, yet she

phones him [her ex-husband] back . . .” (my emphasis). With each repetition, the crime victim’s credibility is eroded.

I have already suggested how the genre of credibility draws upon tacit, commonsensical ‘explanations’ to succeed. Here, the OIC actively draws attention to the fact that *the* commonsensical explanation is not available and without it, as Sacks suggested, the status of the *at issue* events is thrown into greater doubt and with it the credibility of Ms M. Indeed, the OIC formulates his discourse to accentuate this lack of explanation because he knows that in the context of a prosecution “the logoi of the prosecution and the anti-logoi of the defence will be appealing to the same common-sense of the audience” (Billig 1996: 233). The recourse to a *common* knowledge in building or undermining credibility is used again in the next extract. Unusually in this corpus, Extract 7 is a domestic assault with a female suspect. The OIC is also female.

#### **Extract 7: R v P MG3 of the OIC**

Ms P agreed that there had been a verbal argument as she has filed for divorce. She went on to say she has been the victim of 10 years of domestic abuse from her husband D. She said that she did throw the box of china down the stairs but not at Mr D. Ms P is of slight frame and is no more than 5 feet in height. Mr D is 6 feet tall and of a very large frame. Ms

P claimed that she was fearful of her safety as she knows what her husband's temper can be like.

The lexical and stylistic features that characteristically feature in the genre of credibility are again present. We see how the OIC formulates her discourse to allow the reader to draw specific inferences: she constructs the text in such a way as to prime her audience. Ms P agrees that a verbal argument took place and fully admits that, "she did throw the box of china down the stairs". Her admissions present Ms P as a cooperative and, by implication, an honest or truthful woman. She is assisting the police investigation, not hindering it. Unlike R v H, where the argumentative hierarchy between crime victim and suspect was levelled; here, Ms P's credibility is being worked-up. At the same time, her husband's claim, that she threw the box at him, is made to look increasingly like a malicious and petulant allegation with the revelation that she has filed for divorce and been a "victim of 10 years of domestic abuse". Not only do these inferences put Mr D in a different light, the focus shifts away from the specifics of the assault claim. Her credibility is further strengthened by the police officer's reflexive observation that, "Ms P is of a slight frame and is no more than 5 feet in height. Mr D is 6 feet tall and of a very large frame". Not only is the rhetorical contrast striking, the authoritativeness of the police officer lends discursive weight to this "observable" fact (Sacks 1995: 190).

Cause and effect encourage the audience to empathise with Ms P's plight as an 'explanation' is procured. Presented with this array of additional 'facts', we sort among them and "add them up", as Socratic argument encourages (Sacks 1995 Vol 1: 54): the effect is to recast Mr D as a wife-battering bully who responded badly to being told of the divorce. His physical advantages provide an implicit justification for any improper or illegal behaviour on the part of Ms P, and Mr D seems all the more spiteful and petty for reporting the assault to the police. The persuasive power of inference making, as it is used within the genre of credibility, is that it directs the audience to particular 'facts', events or utterances without *obviously* directing them (Perelman & Olbrechts-Tyteca 2000). The process works because

. . . in their incomplete, enthymemic structure, we offer initially unconnected premises that (most of) our audience will be able to connect up for us – and feel that it is they who have 'seen' the point! They themselves make the connection by drawing upon (perhaps in themselves inarticulable) *topoi* in the *sensus communis* already existing between them and us as speakers. (Shotter 2002: 56)

Clearly, the genre of credibility has many overlaps with the genre of impartiality. Elements of each serve both and the boundaries, if indeed they may be called that, are fuzzy. Inferential prefacing, for example, is as important in the *doing* of impartiality as it is in *doing* credibility. Inferences, particularly adverse ones, are easily made but less easily rebutted. Stereotypical and gendered presumptions do their work and symbolic connections direct the audience to an explanation – to "*the explanation*" (Sacks 1995 Vol 1: 412) - or the lack of one. Such

explanations and such 'knowing' are features of our conversational realities (Shotter 2002): invariably tacit, this is a knowledge that is beyond the realm of argumentation (Sacks 1995) – what Shotter calls, a “special third kind of knowledge” (Shotter 2002: 19)

It is not a theoretical knowledge (a 'knowing-that' in Ryle's (1949) terminology) for it is knowledge-in-practice, nor is it merely knowledge or a craft or skill ('knowing-how'), for it is joint knowledge, knowledge-held-in-common with others. It is a third kind of knowledge, *sui generis* . . . the kind of knowledge one has *from within* a situation, a group, social institution, or society; it is what we might call a 'knowing-from'. (Shotter 2002: 19)

In R v H, the category entitlements associated with membership of two socially marginalised groups: the 'mentally ill' and the 'alcoholic', defeat the prosecution case because 'the facts' of the suspect's defence fit with what we 'know' about people who are assigned to those social categories. Conversely, in R v R, the OIC formulates his discourse toward the lack of any 'explanation' and without it Ms M's credibility is made to seem questionable. Finally, in R v P, 'the facts' fail to fit with Mr D's explanation of events less well than they do the explanation proffered by the OIC, who invites us to draw on “knowledge-held-in common with others” (Shotter 2002: 19) about relationships in general and about 'domestic' violence between men and women. Ironically, but not unusually [as other cases in the corpus show] the OIC in each case collaborates with the suspect by uncritically re-constructing and reformulating 'the facts' as they are offered by the suspect. As we move to consider the last of our triad of genres, that of the 'real victim', this is a phenomenon that we see developed all the more.

### **5.7. “He was very hurt and confused”: The genre of the ‘real victim’**

We have seen how the genre of credibility relies for its success on the genre of impartiality, and that there are many discursive features common to both. When we consider the genre of the ‘*real* victim’, we see that it is built out of the other two. In extract 5 H negated his own credibility and that of his partner by binding them both to particular social categories. Whilst they may both be ‘victims’ of alcohol addiction and unspecified ‘mental’ illnesses, in themselves, this is not sufficient for ‘*real* victim’ status to be conferred. In R v H that status is initiated through the attribution of blame “He also states that Ms L is not taking her medicine and becoming increasingly paranoid and aggressive”. Ms L’s inability or unwillingness to take her medicine and keep her aggression and paranoia under control puts the onus of blame on her. By implication, her status as a genuine ‘crime’ victim is challenged, whilst his status, as the ‘*real* victim’, is clearly being hinted at. In the absence of any overtly critical or adverse comment by the OIC, this is an inference that dovetails neatly with “*the explanation*” (Sacks 1995 Vol 1: 412) that has been provided.

In extract 7, a slightly different approach was taken, in that Ms P’s credibility is linked, from the outset, to a ‘*real* victim’ status. Like R v H, ‘*real* victim’ status for Ms P depends, for its success, upon the authority of the police officer authoring the text. Our perception of police officers is as “occupational specialists on inferring the probability of criminality from the appearances persons present . . .”

(Sacks 1972: 282). So, when the OIC offers up a vivid description of the physical differences in size between Ms P and her husband, together with an uncritical disclosure of domestic violence within the relationship, our common-sense perceptions of how this relationship might have been conducted are bolstered by our belief in the police officer's professional judgement. We trust in the OIC when she suggests that it is Ms P who is the '*real* victim' in this case. As we move to consider the final cluster of extracts, we see that the genre of the '*real* victim' can only succeed when it is endorsed by the police officer in the case.

Extract 8 is from the second and concluding paragraph of an MG3 written by the OIC. Having interviewed G, the OIC reformulates G's account as it was given during the police interview. There are many similarities with R v H in the way that category binding is used to construct a genre of credibility which is then used as a springboard for introducing a '*real* victim' genre. The circumstances of the case are that Ms A has been in a long relationship with G. According to the OIC, she describes him as a "dominant male who is very controlling and violent" and she explains in her witness statement that the domestic violence she has survived has made her depressed to the point where she is on sick leave from work. The details of the assault as she describes it are that he kicked her to the legs as they lay in bed; they had been arguing about his relationship with another woman. A day later, she flees the address with her children and reports the incident to the police who eventually arrest G on suspicion of assault.



### Extract 8: R v G, MG3 of the OIC

During interview the D [defendant] states that his wife is going through severe depression, he stated that their relationship was good but his wife is becoming more ill, he said that they have two children and were going to take them to Ibiza this Saturday and is now at a lose (sic) as to what to do, he claimed that his wife argued with him Thursday and she left with the children, he claimed that his daughter telephoned him on the Saturday as she wished to be with her friends. He said, that he drove up to Doncaster, picked up his daughter there were no angry words nor allegation of him assaulting her. He said that he was very hurt and confused when a police officer arrested him today. His plan of action with his wife is try and get her to visit her doctor again with a view [sic] as he feels this allegation could be part of her illness.

The account that the OIC formulates from his interview with G is detailed, but does not address the specific acts of violence of which G is accused. Instead, the OIC provides a vivid narrative account of Ms A's mental 'illness' which is set in the context of what appears to be an otherwise happy family. G describes his relationship with Ms A as being 'good'. He reinforces this by describing how they have "two children and were going to take them to Ibiza this Saturday". The narrative constructs G as a caring father who is prepared to drive considerable distances to collect his daughter who calls him when she wants to be with her

friends. Domestic life, it seems, was going along contentedly until “his wife argued with him”. G places the onus of blame for the argument on Ms A, after which she leaves with the children.

The vignette constructed here presents the suspect’s family life as otherwise ‘normal’ and mundane; this works to make Ms A’s behaviour seem all the more anomalous and extreme (Wooffitt 1992). The argument itself is glossed over: no detail is offered as to what it was about or what form it took, and the event [including the assault] is effectively minimised. G reiterates this in his account of what takes place when he collects their daughter to return her to her friends; the point is made that there were “no angry words nor any allegation of him assaulting her”. Consequently, his later arrest for assault is given an unexpected quality that accentuates his claims to innocence. Rather than becoming angry or irate, as one might [stereotypically] expect a violent wife-beater would, his response is quite the opposite. Passive and tinged with pathos, “he was very hurt and confused when a police officer arrested him today . . .” The genre of the ‘*real* victim’ is now actively invoked. Casting himself as a concerned husband who is now “at a lose (sic) as to what to do”, the OIC concludes the text with a proclamation that acts as a “last word” (Billig 1996: 135) that further confirms G’s status as a ‘*real* victim’ “His plan of action with his wife is try and get her to visit her doctor again with a view [sic] as he feels this allegation could be part of her illness.” Ms A’s status as a mentally ill woman continues to be given an unchallenged, factual status and attributing blame directly to her ‘illness’ rather

than to her, depersonalises matters. The gendered legal stereotype of the 'mad' or 'bad' woman (Taylor 2004: 37), so common in adversarial advocacy, is again called upon to do its inferential work. G's 'plan of action' suggests that he bears no malice towards his wife and it reemphasises his caring nature [although ironically, it also suggests that Ms A's claim that he is a "controlling" man might also be accurate]. Nevertheless, these 'last words' (Billig 1996) resonate with a positive or hopeful timbre that diverts the reader away from the fact that the *at issue* events have not been examined or explained. In the absence of any critical or adverse comment, we are left in no doubt that the OIC is offering this account as the "for-the-record" version of events (Edwards 1997: 129) for the gatekeeper and prosecutor to consider.

The combination of "*the explanation*" (Sacks 1995 Vol 1: 412), together with knowledge of the "third kind" (Shotter 2002: 19), and the police officer's category status as an expert on crime, criminals and criminality (Skolnick 1966; Sacks 1972), is intensely persuasive. It is crucial in undermining the credibility of witnesses and their accounts of what took place, and re-constructing the suspect as the '*real* victim': this is so even in cases where more than one witness gives evidence against the suspect. Extract 9 is a case in point

### **Extract 9: R v D MG3 of the OIC**

The D/P [detained person] has a severely swollen right eye which is closed and is severely bruised, he also has scratches to his neck and face. In interview the D/P stated that James B has set upon him, resulting in these injuries. He states that he has not hit James B in any form and that James B is big and strong and was very violent towards him. He states he that he has not touched Monica B and states that she tried to restrain James B who grabbed her to the arms. Upon officers attendance the D/P was found in bed holding an ice pack to his right eye.

D has been arrested for assaulting his partner Monica, and her adult son James. According to their statements, during the course of assaulting Monica, her son James has intervened to defend her. In doing so he has punched D and as a result, D has sustained the greater injuries. This extract is the second paragraph of a two paragraph account by the OIC – the first paragraph [Extract 2] summarised the incident from the witness statements of the two crime victims. Many of the rhetorical features that we would expect to find in the three genres we have been examining are present in this extract and I do not intend to reprise them. What is of interest here is how the genre of the '*real* victim' is worked up in three very succinct parts: 'last words' again play a significant part in conferring '*real* victim' status to the suspect.

The opening line of the paragraph begins the process of working-up D's '*real* victim' status by focusing on 'observables'; that is, the "observability of actions" (Sacks 1995, Vol 1: 120). The description that the OIC provides differs from the dry *as was* style of police writing that we have become accustomed to. The language used to describe D's injuries is more emotive. D's right eye is "severely swollen" and "severely bruised". The repetition may be inelegant and clumsy, but the point is still made. I made the point earlier that as conversationalists, and certainly as analysts, we are aware that

Phrases and single words carry definite implications of accusation and justification . . . The very use of one phrase rather than another will, then, indicate the seed, if not the flower, of an argumentative position. (Billig 1996: 237)

This account of D's injuries is more than a description; it is a *prolepsis* that paves the way for the '*real* victim' genre to come. With attention drawn to 'observable facts', the three sentences that form the middle section of the paragraph switch attention to "*the explanation*" (Sacks 1995 Vol 1: 412) that D offers during his police interview, and which the OIC reformulates in the MG3 text. D is direct in asserting that a miscarriage of justice has taken place and that he is the '*real* victim', "the D/P stated that James B has set upon him, resulting in these injuries. He states that he has not hit James B in any form . . ." As happened in R v P, the claim to '*real* victim' status is reinforced by drawing attention to other 'observables'. James B's physical stature and his aggressive disposition are emphasised in extremes, "James B is big and strong and was very violent

towards him". D appeals to common knowledge and our everyday experiences, which suggest that 'victims' of violence usually finish with greater injuries than perpetrators; after all, is this not how we recognise them as 'victims'?

Furthermore, common knowledge also has it that young men are more likely to use or threaten violence than other sections of society, especially young men who are protective of their mother. Like all of us, D [and the OIC] knows that

. . . it is somehow extremely important that the inferences they [people] do make can be taken as correct, and thereby that those persons who produce activities which are described by these sequences so behave as to provide for the fact that these sequences do describe them. (Sacks 1995, Vol 1 118)

Perusing the 'facts' on offer, the explanation being put forward looks highly believable and very much like '*the explanation*' (Sacks 1995 ): even when pitched against the testimony of two witnesses whose accounts dispute it. But, the case is by no means made and much relies upon the 'last words' (Billig 1996) of the OIC to sell this account to the prosecutor who will evaluate the case "Upon officers attendance the D/P was found in bed holding an ice pack to his right eye." Other MG3s in the corpus without exception, report the arrest of the suspect in an unfussy and matter-of-fact way. Here, the matter of D's arrest is only alluded to and instead, the OIC describes D's behaviour and demeanour when the police arrive. Constructed as a cameo, D is presented as a sad and pitiful figure who has clearly elicited the sympathy of the OIC. Through this appeal to pathos, the OIC encourages us to question whether D's behaviour is more *observably* akin to that of a victim rather than a perpetrator. The last words

loosely sum up the argumentative position that the OIC has inclined to throughout the paragraph and there is little to be said in reply. The inferential value of these last words outweighs any strict evidential potential and from the preceding detail in the paragraph, it seems that the OIC is engaged in “begging the question” because she is “postulating what [she] wishes to prove” (Perelman & Olbrecht-Tyteca 2000: 112).

‘Last words’ (Billig 1996), are a feature of all the MG3 texts in the corpus, as the OIC in each case strives to convince those who must evaluate the evidence and the arguments being advanced that charges should or shouldn’t be brought. These may be the last words of the OIC, but they are not the last words on the case itself: those of course, are reserved for the prosecutor. However, in those texts where the ‘*real* victim’ genre is employed, the ‘last words’ of the OIC are significant in that they go beyond being a professional assessment or a decisive summation. In R v D, we see how the last words function as *petitio principii* - to “beg the question” (Perelman & Olbrecht-Tyteca 2000: 112). The same charge may also be levelled at the last words of the OIC in R v G: but in the latter instance, when the OIC concludes the MG3 text with “. . . his [the suspect’s] plan of action with his wife is try and get her to visit her doctor again with a view as he feels this allegation could be part of her illness”, something more is being done. In R v G the last words work as both a “formulation”, because it “characterizes states of affairs already described or negotiated (in whole or in part) in the preceding talk” (Heritage & Watson 1979: 126) and as an “upshot” (Heritage &

Watson 1979: 134) because consequences are set out (Edwards 1997). The upshot strives to convince us that some 'good' has come from this event and the subsequent police action: the '*real* victim', G, has been identified along with the true culprit - Ms A's 'depression'.

We find similar arguments encapsulated in the last lines and the 'last words' (Billig 1996: 131) of two earlier cases where the '*real* victim' genre is employed. Extract 10 is the last line of R v P, whilst extract 11 rounds off R v H.

**Extract 10: R v P MG3 of the OIC**

Ms P denied any allegation of assault against her husband and now feels she has the courage to make a statement to the police after the years of domestic violence that she has endured.

**Extract 11: R v H MG3 of the OIC**

He [H] believes the relationship is over and is prepared to move back to Elmbury to dissolve the relationship.

In Extract 10 the last words of the OIC formulate her professional, "for-the-record" (Edwards 1997: 129) judgement on the case. She then offers a similarly upbeat conclusion as the OIC did in R v G. Reiterating Ms P's denial of assault,



the police officer reformulates Ms P's experience of arrest and interview by the police as an upshot when she proclaims, "Ms P now feels she has the courage to make a statement to the police. . ." 'Real victim' status for Ms P not only redefines the incident, it heralds it as an epiphany. Ms P's arrest is transformed into a potential miscarriage of justice that has been narrowly averted. The *gravitas* this imparts to her experience and the entire proceedings heightens the finality of the statement.

The last words in Extract 11 also have a conciliatory and resigned finality about them, although it is less dramatic. These, like the last words in R v G, bristle with a sense of 'male authority' (Dobash et al., 2000: 27), 'He believes the relationship is over and is *prepared* to move back to Elmbury to dissolve the relationship.' (my emphasis). H's gesture appears magnanimous and reasoned in the circumstances and by emphasising that 'He believes' the relationship to be finished, and that he is the one 'prepared' to move away, both H and the OIC allude to reticence on the part of the crime victim to do likewise. Since her wishes and views are never articulated by the OIC, the inference-making machine is at liberty to do its work. Once again, the last words recast events and consequences positively: controversy is being avoided. With the relationship 'over' and H 'prepared' to move away, the implication is that a solution has been found without the need for a prosecution and that a 'happy' or 'amicable' ending is likely. Rhetorically, these last lines, and those others where the genre of the 'real victim' is used, are similar to the 'punch-line' of a joke (Billig 1996: 137).

Admittedly, the element of surprise that characterises the punch-line of most jokes is lacking; but, rather like the end words of a novel, each has a finality that confounds an obvious retort and puts an end to dialogue.

### **5.8. Summary**

The genre of the '*real* victim' is a sophisticated witcraft that is common in cases involving 'domestic' violence, although it is not confined to them alone. Just as the genre of *impartiality* is a necessary facet in the genre of *credibility*, so the genre of the '*real* victim' is developed out of the other two. If *impartiality* is the discursive mortar that bonds the lexical elements together; *credibility* provides the foundations upon which '*real* victim' status is built. In the cases that feature in this analysis, '*real* victim' genres occur in those where there is some consensus between the participants over the events in question: the argumentative thrust is not one of outright denial. Claims that punches were thrown, or injuries caused are not *at issue*. What is in dispute are the categories to which those involved have been assigned; like us, the participants know that "some activities are bound to some categories" (Sacks 1995, Vol 1: 180) and the '*real* victim' genre works to reformulate the original accounts made to the police and to alter the categories into which the participants have been placed.

Whilst '*real* victim' status is usually, but not exclusively, proposed by the suspect during the course of the police interview, it cannot be successfully achieved by

them alone. In addition to the presence of the genre of *impartiality* and *credibility*, the genre of the 'real victim' can only succeed if a number of other discursive elements are also present. Firstly, 'real victims' require the active assistance of the police officer dealing with the case, for this genre is a joint production that only the police officer's assumed authoritativeness can pull off. Secondly, a 'real victim' requires that a common-sense, and more often than not, tacit "explanation" to which the 'facts' can be fitted, is available (Sacks Vol 1 1995: 124). Regardless of rhetorical flair and dialectical skill, we are all, it seems, "constrained" in the versions of the world or of events that we can offer, by what an audience will accept as "reasonable" (Sacks 1995 Vol 2: 419).

Throughout this analysis, we've seen how the wider *sensus communis* (Billig 1991:21) dictates that 'real victims' will look and act like victims; that bullies are bigger than those they bully; men are always more violent than women; and the mentally ill or the chronically alcoholic can never be relied upon to tell the truth or report events accurately. The persuasive power of this, and the other two genres, lies not in dialectic, but in an "enthymemic" (Shotter 2002: 56) textual construction. As conversationalists, we know that an audience is more effectively persuaded if they reach, what they believe, to be their own conclusions (Perelman & Olbrechts-Tyteca 2000; Shotter 2002). And equally, whilst most conversationalists are not overtly aware of it, the dialogical process is such that, "a presented description is dealt with by its recipient as something to use to decide whether a correct story is being told" (Sacks 1995, Vol 2: 235). The fine

art of witcraft, of course, lies in presenting a description that directs an audience to the conclusions you want them to come to; success in that, is buoyed by the third and final discursive element that characterises the '*real* victim' genre: that of the "last word" (Billig 1996: 135).

Last words in '*real* victim' cases differ from the last words in those where it does not feature. The analysis suggests that the 'last words' in '*real* victim' genres fulfil a variety of discursive functions, not least of which is to persuade the gatekeeper and Crown Prosecutor by closing off debate or minimising controversy. But, as we saw in the first analysis, the 'last word' also functions to "justify one's own arguments", and as a means of "self-persuasion" (Billig 1996, 138). Having committed to arguing the '*real* victim' status of the suspect, in the face of contradictory accounts from the witnesses and participants [including other police officers], we should not be surprised [as we found in the last chapter] that the OIC "covers their arse" (Chan 2007: 339; Chan & Dixon 2007: 459). Ensuring that it is they who have the last word on the subject allows them to do just that – although theirs is not the last word in the process. Significantly, in most of those cases where the genre of the '*real* victim' was used, the OIC and the suspect were successful in inverting the original accounts and perceptions of those involved and the prosecutor discontinued the case.

Given the overlaps and interconnectedness of the three genres in this analysis, it is no surprise that collaboration and collusion between the OIC and the suspect,

and a dependence upon common knowledge are also obligatory elements in the doing of *impartiality* and *credibility*.

The genre of *impartiality* is contingent upon an acceptance that police officers are neutral and even-handed in their investigation (Gelsthorpe & Padfield 2003). The pseudo-scientific style of writing that characterises MG3 texts perpetuates the belief that police officers discover and then report 'the facts' (McConville *et al* 1991) for others to evaluate and judge and that they have no other *stake* (Edwards & Potter 1992: 158) in the prosecution process aside from that. Similarly, the genre of *credibility* relies upon the public-at-large accepting police officers as specialists in recognising criminals and understanding criminality (Skolnick 1966; Sacks 1972).

In the doing of *impartiality* and in doing *credibility*, a surprisingly limited gamut of linguistic devices is routinely used. Discursive 'footing' is extensively relied upon to distance or align officers from specific and contentious statements. Like all of us, the police also make considerable use of seemingly innocuous but highly inferential prefaces to cast doubt on the veracity of events or assertions or to endorse them: however, unlike other conversationalists, in this context, the 'expertise' of the police in assessing 'moral character' (Sacks 1972), injects a legal and moral authority into the process that accentuates the rhetorical force of any observations they make or judgements they pass. Very subtly, the direction and focus of the prosecution case can, and is, manipulated (Clayman 1992). Just

as suspects can be transformed into '*real* victims'; so witnesses can be discredited and testimonies can be endorsed or undermined. The attention and emphasis placed on "observable" (Sacks 1995, Vol 1: 120) actions, diverts attention away from those which are "not seeable" or are not heard (Sacks 1995, Vol 1: 254).

The analytical data presented here, suggests that police officers "subvert" (Sacks 1995, Vol 1: 254) the prosecution case as often as they support it. The prosecutorial process is highly subjective rather than analytically rigorous. Witcraft, more than investigative prowess or an outright dependence upon 'the facts' determines the fate of the case and those involved; all of which returns us to those ideological dilemmas which prompted this thesis in the first place. In the final chapter, I shall attempt to piece together the argumentative threads and analytical insights that this research has provided, and to draw some conclusions.

## CHAPTER SIX

### DISCUSSION

*“If you meet a thief you may suspect him, by virtue of your office, to be no true man; and for such kind of men, the less you meddle or make with them why, the more is for your honesty”*

Much Ado about Nothing, Act3:3

#### 6.1. Introduction

Over the course of the last five chapters some of the less visible working practices of the British police officer have been placed under an intense analytical spotlight. A number of these practices have previously featured in the established police research; but, there are others which have not been subjected to the analytical scrutiny of the social scientist before. They have remained, for want of a better phrase, ‘trade secrets’; some, it is fair to say, also qualify as ‘dark’ secrets in that they are “incompatible with the image of self. . .” that police officers strive to present (Goffman 1969: 141). These practices, which have previously been viewed as ontologically external to language have, in this thesis, been ‘re-specified’ (Edwards & Potter 2005) and are now understood as discursive practices. Having reached the final chapter, my task is now to bring together all the information and analyses and to mull over and discuss my findings so that I can then offer some conclusions. Before I do, it is appropriate,

after five years of study, to reprise what I originally set out to do in this thesis. Having done that, the main findings from the analyses must also be discussed and positioned against the existing literature. Difficulties and additional dilemmas that arose during the research will need to be considered before finally, by way of a conclusion, I turn my attention to the implications that this research has for the police in terms of their working practices and future training. For myself and other interested academics and observers, there is also the question of what further research is possible.

## **6.2. What the thesis set out to do**

This thesis was a response to the increasing number of 'ideological dilemmas' (Billig et al., 1988) that have confronted me throughout my police career. If alleviating them has been difficult; resolving them has proved impossible. Yet, early on in my police career things seemed so different: the dilemmas were fewer and the apparent resolutions easier to find. The stock of common knowledge that circulated within the sub-cultural milieu in which I worked reassured me that I was mistaken in seeing 'dilemmas' of any kind. But with my entry into academe and my subsequent academic enlightenment, those dilemmas of ideology that the occupational culture of the police had assured me were illusory returned; this time in greater numbers. With my intellect broadened and an array of different ideologies and world-views to call upon, the common sense knowledge of the police was no longer so convincing and my dilemmas became more difficult to



tolerate. Conversations and debates with colleagues confirmed to me that mine was an isolated voice: relatively few of them were prepared to doubt the accumulated wisdom of police common-sense. Presented with the very tangible problem of what to do, I opted to research and write this thesis. I wanted to *know how* (Ryle 2000) it is that policing is done as well as why, so that I could better understand those dilemmas that troubled me then and still trouble me now. In addition to analysing them, I also wanted to bring them into a more public and critical forum; for they are not simply dilemmas that affect the police, they involve the public and have implications for the process of law. Making the debate a public one has the further advantage in that the voices and opinions of police officers are less likely to be stifled as they would be if the debate remained within the confines of the police organisation.

In choosing a more public forum for debate, I am acutely aware of the power my 'insider' status (Brown 1996) has in acting as a provocation. Police officers may remain blasé about 'outsiders' who debate issues that many police officers do not see as problematic. A similar response is not uncommon when senior officers invite debate on police practices; for the claim is always made [as we have seen] that 'management cops' are not 'street cops' (Reuss-Ianni & Ianni 1983). By comparison, my credibility as a 'street-cop', and therefore someone who can say he 'knows' how difficult and often unrewarding the lot of the police officer can be, makes it more difficult for the rank-and-file to dismiss my arguments in the same way – I share a greater commonality with my audience. Whilst my 'disloyalty' will

invite their ire (McConville et al., 1991), it is also likely to promote a lively and hopefully constructive debate. Yet, if understanding the ideological significance of the texts that constitute the analyses means that “it is necessary to go beyond the texts themselves” (Billig et al., 1988: 38); then to initiate change, it is also important that any debate steps outside of the received ‘logic’ of police ideology; which is why it has been necessary to ensure that at least some of the ideologies that the police adhere to are made explicit so we can move on from them.

Although my personal dilemmas of ideology were what initiated this research, they have not been allowed to dictate the direction in which the research has gone. Like Sacks (1995) my academic concern has always with “studying, rather than presuming . . .” (Edwards 1995: 593): in the end, one can only “. . . pose those problems that the data bears” (Sacks 1995: 471). Fortunately, some of those dilemmas that initiated my academic journey do form part of the analysis, more exciting maybe are those dilemmas of ideology that I had not expected to find. My intellectual journey, though it has often been arduous, has never been dull, and the findings, as we shall see, have proved fruitful.

### **6.3. The findings: Subversion and making the invisible visible**

The first analysis took as its data the ‘naturally occurring talk’ of police officers in discursive interaction with various members of the public. These interactions were specifically those where the police dealt *informally* with events and other

sundry 'disputes' they knew to be criminal or those which included behaviour which had the potential to be classified as criminal (Kemp et al., 1992). In informally resolving crimes and disputes, officers necessarily employ a very public discourse and our analytical interest was, from the outset, to understand the different ways in which police officers *do* discretion. The second analysis in contrast, has a quite different extra-verbal context. Here, officers operating within the non-public areas of the police station go about the formal prosecution process. Crime suspects are arrested and interviewed and the prosecution file is constructed. Though the police investigate and construct the prosecution case, the decision to charge someone must be made by a public prosecutor. The process by which the police elicit a charging decision was the specific focus of the second analysis and it is one that requires a police officer to précis the accounts of witnesses and suspects into a "for-the-record" (Edwards 1997: 129) account of what happened; the prosecutor then considers this, along with the evidence, in making a charging decision.

Compared to the first analysis, this is a discourse that is written in a strictly confidential [and essentially private] context; directed, as it is, to a Crown Prosecutor and not to any member of the public. The analytical interest here was in how police *do* prosecution in 'domestic' violence cases. The two analysis chapters, though they both take as their subject matter the sort of event that police ideology disdainfully refers to as 'rubbish work' are, in most other respects, quite different from one another. Yet, surprisingly, the findings display a great

many similarities. Consistency may be what the traditionalist or orthodox researcher strives to find; but it is not what the dissident researcher looks for (Potter & Wetherell 1987).

Unlike traditional social psychology, the discursive and rhetorical psychologist seeks out variability in discourse (Gilbert & Mulkay 1984; Edwards 1997). Not only is it regarded as “analytically useful” (Potter & Wetherell 1987: 67), it is “an expected feature of conversation and social texts . . .” (Potter & Wetherell 1987: 38). In my analyses although the rhetorical strategies and discursive repertoires that the police participants employed *within* the various genres of speech employed did show variability, the type of speech genres used were less diverse. In both the first and second analysis the so-called ‘facts of the case’ were, on each occasion, quite different; while the ‘extra-verbal’ (Volosinov 1986) or local argumentative context (Suchman 1987) as we know, is always unique (Bakhtin 1981): yet the speech genres that the officer in each case used were, with minor variations, the same. Indeed, the discursive and rhetorical work accomplished in the second analysis was almost formulaic. Given the “could-have-been-otherwise” nature of descriptions (Edwards 1997: 8), and the moment to moment “*in situ*, collaborative work” (Suchman 1987: 180) required in face to face discursive interaction or even in written work with no addressee physically present, this is no mean accomplishment.

Furthermore, in both sets of analyses the discursive and rhetorical machinery used by the police officers involved had the “designed visibility” (Edwards 1997: 99) of ‘due process’ (Packer 1968) being enacted; or, to put it another way the legal procedures and actions of the police officers involved were throughout, *seen to be* “presumptively correctly applied” (Sacks 1995 Vol. 1: 118). However, when the discourse of the police officers involved was subjected to close and prolonged analytical scrutiny, it was difficult not to conclude that the formal legal process, rather than being supported, was in fact, being subverted (Sacks 1995).

Of course where subversion is concerned, the analytical difficulty for the researcher is that by its very nature, when it is accomplished successfully, it is neither ‘seeable’ nor ‘hearable’ (Sacks 1995). Without going beyond the text to take account of the extra-verbal situation, and the ideologies that guide the police officer through his or her working life (Billig et al., 1988), the subversive act is likely to remain invisible. Indeed, I argued in Chapter 4 that it was because members of the public have little or no awareness of the ideologies that influence and act upon police officers, and which, as we have seen, sometimes run counter to the general expectations and ideas about the police, that officers are able to subvert the principles of justice or the formal prosecution process. Whilst we all do subversion in our daily conversational lives (Edwards 1997) this is a language game that the public would not assume to be taking place in their dealings with the police.

In Chapter 3, Ericson (1981) and McBarnet (1983) alerted us to the possibility that legal and procedural incongruities on the part of the police were not always characterised by obviously 'deviant' or illegitimate behaviour. They made the claim that law and the processes of law are sufficiently permissive that the police "need not abuse the law to subvert the principles of justice; they need only use it" (McBarnet 1983: 156); however, the form of analysis they used was not equipped to make visible the discursive machinery by which the police might achieve this. The findings of this study on the other hand, do just that as they reveal the linguistic devices and rhetorical strategies that police officers employ. These may be legitimately situated within the broad rubric of practices that the police call *cuffing*; although not all of them would qualify as *cuffing* in the pejorative sense that police officers understand the practice. For them, *cuffing* is usually reserved for those occasions when subversion has not been accomplished and jobs are *seen* to be being avoided.

More unexpectedly perhaps, the findings of the second study reveal the pervasive nature of *cuffing*. It is not only confined to those incidents that occur out on the street away from the intrusive gaze of other police officers or criminal justice practitioners, as previous research has suggested (Muir 1977; Brown 1988): police officers we now know, also *cuff* jobs that have already advanced into the formal prosecution process. The consistency with which the formal prosecution cases within my relatively small data set were undermined was unsettling; all the more so because it was achieved through the use of a very

limited number of narrative 'genres' (Bakhtin 1986) which gave these reports a formulaic quality – police officers it seems, have learned how to 'write-off' prosecution cases just as they will have also learned how to 'work them up'. McConville et al (1991: 202) in their wide-ranging exposition of the criminal justice system reviewed a number of [in] famous miscarriages of justice noting that "once the police had decided on the guilt of the suspect, they constructed the case to ensure a conviction". What the findings of the second analysis demonstrate, is that the same applies to cases where the police decide upon the suspect's innocence: this was most apparent in those cases where the jointly constructed narrative of the '*real victim*' was invoked. The advantage that this research has over McConville et al (1991) is, once again, in the methodology; which demonstrates empirically *how* this rhetorical work is accomplished.

Of course, for the rhetorical and discursive psychologist there is nothing surprising in this, the findings reiterate how the decision to subvert or support the formal prosecution process has less to do with 'the facts' of each case and more to do with the 'witcraft' (Billig 1996) employed to construct those 'facts'. But, for the orthodox psychologist and other non-discursive practitioners [including police officers] my findings will be more disconcerting since they challenge the foundations upon which orthodox disciplines [including jurisprudence] and other world views rest [as discussed in Chapter 2]. The socially constructed nature of the prosecution case is something that McConville et al (1991) sought to make nearly twenty years ago. Yet, it seems that this is not something that the police or

the rhetoric of criminal justice either acknowledges or much less accepts.

Irrespective of whether you are a dissident or a traditionalist, the findings prompt the question as to why it is that police officers undermine or subvert prosecution cases in this way.

#### **6.4. The findings: counter themes of police ideology**

The lack of variability in the discourse of the police officers who participated in this study, as I have already remarked, is a significant point of interest. From a rhetorical perspective we understand that

. . . every occasion of human communication is embedded in, and makes use of, an unarticulated background of experiences and circumstances.  
(Suchman 1987: 180)

Achieving such consistency amongst so much diversity suggests that when sidestepping the formal prosecution process and seeking informal resolutions, or in undermining formal prosecutions, those ideologies that are embedded within the common-sense knowledge of the police occupational milieu exert a strong influence. It may be too strong to claim that ideology 'hails' (Althusser 1971) the police officer as she or he does policing, but the fact that different police officers achieved the same ends through very similar means, points to the guiding hand of an ideology or ideologies at work.



The analytical advantage we have here is that throughout this exegesis police officers (Graef 1989; Copperfield 2006) and theorists (Cain 1973; van Maanen 1973; Manning 1977; Punch et al., 1981; Shearing et al., 1983; Holdaway 1983; Brown 1988; McNulty 1994; Chan et al., 2003; Ford 2005; Smith et al., 2006; Chan 2007) *have* articulated the occupational or sub-cultural ideologies they adhere to or that guide them in their work. Of these, we have seen how the ideology of self-preservation (Manning 1977) or 'covering your arse' (Chan et al., 2003) and the ideology of pragmatism (Chatterton 1983; Kemp et al., 1992) - where police officers prioritise their workload according to whether incidents may be classified as 'rubbish work' or 'quality jobs' - are always at the forefront of what the police do (McConville et al., 1991).

In the first analysis, where various informal resolutions were studied, the lack of variability in the discourse of the officers involved was useful in drawing attention to the ideologies of pragmatism and self-preservation. PC B's encounter is a case in point. Called to prevent a breach of the peace between estranged partners who were both at the marital home, this is exactly the sort of dispute that police officers regard as 'rubbish work' because it has the potential to be time-consuming and requires some element of 'social work' to referee the potentially quarrelsome couple: this is not the sort of job where the skills of the thief-taker or the investigative sleuth are likely to be required. In resolving the 'I don't want to get involved but I can't refuse' dilemma of ideology confronting her, we saw PC B

use the *that's civil* device to limit her involvement in a seemingly unchallengeable and apparently legally-determined way.

In contrast, PC Y's efforts to *cuff* a number of assaults involving several children and an irate mother were less successful and consequently more visible.

*Suitable advice*, though it can be a legitimate and useful palliative in some dilemmatic situations, was not convincingly employed in this one. If the ideology of pragmatism is central to how police officers do policing, the ideology of self-preservation is essential in ensuring that it is done skilfully and invisibly so that the practice may be perpetuated. As PC Y found, to successfully *cuff* a job, the two ideologies must work in tandem: she also found that discretion in using discretion is important.

PC Y's experience is a reminder that if *cuffing* is not achieved skilfully it becomes 'seeable' (Sacks 1995) and in time it will become difficult to sustain. We saw in chapter 1 how this has happened in cases of 'domestic' violence. The ideological practices that the police have relied upon over years in dealing with 'domestic' violence [and which define it as 'rubbish work'] are now baulked by procedural directives. Discretion is no longer an option available to officers, who are instead compelled to deal with incidents of 'domestic' violence formally – as they would for any other crime. Despite these changes in procedure however, 'domestic' violence has not lost its informal status as 'rubbish work'. The removal of discretion, though it is intended to inject some consistency into how domestic

crime is dealt with, and, at the same time alleviate what has long been recognised as an ideologically dilemmatic situation for the police; seems instead, to have made the situation more difficult. From behind his shroud of anonymity, PC Copperfield offers a candid and illuminating opinion

Domestic violence is something everyone can agree on: there should be less of it . . . Weighing heavily on my mind, though, is the belief that people have a right to privacy and that if they both want to argue loudly it is really no concern of mine (unless they are my neighbours). Some people's domestic arrangements are a complete mystery to me, but I don't feel that gives us the right to start bashing their doors in if I feel like it . . . 'The thing with all this,' said one of my colleagues, a female officer with 10 years under her belt, 'is that people assume this is all about stopping domestic violence. It's actually about covering senior ranks arses in the face of media and political pressure.' (Copperfield 2006: 96 & 98)

Putting aside the relative merits or otherwise of these officers arguments [for that is another debate], the ideological positions that are fairly evident here are ones we have become familiar with throughout this thesis as they are a constant theme in the existing literature. More importantly, the findings of the second analysis reiterate them. What this tells us is that the ideological prejudice towards prosecuting 'domestic' violence, particularly that involving heterosexual male on female violence, has not been altered by the policy changes made. The power of this ideology still convinces PC Copperfield and the officers in this study that this sort of crime should really not be dealt with in the formal court arena or, in most cases by the police. Officers may no longer be able to *cuff* domestic assaults at the scene, but they can and still do *cuff* them at the *post* interview/pre-charge stage.

The irony here is that officers can now do so more invisibly than before, and with the additional benefit of knowing that any decision to discontinue will not be seen as theirs alone; it will be a decision achieved by consensus. Ultimately, the responsibility for it lies with a prosecutor, not a police officer. As far as 'arse covering' is concerned it could not be better; this is especially so given the discourse of the police officers constructing the MG3 reports. Theirs is a discourse that resonates with a powerfully self-fulfilling and prophetic vision of 'domestic' violence: it is a discourse that is especially unforgiving towards the women involved. Like sexual violence, 'domestic' violence has a recognisably 'gendered structure' (Dobash et al., 2000) "with the vast majority of victims being female and the overwhelming majority of offenders being male" (Taylor 2004: 3). Unfortunately, the stereotypical premise on which the ideology of 'domestic' violence as 'rubbish work' is based, often conflicts with many other ideological assumptions that police officers rely – the duty to protect 'life and limb' or 'vulnerable persons' are just two examples. This may be one reason why 'domestic' violence can be so inherently dilemmatic for the police.

In chapter 1, I discussed at length how the operational methodology of the police relies upon gross categorisations and legal and cultural stereotypes (Sacks 1972; McBarnet 1983; McNulty 1994; Taylor 2004). Among the many things that this methodology does, is to encourage the idea that 'domestic' violence cases are unlikely to proceed very far within the criminal justice process. This encourages officers to approach 'domestics' with an expectation that they will fail for one

reason or another and this undoubtedly features in the decision making processes of police officers (Edwards 1996).

Whilst such 'pragmatism' might explain why officers once *cuffed* 'domestics' at the scene, it does not explain convincingly why police officers undermine them once they are entered into the formal prosecution process. Pragmatism will still have some bearing in the decision-making processes [a charge or charges requires a more complete file to be compiled]; but, other ideologies are also at work. Other theorists have argued persuasively that police and the courts routinely use gendered stereotypes, caricatures and "masculinist theories" (Taylor 2004: 3) to discredit women in crimes of violence, including 'domestic' violence and rape (Stanko 1982; Edwards 1994, 1996; Lees 1999). The evidence from the MG3 reports is that this continues to happen.

### **6.5. Women, children, the mentally ill: Unequal in the eyes of the law?**

In the second analysis the 'mad or bad' woman of legal and criminological myth (Pollak 1950; McBarnet 1983; Edwards 1994, 1996; Lees 1999; Walklate 2001; Taylor 2004) was a constant feature of the genre of *credibility* and was worked up through frequent references to alcohol consumption, undisclosed mental illness, drug abuse and 'eccentric' or 'bizarre' behaviour. To a much lesser degree, commonplace male stereotypes were occasionally drawn upon to discredit; significantly, this occurred in the one domestic violence assault where

the suspect was a woman [R v P]. But, more often than not, when male stereotypes were used, they were done so ironically, to absolve or lessen the blame of the men involved. In R v D the police officer and suspect co-constructed a '*real* victim' narrative that discredited the adult son of the female 'survivor' by constructing him as a 'younger-stronger-bigger-more aggressive' male – the only 'evidence' for this assertion was the testimony of the suspect which was accepted uncritically by the police officer in the case. This narrative was also interwoven with a 'mother/son collusion' narrative - a commonplace in legal myth-making (Taylor 2004) - to further undermine the credibility of both mother and son.

Police officers and critics may protest that evaluating the evidence in prosecution cases will always be a matter of professional opinion, and that many of the decisions made could be argued and debated *ad infinitum*; but that in the end, the principle of English law, that an accused is innocent until *proven* guilty tips the balance. As a rhetorician [and as a police officer] I would not disagree with this point of view. However, that argument misses the point. The findings of this research are not concerned with whether 'right' or 'wrong' decisions have been made in the prosecution process; they are instead concerned with how the texts and the 'evidence' is constructed and what that construction *does*.

It was clear that *all* the MG3 texts were constructed in an overwhelming negative or non-supportive way as far as upholding the original complaint was concerned.

Stereotypes and caricatures were relied upon and often worked up. Alcohol consumption and sobriety, whilst it was invariably used to cast doubt on the veracity of women's evidence, was more usually constructed as a 'mitigating' factor where men had been drinking. Inferential prefaces abounded and were almost always employed to the detriment of the complainant or witnesses supporting the complaint; whilst at the same time, claims and rebuttals from those suspected of the crime were, more often than not, uncritically accepted as 'fact'. Whether or not the tendency of officers to preface criminal actions or events with the verbs 'allege' or 'claim' is indicative of a habit or custom of police culture or of society generally is not certain. But the fact is, that the presence of such prefacing in the data invariably appeared in utterances relating to what those who made the complaint had to say, thereby sowing the seeds of argumentative doubt (Billig 1996) about what they said at a very early stage. Given that the police, as I have maintained throughout, are *always* attentive to their own discourse, it would be surprising if this aspect of their discourse was any different.

Similarly, the '*real victim*' narrative which, I argue, is a co-construction between the police officer in the case and the crime suspect, also appeared to have a gendered edge to it. That it was used successfully by the one female crime suspect [the officer in that case was also a woman] suggests that it should not be considered gender specific. Nevertheless, it was certainly a feature of some of the domestic violence cases in this study and 'domestic' violence *is* understood

to be a gendered crime (Edwards 1994, 1996; Taylor 2004). Although it is not possible to offer a general view on the prosecution process without first having studied more cases and incidents involving so-called 'quality jobs', or examining case files with male 'survivors', I can say that in this research, individuals who were female, children [see PC Y's comments in chapter 4 on page 146], alcohol dependent, or 'mentally' ill were not served well. Having gained access to the previously private discourse between police and prosecutor, it is difficult not to draw the conclusion that the police, as agents of the criminal justice system are discriminatory in whose accounts they believe and how they enforce the law. The implication of this is that there are certain groups of people who are unlikely to gain access to justice because of their gender, age, psychiatric competence, or their substance dependency amongst other things.

As is the way with prejudice now, there are no overtly discriminatory remarks to be found within the texts as this would be seen to be unreasonable or bigoted (Billig 1991); instead, the rhetorical work is achieved by the use of an "enthymemic" textual construction (Shotter 2002: 56) that relies heavily on common-sense knowledge and 'explanations' (Sacks 1995), general stereotypes and male myths about women. Interestingly, my findings mirror those of Taylor (2004) whose sociological analysis of trial transcripts in intrafamilial sexual abuse cases found that



. . . it was not unusual to find different defence barristers in different trials putting almost identical questions to complainants, as well as set patterns in the way a particular defence barrister approached trials involving intrafamilial sexual abuse. (Taylor 2004: 37)

Of all the findings to emerge from this thesis, this is the most troubling and unpalatable because it suggests that these “seamy tactics” (Punch 1985: 203) are systemic to the police and the criminal justice system. However, there are limitations to my research that mean we should be cautious about the extent of any generalisations that might be made.

### **6.6. Limitations of research**

This research took as its focus those events and crimes that police ideology dismisses as ‘rubbish work’. Throughout, we have seen how the ideologies that determine what qualifies as ‘rubbish work’ are instrumental to how cases are constructed and dealt with. Some aspects of the findings have disturbing implications for the way in which ‘justice’, as it applies to particular social groups is implemented. With hindsight, it is unfortunate that my research did not allow me to consider that other aspect of the police officer’s working life, the so-called ‘quality job’ to see how police officers construct those cases and the individuals involved. As a rhetorician, I find myself compelled to argue that this is a research project that must now be carried out, for the present study, as insightful as it is, only provides a partial and therefore one-sided glimpse of how the police *do* policing. The glimpse that we have at present is, to be honest, not especially

complimentary and clearly has implications for police practice. The danger here is that the reader may assume that a police officer's life is preoccupied with impropriety and dubious 'rhetorical motives' (Billig 1996) and this is certainly not the case.

Furthermore, as useful as my analysis has been in explicating the "social mind" and the cultural ideologies of the police officer through the "practical operations of speech" (Billig 1996: 20), it is less helpful in explaining why these ideologies are so impervious to change. 'Language games', as we know, are not unchanging (Wittgenstein 1972), but for some reason those that surround the prosecution of 'domestic' violence seem to be particularly obdurate.

That criticism aside, methodologically speaking, the tripartite framework of analysis I set out in chapter 2 has generally been successful in allowing me to study both the micro-conversational detail of police officer's talk or text, whilst at the same time, enabling me to tease out the wider sub-cultural and ideological threads that permeate police discourse. The inherent reflexivity of my methodology has also ensured that my 'presence' in the research is visible. This is not to suggest that my tripartite framework of analysis is perfected; the point was made in Chapter 2 that it should be considered 'work-in-progress' and this remains the case. Issues around discourse as both a topic and a resource remain unresolved; whilst the development of the use of 'speech genres' (Bakhtin 1986) and 'interpretive repertoires' (Potter & Wetherell 1987) requires further

work to unlock the combined analytical potential I believe they possess. In both respects, I anticipate that in the process of reworking and revising parts of the thesis for publication in academic journals, the input and ideas of reviewers and other academic peers will be integral to the evolution of my analytical framework.

But whilst my status as a researcher and as a police officer has facilitated many aspects of this research project, it has not been without its difficulties. If my dilemmas of ideology were the prompt for this thesis, detaching myself from them [if such a thing is indeed possible] as part of the research process and of 'unmotivated looking' (Psathas 1995) proved to be difficult. Having been a police officer for nearly seventeen years, the common-sense knowledge of the police is ever present in that aspect of my working life. I may like to think that I no longer draw on this 'common' sense uncritically, or that it does not extend into other areas of my life, but this would be as fanciful as suggesting that scientists can be empirically objective when they need to be or that they can stop being scientists when the mood takes them.

Thus, the sceptic will point out that in spite of my frequent third person references to 'police officers', which give the illusion that I am detached or distanced from those I observe, the fact remains that I am both an academic researcher *and* a police officer. Whilst I may prefer to categorise myself in that order, this does not necessarily mean that I can draw upon or disregard the ideologies of each occupational activity in such an ordered and discrete fashion. As much as I would

like to think I interpret my data from the standpoint of a well read dissident researcher; I must concede that it will also be interpreted through the eyes of a dissident police officer.

This also raises a further point about my 'insider status' (Taylor 2001). Although it has undoubted advantages for this research, there is one other drawback besides those discussed in chapter 1. Of concern to me is that police officers as researchers have not always been viewed favourably by academics. A justified criticism in the past has been that some police officer/researchers have demonstrated a tendency to produce 'forgone conclusions' research (Weatheritt 1986); that is, their research has been concerned with "the seeking out of information to support some preferred option . . . [or] to legitimate some activity" (Brown 1996: 180). From the outset, I have been attentive to this sort of criticism. The critic, of course, will point out that my findings are as disquieting as the dilemmas that prompted them: the inference being that this project fits into the 'forgone conclusion' mould. In refuting this claim, I do so on the grounds that my data is available for scrutiny and that my analytical method is not only inherently rigorous, but has been rigorously applied.

### **6.7. Implications for practice**

What then, are the implications of this research for police practice? The exercise of discretion and the considerable autonomy of the police constable have always

been areas of contention when questions of accountability and 'controlling' the police are raised (Punch et al., 1983; Reiner 2000; Gelsthorpe & Padfield 2003). The practical difficulties in making changes to what police officers do and how they do it is apparent in that little has changed over the last forty years despite continued criticism and comment about the use and misuse of their powers. Discretion remains a valuable resource on which the police can call and attempting to curtail or eradicate it would be as undesirable as it would be impracticable.

Law enforcement is not an exact science and we have seen how, in going about their work, police officers have to balance a whole set of competing demands. Not only must they satisfy the wants of the public, they must, at the same time, satisfy the requirements of the police organisation. The public expectation that the police are seen to 'do something' is a strong, if unrealistic one (Bittner 1974), and police officers have learned how to tread a fine line between keeping the public happy whilst managing the impossibility of prosecuting every crime reported to them. Hence *cuffing* in its various forms becomes something of an occupational inevitability: indeed, in certain circumstances, an informal resolution may even be what the public actually want – this is certainly the case in many 'domestic' violence situations (Hoyle & Sanders 2000) as it is in other cases (Shapland & Vagg 1988).

But, as the second part of this thesis has shown, eradicating the more excessive and objectionable forms of *cuffing* cannot be achieved by altering working practices or by imposing greater levels of supervision. Greater supervision, though it is an obvious option to consider, infers an inherent lack of trust in the rank-and-file officer to do his or her work diligently. Because the punishment-centred culture of the police organisation (Waddington 1999) is still strong, increased supervision can be counter-productive as officers devote even more effort to concealing what they do for fear of organisational reprisals. The move to a more mature and trusting organisational ethos must therefore be one of the first steps to initiating change.

Assuming that efforts are made to eradicate the pervasive 'blame culture' of the police, a more radical option for the informal resolution of crime may be to consider greater *dialogue* with the public, and for officers to 'negotiate' informal outcomes as part of a process of 'consultation'. We saw time and again in the first analysis, that police officers rely upon their presumed 'expertise', backed up by their tacit authority, to impose outcomes on the public. The implicit threat of coercion or the use of force (Bittner 1974) has for a long time been a significant, and acknowledged feature of the way police *do* policing. Negotiating an outcome on the other hand, though it is not unheard of, is not something that police would routinely consider. Achieving it would require an ideological shift on the part of the police in that genuine 'consultation' and 'negotiation' requires the participants to adopt a more equal footing as they make their case. Equally, it would also

require an ideological shift on the part of the public and the justice system in thinking about how 'justice' might be dispensed differently.

If the ideology of pragmatism has been shown to be a persuasive factor in the police use of informal resolutions, in any revised process, the public must also be persuaded that an informal resolution has benefits for them too. Unlike Mrs L in the first analysis who was effectively coerced into accepting an informal resolution to the assault on her son, the public must feel able to resist the informal process if they consider it inappropriate or unacceptable, without fear of retribution. The ideology of pragmatism can be an effective two-way process. In contrast, the second analysis, though it was also concerned with *cuffing* raises some different issues – especially in how the MG3 report was constructed and utilised. In its present format, the MG3 [as far as 'domestic' violence cases are concerned] appears to have become a 'shortcut' for decision-makers. The MG3 account constructed by the police officer was seen to exercise a prejudicial influence on the decision making process, its status seems to have become that of *the* for-the-record account. Officers have shown considerable discursive sophistication and rhetorical dexterity in constructing reports to achieve what can only be described as a preferred 'reading'. The problem therefore, is not that police officers are unable to construct arguments to make their case; rather, that a more critical scrutiny of the arguments being made is carried out by decision-makers. It is essential that the *evidence* in each case is evaluated, not the officer's summarised account of the evidence.

I am aware that a move to greater 'face-to-face' discussion between police and prosecutor when seeking a charging decision in 'complex' cases has already begun, but this brings with it other dangers whereby 'off the record' arguments may still continue along traditional ideological lines, even if they are not recorded in that way – 'covering your arse' is an ideology that applies to prosecutors as much as it does to police officers. More transparency in how prosecution decisions are reached and how evidence is evaluated might offer some hope, as would including victims and 'survivors' more fully in the process. At the moment, the prosecutorial machinery rumbles on with the victim or 'survivor' in the case being, for the most part, an isolated and disempowered onlooker (Hague et al., 2003). If gendered stereotypes and discriminatory views are to be challenged, we need to make them "matters of controversy" (Billig 1996: 251): inviting victims and 'survivors' to participate in a more sustained dialogical process would do just that and make prejudice more difficult to sustain:.

Altering these aspects of the prosecution process will require significant changes in the way that police exercise their powers as well as how adversarial justice and its practitioners function. The greatest difficulty in addressing some of the issues that this thesis has raised is how to transform the *ideological* views of police and prosecutors. This more radical endeavour will not, as we have already found, be achieved by tinkering with police practices and procedures alone.



## **6.8. Future research**

If, as I said earlier, there is a need for further research into the rhetorical and discursive skills of police officers; then there is also a need for similar discursive work to be carried out into other areas of the criminal justice system. I have made the point throughout this thesis that the police do not operate in occupational or rhetorical isolation and as my research and that of others shows, the police make use of the language games and legal myths of the adversarial advocate on a daily basis. Changing the ideologies of police sub-cultures also means changing those of the legal advocate, as each informs the other. But, like the police, before we can do that, we must first try to understand what informs their discourse.

This thesis provides a useful spring-board for such research in that it has already introduced us to some of the legal language games and occupational ideologies that circulate between police and prosecutor. It also demonstrates the usefulness of exploring and researching the less formal or the less public 'conversational realities' (Shotter 2002). Where the legal advocate is concerned, those conversations that occur outside of the court setting, between solicitors and barristers for example, with police officers or witnesses, and even with judges or magistrates, offer us insights into the advocate's world. Understanding what these language games do and how they impact upon the discourse in the court itself, are likely to be as informative as those we were privy to in the first analysis.

If the overlaps with police discourse and speech genres provide us with some continuity; the differences and variability in the discourse of the advocate will be what generates the analytical interest. Are 'real victim' genres, for example, likely to be more prominent in the advocate's world and do they go beyond 'domestic' violence cases? They will almost certainly be more elaborately worked up, as will genres of *credibility*, which were instrumental in generating a 'preferred' reading of the MG3 texts. What differences are there in how lawyers *do* credibility when compared to the police? Given the current concerns about poor conviction rates for 'domestic' violence and heterosexual rape, further research into these topic areas seems entirely appropriate.

The problem for the would-be researcher will be that lawyers, like the police, work in an occupational culture that is notoriously resistant to change, and equally difficult to penetrate. The nature of their work means that they are highly skilled at deflecting scrutiny from without: 'witcraft' (Billig 1996) is, after all, their stock-in-trade. The researchers who take on this task will not find it an easy one, and as with this study, it will most likely require the assistance of 'insiders'. Until the critical spotlight is directed upon those who enact the legal end-game, there will be no incentive for them or anyone else to reflect upon or change what they do and how they do it. The problem as McConville et al remind us is that "for the state, existing modes of law enforcement *work*" (1991: 208 original emphasis) and this empowers many in the legal profession to resist change.

## **6.9. Conclusion**

This research has shown that police officers are rhetorically sophisticated in the 'witcraft' (Billig 1996) they use, whether it is spoken or written. It has also reaffirmed how the ideologies that permeate the sub-cultural enclaves in which they work shape their discourse from *within* (Bakthin 1981, 1986; Volosinov 1986, 1987). Throughout my police career, it has been my experience that the vast majority of my colleagues are honest and dedicated professionals who work hard for those members of the public they serve. The degree to which each resists or adheres to the received wisdom of their occupational cultures varies with each individual. Police life, like ordinary life is "filled with the sounds of chatter, as people philosophize and argue, comparing critically 'opinion' with 'opinion'" (Billig 1991: 12). But as with all of us, the workings of ideology and of cultural and social norms can and do act upon them in unseen and unannounced ways. Only when we are exposed to competing views or have to confront the same dilemmas again and again are they likely to become visible.

If I hoped this thesis might resolve some of my dilemmas, then I was probably being optimistic, as in that respect I have not been successful. What it has done, is allow me to articulate and to understand my dilemmas. More importantly still, by understanding those dilemmas, I have am able to offer some alternative ways of dealing with them. As Wittgenstein wrote "When the aspect changes parts of the picture go together which before did not" (Wittgenstein 2001: 177). My hope

is that this research changes the aspect enough so that at least some parts of the picture may now go together better than before.

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## APPENDICES

### Transcription Conventions

The transcription symbols used in this research were devised and developed by Gail Jefferson (1985).

|                     |  |
|---------------------|--|
| hh                  | 'h' indicates an outbreath; more h's longer outbreath.                         |
| .hh                 | Dot before the 'h' signifies inbreath  |
| (.)                 | Dot enclosed by bracket signifies a pause of less than two tenths of a second. |
| =                   | Latching utterances.   |
| [ ]                 | Overlapping speech   |
| :                   | Signifies that preceding sound or letter is stretched.                         |
| > <                 | Talk between these signs is noticeably quicker.                                |
| ° °                 | Talk between these signs is noticeably quieter.                                |
| <b>CAPS</b>         | Talk in capitals is noticeably louder.   |
| <b><u>Talk</u></b>  | Underline indicates speaker emphasis.  |
| ?                   | Rising inflection, not necessarily an question.                                |
| <b>(best guess)</b> | Best guess at an unclear utterance.  |
| !                   | Animated or emphatic tone.   |
| <b>(0.5)</b>        | Pause/silence in tenths of a second.   |