

Gender as a Factor in the Response of the Law- Enforcement System to Violence Against Partners^[1]

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...it is the worst oppression, that is done by colour of justice

– Sir Edward Coke^[2]

A sign that says “men only” looks very different

on a bathroom door than on a courthouse door.

– U.S. Supreme Court Justice Thurgood Marshall^[3]

“Is Parkinson’s the toughest opponent you’ve ever faced, Muhammed?”

someone asked. “Toughest was my first wife,” he said.

– Former World Heavyweight Boxing Champion Muhammed Ali^[4]

Abstract

A great deal of sociological evidence has been collected in the past three decades on the prevalence of abuse among adult heterosexual partners in domestic relationships of some degree of permanence. Partly as a result of this information, partner abuse has been identified as an important social ill that must be addressed aggressively through public-awareness campaigns, the funding of a broad range of support services, and the re-training of law-enforcement authorities – including police, prosecutors, and judges. However, in at least one important respect, these manifestations of public concern diverge substantially from what the sociological data which ostensibly motivates public policy in this area would indicate: they have been, to date, overwhelmingly gender specific. That is, partner abuse is routinely portrayed and acted upon as though it were almost exclusively about men abusing and victimizing innocent women and, by extension, their children – despite the overwhelming sociological evidence that a significant amount of abuse is also suffered by male partners. The prevailing orientation to the problem is typically supported by little more than speculative, ideological rationalizations of the sociological evidence, if not outright suppression or denial of that evidence. Genuinely gender-inclusive research is needed to test the validity of this orientation, and to determine whether it has had a beneficial or detrimental effect on the administration of justice.

Most previous research on gender differences in the way men and women are treated by the law-enforcement system are limited in one of two respects: Either it relies upon public sources of data which are incomplete and impossible to analyse adequately; or else it focuses on only the police or judges, omitting consideration of the role of prosecutors in the disposition of cases. The present study is unique in that it attempts to shed light on the pivotal role of the prosecutor in partner violence cases, while at the same time subjecting the decisions of local police and judges to further examination based on data not so readily available from public sources. Original data for this study were obtained from two previously untapped sources: from databases for the years 1999 and 2000 compiled by the Edmonton Police Service pursuant to provincial legislation aimed at tracking the police response to partner abuse; and from the “spousal abuse” files in the Edmonton Crown Prosecutor’s Office for the first half of 2001.

This study tends to confirm that men who are accused of partner violence are treated significantly more harshly than women at every step of the law-enforcement system. Men are found to have been charged much

more frequently than women, especially in the minor-injury and no-injury categories, compared to what the sociological evidence would indicate is appropriate – and even compared to what the data collected by the police themselves would indicate is appropriate. This is explained in large part by the fact that police are significantly more likely to find a reason not to lay a charge when only the male partner is injured as opposed to when only the female partner is injured. Consequently, among those who *were* charged with an offence in a dispute between partners, a higher proportion of women than of men were charged with offences involving injury, and with offences involving the use of a weapon. Yet, despite the fact that the men who were charged caused less injury and were less likely to use a weapon, they were nevertheless charged with more offences per incident, and were more likely to have been taken into custody at the time of the incident, compared to female suspects.

Of those charged, men were more likely than women to have been found guilty, at least in part because the charges against women were more likely to have been withdrawn by the prosecutors. And while men and women were equally likely to have received plea bargains, men were significantly more likely than women to have received a term of jail, a conditional sentence, or probation – i.e. the more serious sentencing options – as a result of their plea bargains. Among those found guilty, women were more likely than men to have been intoxicated, to have used a major weapon, to have inflicted a serious injury, to have been separated from their partners at the time of the incident, and to have committed their offence while children were present – all factors supposedly tending to lead to harsher sentences. Guilty men, on the other hand, had longer prior criminal records than guilty women; but they were also more likely to have served time in custody prior to trial. Yet, despite all of this, guilty men were significantly more likely than guilty women to have received a term of jail, a conditional sentence, or probation. Regression analyses reveal that harsher sentencing outcomes were generally more highly associated with being male than with any other factor. The disparities found in this study are cumulative: despite having been treated more harshly at all earlier stages, men on average continued to be treated more harshly at all later stages.

Introduction and Background

General Introduction

While most of the findings of this study are capable of standing on their own, it is nevertheless worthwhile to place them within a broader context of surveys of partner abuse for three reasons. First, to the degree that the profile of the data for the present study matches the profile of nationally or internationally representative data, one can be confident in the validity of the data on which this study is based. Second, one can likewise be confident in extrapolating the results of this study to other jurisdictions where similar data-profiles and similar laws exist – i.e. to other large urban centres in Canada, and possibly in the United States and in Britain as well. Third, comparing the data of the present study with external data can help to put a better estimate on the magnitude of some of the findings in this study. The multitude of different methodologies used to measure various aspects of partner abuse means that comparisons between one set of data and others is fraught with complications (Archer 2000). For this reason, even the context for the present study must be contextualized: the external Canadian data on partner abuse must be interpreted in some cases in light of a broad range of international studies.

Two fundamental distinctions must be borne in mind with respect to survey methodology in this area of research. The first distinction is between “all-act” and “criminal-act” surveys. All-act surveys attempt to measure partner abuse generally, whereas criminal-act surveys attempt to measure the narrower and typically more serious category of partner violence (see footnote 1). The second distinction is between surveys whose data is derived from peoples’ experiences of partner abuse as reported to research interviewers, and surveys whose data is derived from incidents reported to police (or other social agencies). Interview-derived data typically reveal the numbers and proportions of male and female *persons* who report having experienced abuse by a partner, while social-agency-derived data reveal the numbers and proportions of *incidents* of partner abuse that are reported to the agency by men and women. The victimization rates will diverge between these two reporting methods whenever the frequency of victimization is significantly associated with gender. For example, if the same *number* of men and women report having been the victim of partner abuse, but women report having been victimized twice as *frequently*, on average, then women will comprise two-thirds rather than one-half of the incidents of partner abuse. Failure to attend to the method of reporting data can lead to significant misinterpretations. Still, each survey method and each data-reporting method reveals important information which is valid for different purposes (Straus 1999).

The strength of interviewer-based surveys is that they are capable of identifying abuse which has not been reported to police or other social agencies. They therefore tend to avoid the selection biases inherent in data from those sources. On the other hand, these surveys are more prone to both sampling and non-sampling error (Ogrodnik and Trainor 1997: 8). Sampling error arises mainly due to the limited number of persons interviewed as compared to the volume of incidents reported to police. Non-sampling error arises from the effects of memory and other individual reactions to the interviewers’ questioning. That is why interviewer-based surveys tend to be more sensitive to the wording of the questions that are asked, and even to interviewer technique (Pottie Bunge and Locke 2000: 9).

It is important to appreciate the potential significance of non-sampling error with interview-derived data. One measure of the extent of non-sampling error is obtained from studies which ask both partners in a relationship about their experiences with partner abuse, both as victims and as perpetrators. Browning and Dutton (1986), working with a sample of couples from Vancouver, and Brinkerhoff and Lupri (1998), working with a random sample of 562 couples from Calgary, found significant differences in the reports of men and women as to the number and types of acts of abuse that had taken place in the relationship. Sommer (1994), in a follow-up to a previous study on a random sample of 1,257 Winnipeg couples (Sommer, Barnes and Murray 1992), found that 18% of the men and 25% of the women denied committing aggressive acts which they had admitting to previously. Not surprisingly, both men and women tend to under-report their own perpetration of partner abuse, though men tend to under-report this to a greater degree than women.

Perhaps more surprisingly, however, men and women also tend to significantly under-report their own victimization. Szinovacz and Egley (1995: 1002) found that women under-report their own injuries by 43%, while men under-report their own injuries by fully 93%. (This finding is consistent with the finding, presented below, that men are only half as likely as women to report their victimization to the police, too.) Since self-reports of victimization tend to be more reliable than self-reports of perpetration, and since most studies of partner abuse rely upon the self-reports of victimization, the fact that men may be as much as twice as likely to under-report their own victimization as compared to women may be significant.

There are a number of reasons why men might tend to under-report their own victimization relative to women. The first is that much of the partner abuse men suffer is unlikely to be conceptualized by them as abuse in the first instance. Terms like ‘battered husband’ or ‘husband abuse’ are not so readily available to men who are its victims as the parallel terms ‘battered wife’ and ‘abused wife’ are to women. (By comparison, being hit in the genitals is not conceptualized by most people as sexual assault when it happens to men; indeed, this is regularly played for laughs on prime-time television.) Second, men may be much less self-aware of the injuries they suffer at the hands of their partners, because men are intensely socialized from a very young age to suppress their fears, their pain, and their suffering. Third, men’s memories of their victimization are less likely to be as vivid as women’s. This is in part because of the preceding two points, but it is also because men tend to be less seriously injured by and less fearful of their partners (Straus 1999). Finally, a greater social stigma attaches to men who are abused by their partners than to women who are abused by their partners, which would lead men to be more circumspect in admitting their victimization or making much out of it.

The most comprehensive list of publications on the sociological surveys of partner abuse is Fiebert’s (1997) annotated bibliography.^[5] The majority of the studies listed in this source are interview-derived, all-act surveys, which fairly consistently get the result that as many women as men commit acts of abuse toward their partners. More specifically: in about a quarter of the cases, the abuse is committed by the woman only; in another quarter of the cases, the abuse is committed by the man only; and in the remaining half of the cases the abuse is mutual. Brinkerhoff and Lupri (1998), a typical Canadian study, found that 37.5% of partner abuse was mutual, 27.3% was committed by the man only, and 35.0% was committed by the woman only. Two Alberta studies in the 1980s broadly replicated this result (see the All-Alberta Survey referenced in footnote 11 below; and Bland and Orn 1986).^[6] This is the basis on which claims are sometimes made about the “equal perpetration” rates of partner abuse between men and women. However, these overall, person-based results fail to take into account two significant factors which tend to minimize the extent of female victimization. First, since they use the person-based method of reporting results, they fail to take into account differences in the frequency of victimization of women and men. Second, because they are all-act survey results, they fail to take into account differences in the severity of abuse suffered by women and men. The “equal perpetration” rates found are therefore importantly misleading.

Some of the surveys listed in Fiebert’s (1997) bibliography take the frequency and seriousness of victimization into account. These studies tend to show that women suffer abuse more frequently than men do, especially of the more-serious kinds of violence that leads to injuries. A small minority of these representative surveys, notably surveys of criminal acts, filter out to one degree or another abusive acts that tend to produce less physical injury. The latter find both lower victimization rates overall, and also lower percentages of male victims, than the all-act surveys. Sommer (1994) found that 60% of those injured in her Winnipeg sample were women. The lone meta-analysis of international partner-abuse surveys published to date found that, overall, women were injured in 65% of those incidents of partner violence that produce injuries (Archer 2000). It bears repeating, however, that the vast majority of partnerships featuring violence do not produce injuries and do not escalate. Johnson (1995) states that “94% of perpetrators of minor violence do not go on to severe violence.”

When statistics on partner abuse began to be gathered in the 1970s, it was thought that most of the abusive acts by women might be in self defence.^[7] Even then, however, in fully a quarter of the cases, only the woman had committed the actions. Since at least some cases of mutual abuse would also have been initiated

by the woman, it was already clear that female-only abuse and female-instigated mutual abuse might constitute at least a considerable minority of the total incidents. Since 1985, many surveys have asked respondents reporting mutual abuse which partner was the initiator of the abuse, and they consistently report that about half the time it is the woman (Straus 1993; Bland and Orn 1986). Further, some studies have directly asked about self-defence, with the typical result that (a) 20% or less of the abuse was committed for that reason, and (b) roughly equal proportions of men's and women's abuse is committed in self-defence (Follingstad *et al* 1991; Sommer 1994; and DeKeseredy *et al* 1997, who refrained from reporting on self-defence by males).

One deficiency in all of the surveys of partner abuse is that self-inflicted violence is not considered. Persons who are driven to suicide or some lesser form of self-destructive behaviour as a result of abusive partners are therefore not captured by these data. It is known, however, that men are much more likely to commit suicide and other self-destructive acts in general.

Canadian Sources of Data – The 1999 GSS

Criminal victimization surveys are undertaken by Statistics Canada on a cyclical basis. The 1999 *General Social Survey (GSS)* included a special module to measure partner violence. Its results have been analysed and reported in a variety of publications by the Canadian Centre for Justice Statistics (CCJS). In particular, CCJS publishes an annual volume titled *Family Violence in Canada: A Statistical Profile*, with a slightly different focus each year. The present study draws upon the three volumes which have been published since the *GSS* was conducted: Pottie Bunge and Locke (2000), Trainor and Mihorean (2001), and Trainor (2002).

The *GSS* is an interview-derived, criminal-act survey, with two important peculiarities that should be noted. First, the raw numbers from the survey are never reported by CCJS; instead, results of the survey are reported in the form of projections to the entire Canadian population. While this reporting method helps to give perspective to the extent of the problem of partner violence in Canada, it also makes it difficult to analyse the data in ways not explicitly reported in CCJS publications. Second, the *GSS* is perhaps unique in asking respondents about their experiences of victimization by over the most recent 5-year period (i.e. from 1995 to 1999), as well as in the most-recent 12-month period. The advantage of asking respondents about their experiences with partner violence in a relatively short, immediate period such as 12 months is that it reduces the scope for non-sampling error to arise by asking about events that are still relatively fresh in the respondents' minds. The disadvantage of this survey method is that it requires a larger sample size in order to obtain enough observations to produce statistically significant results. Although the *GSS* is based on a nationally representative sample of 25,876 persons aged 15 years and older, even a survey of this size is apparently insufficient to produce statistically significant results for a fine-grained analysis of the 12-month data. In any case, very little reporting and analysis of the 12-month data is provided in CCJS publications.

The rationale behind limiting respondents to their experience of partner violence in the immediately preceding 5-year period is presumably to reduce non-sampling error in the survey, while still obtaining enough observations to produce statistically significant results. In particular, the effect of forgetting or misremembering events should be less pronounced in a survey restricted to the most recent 5-year period than in a survey that asks respondents about their life-long experiences with partner violence. Nevertheless, as will be shown, a fair amount of non-sampling error still arises in the 5-year data from the *GSS*. In addition, the results of the 1999 *GSS* are more difficult to compare with the results of most other surveys, which are open-ended, because of the peculiarity of limiting respondents to the most recent 5-year period.

The results of the *GSS* are broadly consistent with the results of the studies compiled by Fiebert (1997), taking into account the nature of that survey. **Table 1.1** breaks these data down for the 12-month reporting period and the 5-year reporting period, as well as for current and previous partners.[\[8\]](#)

Table 1.1

**Number and percentage of women and men who reported violence by a partner,
preceding 12 months and preceding 5 years**

	preceding 12 months				preceding 5 years			
	female victim		male victim		female victim		male victim	
	count	%N	count	%N	count	%N	count	%N
	(000s)		(000s)		(000s)		(000s)	
'n/a' means 'not available' (N x 1,000)								
1. Violence by current or previous partner (N = 8356 females; N = 8346 males)	220	3	177	2	690	8	549	7
2. Violence by current partner (N = 7310 females; N = 7558 males)	120	2	129	2	259	4	303	4
3. Violence by previous partner (N = 1554 females; N = 1205 males)	101	6	48	4	437	28	259	22
4. Violence ceased at separation								
5. Violence after separation (N = 437 females; N = 259 males)	n/a	n/a	n/a	n/a	264	60	173	67
6. Violence increased	n/a	n/a	n/a	n/a	172	39	83	32
7. Violence did not increase	n/a	n/a	n/a	n/a	39	22	23	28
8. Violence began after separation (N = 172 females; N = 83 males)	n/a	n/a	n/a	n/a	69	40	25	30
	n/a	n/a	n/a	n/a	63	37	35	42

The GSS found that in the 12-month period preceding the survey, an estimated 3% of Canadian women and 2% of Canadian men reported experiencing violence from their partners. Also, in the 5-year period from 1995 to 1999, an estimated 8% of Canadian women and 7% of Canadian men experienced violence from their partners. Beyond that, it is not easy to interpret these data accurately at a glance. This is in part because the data are aggregated in unhelpful ways for some purposes, in part because of anomalies which indicate that significant non-sampling errors abound in these data, and in part because the labels and definitions of the categories are somewhat misleading or counter-intuitive.

A new category can be created from **Table 1.1** by separating out those respondents who had both a current and a previous partner in the 5-year period. This can be done by simply adding the number of women who had a current partner (line 2: N = 7,310,000) to the number of women who had previous partner (line 3: N = 1,554,000), and then subtracting the total number of women who either a current or a previous partner (line 1: N = 8,356,000). This yields 508,000 women who had both a current and a previous partner when the GSS was taken. Parallel calculations reveal that $(7,554,000 + 1,205,000 - 8,346,000 =)$ 417,000 men had both a current and a previous partner when the GSS was taken. Of those who had both a current and a previous

partner, one can calculate in a similar manner that 6,000 women and 13,000 men experienced violence from both partners in the preceding 5 years. (While the sample of reports from which these numbers was extrapolated is too small for the difference to be statistically significant, it is nevertheless interesting that men were much more likely than women to have reported having experienced violence from both a current *and* a previous partner. This suggests that abused men may be more likely than abused women to move from one abusive relationship to another.) One can also calculate the numbers and proportions of men and women who had only current partners, who had only previous partners, and who experienced violence in those relationships. These results appear on the left-hand side of **Table 1.2**.

Table 1.2
Number and percentage of women and men who reported violence by a partner,
preceding 5 years – unadjusted and equalized

	preceding 5 years – unadjusted				preceding 5 years – equalized			
	female victim		male victim		female victim		male victim	
	count	%N	count	%N	count	%N	count	%N
	(000s)		(000s)		(000s)		(000s)	
(N x 1,000)								
1. Violence by current or previous partner (N = 8356 females; N = 8346 males)	690	8.3	549	6.6	642	7.7	586	7.0
					N = 8351			N = 8351
2. Violence by both current and previous partner (N = 508 females; N = 417 males)	6	1.2	13	3.1	6	1.2	14	3.1
					N = 463			N = 463
3. Violence by current partner only (N = 6802 females; N = 7141 males)	253	3.7	290	4.1	258	3.7	286	4.1
					N = 6972			N = 6972
4. Violence by previous partner only (N = 1046 females; N = 788 males)						41.2		31.2
5. Violence ceased at separation	431	41.2	246	31.2	378		286	
					N = 917			N = 917
6. Violence after separation (N = 437 females; N = 259 males)	264	60.4	173	66.8	232	60.4	200	66.8
					39.4			32.1
7. Violence increased	172	39.4	83	32.1	151		96	
					N = 384			N = 300
8. Violence did not increase						22.7		27.7
9. Violence began after separation (N = 172 females; N = 83 males)	39	22.7	23	27.7	34	22.7	27	27.7
					40.1			30.1
	69	36.6	35	42.2	61	36.6	29	42.2
	63				55		41	

							N = 151	N = 96
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The second problem with the data in **Table 1.1** concerns non-sampling errors. Logically, there should be the same number of men and women in each of the three main categories of **Table 1.1** (lines 1-3), assuming that the relation ‘having contact with’ is symmetric and that the sample on which these numbers are based is representative. Yet in line 3, there were 1,554,000 women who claimed to have had contact with a previous partner in the 5-year period preceding the *GSS*, versus only 1,205,000 men. In other words, 349,000 more women than men reported being in this category. (The same discrepancy appears by adding the appropriate Ns in lines 2 and 4 of **Table 1.2**.) Such a large discrepancy – fully 29% more women than men – can only be explained plausibly as a product of non-sampling error. That is, men must be much more likely than women to forget about or simply neglect to report having had contact, including violent contact, with a previous partner.^[9]

This conclusion is consistent with the finding mentioned earlier in the **Introduction** that men tend to under-report their own victimization to a very significant degree, even relative to the under-reporting of women’s own victimization. It is also supported independently, though weakly, by the fact that Statistics Canada consistently reports more men than women in the ‘refused’ or ‘not stated / don’t know’ category of its tables. It would appear that men are simply much less willing to respond to the survey as fully and as expansively as women are. Straus (1999) argues plausibly that since women tend to experience more fear, and receive more medical and other attention, when they experience violence, they tend to remember their experiences of violence longer and more vividly than men do, which means they would be more frequently able to report it in greater detail, even if it had occurred in the more distant past. Also, violence that occurred outside the 5-year reporting period might be remembered as falling within the period more often by women than men, too. This phenomenon is apparently well-enough known that Ogrodnik and Trainor (1997: 8) refer to it as “telescoping events into the reference period.” These memory effects appear to be highly significant, for what they imply is that women are much more likely than men to remember and report victimization in that kind of relationship in which violence is more prevalent.

In any case, comparisons between the number of women and men who report experiencing violence will be misleading unless the number of partners claimed by both women and men is the same. The right-hand side of **Table 1.2** therefore equalizes the number, N, of men and women in each of the four main reporting categories by taking the average between the male and female Ns, *and keeping the proportions of victims constant* within each category. (This attempts to correct for only part of the non-sampling error inferred above – that part which is objectively determinable.) Thus 8,351,000 men and women are deemed to have had either a current or a previous partner (line 1); 463,000 men and women are deemed to have had a current partner as well as contact with a previous partner in the preceding 5 years (line 2); 6,972,000 men and women are deemed to have had a current partner only (line 3); and 917,000 men and women are deemed to have only had contact with previous partner in the preceding 5 years (line 4). When the totals are based on an equal population of men and women within each category, the difference in the overall number of men and women victims is reduced substantially, from 141,000 on the left side to only 60,000 on the right side – or from 55.7% female victims to 52.5% female victims. This adjustment brings the *GSS* data more into line with the majority of the studies in Feibert (1997).

The third problem with interpreting the data in **Table 1.1** is that the category labels may be misleading to the unwary. This problem remains in **Table 1.2**. For example, one might infer from the numbers in line 3 of **Table 1.2** that men were more at risk of violence than women while their relationship was still intact, since more men reported ‘violence by current partner only’. This would be incorrect, however, since in fact *all* of the victims identified in **Table 1.2** reported experiencing violence by a partner while their relationship was still intact, except those in the category ‘violence began after separation’ (i.e. 55,000 women and 41,000 men on the adjusted, right-hand side in line 9). If these numbers are subtracted from the totals in line 1 of **Table 1.2**, then it turns out that 7.0% of women and 6.5% of men experienced violence while their relationship was still intact. The real reason fewer women than men reported ‘violence by current partner only’ in line 3 of

Table 1.2 is evidently that women were more likely to leave a violent partner than men were. This is why there are 32,000 more women than men in the category ‘violence ceased at separation’. This analysis supports the intuitive belief that violence by a partner is a significant cause for ending a relationship, at least for women.

If violence is a cause of relationship failure (for women, at least), is it also an effect? One might be inclined to think so on the basis that only 4% of both women and men reported violence by current partners (**Table 1.1**, line 2), while 28% of women and 22% of men reported violence by a previous partner (**Table 1.1**, line 3). This comparison suggests that women experience a 7-fold increase in the risk of violence after separation, while men experience more than a 5-fold increased risk. A similar comparison of the proportions in line 3 and line 4 of **Table 1.2** would suggest that women experience nearly a 10-fold increase, and men nearly an 8-fold increase, in the risk of violence after separation. The problem with these analyses is that almost 40% of those reporting violence by a previous partner experienced that violence while the relationship was still intact. The correct numerator to use to assess the risk of experiencing violence after separation is found in line 6 of **Table 1.2**. On the adjusted side of the table, there are 151,000 women and 96,000 men in the category ‘violence after separation’. The more difficult question is what to use as the denominator. From lines 2 and 4, an estimated $(463,000 + 917,000 =) 1,380,000$ men and women had had contact with a previous partner in the 5 years preceding the survey. Using that figure as the denominator suggests that 10.9% of women and 7.0% of men experienced violence by their previous partners after separation. This compares with 7.0% of women and 6.5% of men who experienced violence while their relationship was still intact (as found above). So it would seem that the risk of violence does increase after separation, particularly for women. However, these calculations do not take into account the fact that some couples never have contact with each other after separation, and therefore do not suffer violence after separation, either. Statistics Canada does not reveal how many such couples there were, so all that can be concluded is that the difference between 7.0% and 10.9% puts an upper bound on the increased risk of violence for women after separation – far from the 7-fold increase naïvely inferred.[\[10\]](#)

Comparisons between the 12-month and 5-year periods for ‘violence by previous partner’ in line 3 of **Table 1.1** suggest that violence after separation is relatively short-lived – i.e., it typically persists for less than a year. From line 4 of **Table 1.1**, 60% of the women who had had contact with a previous partner in the preceding 5 years did not experience any violence after separation, which means that *at least* 60% of the 101,000 women who experienced violence by a previous partner in the 12-month period experienced that violence while the relationship was still intact. In other words, each year at most 40,000 women experience violence by a previous partner after separation. One can infer from line 6 of **Table 1.2** that about 30,000 women enter the pool of separated-yet-victimized women each year, on average. That leaves at most only 10,000 women who experienced violence at the hands of a previous partner from whom they had been separated for more than 12 months. This amounts to only 0.7% of separated women who have had contact with a previous partner in the preceding 5 years.

Parallel calculations on the men’s side run into difficulties. If at least 67% of the 48,000 men who reported experiencing violence by a previous partner in the preceding 12 months had experienced that violence prior to separation, then only 16,000 men experienced violence by a previous partner after separation in the preceding 12 months. Yet one can infer from line 5 of **Table 1.1** and from line 6 of **Table 1.2** that the number of men who experienced violence after separation in the preceding 5 years falls between 83,000 and 96,000 – or between 17,000 and 19,000 new cases per year. The fact that the 12-month victimization rates cannot be reconciled with the 5-year rates for men indicates the presence of non-sampling error, in this case men significantly under-reporting their experiences of victimization in the relatively short, 12-month reporting period. In any case, one supposes that it must be rare for a man to experience violence by a previous partner more than 12 months after separation.

Since the analysis for the present study was performed on data from the Edmonton region, it bears noting that rates of partner violence found in the *GSS* were higher in the province of Alberta than the national average. Thus, overall, 11% of women and 9% of men reported having experienced partner violence in the preceding

* coefficient of variation is high

-- amount too small to be expressed

Total violence to female victims	437	100	264	100	172	100	259	100
Threatened to hit	307	70	168	64	137	80	145	56
Threw something	211	48	122	46	88	51	90	35
Pushed, grabbed	378	87	228	87	150	87	187	72
Slapped	203	46	113	43	89	52	77	30
Kicked, bit, or hit	177	41	102	39	75	44	50	19
Hit with something	127	29	65	25	61	35	28*	11*
Beat	139	32	71	27	68	40	33*	13*
Choked	114	26	56	21	58	34	26*	10*
Used or threatened to use knife or gun	86	20	40	15	46	27	--	--
Sexual assault	117	27	57	22	60	35	21*	8*
<i>Total / (tactics per victim)</i>	<i>1859</i>	<i>(4.25)</i>	<i>1022</i>	<i>(3.87)</i>	<i>832</i>	<i>(4.84)</i>	<i>657</i>	<i>(2.54)</i>
Total violence to male victims	259	100	173	100	83	100	303	100
Threatened to hit	173	67	107	62	66	79	162	53
Threw something	147	57	99	57	46	55	163	54
Pushed, grabbed	135	52	84	48	51	61	103	34
Slapped	162	63	109	63	53	64	153	51
Kicked, bit, or hit	161	62	102	59	59	71	124	41
Hit with something	93	36	60	35	33	40	53	17
Beat	41	16	25*	14*	16*	20*	13*	4*
Choked	18*	7*	--	--	--	--	--	--
Used or threatened to use knife or gun	35*	14*	20	12	15	19	--	--
Sexual assault	--	--	--	--	--	--	--	--
<i>Total / (tactics per victim)</i>	<i>965</i>	<i>(3.73)</i>	<i>606</i>	<i>(3.50)</i>	<i>339</i>	<i>(4.08)</i>	<i>771</i>	<i>(2.55)</i>

Nevertheless, more-direct questions about the frequency and severity of violence indicate that these data reflect genuine differences in the number of violent tactics employed by male and female perpetrators. The fact that men committed the preponderance of more-serious acts of violence, together with the fact that men are physically larger and have more experience with violent conflict generally, leads one to expect that women would suffer a higher proportion of the more severe injuries from partner violence. At the most

No physical injury	15	2*	15	3	14	46.7	16	53.3
Physical injury	396	57	462	84	369	42.8	493	57.2
No medical attention received	279	40	72	13	260	77.2	77	22.8
Medical attention received	174	25	57	10	162	72.7	61	27.3
	104	15	15	3*	97	85.8	16	14.2
<i>C. Frequency of victimization</i>								
Not stated / don't know		<i>approx. #</i>		<i>approx. #</i>		<i>approx. #</i>		<i>approx. #</i>
Once	17	103	21	87	16	99	22	94
2-5 times	225	225	227	227	209	209	242	242
6-10 times	197	690	194	679	183	641	207	725
More than 10 times	72	576	35	280	67	536	37	296
<i>Total incidents (estimated)</i>	178	<u>2670</u>	72	<u>1080</u>	166	<u>2490</u>	77	<u>1155</u>
		<u>4264</u>		<u>2353</u>		<u>3975</u>		<u>2512</u>

accompanying the misreporting of data on crime. In fact, the partner-homicide rate for female victims has declined in Canada by about 50%, from 15 per million couples in 1978 to 8 per million couples in 1999 (Trainor and Mihorean 2001: 35). Most of that decline (37%) took place since 1991, at precisely the time when “media hype” over partner violence against women – and reported fear of such – was reaching its height in Canada (Fekete 1994).

If subjective fear as a measure of severity of violence is not a very reliable indicator, perhaps reports relating to injuries and medical attention received are more objective. The data in **Table 1.4** show that women were almost 3 times more likely than men to have reported an injury that did not require medical attention, and were 6 times more likely to have reported an injury for which medical attention was received. These ratios are significantly higher than the results of many other nationally representative surveys of the same general type. The American *National Criminal Victimization Survey* found that three-quarters of the victims of aggravated assaults between intimate partners were women (Bachman and Saltzman 1995: Table 5.) The *British Crime Survey* in 1996 found that two-thirds of the victims of partner violence that produced an injury were women (Mirrlees-Black 1999). And, as mentioned previously, Archer’s (2000) meta-analysis of partner-violence surveys produced a composite percentage of injury victims that is only 65% female. Non-representative sources of such numbers (counselling programs, police records, etc.) vary much more in their results, and the great majority are clearly skewed against finding male victims or female offenders in the first place. It is consequently highly significant that in spite of this, some of them yield figures similar to those of the majority of sociological surveys. Two U.S. examples are illustrative. Buzawa and Austin (1993) examined Detroit police records and found that 70% of seriously injured partners were women. Anson Shupe *et al.* (1994) interviewed arrested men and their wives in Austin, Texas, and also found that 70% of injuries were sustained by wives. In the absence of skewed sampling, the proportion of male injuries in that study would have been higher.

The data in **Table 1.4** are based on self-reports, which makes them prone to the non-sampling errors noted previously. In particular, women and men almost certainly tend to perceive their injuries differently. A small scratch or bruise that most women would regard as an injury might not be regarded as an injury by most men,

for example. Evidence also suggests that women are more inclined than men to seek medical attention for any number of conditions, and that propensity might well be reflected in the proportions of men and women receiving medical attention from partner disputes. Based on having read over 400 prosecutor files to collect data for the present study, this researcher is confident in saying that female victims of partner violence seek medical attention for relatively minor cuts and bruises much more readily than men do – and the police obliged them in this. Although it is impossible to quantify the non-sampling errors introduced by the self-reporting of victimization, it should always be borne in mind that the differences they generate in the severity of victimization between men and women probably puts an upper bound on the real or objective differences in victimization.

The results of victim-based surveys are not directly helpful for an examination of police and prosecutor practices in dealing with partner violence, because the law-enforcement system is incident-based. Therefore, it is necessary to convert the victim-based survey results to incident-based results by multiplying the former by the *frequency* of victimization. The figures on frequency of victimization from the *GSS* are reproduced in **Table 1.4** as well, together with rough estimates of the overall number and proportion of *incidents* of violence experienced by men and women in Canada in the 5-year period studied. (For those who didn't state or didn't know how many times they had been victimized in the preceding 5 years, the average of the other respondents was used to estimate the number of incidents.) Based on these estimates, women were the victims in between 61% and 65% of all incidents of partner violence. In other words, women reported having suffered between 1.6 and 1.8 incidents of violence by their partners for every 1 incident reportedly suffered by men.

On the “unadjusted” side of **Table 1.4**, women were victims of an estimated 4,264,000 incidents of partner violence in the preceding 5-year period. Since 690,000 women claimed to have been victimized in this time period, they must have been victimized on average about 6.2 times in that 5-year period. Again, since women were victims of an estimated 4,264,000 incidents of partner violence in the preceding 5-year period, women must have been victims in an estimated 853,000 incidents per year, on average. From the left-hand side of **Table 1.1**, line 1, there were 220,000 female victims of partner violence in the 12-month period preceding the *GSS*. It therefore appears that women who experience partner violence in a given 12-month period experience it about 4 times that year, on average. Combining these results, it appears that the average woman who experiences partner violence will experience it rather intensely – about 4 times – within a relatively short 12-month period; but in the 4 years closest to that period of high-intensity victimization, she will experience partner violence only about 2 or 3 more times. These calculations tend to support the earlier hypothesis that violence against female partners tends to peak sharply but shortly around the time of a relationship break-down.

For men, the “unadjusted” side of **Table 1.4** indicates they were victims of an estimated 2,353,000 incidents of partner violence in the preceding 5-year period. Since 549,000 men claimed to have been victimized in this time period, they must have been victimized on average about 4.3 times in that 5-year period. Again, since men were victims of an estimated 2,353,000 incidents of partner violence in the preceding 5-year period, men must have been victims in an estimated 471,000 incidents per year, on average. From the left-hand side of **Table 1.1**, line 1, there were 177,000 male victims of partner violence in the 12-month period preceding the *GSS*. It therefore appears that men who experience partner violence in a given 12-month period experience it about 3 times that year, on average. Combining these results, the average man who experiences violence by a partner would experience it moderately intensely – about 3 times – within a relatively short 12-month period; but in the 4 years closest to that period of higher intensity, he would experience partner violence only about 1 or 2 more times. Thus partner violence tends to peak shortly around the time of a relationship break-down for men as well.

Because of the way in which Statistics Canada reports its data, it is not possible to determine how frequency of victimization interacts with severity of injury suffered. One might suppose that the persons who are most frequently attacked would also be the ones who are most severely attacked. But since women in particular are inclined to leave abusive partners, this correspondence between severity and frequency of violence might

actually hold in only a small proportion of cases – the true “battered partner” cases. More likely, the relationships which are characterized by the most frequent violence are those in which the violence is least severe – i.e. those cases that are least likely to show up in police-reporting data. Repeat victimization at the lower levels of violence might therefore be explained in part by the fact that the police are not called to intervene in these disputes, and so they continue.

Pottie Bunge and Locke (2000: 19, Table 2.10) provide data from the *GSS* when victims were asked about whether any of the violent incidents they had been involved in had ever been reported to police. **Table 1.5** summarizes these data, and estimates the numbers and proportions of male and female victims based on an equal number of partnerships.

Table 1.5								
Violence by a partner reported to the police,								
preceding 5 years – unadjusted and equalized								
	preceding 5 years – unadjusted				preceding 5 years – equalized			
	female victim		male victim		female victim		male victim	
	count	%N	count	%N	count	%row	count	%row
	(000s)		(000s)		(000s)		(000s)	
* coefficient of variation is high								
Total partners reporting violence	690	100	549	100	642	100	586	100
Not stated / didn't know	20	2.9*	17	3.1*	19	3.0	18	3.1
Total not reported to police	414	60.0	450	82.0	385	44.5	480	55.5
Total reported to police	256	37.1	82	14.9	238	73.0	88	27.0
Reported to police by victim	199	28.8	41	7.5	185	80.8	44	19.2
Reported to police by someone else	57	8.3	41	7.5	53	54.6	44	45.4

Only 37.1% of the women who had suffered violence by a partner ever had an incident reported to the police; and only 14.9% of the men who had suffered violence by a partner ever had an incident reported to the police. Thus, overall, 72.7% of those who reported experiencing at least one incident of partner violence in the preceding 5 years on the *GSS* never had it reported to the police. Of those who suffered violence but never had it reported to the police, 55.5% were men. It does not follow from this that there were more unreported *incidents* of violence against men than women, because women report experiencing 1.6 to 1.8 times as many incidents per person. Still, assuming that this factor is applicable to the sub-category of victims who never had incidents of victimization reported to the police, it would follow that about 44% of unreported incidents of violence have male victims. Evidently, unreported violence against male partners is almost as big a problem as unreported violence against female partners.

This conclusion is reinforced by consideration of the fact that only 54.6% of the victims of violence reported

to the police by someone other than the victim him- or herself were women. There are two typical situations to consider: those in which friends or relatives who were present when the violence occurred report to the police, and those in which a neighbour or stranger reported a fight on the basis of hearing noise or getting a brief glimpse of a fight through a window. In the first class of cases, one would expect the proportion of female victims to be somewhere between the proportion of incidents involving female victims (61% to 65%), and the proportion of incidents that were self-reported to the police (80.8%). It follows that the proportion of cases involving female victims that were reported by neighbours or strangers who obtained only a very incomplete picture of the incident must be much lower than 54.6% – perhaps lower than 50%. This is interesting because it suggests that in cases of partner violence reported to the police when the gender of the victim was not known in advance, men were at least as likely to be the victim as women, though again the fact that women suffer 1.6 to 1.8 times as many incidents per victim needs to be taken into account here.

The main reason a higher proportion of incidents of violence against women were reported to the police is that women were 4 times as likely as men to self-report their victimization.^[16] This perhaps reflects the fact that women were more likely to suffer more severe forms of violence, more repeat victimization, and greater fear from violence than men. It might also reflect the fact that women found the response of police to be more satisfactory – an hypothesis which is one of the purposes of this study to examine.

The right-hand, equalized side of **Table 1.5** shows that 73.0% of the victims who have ever received police intervention were women. Being a victim-based datum, this does not mean that women were the victims in 73.0% of all *incidents* reported to police. It is likely that more than 73.0% of all incidents reported to the police involved female victims, since women reported experiencing more repeat victimization and a greater willingness to involve the police – and these differences apply also, presumably, to the sub-category of those whose victimization was ever reported to the police. Unfortunately, it is not possible to determine the exact ratio of female to male incidents reported to police from the *GSS* data because it is not safe to assume that the multiples by which women suffer repeat victimization and a greater willingness to involve the police apply in full force to the class of cases where police were called. The 73.0% figure for this class of cases already reflects these differences, but on a victim-based measure.

The *GSS* also asked respondents for their reasons for involving the police.^[17] The results are summarized below. Consistently with the finding that women were more likely to leave a violent relationship, women were also more likely to want the perpetrator arrested and punished. Another way to explain this disparity is to note that proportionately more of the partner violence that men experience takes place within intact relationships.

	Women	Men
To stop the violence or receive protection	93%	79%
Considered it their duty to notify the police	55%	58%
To have their partners arrested and punished	48%	34%
Someone else recommended that they involve the police	31%	27%

The main purpose of the *GSS* is to *explain* the sociological phenomenon of partner violence – its prevalence, effects, and associated risk factors. Thus Statistics Canada publications go into considerable detail showing how age, income, education, place of residence, and other factors are associated with partner violence.^[18] The purpose of the present study, however, is to determine whether the law-enforcement system responds differently to male and female perpetrators of partner violence. To do that effectively, it is necessary to take into account, not the risk factors associated with partner violence in general, but rather the aggravating and mitigating factors associated with a particular incident^[19] – things like the presence of children, the level of

injury, and whether the act was done in self-defence or as a result of provocation. Of course, there is some overlap between risk factors for partner violence and aggravating factors. For example, alcohol abuse is a risk factor for partner violence (Pottie Bunge and Locke 2000: 16); but it is also considered to be an aggravating factor for the crime. Most of the analysis in the present study will focus on those risk factors for partner violence which are also aggravating factors, since these are the circumstances of an incident that the police generally record.

Canadian Sources of Data – The 1999 and 2000 UCR

When the police respond to disputes between partners, they may react in several ways. First, they may decide that nothing of consequence has happened and make no record of the incident. Obviously, no data are available to analyse this category incidents. Second, the police may decide that something significant has happened, even though they cannot be sure exactly what took place or who was at fault. In that case, they typically flag the residence to which they responded on their internal computer system, for future reference. The EPS data analysed in this study contains incidents in this category, and is in that way more complete than any other publicly available data-set on police response to partner violence. Third, the police may decide that the incident is serious enough that some positive intervention is in order. In this case, they make a report. The *Uniform Crime Reporting (UCR)* survey data are derived from these reports.

The incident-based *UCR* survey was developed by Statistics Canada in co-operation with the Canadian Association of Chiefs of Police. The *UCR* aggregates crime statistics reported by nearly all urban police agencies in Canada. The major reporting exception to the *UCR* is the RCMP, which accounts for nearly 40% of the volume of crime in Canada, including nearly all of the rural crime. Because of that exception, the *UCR* data are not nationally representative, but are broadly representative of large urban centres such as Edmonton, Alberta, to which the data for the present study relates. One of the most important differences between the *GSS* and the *UCR* surveys is that the latter employs the “most serious offence rule” (Ogrodnik and Trainor 1997): it reports only the most serious offence charged in an incident, whereas interview surveys typically ask about all violent acts. Small annual fluctuations in the incidents of partner violence compiled from police data are evident in the *UCR* survey. Since the present study analyses incidents arising in 1999 and 2000, the tables in this section report the totals from the annual reports for these two years. [20]

Table 1.6						
Violence reported to the police by partners and ex-partners, and incidence clearance status, by sex of victim, 1999 and 2000						
	female (N = 52,135)			male (N = 8,740)		
	Count	%N	%row	Count	%N	%row
By a current partner	34,355	65.9	86.3	5,455	62.4	13.7
By a previous partner	17,780	34.1	84.4	3,285	37.6	15.6
Not cleared	4,600	8.8	82.1	1,001	11.5	17.9

Cleared	47,535	91.2	86.0	7,739	88.5	14.0
Cleared by charge	39,322	75.4	88.3	5,208	59.6	11.7
Cleared otherwise than by charge	8,213	15.8	76.4	2,531	29.0	23.6
Not laid at complainant's request	5,908	11.3	77.1	1,758	20.1	22.9
Discretion exercised by police	1,090	2.1	72.8	407	4.7	27.2
Other	1,215	2.3	76.9	366	4.2	23.1

As was shown earlier, the rate of partner violence increases sharply though shortly for both women and men immediately after separation. Still, it is unlikely that this can fully account for the fact that over one-third of the incidents for which police made a report involving female victims, and almost two-fifths of the incidents for which police made a report involving male victims, involved separated couples. On the contrary, since proportionately more male victims than female victims involved the police when experiencing violence by a previous partner, the explanation for these ratios from **Table 1.6** has more to do with the greater willingness of separated people to involve the police in their disputes. The relatively low proportion of incidents in which a man reports victimization by a current partner to the police suggests that men in particular are reluctant to involve the police in disputes during intact relationships.

The category of cases classified as “not cleared” is not expressly reported or discussed in any of the Statistics Canada publications; it has been reconstructed here on the basis that this is the only category missing one from their analysis. This is curious omission, especially since nearly 10% of all incidents of partner violence are classified as “not cleared.” According to Pottie Bunge and Locke (2000: 24) and Trainor (2002: 8), an incident is classified as “not cleared” when an accused has not been identified in connection with the incident. But if an accused has not been identified by the police, how could they classify it as one of partner violence? It would seem to be a precondition of classification as a case of partner violence that the police know the identity of the perpetrator.

One explanation for this category of cases might be that it captures those situations in which the police are able to satisfy themselves that a violent incident has taken place between partners, but they are unable to determine whether the perpetrator was the man or the woman or both. (Both might claim that the other party started the incident and that they were only acting in self-defence, for example.) That would explain how the police are able to identify it as a case of partner violence yet be unable to identify an accused. The problem with this explanation is that the gender of the *victim* is reported by the police even in cases that were “not cleared,” and so it would follow that the identity of the accused must also be known. Perhaps in the kind of ambiguous case suggested above, the police report, for the sake of convenience, the gender of the “victim” as the gender of the party on whose behalf the call to the police was made. This is plausible, since 82.1% of the incidents in the “not cleared” category were classified as having female victims and 85.6% of the incidents in the whole population for which police made a report had female victims.

If this is the correct explanation for the category of cases classified as “not cleared,” it would have been helpful for Statistics Canada to have explained and analysed it more carefully: as mentioned above, it contains nearly 10% of all incidents of partner violence for which police made a report. In particular, it bears noting that a higher percentage of incidents involving male victims was not cleared (11.5%), than incidents involving female victims (8.8%). This disparity seems to indicate that the police were more likely to find a situation too highly ambiguous to identify a perpetrator when men call in the complaint than when women call in the complaint, despite the fact that men are much less willing to call the police in the first place. This inference is consistent with the findings throughout the present study that the police exercise their discretion in such a way as to treat female perpetrators more favourably than male perpetrators.

Another complication needs to be noted in relation to reports to the police, namely the possibility that women

are more likely than men to call the police even when they are the primary (or equal) aggressors. [21] This kind of case does not fit neatly into the boxes the police have created to report the phenomenon of partner violence, which seem to assume that the person calling the police must be the sole victim in the incident. To the (considerable) extent that this is not a valid assumption, the data from both the *GSS* and the *UCR* may over-represent the extent of female victimization that comes to the attention of the police.

Table 1.4 estimates that between 6,487,000 and 6,617,000 incidents of partner violence occur in a 5-year period, or between 1,297,000 and 1,323,000 per year. But the *UCR* data generate only an average of 30,438 cases per year. Since the *UCR* data are derived from only about half of the police forces in Canada, a nationally representative survey of police forces would generate at most 60,000 cases per year. (“At most,” since the main reporting exception is the RCMP, which deals mainly with rural crime, where domestic violence is only half as likely to occur.) As explained above, police will have responded to many more incidents than this in a given year, since they will have responded to cases where no report was made for various reasons. Nevertheless, the discrepancy between the number of incidents of partner violence claimed to have been experienced on the *GSS* and the number of incidents in which police took some positive action is very dramatic. It would seem that the number of incidents of partner violence that police report amounts to fewer than 5% of the total experiences of partner violence reported by victims in the *GSS*. This ratio of *GSS* to *UCR* incidents – roughly 22:1 – is much higher than for any other crime for which these ratios are calculated. For comparison purposes, the ratio of *GSS* to *UCR* incidents for non-partner assault is 2:1, for sexual assault it is 1.8:1, and for robbery it is 3:1 (Ogrodnik and Trainor 1997: 9).

Table 1.5 indicates that 73.0% the victims whose violence was reported to the police were women. **Table 1.6** indicates that 85.6% of the incidents for which police generated a report involved female victims. These are not inconsistent results; in fact, they can be reconciled in at least two different ways, or by a combination of them. To begin with, the first figure is victim-based and the second is incident-based. As discussed previously, within the class of victims who have ever had their victimization reported to the police, it is likely that the women have had more incidents reported than the men, on average, since women in general suffer more repeat victimization and are more inclined to report to the police than men are. If conversion from victim-based to incident-based reporting were the whole explanation for the difference in percentages under examination here, then women reported, on average, 2.2 incidents of violence to the police for every incident reported by men.

While this factor falls within the bounds of plausibility based on what is known from the *GSS* about the general population of victims, it would be helpful if more complete data and a more complete analysis of the data were available so as to test the second possible explanation for the difference in percentages under examination here. This explanation is that when the police respond to incidents involving male victims, they may be more likely to determine that it is inconsequential or uncertain, and so do not make a formal report. Further, as suggested earlier, the police might misreport an incident of mutual violence as involving only a female victim if they were called by the woman or by someone else on her behalf. These errors would tend to exaggerate the proportion of incidents reported by police as involving female victims.

Table 1.6 shows that while 14.4% of the incidents for which police made a report involved male victims, women were charged in only 11.7% of the incidents in which charges were laid. This is because 75.4% of the incidents with female victims were cleared by charge, as opposed to only 59.6% of the incidents with male victims. Put another way, incidents with male victims were almost twice as likely to be cleared otherwise than by a charge (29.0%) as compared to incidents with female victims (15.8%). Most of that difference is accounted for by the fact that men were more likely to request that no charges be laid (20.1%) than women (11.3%). This is consistent with the *GSS* finding that almost half of the women who reported their victimization to the police did so in order to have their partner charged, whereas only about a third of the men who reported their victimization did so to have their partner charged. However, this is *not* consistent with the “no-drop” policy which is nearly universal among urban police forces in Canada. According to the no-drop policy, which is not as rigid as a “zero-tolerance” policy, the police are supposed to exercise their own discretion in laying charges, rather than dropping charges at the request of the victim. [22]

Although the number of incidents is not large, it nevertheless bears noting that charges were not laid at the discretion of the police or for “other reasons” twice as often, proportionately, when men were the victims as compared to when women were the victims. An analysis of police-recorded information on calls to partner-violence incidents in British Columbia reveals that in single-offender incidents during 1993, officers refused to recommend charges against the woman over 3 times as often, proportionally (66% vs. 20%), as they did regarding charges against the man (Ministry of the Attorney General 1996: 16, Table 2). Using the 5-year average from 1992-96 in B.C., 70.4% of men who were accused of violence by their partners were charged, compared with only 23.6% of (a much lower number of) women who were accused by their partners of violence (Ministry of the Attorney General 1999: 12, Table 2). All of this tends to support the inference that police exercise their discretion in such a way as to treat female perpetrators more leniently than male perpetrators in general.[\[23\]](#)

Since such a small percentage of all claimed incidents of partner violence are reported to the police, one might expect that those incidents would be drawn disproportionately from the more-serious cases of partner violence. Two plausible selection mechanisms could be at work to achieve this result: first, victims might be more inclined to call the police to intervene in the more serious incidents of partner violence; and second, the police, in turn, might make reports on only the most serious of the incidents to which they are called. Indeed, it was hypothesized earlier that the proportion of incidents involving women was higher among those to which police responded than among the general population of claimed victims of partner violence because women suffer a much higher proportion of the more serious incidents of such violence, in particular incidents requiring medical attention. Since the *UCR* also records the level of injuries suffered by the victims of partner violence, this hypothesis can now be tested. These data are presented in **Table 1.7**.[\[24\]](#)

Table 1.7						
Injuries reported by the police from partner violence incidents,						
by sex of victim, 1999 and 2000						
	female (N = 51,481)			male (N = 8,652)		
	Count	%N	%row	Count	%N	%row
Not known	2,778	5.4	85.6	467	5.4	14.4
No injury	23,310	45.3	85.3	4,015	46.4	14.7
Minor injury	24,260	47.1	86.1	3,906	45.2	13.9
Major injury or death	1,133	2.2	81.1	264	3.1	18.9

Since the police are supposed to record ‘major injury’ on the *UCR* when the victim receives medical attention, this category should correspond closely with the ‘medical attention required’ category on the *GSS*. This fact helps us to test the hypothesis put forward above. When the data in **Table 1.7** are compared to the data in **Table 1.4**, the hypothesis tends to be refuted. Three different, mutually reinforcing, analyses can be made to support this conclusion.

First, recall that on the *GSS* women claimed to suffer, on average, about 1.6 to 1.8 times as many incidents of partner violence as men claimed. And recall that women claimed to be 4 times as likely as men to report their victimization to the police. So given that 6 times as many women as men claimed victimization that required

medical attention on the *GSS*, one would expect much more than 6 times as many women as men to be involved in *incidents* involving major injuries for which police made a report. In fact, only about 4 times as many women as men were victims of major injuries in incidents for which the police made a report in the *UCR*. This might be explained, in part, by the earlier suggestion that women tend to seek medical attention much more readily than men, which would inflate their numbers in the category ‘medical attention received’ in the *GSS* relative to their numbers in the ‘major injury’ category on the *UCR*. Also, since women are much more likely to leave abusive relationships, it is likely that the ratio of incidents where women received medical attention to incidents where men received medical attention is closer to 1, rather than 1.6 or 1.8 in the general population of victims. In short, the cases involving the most repeat victimization of women are likely the no-injury cases. Still, the fact that only about 4 times as many women as men were victims of major injuries on the *UCR* strongly suggests that the selection mechanisms outlined above are overwhelmed by other factors determining which cases reach the police reports.

A second way to reach the same conclusion is by comparing the %N figures between **Table 1.4** and **Table 1.7**. Whereas, on the *GSS*, the proportion of female victims who claimed to require medical attention was 5 times as high as the proportion of male victims who claimed to require medical attention, on the *UCR* the proportion of female victims suffering major injuries was actually 50% less than the proportion of male victims suffering major injuries. This is because the number of incidents involving no injuries that was claimed on the *GSS* was roughly equal between men and women, whereas women were almost 6 times as likely to be the victims in no-injury incidents for which police made a *UCR* report. This, in turn, is because women were much more likely than men to be repeat victims of no-injury offences, and they were also much more likely to report those incidents to the police than men were. The net effect is that the injury-level-profile of the cases for which police made a report involving male victims is very similar to the injury-level-profile of the cases for which police made a report involving female victims. Contrary to what might be naïvely expected from the *GSS* data, men are actually slightly *more* likely to experience serious victimization in those cases for which police made a report. This is consistent with the findings of other studies.[\[25\]](#)

A third way to analyse these data is to compare the proportion of incidents involving female and male victims in each injury category from the *GSS* data to the *UCR* data. This can be done only very roughly. The “equalized” numbers from **Table 1.4** will be used. Also, the ratio of female to male incidents in the *GSS* data will be presumed to be 1.6:1 in each injury category, except in the ‘medical attention required’ category where (as suggested by the analysis in the previous paragraphs) a ratio of 1:1 will be used. Finally, the numbers for the 5-year period in **Table 1.4** will be scaled back to reflect a time period more comparable to the 2-year period addressed by the *UCR* data in **Table 1.7**. Calculations based on these assumptions suggest that police make a report on about 10% of the incidents of partner violence in which women suffer no injuries, and on about 2% of the incidents in which men suffer no injuries. They also make a report on about 23% of the incidents of partner violence in which women suffer minor injuries, and on about 16% of the incidents in which men suffer minor injuries. And finally, the police make a report on about 3% of the incidents of partner violence in which women suffer major injuries, and on about 4% of the incidents in which men suffer major injuries.

It would appear that the incidents involving the *highest* injury levels are in fact the *least* likely to generate a police report, at least in the case of female victims. And even in the case of male victims, the most likely kind of incident to generate a police report is the minor-injury incident rather than the major-injury incident. Even admitting the roughness of the calculations, the explanation for this result probably has a lot to do with the fact that women are much more likely than men to report relatively minor incidents to the police. In any case, it is necessary to reject the hypothesis that the reason many more incidents involving female victims are reported to the police is that women suffer more frequent and more serious victimization. Some other factor, such as the stability of the relationship or the willingness of the victim to remain in an abusive relationship, is evidently driving a great deal of the reporting of partner violence to the police. The purpose of the present study is to determine whether differences in the way the law-enforcement system treats men and women might also help to explain why the profile of the cases in the system differ systematically from the profile of the general population of cases.

Given that the injury-level-profile is very similar between female and male incidents for which the police made a report, one would expect similar charging profiles, too. With some important caveats to be noted presently, **Table 1.8** sets out the charging data from the 2000 *UCR* survey.^[26] It is noteworthy that proportionately almost twice as many women as men were charged with aggravated assault, assault with a weapon, or assault causing bodily harm (20.3% vs. 11.2%). This could be either because women were charged more severely than men for offences involving injury, or else because men were charged more severely than women for offences involving no injury. (The latter would increase the numbers and proportions of men charged with criminal harassment and other violent offences, and thereby reduce the proportions of men charged with the various levels of assault.) Although it is not possible to determine on

Table 1.8						
Violent offences reported by police from partner violence incidents,						
by type of offence and sex of victim, 2000						
	female (N = 28,633)			male (N = 5,142)		
	Count	%N	%row	Count	%N	%row
Aggravated assault	96	0.3	68.1	45	0.9	31.9
Assault with a weapon or causing harm	3,122	10.9	75.7	1,003	19.5	24.3
Common assault	18,135	63.2	85.6	3,046	59.2	14.4
Criminal harassment	1,977	6.9	87.7	278	5.4	12.3
Other violent offences	5,303	18.5	87.3	770	15.0	12.7

the basis of Statistics Canada data which explanation is the better one, the latter hypothesis is consistent with the findings of the previous paragraphs, which suggest that women are more likely to report no-injury and minor-injury incidents to the police.^[27] One purpose of this study is to determine whether discriminatory police charging practice is behind this pattern.

It is necessary in passing to register another complaint about the perplexing reporting of *UCR* data by Statistics Canada. Trainor (2002: 19, Table 1.1) reports that the police responded to 33,775 incidents of partner violence for which a record was made for the 2000 *UCR*: 28,633 involving female victims and 5,142 involving male victims. These numbers match the numbers implied by Minister of Industry (2001: 56-7, Table 4.10), as reported in **Table 1.8**; indeed, it was on the basis of these numbers that the counts set out in in **Table 1.8** could be narrowed down so precisely. The problem is that Trainor (2002: 20, Table 1.2) goes on to report that only 25,192 of these 33,775 incidents were cleared by charge, meaning that 8,583 incidents were not cleared by charge. (Recall the mysteries of the ‘not cleared’ category of cases in this sample that was discussed previously.) If 100% of the incidents reported in the ‘other violent offences’ category in **Table 1.8** were not cleared by charge, then there would still have to have been 2,510 incidents that were identified as some kind of an assault or criminal harassment where the police declined to lay a charge. One wonders how an offence was identified for this purpose if not by the “most serious charge rule” supposedly employed in the reporting of *UCR* data. Perhaps there are two distinct methods of reporting victimization for the purposes of the *UCR*; but if so, Statistics Canada nowhere explains how offences are identified when charges are not laid.

It gets worse. Trainor (2002: 6; 7, Figure 1.1 and Figure 1.2) explicitly discusses ‘uttering threats’ as a distinct category of victimization, noting that it is in fact the second most frequently recorded offence against women (14%) and the third most frequently recorded offence against men (13%) on the 2000 *UCR*. Yet this category does not appear at all in Minister of Industry (2001: 56-7, Table 4.10), unless it is subsumed by ‘other violent offences’. But if that were the case, it would comprise nearly 100% of the other violent offences, and nearly 100% of those incidents would not have been cleared by charge. That seems rather unlikely, as there would then be no room for cases of homicide, sexual assault, kidnapping, extortion, and similar offences reported by Minister of Industry (2001: 56-7, Table 4.10). Nor does the *UCR* data reported by Statistics Canada include any hint of the significant number of “administrative offences” that are reported in other police data (see **Table 2.7** and **Table 3.4.1**). So it remains a mystery where the data on uttering threats fits into the picture presented by the *UCR* data from Statistics Canada, and why a more systematic and clear presentation of the full range of offences (or charges) is not presented. [28] In any case, if the *UCR* data reported by Statistics Canada does not include uttering threats and administrative offences, but does include the mysterious incidents that are “not cleared,” then it is of limited value and its comparability to other data is questionable.

Prosecutor and Judicial Response

Very little Canadian data has been systematically collected in relation to the role of prosecutors in determining outcomes in cases of partner violence. One of the B.C. studies referred to earlier (Ministry of the Attorney General 1996: 19, Table 3) indicates that, even after the police recommended charges against women proportionally much less often than against men, prosecutors in turn elected not to pursue charges against women in proportionately more cases: 16% of the women who were recommended for charges by the police were not prosecuted, as opposed to only 6% of the men. In the end, the proportion of female suspects dropped from an initial level of 10% of those accused by the police to 2.3% of those convicted. [29]

Occasionally, Canadian judges comment from the bench upon the differences in treatment they perceive to exist between men and women who are accused of partner violence. In finding Darryl Arsenault not guilty of assaulting his common-law partner Susan Himmer, B.C. Provincial Court Judge Brian Saunderson said, “There are far too many prosecutors declining to make the hard decisions, lest they offend some interest group or incur the displeasure of their superiors who themselves are subjected to pressure from the same groups.... The result can be to work hardship in individual cases.” The judge ruled that Arsenault was defending himself when he slapped Himmer after she verbally abused and assaulted him. Himmer testified that she was drunk and in an “out of control” rampage after Arsenault’s ex-wife insulted her. Judge Saunderson criticized the Crown for not charging Himmer for her assaults, saying it created a double standard. “The mere fact of this prosecution sends a very clear message: a woman in a relationship with a man can provoke him, degrade him, strike him and throw objects at him with impunity, but if he offers the least physical response, he will be charged with assault” (Daisley 1999; reasons for judgment are available from FULL TEXT under *R. v. Arsenault*, 1833-01J1.).

However, such evidence as is available suggests that judges may be as much to blame for this state of affairs as Judge Saunderson suggests that prosecutors are. The judicial response to partner violence is evidenced most clearly by sentencing outcomes. Scores of published studies have been conducted on sentencing outcomes generally, though evidently none of these has specifically addressed sentencing for partner violence. Though it is difficult to get information on and control for all of the relevant variables, the overall thrust of the published studies on sentencing strongly indicates a “female discount” in most jurisdictions. Feminist scholars have produced much literature on this subject, disputing the finding of leniency for women and sometimes arguing that it is justified, but there is far too much evidence to be easily explained away. A readable, non-technical survey of all of this Julian (1993). One recent analysis eliminates many of the variables by studying involuntary vehicular homicide cases. From sentence-length disparities, it finds striking evidence for bias against males both as victims and as perpetrators (Glaeser and Sacerdote 2000).

One of the most authoritative unpublished sources relating to sentencing disparities between male and female

convicts in Canada is Justice Jack Watson's hand-out material for his course in criminal sentencing, which this researcher took in the Fall 2000 term. Based on an extensive review of Canadian cases, Justice Watson openly acknowledges that women receive more lenient sentences in Canadian courts. This conclusion was confirmed by the term paper this researcher wrote for Justice Watson's sentencing course (Brown 2000). Three categories of crime were examined – partner violence, narcotics possession, and theft – using cases from the “Alberta Judgements” database of *Quicklaw*. In all three categories of offence, women tended to obtain more lenient sentences than men. However, only four reported cases were found in the period 1989-2000 where women had been sentenced for violence against a partner, compared with dozens of reported cases involving convicted men. A qualitative analysis of even this small sample revealed inconsistencies in the principles of sentencing applied to male and female convicts. Although no statistical tests with significant results could be performed on such a small sample, pair-wise comparisons between similarly situated male and female convicts did suggest that women received lighter sentences.

Justice Watson attributes the female discount in sentencing mainly to the fact that women tend to be the primary care-providers for children. Judges, he says, are reluctant to punish children for the crimes of their mothers, especially in cases where no other reliable care-giver is present in the children's lives. While the practical need to keep children with their primary caregiver might arguably provide a reason for lenient sentences in some particular cases, it cannot provide an across-the-board justification in cases of partner violence in particular. In the first place, sentences for partner violence rarely involve jail terms and so rarely interfere significantly with the violent partner's ability to care for children, anyway. And in the second place, when a man is the perpetrator of partner violence in the presence of children, it is held as a matter of policy that a *more* severe sentence is warranted in order to deter him from teaching violence as a method for resolving disputes to the children. It is difficult to see why the same reasoning should not apply to female perpetrators of partner violence. So, whether children are present or not, the female discount in sentencing for partner violence is difficult to rationalize.

An impression of the magnitude of the female discount can be gleaned from this researcher's moot-court exercise for Justice Watson's sentencing course. That exercise was conducted before Justice Sterling Sanderman of the Alberta Court of Queen's Bench (QB), the province's superior court. The assignment was to argue an appeal, as prosecutor, from a 5-year sentence for a female narcotics importer. Several cases were presented where men had received 7- to 10-year sentences for a similar offence. While acknowledging the similarity of these cases, Justice Sanderman indicated that he would not disturb the 5-year sentence hypothetically imposed at trial, frankly admitting that women can generally expect to receive a discount in sentencing in the order of 25-33%. Indeed, he coined the expression “female discount” in personal conversation following this mooting exercise. When pressed about the constitutionality of the female discount, Justice Sanderman explained that this form of judicial discrimination was “systemic” – an explanation that merely calls for a reiteration of the question.

Method

The present study attempts to shed light on the pivotal role of the prosecutor in partner violence cases, while at the same time subjecting the decisions of local police and judges to further examination based on data not so readily available from more public sources. It is hypothesized that men will be found to be treated significantly more harshly than women at each step of the law-enforcement process. The harsher treatment of men in partner violence cases is to be expected for at least two broad reasons. First, this subject has received a great deal of ideological attention in the media in recent years, and thus has become highly politicized (Fekete 1994; Young 1999). It would be unrealistic to suppose that the justice system has emerged unaffected

by this pressure. Second, the sympathies of the criminal-justice system generally tend to operate in two ways, which converge in cases of partner violence. On the one hand, men who are charged with offences tend to be treated more suspiciously than women, while women tend to get the benefit of a doubt.[30] And on the other hand, prosecution tends to be more vigorous, and punishment more harsh, for crimes involving female victims – which is to say, less vigorous and less harsh for crimes involving male victims. In cases of violence against partners, these forces converge, potentially subjecting men to a double dose of discrimination: their account of an incident of partner violence is less likely to be believed, and they are less likely to find sympathy with the authorities even when they are believed.

Data for the original analysis in this study was obtained from two separate sources. One source was the Edmonton Police Service (EPS), which is required by provincial law to collect, aggregate, and report data on partner-abuse incidents to which they respond. Although the publicly reported data is not helpful for the purposes of the present study, raw data has been made available to researchers outside of the EPS. The present study is the first systematic analysis of these data. When combined, the two-year EPS data-set contains 2,935 observations.[31] This includes 617 observations where no arrest was made, a category of case not found in the *UCR* or other reports of police response to partner abuse. Of course, since the data were collected by the EPS, any subjectivity in the coding of the data cannot be attributed to this researcher.

The other source of data for the present study was the Edmonton Crown Prosecutor's Office (ECPO). Permission was obtained to search the "spousal abuse" files for the first half of 2001. It should be noted that there are no separate *Criminal Code* sections relating to partner violence; suspects are charged under the same sections that would apply in similar non-domestic situations. However, for the past few years the ECPO has "flagged" cases involving partner violence in such a way that they can be identified in a computer database. From this database, a list of partner violence cases that had been closed in the first half of 2001 was produced. The list contained 713 entries, which represents the number of *charges* laid in partner violence cases that were completed.[32] Since a number of cases involved multiple charges against one accused stemming from a single incident, the number of *person-incidents* on the computer-generated list where charges were laid was only about 560. According to the EPS data, 2436 persons were charged in 1999 and 2000, or about 609 per half-year. Thus the number of cases on the computer-generated list from the ECPO corresponds reasonably closely to the number of EPS cases generated over the relevant period.

For a variety of reasons, data could not be collected for every case on the computer-generated ECPO list. At least 30 of these files were marked "N/A," indicating either that they had been transferred to another jurisdiction or that a prosecutor was still holding the file. Another 30 or 40 files were rejected for a variety of reasons, such as: (i) the dispute was between a same-sex couple, a dating couple, or between a partner and a third party (e.g. a "mistress," a friend, or a child); (ii) important information was not apparent in the file, or was inconsistent and therefore unreliable; (iii) the person faced other charges relating to non-domestic offences, which were impractical to disentangle; (iv) the person had died before trial; (v) the dispute was strictly over property; (vi) the charge was improperly laid (e.g. outside of the limitation period for summary conviction offences); or (vii) the person was deemed mentally unfit to stand trial.

Data were collected by working through the computer-generated list alphabetically until 353 complete observations were reached. This occurred somewhere in the 'R's. At that point, there were 60 observations involving female subjects, making them 17.3% of this sample. This proportion is about 3 percentage points higher than would have been expected based on the EPS charging data for the second half of 2000, a discrepancy which can be accounted for by the number of cases involving men that were rejected for the reasons given in the previous paragraph.[33] Due to time limitations, no more files of male subjects were examined at this point; however, the rest of the alphabetical list was searched for cases involving female subjects so as to increase the sample size of that category. An additional 15 observations were thereby obtained from the R-Z cases, which raised the overall proportion of cases involving female subjects to 20.5% (N = 368; M = 293; F = 75). It should be borne in mind that because the cases involving female subjects were drawn from a larger class of cases (A to Z) than that from which cases of male subjects were drawn (A to R only), comparisons between genders from this data set must be made cautiously – e.g. by using proportions

rather than raw counts (i.e. the ‘N’s). Nevertheless, because the study sample mirrors the externally available data so closely in most cases, as will be noted throughout this study, a high degree of confidence is held that the sample used in this study is representative of the files reaching the prosecutor’s desk.

The accused in all but 7 of the cases in the ECPO sample elected trial before a Provincial Court Judge, making it impractical to analyse separately cases slated for QB. Of those 7 QB cases, 2 involved men who pled guilty to manslaughter. (One stemmed from an incident in 1993, but the suspect had “disappeared” for the intervening years.) Those 2 cases are statistical outliers in the sample, with no comparable cases involving female offenders, and so do not figure in the analysis in the body of the report except where specifically mentioned. For the record, the sentences imposed in those 2 cases were life in prison and 8 years.

Translating the information found in the files into data to be analysed posed a number of interpretive challenges, and frequently involved judgement calls. A detailed explanation of what information was gleaned from the files and how it was transformed into data is provided in *Appendix A*. In *Appendix B*, data from a few of the files is briefly summarized in narrative form to provide illustrative examples of some points of interest. As well, the researcher attended Provincial Court one day to witness the trial process in several cases of alleged partner violence, and recorded some observations in *Appendix B*.

Results and Interpretation

Part A: Analysis of the EPS data

The EPS data analysed in this study is not directly comparable to the Statistics Canada data from the **Introduction**. Whereas the *GSS* data is person-based, the EPS data is incident-based; and whereas the *UCR* data identifies only two categories (female and male victims), the EPS data is separated into four charging categories. For some purposes, of course, it is helpful to look separately at the categories ‘both charged’ and ‘neither charged’; but for the purposes of comparability, it is necessary to select and combine the relevant categories. Thus the category ‘female victim’ in the *UCR* tables corresponds roughly to the combined ‘both charged’ and ‘male charged’ categories, and so on. Also, the EPS data is more complete than the *UCR* data in some respects, for example by describing the circumstances of both parties to an incident rather than the victim only. For these reasons, care is required when comparing these two data sources.

The first variable of interest is the marital status of the couples involved in domestic disputes to which the EPS responded. These data are set out in **Table 2.1**. Note that the proportion of incidents reported by the EPS involving separated or divorced parties is perhaps surprisingly low at only 22.3% of the total incidents. Compare this to the left-hand side of **Table 1.1**, where 37.5% of those claiming to have experienced partner violence in the preceding 12-month period on the *GSS* claimed to have been victimized by a previous partner. While these proportions are not directly comparable, the difference between them is large enough to raise questions about the representativeness of the EPS data. Likewise, 34.6% of the incidents reported in the *UCR* data in **Table 1.6** involved violence between previous partners. This figure is consistent with the *GSS* data, but is difficult to reconcile with the EPS data in **Table 2.1**. Nevertheless, **Table 2.1** tends to support the hypothesis that partner violence is more common in more ambiguous relationships, where the parties may be more likely to have different understandings, expectations, and goals. There are almost 3 times as many cases involving cohabiting couples as married couples, and almost 18 times as many cases involving separated couples as divorced couples. Indeed, it is striking how few cases in this sample involve divorced couples: only 35 incidents, resulting in only 24 charges being laid, were responded to in a two-year period in Edmonton. These data therefore tend to refute the hypothesis that women are more at risk in marriage or divorce due to the patriarchal belief that the man “owns” his wife.

Table 2.1

Marital status in incidents of partner violence in Edmonton, 1999-2000														
	Charging Category												total (N = 2934)	
	both charged (N = 118)			female charged (N = 155)			male charged (N = 2044)			neither charged (N = 617)				
	Count	%N	%row	Count	%N	%row	Count	%N	%row	Count	%N	%row		
Married	15	12.7	2.5	29	18.7	4.7	394	19.3	64.5	173	28.0	28.3	611	20.8
Cohabiting	96	81.4	5.8	97	62.6	5.8	1142	55.9	68.4	334	54.1	20.0	1669	56.9
Separated	7	5.9	1.1	27	17.4	4.4	486	23.8	78.5	99	16.0	16.0	619	21.1
Divorced	0	0	0	2	1.3	5.7	22	1.1	62.9	11	1.8	31.4	35	1.2

Two cross-tabulations[34] were performed to determine if the marital status of the couple is associated with the laying of charges by the police. **Table 2.1.1** shows a statistically significant ($p < .001$) association between marital status and whether or not a charge was laid at all. That is, a charge was least likely to have been laid if the dispute was between a married couple, and most

Table 2.1.1						
Marital status * Charge / no charge laid						
in incidents of partner violence in Edmonton, 1999-2000						
	no charge laid (N = 617)			charge laid (N = 2316)		
	Count	Expected count	%row	Count	Expected count	%row
Married	173	128.5	28.3	438	482.5	71.7
Cohabiting	334	350.9	20.0	1334	1317.1	80.0
Separated / divorced	110	137.6	16.8	544	516.4	83.2
$p < .001$						

likely to have been laid if the dispute was between a separated couple. (Due to the small number of divorced couples in these data, they are henceforth included with the ‘separated’ category.)

Likewise, **Table 2.1.2** shows a statistically significant ($p < .001$) association between marital status and whether a major charge or a minor charge was laid was.[35] A major charge was most likely to have been laid in a dispute between cohabiting couples, while a minor charge was most likely to have been laid in a dispute between separated couples.

Table 2.1.2

**Marital status * Minor or major charge laid
in incidents of partner violence in Edmonton, 1999-2000**

	minor charge laid (N = 2447)			major charge laid (N = 486)		
	Count	Expected count	%row	Count	Expected count	%row
Married	519	509.8	84.9	92	101.2	15.1
Cohabiting	1340	1391.6	80.3	328	276.4	19.7
Separated / divorced	588	545.6	89.9	66	108.4	10.1
<i>p</i> < .001						

These charging patterns tend to support the hypothesis that separated couples were least likely, and married couples most likely, to urge the police not to lay charges. Separated couples were more likely to want charges to be laid even in relatively minor incidents, which is why a major charge was least likely to have been laid in a dispute between separated couples (10.1%), as opposed to married (15.1%) or cohabiting (19.7%) couples. Combining this explanation with the fact that cohabiting relationships tend to be more conflict-ridden than married ones generally, the charging pattern revealed in the above tables is understandable, without supposing that the police treated couples more or less harshly because of their marital status.

However this may be, the purpose of the present study is not to see whether the police might discriminate against people on the basis of marital status; the purpose is to see whether the police might treat men and women differently, all other things being equal. Thus the important issue is whether marital status is associated with the gender of the accused in the EPS data. If it is, then it might be possible for the police to use marital status as a proxy for harsher treatment of one gender or the other. For example, if more charges were laid for less serious incidents between separated couples, and if men are more likely to be the accused in that category, then a form of systemic discrimination might be behind this pattern. **Table 2.1.3** shows that in fact there is no statistically significant association between marital status and the gender of the accused (*p* = .181). (For the purpose of this analysis, only those cases in which a single party was charged were selected, since only in those cases is it clear who the putative victim was.) Nevertheless, men are slightly over-represented in the category where minor charges were most likely to have been made: men are 94.6% of those charged among the separated.

Table 2.1.3

**Marital status * Gender of accused
in incidents of partner violence in Edmonton, 1999-2000**

	female (N = 155)			male (N = 2043)		
	Count	Expected count	%row	Count	Expected count	%N
Married	29	29.8	6.9	394	393.2	93.1

Cohabiting					1150.7	
Separated / divorced	97	87.3	7.8	1141	499.1	92.2
	29	37.9	5.4	508		94.6
$p = .181$						

The next variable to consider is intoxication. According to the EPS data set out in **Table 2.2**, intoxication was a factor in 55.7% of the incidents to which the police responded. The GSS found that only 35% of those who claimed victimization by a partner in the 5-year period preceding the survey claimed that their partner had been “drinking” at the time of the incident(s) (Pottie Bunge and Locke 2000: 16). Since alcohol is overwhelmingly the intoxicant of choice, it is unlikely that the large discrepancy between these two data sources can be explained fully in terms of other intoxicants – e.g. narcotic drugs – being a factor in the EPS data. More likely, the GSS data includes many low-level disputes not involving intoxicants that never reach the attention of the police.

Table 2.2														
Intoxication in incidents of partner violence in Edmonton, 1999-2000														
	Charging category													
	both charged (N = 118)			female charged (N = 155)			male charged (N = 2042)			neither charged (N = 617)			total (N = 2932)	
	Count	%N	%row	Count	%N	%row	Count	%N	%row	Count	%N	%row	Count	%N
Total	77	65.3	4.7	99	63.4	6.1	1156	56.6	70.8	301	48.8	18.4	1633	55.7
Both	65	55.1	8.6	48	31.0	6.3	486	23.8	64.3	157	25.4	20.8	756	25.8
Female	5	4.2	3.9	46	29.7	36.2	31	1.5	24.4	45	7.3	35.4	127	4.3
Male	7	5.9	0.9	5	3.2	0.7	639	31.3	85.2	99	16.0	13.2	750	25.6
Neither	41	34.8	3.2	56	36.1	4.3	886	43.4	68.2	316	51.2	24.3	1299	44.3

Intoxication should be positively associated with the laying of a charge, both directly and indirectly: directly, because it is regarded as an aggravating factor; and indirectly, because intoxicated people are less capable of self-control and so are more likely to aggress and cause an injury. This tends to be borne out by **Table 2.2**, since proportionately fewer cases where no charge was laid involved intoxication (48.8%), compared with cases in which a charge was laid (55.9%). Intoxication was also more prevalent among women who were charged (60.1%) than among men who were charged (55.4%), although **Table 2.2.1** shows that this disparity is not statistically significant ($p = .174$). Moreover, such disparities as exist are open to various explanations. One explanation is that violent women are more likely than violent men to abuse substances. Another explanation is that non-intoxicated men are more aggressive than non-intoxicated women, which decreases the proportion of accused men who were intoxicated, relative to the proportion of women. These two explanations are both implausible for the same reason: according to the GSS findings noted above, violent men were in fact much more likely to have been intoxicated at the time of the incident than violent women were found to be.

Table 2.2.1

**Intoxication present * Gender of accused
in incidents of partner violence in Edmonton, 1999-2000**

	female (N = 155)			male (N = 2043)		
	Count	Expected count	%N	Count	Expected count	%N
Intoxication present	94	85.9	60.6	1124	1132.1	55.0
Intoxication not present	61	69.1	39.4	919	910.9	45.0
<i>p</i> = .174						

This leaves two plausible explanations for the gender disparities in intoxication noted in **Table 2.2** and **Table 2.2.1**. One is that men are less inclined than women to call the police unless their partners are intoxicated, hence fewer non-intoxicated accused women enter the EPS sample. The other is that the police are less willing to lay charges against women without some kind of aggravating factor such as intoxication being present, thus artificially elevating the proportion of accused women who were intoxicated. Neither explanation entirely exonerates the police. The reason men might be less inclined than women to call the police without manifest justification could be that they are aware from anecdotal evidence or prior experience that their concerns will not be taken seriously or dealt with adequately anyway, absent clear proof of being at risk. In other words, men’s reluctance to involve the police might be a product of systemic discrimination against them. An analysis of the EPS data on intoxication alone does not provide a direct test of these various hypotheses; however, the convergence of several findings consistent with the hypothesis of systemic discrimination against men tends to support it indirectly.

Almost a third of the incidents for which the EPS generated a report involved a repeat call. Other things being equal, police are more inclined to lay charges if they had been called to the same residence on a previous occasion. This is borne out by comparing the proportion of cases in **Table 2.3** where neither party was charged at a repeat call (25.6%) with the proportion of cases in the other three categories where someone was charged at a repeat call (33.0%).

Table 2.3

Repeat calls in incidents of partner violence in Edmonton, 1999-2000

	Charging category												
	both charged (N = 118)			female charged (N = 155)			male charged (N = 2044)			neither charged (N = 617)			total (N = 2934)
	Count	%N	%row	Count	%N	%row	Count	%N	%row	Count	%N	%row	Count %N
First call	75	63.6	3.7	102	65.8	5.1	1376	67.3	68.4	459	74.4	22.8	2012 68.6
Repeat call	43	36.4	4.7	53	34.2	5.8	668	32.7	72.5	158	25.6	17.2	922 31.4

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Men were more likely than women to be charged on the first call (68.4% vs. 65.8%), although **Table 2.3.1** shows that this disparity is not statistically significant ($p = .693$). However, the lack of statistical significance in **Table 2.3.1** might be misleading. Since women report experiencing repeat victimization at much higher rates than men (**Table 1.4**), and are also much more inclined to call the police to deal with their disputes (**Table 1.5**), the police have a much greater opportunity to lay charges against men than against women on a repeat call. The fact that the *opposite* happens therefore calls out for an explanation, even if the disparity is not statistically significant. The two main competing theories are that men start off being more aggressive toward their partners and hence are more likely to be charged on the first call; or that the police are not as inclined to charge women unless it is a repeat call. Doubt about the first possibility arises from the fact, to be shown later, that women involved with partner disputes that come to the attention of the police are actually more likely to cause injury (**Table 2.4**) and use weapons (**Table 2.6**) than men. Thus it would seem that, other things being equal, the police are less inclined to lay charges against a woman the first time they respond to a call on behalf of a man in a partner dispute. This tends to support the systemic discrimination hypothesis mentioned in relation to the discussion of intoxication.

Table 2.3.1						
First or repeat call * Gender of accused						
in incidents of partner violence in Edmonton, 1999-2000						
	female (N = 155)			male (N = 2043)		
	Count	Expected count	%N	Count	Expected count	%N
First call	102	104.2	65.8	1376	1373.8	67.4
Repeat call	53	50.8	34.2	667	669.2	32.6
$p = .693$						

One of the most important variables relating to the response of the law-enforcement system to incidents of partner violence is the level of injury suffered by the victim. The EPS data on injuries are provided in **Table 2.4**.[\[36\]](#) It is apparent that the category ‘medical attention received’ (line 8) overlaps significantly with the category ‘major injury’, since the total in the former category is 154 and the total in the latter is 123. Assuming that all of those who suffered a major injury received medical attention, only 31 persons who received minor injuries also

Table 2.4					
Injury levels in incidents of partner violence in Edmonton, 1999-2000					
	Charging category				
	both charged	female charged	male charged	neither charged	total
	(N = 118)	(N = 155)	(N = 2044)	(N = 617)	(N = 2934)

	Count	%N	%row	Count	%N	%row	Count	%N	%row	Count	%N	%row	Count	%N
Male:														
1. major	3	2.5	14.3	14	9.0	66.7	1	0	4.8	3	0.5	14.3	21	0.7
2. minor	10	8.5	5.4	97	62.6	52.4	20	1.0	10.8	58	9.4	31.4	185	6.3
Female:														
3. major	1	0.8	1.0	0	0	0	95	4.6	99.0	0	0	0	96	3.3
4. minor	11	9.3	0.8	4	0.3	2.6	1216	59.5	89.6	126	9.3	20.4	1357	46.3
Both:														
5. major	1	0.8	33.3	0	0	0	2	0.1	66.7	0	0	0	3	0.1
6. minor	84	71.2	30.3	10	6.5	3.7	109	5.3	39.9	70	11.3	25.6	273	9.3
7. none	8	6.8	0.8	30	19.4	3.0	601	29.4	60.2	360	58.3	36.0	999	34.0
8. Medical attention	8	6.8	5.2	14	9.0	9.1	112	5.5	72.7	20	3.2	13.0	154	5.3

received medical attention for those injuries (as far as the police knew), out of 2087 victims who received a minor injury (1.5%). In other words, a “minor injury” truly is minor. It also bears noting that relatively few incidents to which the police responded involved major injuries (4.1%), or injuries for which medical attention was provided (5.3%). As small as these percentages are, they are almost double the national *UCR* rate shown in **Table 1.7**, where only 2.2% of female victims and 3.1% of male victims suffered a major injury or death. It is not clear why the EPS data are so unrepresentative of the national data in this respect.

From lines 1 and 2, there were 206 cases in which only the male partner was injured, and the female partner was charged in 124 of those (60.2%). In contrast, from lines 3 and 4, there were 1452 cases in which only the female partner was injured, and the male partner was charged in 1323 of those (91.1%). In other words, a man is 50% more likely to be charged if his partner is injured than a woman is to be charged if her partner is injured in a dispute to which the Edmonton police responded. Similarly, in the 276 cases in which both partners were injured (lines 5 and 6), the female partner was charged in 95 of them (34.4%) and the male partner was charged in 196 of them (71.0%). Thus when both partners were injured, the man was twice as likely to be charged as the woman. Finally, there were 999 cases in which neither party suffered an injury; women were charged in 38 of those (3.8%), while men were charged in 609 of them (61.0%). Thus when neither party was injured in a dispute to which the Edmonton police responded, the man was 16 times more likely to be charged than the women. When only one party was charged in an incident involving no injury to either party, it was the man who was charged in 95.3% of the cases. That is, the man was 20 times more

likely to be charged under these circumstances.

It is difficult to say which of the above disparities is more striking. On the one hand, the fact that a man was 16 or 20 times more likely to be charged than a woman in the no-injury cases is surprising since **Table 1.3** indicates that men and women are virtually equal in the perpetration of violence at the lower levels where injury is less likely. Yet the EPS data show that this is precisely the category of offence where men and women are charged at the most disparate rates. On the other hand, one of the reasons frequently given for regarding violence by women to be less socially significant than violence by men is that men are bigger and stronger and therefore are more likely to do greater physical damage. Indeed, men often cause injuries to their partners by accident, or unintentionally, in the course of a confrontation, whereas it must be relatively rare for women to cause injuries to their partners by accident or unintentionally. It follows that in cases where women *do* cause physical injury, it is more likely to represent a determined effort to injure – e.g. by catching the man at a vulnerable moment, while preoccupied with something else, or by surprise – and therefore should be taken more seriously.

Another pattern in **Table 2.4** is noteworthy. When women were charged with an offence, the male victim suffered a major injury 6.2% of the time; whereas when men were charged with an offence, the female victim suffered a major injury only 4.4% of the time. Again, when only the woman was charged, the victim received medical attention in 9.0% of the incidents; whereas when only a man was charged, the victim received medical attention in only 5.5% of the incidents. Similarly, 73.6% of all charges against women involved minor injury to their partner, whereas only 65.7% of all charges against men involved minor injury to their partner. These comparisons indicate that the cases in which women were charged involve proportionately more injury to the victims than the cases in which men were charged. There are several possible explanations for these patterns, the most plausible of which seem to be the following: either abusive women, though fewer in number, are more violent on average than abusive men; or else the police are charging men in more no-injury cases than they would be if they were charging men and women equally in that category of case.

The disparities noted above are large enough to indicate that different criteria are operating when charges are laid against women and men. Further breaking down the data by injury level helps to show this. Of all of the major injuries suffered in disputes between partners to which the EPS responded in 1999-2000, women suffered 80.5% of them.^[37] But there is an evident difference in treatment between cases in which men and women suffer major injuries: A man was charged in 100% of the 99 cases where a woman suffered a major injury, while a woman was charged in only 75% of the 24 cases in which a man suffered a major injury. The cross-tabulation in **Table 2.4.1** shows that this disparity is statistically significant ($p < .001$, although the number of cells in which the expected count is less than 5 makes this result somewhat unreliable). Of course, it is possible to suffer an injury from one's own aggression; and it is possible to inflict an injury in self-defence. But in 4 of the cases where the man suffered a major injury, the woman suffered no injury at all. That suggests either serious incompetence on the man's part or overly aggressive self-defence on the woman's, if the charging pattern for major-injury cases is to be justified in these ways.

Table 2.4.1						
Police charging practice * Gender of victim of major injuries						
in incidents of partner violence in Edmonton, 1999-2000						
	female victim (N = 101)			male victim (N = 24)		
	Count	Expected count	%N	Count	Expected count	%N
Neither charged	0	2.4	0	3	0.6	12.5

Female charged					3.8	
Male charged	2	16.2	2.0	18	19.6	75.0
<i>p</i> < .001	99	82.4	98.0	3		12.5

A woman suffered minor injuries in 1630 cases; a man in 458 cases. Thus women were the victims in 78.1% of all cases reported by the EPS in which a party suffered a minor injury. [38] Again, differences in police charging practices are evident. In 1357 cases, the female partner was the only party to suffer a minor injury, and the male partner was charged in 90.4% of those cases. In contrast, the male partner was the only one to suffer a minor injury in 185 cases, and the female partner was charged in only 57.8% of those. Of the 1630 cases in which a woman suffered a minor injury, the male partner was charged in 1420 of them (87.1%). In contrast, the male partner suffered a minor injury in 458 cases, and the female partner was charged in only 201 of those (43.9%). In other words, men were proportionately twice as likely to be charged in cases where the woman suffered a minor injury as women were to be charged when the man suffered a minor injury – despite the fact that, in general, women must make a more deliberate attempt to cause a minor injury than a man would. Again, the cross-tabulation in **Table 2.4.2** shows that the EPS pattern of charging is statistically significant (*p* < .001). But in this case, the disparity between the “count” and the “expected count” in each cell is so large as to make any explanation relating to clumsy attackers and injurious self-defenders highly improbable.

Table 2.4.2						
Police charging practice * Gender of victim of minor injuries						
in incidents of partner violence in Edmonton, 1999-2000						
	female victim (N = 1725)			male victim (N = 552)		
	Count	Expected count	%N	Count	Expected count	%N
Neither charged	196	245.5	11.4	128	78.5	23.2
Female charged	109	234.8	6.3	201	75.2	36.4
Male charged	1420	1244.7	82.3	223	398.3	40.4
<i>p</i> < .001						

Finally, men were charged in 643 of the 1205 cases where the female partner suffered no injury (53.4%), whereas women were charged in only 54 of the 2451 cases in which the male partner suffered no injury (2.2%). Again, the cross-tabulation in **Table 2.4.3** shows that this charging pattern is statistically significant (*p* < .001), indicating that men were much more likely than women to be charged with an offence when no injury was suffered by their partner.

Table 2.4.3

Police charging practice * Gender of party in no-injury

incidents of partner violence in Edmonton, 1999-2000

	female (N = 1226)			male (N = 2472)		
	Count	Expected count	%N	Count	Expected count	%N
Neither charged	421	300.7	34.3	486	606.3	19.7
Female charged	162	71.6	13.2	54	144.4	2.2
Male charged	643	853.7	52.5	1932	1721.3	78.2
<i>p</i> < .001						

As has been said above, when statistically significant disparities in charging patterns are shown, the onus is on the law-enforcement authorities to produce credible explanations which could account for the size of the disparities in question. In response to an earlier release of some of the analysis in this study, a spokesperson for the EPS indicated that part of the reason men are more likely to be charged with an offence is that female victims tend to be more fearful of their partners even when the level of injury is the same, and the police respond to that heightened fear (Staples 2002: D8). This explanation raises important policy issues relating to whether it is appropriate for the police to take subjective fear into account when determining whether to lay charges. One reason this is questionable is that there are significant differences between the genders when it comes to expressing emotions like fear (see footnote 15 and the text related to **Table 1.4**). In fact, as **Table 2.4** and **Table 2.6** show, men in partner disputes to which the EPS responded were actually at significantly *greater* objective risk of harm than women, even if they might have exhibited less fear. It is submitted that responding to the objective risk of harm would be a better basis for laying charges than responding to the complainant's subjective fear. Furthermore, failing to respond to violence against a man by laying charges against the woman, just because the victim does not exhibit sufficient outward signs of fear, puts the man in jeopardy of further violence from his partner and in effect tells him that he must take the law into his own hands to protect himself. Yet if he does take the law into his own hands, and his partner suffers injury due to his acts of self-defence, that is bad for the woman as well as for the man, who risks being charged with an offence. Finally, laying charges against a man just because his partner exhibits signs of fear leads to men being highly vulnerable to false allegations, since fear is easily faked or exaggerated. There is now enough case law in the Edmonton jurisdiction to suggest that the police can be quite gullible or incautious when pursuing allegations by women against their partners.^[39] Far from alleviating concern about the harsher treatment men face, ill-considered self-justificatory comments from the EPS like the one under consideration here actually tend to support concerns about systemic discrimination against men.

The police do not report explanations when a charge *was* laid, but they do report explanations when a charge was *not* laid. The majority (58.4%) of cases in which a charge was not laid were no-injury cases, for obvious reasons. Since it is impossible to determine with any degree of certainty which party might have been the victim or the suspect in these cases, no further analysis is possible for them. However, there were 327 cases in which there was an injury to one party or both, and yet where no charge was laid. The distribution of reasons offered for not laying charges in these cases is provided in **Table 2.5**. (The man is deemed to be the suspect when the woman suffered the injury, and *vice versa*.)

Table 2.5

Reasons provided for not laying charges in incidents of partner violence involving injuries, in Edmonton, 1999-2000				
	male suspect (N = 1630)		female suspect (N = 458)	
	Count	%N	Count	%N
Informal resolution	10	0.6	10	2.2
Both at fault	53	3.3	47	10.2
Insufficient evidence	63	3.9	36	7.8
Officer discretion	32	2.0	20	4.3
Other reason	38	2.3	18	3.9
Total	196	12.0	131	28.4

For every excuse available, officers were more likely to employ it so as not to lay a charge against a female suspect as opposed to a male suspect. Overall, women who injured their partners were proportionately more than twice as likely to benefit from an excuse not to lay a charge than men who injured their partners were (28.4% vs. 12.0%). The fact that male injury victims were more willing than female injury victims to resolve the matter informally might reveal something genuinely positive about the men rather than something untoward about the charging practices of the police; but the other excuses for not laying charges seem particularly unlikely to be gender related. If anything, there would more often be a lack of evidence when women were injured than when men were injured, since women are more likely to have been injured unintentionally or by accident – e.g. in the man’s self-defence – due to size and strength differences. And the excuse that “both parties were at fault,” which was used by the police proportionately 3 times as often when the man was injured as when the woman was injured, also defies the preponderance of sociological evidence that mutual aggression is the most typical form of partner violence.

The cross-tabulation in **Table 2.5.1** shows that the disparity by which the police find excuses not to lay charges in cases involving injury is statistically significant ($p < .001$). If excuses for not laying charges were used in the same proportions for men and women, then 59 fewer men, and 59 more women, would have been charged, just among those cases involving injury. Charging 59 more women would represent a 21.6% increase.

Table 2.5.1 Excuse used not to lay a charge * Gender of suspect incidents of partner violence in Edmonton, 1999-2000						
	male suspect (N = 1630)			female suspect (N = 461)		
	Count	Expected count	%N	Count	Expected count	%N
Yes	196	254.9	12.0	131	72.1	28.4

No	1434	1375.1	88.0	330	388.9	71.6
$p < .001$						

From the discussion of **Table 2.4** to **Table 2.4.3**, women who were charged with an offence were proportionately more likely than men to cause both major and minor injuries to their partners, despite their size and strength disadvantage. One explanation for this that was canvassed earlier is that when women attack their partners they are more likely to do so with greater determination and effort than men do, including catching men when they particularly vulnerable. Indeed, women who were charged with an offence might have compensated for their smaller size and lesser strength by being more likely to use weapons in the perpetration of their violence, thus causing more injury as well. **Table 2.6** shows that women who were charged with

Table 2.6														
Weapons used in incidents of partner violence in Edmonton, 1999-2000														
	Charging category													
	both charged (N = 118)			female charged (N = 155)			male charged (N = 2036)			neither charged (N = 612)				
	Count	%N	%row	Count	%N	%row	Count	%N	%row	Count	%N	%row	Count	%N
Firearm	1	0.8	7.1	0	0	0	12	0.6	85.7	1	0.2	7.1	14	0.5
Knife	22	18.6	12.6	44	28.4	25.3	95	4.7	54.6	13	2.1	7.5	174	6.0
Blunt instr.	6	5.1	5.5	17	11.0	15.5	77	3.8	70.0	10	1.6	9.1	110	3.8
Other	6	5.1	5.4	12	7.7	10.8	73	3.6	65.8	20	3.3	18.0	111	3.8
Physical	62	52.5	4.1	56	36.1	3.7	1129	55.5	74.5	268	43.8	17.7	1515	51.9
Threats	1	0.8	0.8	5	3.2	3.9	89	4.4	70.1	32	5.2	25.2	127	4.4
No weapon	20	16.9	2.3	21	13.5	2.4	561	27.6	64.5	268	43.8	30.8	870	29.8

an offence did indeed use weapons proportionately more often than did men. (For the purposes of this analysis, it is necessary to ignore the ‘both charged’ and ‘neither charged’ categories, since it is impossible to tell which party used the weapon in those cases.)

While men who were charged with an offence were slightly more likely than women to have used a firearm, the difference is too small to be significant (0.6% vs. 0%).^[40] On the other hand, 28.4% of the women, but only 4.7% of the men who were charged, had used a knife in the commission of their offence; 11.0% of the women, but only 3.8% of the men, had used a blunt instrument; and 7.7% of the women, but only 3.6% of the men, had used some other weapon. Conversely, men who were charged with an offence were more likely than women to have relied upon physical force only (55.5% vs. 36.1%), or to have only uttered threats (4.4% vs. 3.2%). And men were twice as likely as women to have been charged with an offence despite using no

weapon, no physical force, and no threats (27.6% vs. 13.5%). The cross-tabulation in **Table 2.6.1** shows that these charging disparities are statistically significant ($p < .001$). In fact, in almost half of the cases where a woman alone was charged, she had used a weapon, while men used a weapon in only 13.0% of the cases where they were charged.

Table 2.6.1						
Weapon used * Gender of accused						
incidents of partner violence in Edmonton, 1999-2000						
	female (N = 155)			male (N = 2043)		
	Count	Expected count	%N	Count	Expected count	%N
Yes	73	23.8	47.1	265	314.2	13.0
No	82	131.2	52.9	1778	1728.8	87.0
$p < .001$						

Since the women in the EPS sample were significantly more likely than the men to have used a weapon against their partners, and were significantly more likely to have caused an injury, one would expect that women would have been charged with proportionately more of the serious offences, and men would have been charged with proportionately more of the minor offences. This is borne out in **Table 2.7**. Women who faced charges were proportionately 2.5 times as likely to face an aggravated assault charge as men (5.8% vs. 2.2%); and women who faced charges were proportionately 2.25 times as likely to face a charge of assault with a weapon or assault causing bodily harm (37.4% vs. 16.5%). At the less-serious end of the charging spectrum, women in the EPS sample were about 50% as likely to face an assault charge as men (43.2% vs. 61.4%). Women who faced charges were also proportionately slightly less likely to face the other, more minor charges, as well. [\[41\]](#)

Table 2.7											
Most serious charge laid in incidents of partner violence in Edmonton, 1999-2000											
	Charging category										
	both charged (N = 118)			female charged (N = 155)			male charged (N = 2043)			total (N = 2316)	
	Count	%N	%row	Count	%N	%row	Count	%N	%row	Count	%N
Aggravated assault	5	4.2	8.6	9	5.8	15.5	44	2.2	75.9	58	2.5
Assault with a weapon	32	27.1	7.5	58	37.4	13.6	338	16.5	79.0	428	18.5
Common assault	77	65.3	5.5	67	43.2	4.8	1255	61.4	89.7	1399	60.4

Criminal harassment	0	0	0	1	0.6	3.8	25	1.2	96.2	26	1.1
Uttering threats	1	0.9	1.0	4	2.6	4.0	94	4.6	94.9	99	4.3
Breach of a court order	1	0.9	0.5	7	4.5	3.8	176	8.6	95.7	184	8.0
Other	2	1.7	1.6	9	5.8	7.4	111	5.4	91.0	122	5.3

The cross-tabulation in **Table 2.7.1** shows that this charging pattern is statistically significant ($p < .001$). The party causing injury is identified for reference purposes as the “aggressor,” even though the injured party was actually charged with an offence in a significant number of cases. Those cases are broken down for analytical purposes into two categories: cases where *only* the injured party was charged, and cases where *both* parties were charged. The former category is labelled “self-defence,” which seems to be the most likely explanation for why an injury was sustained only by the only accused in an incident. The latter category presumably involves mutual violence; but since it is not possible to determine from the EPS data which party was charged with the most serious offence, further analysis of this category is limited. The remaining charging categories are the mirror image of the categories in **Table 2.7**, increasing in severity rather than decreasing. (Among the injury cases in the EPS data, there was none in which the most serious charge laid was criminal harassment, so that line does not appear in **Table 2.7.1**.)

Table 2.7.1						
Most serious charge laid * Gender of aggressor						
in incidents of partner violence in Edmonton, 1999-2000						
	male (N = 1452)			female (N = 206)		
	Count	Expected count	%N	Count	Expected count	%N
Self-defence	4	21.9	0.3	21	3.1	10.2
Both charged	12	21.9	0.8	13	3.1	6.3
Neither charged	125	162.9	8.6	61	23.1	29.6
Other (lesser) charge	17	14.9	1.2	0	2.1	0
Breach of a court order	3	3.5	0.2	1	0.5	0.5
Uttering threats	6	5.3	0.4	0	0.7	0
Assault	970	895.9	66.8	53	127.1	25.7
Assault with a weapon	276	283.7	19.0	48	40.3	23.3
Aggravated assault	39	42	2.7	9	6	4.4
$p < .001$						

The man was deemed to have aggressed against his partner in self-defence, causing her injury, in only 0.3% of the cases where a man caused injury to his partner. In contrast, the women was deemed to have aggressed

against her partner in self-defence, causing him injury, in 10.2% of the cases where a woman caused injury to her partner. This charging pattern does not reflect the sociological data canvassed in the **Introduction**, which indicates that self-defence is about as likely to be claimed by men as by women. In fact, since men are generally bigger and stronger than women, they are more likely to cause an injury to their partners when acting in self-defence. This would lead one to believe that proportionately *more* women than men would be charged despite being the only injured party. The fact that so few women were charged in this category suggests that the police do not take male self-defence as a serious possibility when men injure their partners.

Both parties were charged in less than 1% of the cases in which only the woman was injured; but both parties were charged in over 6% of the cases in which only the man was injured. In other words, the police were more likely to treat a case as involving mutual violence if the man rather than the woman was the only injured party. This suggests that if the police feel they must charge a woman because she had caused injury to her partner, they were more inclined to charge the man as well, perhaps unconsciously mitigating the charge against the woman by indicating that the violence was really mutual. Such mitigation was rarely shown toward men.

A much more pronounced disparity in treatment arises in the ‘neither charged’ category. When only the man was injured, neither party was charged in 29.6% of the cases, whereas when only the woman was injured, neither party was charged in only 8.6% of the cases. As in the previous two paragraphs, this pattern suggests that the police were much more reluctant to charge a woman who caused injury than they were to charge a man who had caused an injury, despite the fact that an injury to only the bigger and stronger party in a dispute would generally signal a greater determination and effort to injure on the part of the (female) perpetrator. This corroborates the findings of harsher treatment of male aggressors revealed in **Table 2.4.1** to **Table 2.4.3**. It also corroborates the findings of **Table 2.5.1** that the police are significantly more likely to find an excuse not to lay a charge against a female aggressor.

The number of cases in the next three categories – ‘other (lesser) charge’, ‘breach of a court order’, and ‘uttering threats’ – is too small to draw any firm conclusions. By far the most common police response when a woman was the only party injured in a dispute was to charge the man with assault. This happened in 66.8% of all cases in which the woman was injured. Conversely, when a man was the only injured party, the woman was charged with assault in only 25.7% of the cases – proportionately less than 40% as often. Based on the expected counts in this category, at least 74 more women (and 74 fewer men) should have been charged with assault than actually were in the two years under investigation. (“At least,” since this calculation does not take into account the disparity in treatment favouring women noted in the ‘self-defence’, ‘both charged’, and ‘neither charged’ categories.) This, too, corroborates the earlier findings.

The foregoing disparities favouring women might at first appear to be mitigated by the fact that a higher proportion of women than men were charged in the two most serious categories: assault with a weapon (23.3% vs. 19.0%), and aggravated assault (4.4% vs. 2.7%). However, in the first place, the numbers in these categories are too small to account for the much greater disparities in treatment in the categories where women received relatively favourable treatment. And in the second place, as was shown in **Table 2.4** and **Table 2.6**, women who were charged with an offence were more likely than men to have caused injuries and to have used weapons. It follows that a slightly higher proportion of women than men *should* be charged with the most serious two categories of offence. Thus this charging pattern actually reinforces the conclusion indicated in several places previously, namely that the police were most likely to over-charge men relative to women in the low-injury and no-injury cases. The conclusion that the charging pattern in **Table 2.7.1** reveals a statistically significant favouritism toward women cannot easily be avoided.[\[42\]](#)

In summary: The statistically significant charging patterns discussed above are open to various explanations, some of which are more innocent than others. While it is not possible to analyse these data so as to prove precisely how much of the disparities in charging might be accounted for by each hypothesis, what can be said is that the more innocent explanations seem to be the more implausible or the least important. For example, one might take the charging patterns at face value and say that women, though much less likely

than men to be violent in the first place, are nevertheless more aggressive than men when they choose to be violent toward a partner. This is not supported by the sociological data canvassed in the **Introduction**.[\[43\]](#) Clearly, the EPS data diverge in important ways from the sociological data, which raises the second possible explanation: only the more serious incidents involving female aggression against their partners find their way into the police reports from which the EPS data is derived, for one reason or another. This explanation almost certainly accounts for a large part of the disparities in charging patterns discussed above; but it is not entirely innocent. If men and women were equally encouraged to report their victimization to the police, and if men and women received equally satisfactory responses from the police, then the charging patterns discussed above would not be what they are. In other words, the pre-selection of incidents that generate the EPS data already reflects a significant element of systemic discrimination against men. (Consider, for example, the EPS's own suggestion that the police react to cases based on their perception of the subjective fear of the complainant.) Moreover, this explanation cannot be the whole story, since it is not capable of accounting for the significant associations that were found between gender and whether or not a charge was laid in cases involving any given level of injury.

The analyses in *Part A* are based entirely upon data collected by the EPS themselves. This is important for two reasons. First, it means that there is no possibility that researcher bias in the codification of the data could infect the conclusions of the foregoing analysis, namely that the police tend to treat men significantly more harshly than women in disputes between partners. Second, and potentially more importantly, it could well mean that the foregoing analyses actually *understate* the extent of the disparity in treatment. Individual police officers presumably want to be seen as upholding the law impartially. They would therefore have a strong psychological tendency to reduce any cognitive dissonance between their reporting of the circumstances of the incidents they respond to and the charges they lay. As a result, officers would tend, consciously or unconsciously, to codify the data they collect in such a way as to justify in their own minds the actions they take in a given case. If, as the foregoing analysis indicates, the police treat men much more harshly than women, even given their own perceptions of the cases they handle, it is likely that a more neutral observer, codifying the data more objectively, would find greater disparities in treatment still. Testing this hypothesis is one purpose of the analysis of the data derived from the files of the ECPO.

Part B: Analysis of the ECPO data

The ECPO data-set has a quite different, and in some respects opposite, mix of strengths and weaknesses to that of the EPS data-set. The main weakness of the ECPO data-set relative to the EPS data-set is its smaller sample size: 366 cases as opposed to 2,935. This means that some analyses end up being no more than suggestive rather than statistically significant. Still, a sample size of 366 cases is quite sufficient to generate statistically significant results most of the time. It is certainly not an unusually small sample by the standards of studies of this general type, including studies upon which public policy has been based in the past (e.g., Ministry of the Attorney General 1996). Since the codification of the data in the ECPO data-set requires a moderate element of judgement (see *Appendix A*), the other weakness of the ECPO data-set is the risk of it being infected by researcher bias. Two considerations mitigate concern over this weakness, however. First, since the source of the ECPO data is information produced by the subjects of the study, it is at least as likely that the codification of the data will reflect the subjectivity of the police and prosecutors rather than the researcher. Second, as will be shown in the analyses that follow, there are enough ways to compare the ECPO data generated by the researcher to objective information (e.g. the *GSS*, the *UCR* surveys, and the EPS data) that the possibility of researcher bias in the codification of the data can be shown to be unlikely.

On the other hand, the main strength of the ECPO data-set is that it was collected with the specific goal of the present research in mind, from the best possible source of relevant information. Because the ECPO data were collected with the goal in mind of testing whether gender discrimination in the law-enforcement system exists, the researcher was able (within the constraints noted in *Appendix A*) to select the level of detail for each of the relevant variables to properly test this specific hypothesis. This is something that no publicly available data-set allows to the same extent, as has been noted in the analyses in *Part A*. Furthermore, because the ECPO data were collected from the prosecutor's own files, the relevant information about each

case is complete so far as the law-enforcement system knew it at the time of making its decisions. Thus the researcher was able to test the hypothesis of the study with respect to the full range of actors in the law-enforcement system: police, prosecutors, and judges. A couple of further advantages of the ECPO data-set are worthy of mention. First, because only one person's judgement was used to codify all of the data, there is bound to be greater consistency from case to case in the codification of the ECPO data, as compared to the EPS data which was compiled from the reports of hundreds of individual officers whose perceptions of the circumstances of the offences might differ significantly. Second, information which was not specifically codified permits the researcher to make at least impressionistic reports about various aspects of the phenomenon of partner violence, based on familiarity with hundreds of cases.

The first such impressionistic report that is worth making at the start has to do with the motivation of the accused in partner-violence cases. In particular, the prevailing ideological view that partner violence is largely if not entirely a product of men's "patriarchal" attitude toward women as their "chattels" is completely insupportable. While it may be true that this mentality plays a part in a small proportion of incidents of partner violence in Edmonton, the truth about what motivates the vast majority of the incidents is rather more prosaic. In fact, the proximate cause for partner violence ranges quite broadly, from a general disaffection with life or the relationship to specific complaints about the partner's behaviour or lifestyle: staying out too late, being a poor cook, smoking or drinking too much, appearance, driving ability, neglecting the children, depriving the parent of contact with the children, associating with unwelcome friends, jealousy, gambling, sloth, etc. In addition, it was evident that some cases involved persons with deep-seated personality problems or substance-abuse problems. Importantly, the full range of motivations was found to have been exhibited by both men and women in the ECPO sample (although "heartbreak" was specifically mentioned only by a few of the men). Indeed, the researcher was struck by how similar the genders seemed to be in their reported motivations, overall. Also, abuse became physical as a *reaction* to the kinds of complaints listed above almost as often as it was perpetrated by way of expressing them. Note that self defence was raised infrequently by either gender in the files searched by the researcher, presumably because where it was a credible claim – at least for a woman – the police would not have laid charges. (As illustrative cases C and D, *Appendix B*, show, men also act in self defence, but are more likely to be charged anyway.) Any suggestion that partner violence derives from a single, gender-specific cause is therefore highly dubious.

An imperfect though objective indication of the degree of similarity in partner violence between those cases involving men and those involving women is suggested by the ways in which gender is associated with other circumstances of the offence. If such factors as marital status, substance abuse, and the presence or absence of children at the time of the incident are not associated with gender, then this would suggest that the overall circumstances of the offence are similar in the two types of case. **Table 3.1** summarizes these relationships.

Table 3.1.1						
Marital status * Gender of the accused						
in incidents of partner violence in Edmonton, first half of 2001						
	female (N = 75)			male (N = 291)		
	Count	Expected count	%N	Count	Expected count	%N
Married	18	18.4	24.0	72	71.6	24.7
Cohabiting	39	41.6	52.0	164	161.4	56.4
Separated or divorced	18	15.0	24.0	55	58.0	18.9

$p = .608$

Table 3.1.1 shows that there is no statistically significant association between the gender of the accused in the ECPO partner-violence cases and the marital status of the couple ($p = .608$). If there is any surprise here, it is that almost one-quarter of the charged women had been separated at the time of the incident, while fewer than one-fifth of the charged men were in this category (24.0% vs. 18.9%). Although not statistically significant, this disparity is nevertheless interesting because it refutes the common belief that only men seek to control the relationship after separation.^[44] (Illustrative cases A and B, *Appendix B*, both involve female perpetrators who were separated at the time of their incidents.) It is especially surprising to see such a high proportion of separated women accused of partner violence, relative to men, given all of the problems separated men have in continuing a relationship with their children – problems which drive many of them to violence, including suicide.^[45] Nevertheless, this finding is consistent with the *GSS* data from **Table 1.1** (lines 6 and 8), according to which 28% of abused men, as opposed to only 22% of abused women, claimed that violence by their partners increased in severity after separation; and 42% of abused men, as opposed to only 37% of abused women, reported that violence by their ex-partners began only after separation. It also bears noting that the proportions of cases involving married, cohabiting, and separated couples in **Table 3.1.1** are very close to the proportions in **Table 2.1**. This tends to confirm the reliability of the codification of ECPO data.

According to **Table 3.1.2**, there is no statistically significant association between the gender of the accused and substance abuse at the time of the incident ($p = .981$). (The abused substance was overwhelmingly alcohol.) Given how intoxication was recorded (see *Appendix A*), it was found to be a factor in *at most* half of all cases, whether the person charged was a man or a woman. This compares favourably with the finding reported in **Table 2.2** that intoxication was a factor in 55.7% of the incidents to which the EPS responded.^[46] Insofar as intoxication might affect the response of law-enforcement to the incident – e.g. in the laying of charges, opposition to bail, and severity of sentencing – no differences between men and women overall would be warranted based on these data.

Table 3.1.2						
Substance abuse * Gender of the accused						
in incidents of partner violence in Edmonton, first half of 2001						
	female (N = 75)			male (N = 291)		
	Count	Expected count	%N	Count	Expected count	%N
Present	37	37.1	49.3	144	143.9	49.5
Not present	38	37.9	50.7	147	146.9	50.5
$p = .981$						

Table 3.1.3 shows that there is no statistically significant association between the gender of the accused and the presence or absence of children at the time of the incident ($p = .381$), even though children were slightly more likely to have been present when the mother was the victim. While the EPS data did not include a variable for the presence of children, the ECPO result is broadly consistent with the *GSS* finding that children were present in roughly 37% of all incidents of partner violence. However, the *GSS* noted a significant gender disparity on this score, with 47% of the female victims reporting the presence of children at the time of the incident as opposed to only 25% of the male victims (Pottie Bunge and Lock 2000: 16). In any event,

the pattern in **Table 3.1.3** indicates that this circumstance of an offence is not significantly different whether men or women are the ones being charged, and therefore should not significantly affect the response of the law-enforcement system as between the genders.

Table 3.1.3						
Children present * Gender of the accused						
in incidents of partner violence in Edmonton, first half of 2001						
	female (N = 75)			male (N = 291)		
	Count	Expected count	%N	Count	Expected count	%N
Present	34	27.3	32.0	109	105.7	37.5
Not present	41	47.7	68.0	182	185.3	62.5
<i>p</i> = .381						

The most important factor in how a case should be handled by the law-enforcement authorities is the seriousness of the offence, as measured by the level of injury sustained by the complainant or by the inherent dangerousness of the weapon used in the commission of the offence. Understanding the relationship of these factors to the gender of the person charged is therefore critical to the findings of this study. **Table 3.2** shows that the gender of the accused is in fact significantly associated with the level of injury sustained by the partner (*p* = .010).[\[47\]](#) In the ECPO sample, women who were prosecuted for partner violence tended to inflict higher levels of injury upon their partners than did the men. Thus proportionately fewer women than men were prosecuted in no-injury cases (21.3% vs. 36.8%), while proportionately more women than men were prosecuted in both medium- and high-injury cases (25.3% vs. 16.8% and 12% vs. 4.8% respectively).

Table 3.2						
Level of injury inflicted * Gender of the accused						
in incidents of partner violence in Edmonton, first half of 2001						
	female (N = 75)			male (N = 291)		
	Count	Expected count	%N	Count	Expected count	%N
No injury	16	25.2	21.3	107	97.8	36.8
Low-level injury	31	31.1	41.3	121	120.9	41.6
Medium-level injury	19	13.9	25.3	49	54.1	16.8
High-level injury	9	4.7	12.0	14	18.3	4.8
<i>p</i> = .010						

These disparities warrant clarification and emphasis. They do *not* mean that more women than men in the

sample (much less in society) caused high-level injuries to their partners; they did not. What they mean is that *if* a woman was prosecuted for partner violence, then she was more likely to have inflicted a medium- or high-level injury upon her partner than a man who was prosecuted for partner violence. This is mainly because so many more men than women were prosecuted despite causing no injury – i.e. in just the kind of case where one would expect from the sociological data the greatest degree of equality in the perpetration rates. That result is, of course, entirely consistent with what was found in the analysis of the EPS data.

Another way in which the data in **Table 3.2** show that women who were prosecuted for partner violence tended to inflict significantly higher levels of injury upon their partners than did the men is by comparing the proportion of women who were prosecuted for an offence at each level of injury. Thus only (16/123 =) 13.0% of those prosecuted in no-injury cases were women; (31/152 =) 20.4% of those prosecuted in low-injury cases were women; (19/68 =) 27.9% of those prosecuted in medium-injury cases were women; and (9/23 =) 39.1% of those prosecuted in high-injury cases were women. Notice that there is almost a linear increase in the proportion of women prosecuted with an offence as the injury level inflicted upon the victim increases: Women were proportionately 1.5 times as likely to be prosecuted in a low-injury incident than in a no-injury incident; they were proportionately twice as likely to be prosecuted in a medium-injury incident than in a no-injury incident; and they were proportionately 3 times as likely to be prosecuted in a high-injury incident than in a no-injury incident.

The fact that women were prosecuted in almost 40% of the cases involving high-level injuries might suggest that the ECPO sample is skewed, since this is a higher proportion than is found in most of the sociological evidence. However, this high proportion can be accounted for in two ways. First, the count for women is derived from the larger data-source (A-Z) than the count for men (A-R only). To draw from similar-sized data-sources, the female count would have to be reduced by the proportion of female cases added after data from male cases were no longer collected (i.e. by 15/75, or 20%, or 2 cases). Second, the count for men is missing the 2 cases where manslaughter convictions were obtained, and may be missing another 1 or 2 cases due to the rejection of some male-suspect cases for reasons noted in the **Method** section. Adding 4 cases to the men's count and subtracting 2 cases from the women's count for high-level injuries results in a proportion of 28% women in this category. This is within the range predicted by the sociological evidence, suggesting that at the highest levels of injury – but only at the highest levels, where discretion to lay charges is least open to them – local police charge women, and they are subsequently prosecuted, on the same basis as men.

If the pattern in **Table 3.2** had not already been seen and discussed in regard to the EPS data, it might seem counter-intuitive. Given that women comprise fewer than 17% of persons charged and prosecuted with partner violence in Edmonton in the second half of 2000 – and much fewer yet in Canada-wide surveys – one might suppose that female partners are much less violent than male partners in general, and therefore that women who are charged and prosecuted would be less violent on average than men who are charged and prosecuted. The pattern in **Table 3.2** is open to the same possible explanations as was discussed previously in relation to **Table 2.4** to **Table 2.4.3**. One might accept these facts at face value as evidence that women are much less inclined to resort to violence to begin with, although when they do resort to violence they cause greater injury than men, on average. This explanation was rejected as being inconsistent with the evidence canvassed in the **Introduction** and in *Part A* above. The more plausible explanation for the data in **Table 3.2** is that, while women commit about as many minor acts of partner violence as men, they are simply not being charged as readily in those cases. In other words, women must inflict more serious injuries upon their partners before charges will be laid.

Given men's strength advantage, one might wonder how women who were charged with partner violence were nevertheless able to cause proportionately greater injury than men. The EPS data indicate that women compensate in violent disputes by using weapons more frequently than men. **Table 3.3** tends to confirm this ($p < .001$). Men used weapons in about 15% of the cases where they were charged, whereas weapons were used in fully 40% of the cases where women were charged. In fact, women were more likely to use every kind of weapon except guns, although in this and some other categories too few observations existed to make

meaningful comparisons. The weapon of choice for women was obviously a knife or similar piercing object: in more than one-quarter of the cases where women were charged with partner violence, they had used a knife. This compares with only 3.4% of cases involving use of a knife when men were charged. All of this is highly consistent with the EPS data reported in **Table 2.6**.

Table 3.3						
Weapon used * Gender of the accused						
in incidents of partner violence in Edmonton, first half of 2001						
	female (N = 75)			male (N = 291)		
	Count	Expected count	%N	Count	Expected count	%N
None	45	59.8	60.0	247	232.2	84.6
Household object	7	6.4	9.3	24	24.6	8.2
Dangerous object	3	2.3	4.0	8	8.7	2.7
Knife or piercing object	20	6.1	26.7	10	23.9	3.4
Gun	0	0.4	0	2	1.6	0.5
.001	<i>p</i> <					

The greater use of weapons by women who were charged and prosecuted for partner violence is likely an artefact of the lower levels of reporting to police, and of action taken by police, when women do *not* use weapons. In any event, for the purpose of *Part B* of this study the key point is that by the time files land on the prosecutor's desk, they have been pre-selected in such a way that, proportionately, those involving women concern inherently more-serious offences than those involving men – whether seriousness is measured by actual injury inflicted or by the use of a weapon (or both). The next question is whether the charges laid against women in the ECPO sample reflect this profile. **Table 3.4** sets out these comparisons.

Table 3.4.1						
Charged with an administrative offence * Gender of the accused						
in incidents of partner violence in Edmonton, first half of 2001						
	female (N = 75)			male (N = 291)		
	Count	Expected count	%N	Count	Expected count	%N
Yes	12	12.1	16.0	47	46.9	16.2
No	63	62.9	84.0	244	244.1	83.8
<i>p</i> = .975						

Table 3.4.1 shows that men and women who were charged with an offence against their partners were equally likely to have been charged with an “administrative offence.” This is surprising inasmuch as a higher proportion of men than women in the general population are subject to the kinds of conditions which might result in an administrative offence being charged. This category of offence includes: failure to appear in court on a summons, a promise to appear, or a recognizance; failure to comply with the terms of an undertaking or a probation order; or breach of a no-contact order as part of a peace bond. Importantly, it does *not* include breaching a child access order by denying the non-custodial parent access, since that is a civil rather than a criminal matter. (However, breaching a custody order by not returning a child promptly at the end of one’s access period may be considered kidnapping, which is a *Criminal Code* offence.) Although a person who flagrantly breaches a civil court order can in theory be held in contempt of court, and criminal charges can in theory follow from this, the courts never seem to take the enforcement of their access orders that seriously (see footnote 45).

By way of comparison to external data, breach of a court order was the most serious charge laid in 8.0% of the cases in the EPS data (**Table 2.7**). The relatively low number for the EPS data as compared to the ECPO data is undoubtedly a product of the ‘most-serious offence’ rule by which the EPS data were codified, since an administrative offence was counted in a significant number of cases in the ECPO data-set when a more serious charge was also laid. (The comparability of the EPS and ECPO data improves with the seriousness of the charge, as the ‘most serious offence’ rule becomes less of a factor.) The disparity between these figures could also be partly a result of the fact that some of the administrative offences included in the data for **Table 3.4.1** might have been categorized as ‘other’ in the EPS data-set.

Table 3.4.2						
Charged with mischief * Gender of the accused						
in incidents of partner violence in Edmonton, first half of 2001						
	female (N = 75)			male (N = 291)		
	Count	Expected count	%N	Count	Expected count	%N
Yes	2	2.7	2.7	11	10.3	3.8
No	73	72.3	97.3	280	280.7	96.2
<i>p</i> = .642						

Table 3.4.2 shows that there is no statistically significant association between the gender of the accused and being charged with mischief ($p = .642$, although the expected counts are too small in this table to make that measure highly reliable). Mischief was not a very common charge, as can be seen from the fact that it does not even appear in the EPS data in **Table 2.7**. Nor does it appear in the much more comprehensive Table 4.10 of Minister of Industry (2001: 56-7). The best comparison available is with Ministry of the Attorney General (1999: 22, Table 5), where mischief was the most serious charge laid in 3% of the cases.

Table 3.4.3	
Charged with break & enter with intent * Gender of the accused	
in incidents of partner violence in Edmonton, first half of 2001	

	female (N = 75)			male (N = 291)		
	Count	Expected count	%N	Count	Expected count	%N
Yes	0	1.8	0	9	7.2	3.1
No	75	73.2	100	282	283.8	96.9
$p = .123$						

Table 3.4.3 shows that there is no statistically significant association between the gender of the accused and being charged with break & enter with intent ($p = .123$, although again the expected counts are too small in this table to make that measure highly reliable). Again, the only available data for comparison purposes is with Ministry of the Attorney General (1999: 22, Table 5), where the categories ‘break & enter’, ‘forcible entry’, ‘theft’, ‘robbery’ and ‘unlawfully in dwelling’ together comprise roughly 3% of the most serious charges laid.

Table 3.4.4 shows that there is a statistically significant association between the gender of the accused and being charged with a weapons offence ($p = .047$). Curiously, women were proportionately more likely to have faced this charge. It should be recalled that a ‘weapons offence’ includes such things as improper storage or use of a weapon, and does *not* include assault with a weapon (for which see **Table 3.4.11**). Typically, this offence was uncovered serendipitously during the investigation of a partner dispute where weapons had not actually been used. Given that men are much more likely to own firearms and are therefore more likely to have been found in non-compliance with safe-storage laws, the fact that proportionately more women than men were charged with a mere weapons offence calls for explanation. The only one that comes to readily mind is that in cases where a charge of assault with a weapon would have been warranted against a male suspect, the police were more likely to charge women with the lesser offence of common assault combined with a minor weapons offence – or even with a simple weapons offence alone. In any event, the only available data for comparison purposes is with Ministry of the Attorney General (1999: 22, Table 5), where a ‘weapons offence’ was the most serious charge laid in 2% of the cases.

Table 3.4.4						
Charged with a weapons offence * Gender of the accused						
in incidents of partner violence in Edmonton, first half of 2001						
	female (N = 75)			male (N = 291)		
	Count	Expected count	%N	Count	Expected count	%N
Yes	7	3.7	9.3	11	14.3	3.8
No	68	71.3	90.7	280	276.7	96.2
$p = .047$						

Table 3.4.5 shows that there is no statistically significant association between the gender of the accused and being charged with unlawful confinement ($p = .175$). In this case, the finding of no statistical significance may be a somewhat misleading artefact of the small sample size. After all, 100% of the cases involving unlawful confinement charges involved male accuseds. That is because confinement was typically effected

with physical force alone – blocking the exit – and women were generally not strong enough to achieve this result, even though there were cases in the ECPO files where she had tried. It should be noted that male victims in that situation face a catch-22: if they do not attempt to overcome their partner’s blocking of the exit with physical force, then the police are not likely to see it as a genuine case of unlawful confinement on the ground that he “could have left whenever he wanted to;” but on the other hand, if he does use physical force to shove his partner aside and leave, then he risks injuring her and thereby inviting criminal charges. This is one of a large number of scenarios in which men are “damned if they do and damned if they don’t” – where the police are reluctant to enforce the law strictly on behalf of men because men are expected to be able deal with the problem themselves; but when they do deal with it themselves, they may be accused of taking the law into their own

Table 3.4.5						
Charged with unlawful confinement * Gender of the accused						
in incidents of partner violence in Edmonton, first half of 2001						
	female (N = 75)			male (N = 291)		
	Count	Expected count	%N	Count	Expected count	%N
Yes	0	1.4	0	7	5.6	2.4
No	75	73.6	100	284	285.4	97.6
<i>p</i> = .175						

hands. In any event, for comparison purposes, Ministry of the Attorney General (1999: 22, Table 5) reports less than 1% of cases where unlawful confinement was the most serious charge laid.

Table 3.4.6						
Charged with overcoming resistance * Gender of the accused						
in incidents of partner violence in Edmonton, first half of 2001						
	female (N = 75)			male (N = 291)		
	Count	Expected count	%N	Count	Expected count	%N
Yes	0	1.4	0	7	5.6	2.4
No	75	73.6	100	284	285.4	97.6
<i>p</i> = .175						

Table 3.4.6 shows that there is no statistically significant association between the gender of the accused and being charged with overcoming resistance to the commission of an offence (*p* = .175). As with the previous charge, for which the counts are identical, the finding of no statistical significance may be a misleading

artefact of the small sample size. As before, 100% of the cases involving charges for overcoming resistance to the commission of an offence involved male accuseds. Because of differences in physical strength, women were typically unable to overcome their partner's physical resistance to the commission of an offence in the usual way. Instead, they were more likely to overcome resistance by non-standard means such as using weapons, threats of proxy abuse via the courts, surprise attacks, and waiting until their partner was incapacitated (while intoxicated or driving, for example). These tactics, of course, do not invite the specific charge of overcoming resistance to the commission of an offence, even when that is what they were consciously aimed at doing. Since men face greater jeopardy of having this charge laid against them than women, it is not surprising that men comprise 100% of the accuseds in this category of offence. (No data for comparison purposes was found.)

Table 3.4.7						
Charged with assaulting a peace officer * Gender of the accused						
in incidents of partner violence in Edmonton, first half of 2001						
	female (N = 75)			male (N = 291)		
	Count	Expected count	%N	Count	Expected count	%N
Yes	2	0.8	2.7	2	1.2	0.7
No	73	74.2	96.3	289	289.8	99.3
<i>p</i> = .142						

Table 3.4.7 shows that there is no statistically significant association between the gender of the accused and being charged with assaulting a peace officer (*p* = .142). In this case, the finding of no statistical significance may well be the product of a small sample size, since just as many women as men were charged in this category despite the fact that there are almost 4 times as many male accuseds in the sample. Again, the only available data for comparison purposes is with Ministry of the Attorney General (1999: 22, Table 5), where assaulting or obstructing a peace officer was the most serious charge laid in 2% of the cases.

Table 3.4.8						
Charged with criminal harassment or uttering threats * Gender of the accused						
in incidents of partner violence in Edmonton, first half of 2001						
	female (N = 75)			male (N = 291)		
	Count	Expected count	%N	Count	Expected count	%N
Yes	5	12.7	6.7	57	49.3	19.6
No	70	62.3	93.3	234	241.7	80.4
<i>p</i> = .008						

Table 3.4.8 shows that there is a statistically significant association between the gender of the accused and being charged with criminal harassment or uttering threats ($p = .008$), with men being proportionately 3 times as likely as women to face these charges. While it may be true that men are more likely than women to engage in harassing and threatening behaviour which might attract a criminal charge, it is doubtful that the gender differences are as great as the ECPO data indicate. According to **Table 1.3**, men and women were about equally likely to threaten to hit each other, while men were somewhat more likely to make threats with weapons. (Note that the *GSS* is anomalous in its finding that men were more likely to make the more serious kinds of threats. Also, bear in mind that the number of men and women reporting having been threatened with a weapon is much smaller than the number reporting having been threatened with being hit.) Indeed, both Trainor (2002: 7) and Pottie Bunge and Locke (2000: 22) report that uttering threats was the second most-common charge laid by the police in partner disputes, with men and women being almost equally likely to be the victims (13% and 14% respectively).

As for criminal harassment, **Table 1.8** shows only a small difference in victimization rates. Further, Trainor and Mihorean (2001: 33) report that women were the victims in 77% of criminal harassment incidents reported to the police in 1999, whereas the EPS data in **Table 2.7** suggests – more consistently with the figures in **Table 3.4.8** – that this ratio for Edmonton was as high as 96.2%. According to **Table 2.7**, criminal harassment or uttering threats was the most serious charge laid by the EPS in only 5.4% of the cases, while according the Ministry of the Attorney General (1999: 22, Table 5), ‘uttering threats’, ‘criminal harassment’, and ‘harassing telephone calls’ was the most serious charge laid in 13% of the cases. This compares with similar charges being laid in 16.9% of the cases in the ECPO sample. While the comparability of these widely divergent data is questionable due to reporting problems discussed previously, the general conclusion seems to be that criminal harassment and uttering threats are relatively rarely charged by the EPS in isolation from more serious charges, and further that the EPS is much more likely to lay these charges against men than women, even relative to other police forces in Canada.

Table 3.4.9						
Charged with criminal negligence causing harm * Gender of the accused						
in incidents of partner violence in Edmonton, first half of 2001						
	female (N = 75)			male (N = 291)		
	Count	Expected count	%N	Count	Expected count	%N
Yes	0	0.2	0	1	0.8	0.3
No	75	74.8	100	290	290.2	99.7
$p = .611$						

A meaningful analysis of this category of offence is not possible given that only one charge was laid. It is included only for the sake of completeness.

Table 3.4.10	
Charged with assault * Gender of the accused	
in incidents of partner violence in Edmonton, first half of 2001	

	female (N = 75)			male (N = 291)		
	Count	Expected count	%N	Count	Expected count	%N
Yes	42	50.4	56.0	204	195.6	70.1
No	33	24.6	44.0	87	95.4	29.9
$p = .020$						

Table 3.4.10 shows that there is a statistically significant association between the gender of the accused and being charged with assault ($p = .020$), with men being over-charged in this category relative to their proportions in the ECPO sample. Whether this charging pattern reflects unduly harsh treatment of men, however, depends upon whether the circumstances of the alleged offences warrant harsher treatment of men. **Table 3.2** shows that the women in the ECPO sample were more likely to have caused greater injury to their partners, which suggests that it is unduly harsh for the men to have been significantly more likely to have been charged with assault. One cannot draw firm conclusions by consideration of charging patterns for a single offence in isolation; so this tentative conclusion will be tested in several further ways later in the study.

Meanwhile, for comparison purposes, when women were prosecuted they faced an assault charge 56.0% of the time, while when men were prosecuted they faced an assault charge 70.1% of the time. This produces an overall charging rate for assault of 67.2%. The *UCR* data for 2000 set out in **Table 1.8** shows that assault was the most serious charge in 63.2% of the cases in which a man was charged, and in 59.3% of the cases in which the woman was charged. Overall, assault was the most serious charge in 62.6% of the cases where charges were laid. The *EPS* data set out in **Table 2.7** shows that assault was the most serious charge in 61.4% of the cases in which only the man was charged, and in 43.2% of the cases in which only the woman was charged. Overall, assault was the most serious charge laid on 60.4% of the cases in the *EPS* sample, a proportion also found in the B.C. data (Ministry of the Attorney General 1999: 22, Table 5). Part of the reason why a higher proportion of assault charges appear in the ECPO sample than in the other sources of data is that the “most serious offence” rule eliminates some assault charges from the sources derived from police codification. Second, assault was the most serious offence charged in 65.3% of the cases where both parties were charged in the *EPS* sample; distributing these cases across the male and female accuseds would therefore raise their proportions somewhat. Nevertheless, the ECPO sample does appear to include a higher overall proportion of assault charges than the external data suggests might be representative, mostly as a result of a much higher proportion of men facing this charge.

Table 3.4.11 shows that there is a statistically significant association between the gender of the accused and being charged with assault causing bodily harm or with a weapon ($p = .008$), with women this time being over-charged relative to their proportions in the ECPO sample. Whether this charging pattern reflects unduly harsh treatment of women, however, depends upon whether the circumstances of the alleged offences warrant harsher treatment of women. **Table 3.2** shows that the women in the ECPO sample were more likely to have caused greater injury to their partners, and **Table 3.3** shows that they were more likely to have employed weapons against them – all of which suggests that the circumstances of the offence might justify the disproportionately harsh treatment of women who were prosecuted. This tentative conclusion will also be tested in several further ways later in the study.

Table 3.4.11

Charged with assault causing bodily harm or with a weapon * Gender of the accused

in incidents of partner violence in Edmonton, first half of 2001						
	female (N = 75)			male (N = 291)		
	Count	Expected count	%N	Count	Expected count	%N
Yes	27	18.2	36.0	62	70.8	21.3
No	48	56.8	64.0	229	220.2	78.7
$p = .008$						

Meanwhile, for comparison purposes, when women were prosecuted they faced a level-2 assault charge 36.0% of the time, while when men were prosecuted they faced a level-2 assault charge 21.3% of the time. This produces an overall charging rate for level-2 assault of 24.3%. The data set out in **Table 2.7** shows that level-2 assault was charged in 18.5% of the cases, although again this figure is not directly comparable due to the “most serious charge” rule and the fact that the category ‘both charged’ may include cases where both parties were charged with level-2 assaults. In any event, the gender split for charges in this category is very close in the EPS data as compared to the ECPO data: in 37.4% of the cases where only the woman was charged she was charged with level-2 assault, while 16.5% of the cases where only the man was charged he was charged with a level-2 assault.

Table 3.4.12						
Charged with aggravated assault * Gender of the accused						
in incidents of partner violence in Edmonton, first half of 2001						
	female (N = 75)			male (N = 291)		
	Count	Expected count	%N	Count	Expected count	%N
Yes	5	3.1	6.7	10	11.9	3.4
No	70	71.9	93.3	281	279.1	96.6
$p = .208$						

Table 3.4.12 shows that there is no statistically significant association between the gender of the accused and being charged with aggravated assault ($p = .208$, although the expected counts are small enough to make that measure unreliable). Comparisons with the EPS data set out in **Table 2.7** are not particularly meaningful given the small numbers involved, but they do fall within the range one would expect: women faced a level-3 assault charge in 5.8% of those cases where women were the only ones charged, while men faced a level-3 assault charge in 2.2% of the cases where men were the only ones charged. If the numbers from **Table 3.4.11** and **Table 3.4.12** are combined, they should be comparable to the *UCR* data in the top category of **Table 1.8**. It is noteworthy that while the ratio of women to men charged with level-2 and level-3 assaults is similar in these two data-sets (slightly less than 2:1), the actual proportions differ significantly (42.7% of women in the ECPO data-set vs. only 20.3% in the *UCR*; and 24.7% of the men in the ECPO data-set vs. only 11.2% in the *UCR*). These differences are difficult to explain, although the small sample size of the ECPO could be part of the explanation.

Table 3.4.13

**Charged with sexual assault * Gender of the accused
in incidents of partner violence in Edmonton, first half of 2001**

	female (N = 75)			male (N = 291)		
	Count	Expected count	%N	Count	Expected count	%N
Yes	0	0.6	0	3	2.4	1.0
No	75	74.4	100	288	288.6	99.0
<i>p</i> = .377						

Table 3.4.13 shows that there is no statistically significant association between the gender of the accused and being charged with sexual assault ($p = .377$). As with the charges for unlawful confinement and overcoming resistance to the commission of an offence, the finding of no statistical significance may be a misleading artefact of the small sample size. And as before, 100% of the cases involving charges for sexual assault involved male accuseds. This is by no means a necessary result; the only reason the woman in Case B, *Appendix B*, was not charged with (aggravated) sexual assault is that the police do not seem to conceptualize this kind of an attack on a man as being sexual in nature, unfortunately. In any event, the finding that only 1% of cases where men were charged with an offence included a charge of sexual assault is consistent with the B.C. data (Ministry of the Attorney General 1999: 22, Table 5). The fact that 20% of the women who reported being victimized by partner violence in the preceding 5 years on the *GSS* reported experiencing sexual assault (**Table 1.3**) suggests either that the police use stricter criteria for defining sexual assault than the interviewers did, or else that women do not tend to report this particular form of victimization to the police very often.

Table 3.4.14

**Charged with attempted murder * Gender of the accused
in incidents of partner violence in Edmonton, first half of 2001**

	female (N = 75)			male (N = 291)		
	Count	Expected count	%N	Count	Expected count	%N
Yes	0	0.4	0	2	1.6	0.7
No	75	74.6	100	289	289.4	99.3
<i>p</i> = .472						

A meaningful analysis of this category of offence is not possible given that only two charges were laid. It is included only for the sake of completeness.

Because the breakdown of charges presented in **Tables 3.4** above created too many categories where the

expected counts were too small to achieve reliable statistical significance, several of the smaller charging categories were merged and the resulting categories were arranged by order of seriousness in **Table 3.4.15**. The seven resulting charging categories were given the following labels: administrative offences (same group of charges as before); minor

Table 3.4.15						
Offence charged * Gender of the accused						
in incidents of partner violence in Edmonton, first half of 2001						
	female (N = 102)			male (N = 435)		
	Count	Expected count	%N	Count	Expected count	%N
Administrative offences	12	11.2	11.8	47	47.8	10.8
Minor incidental offences	9	7.6	8.8	31	32.4	7.1
Secondary offences	2	3.4	2.0	16	14.6	3.7
Uttering threats and criminal harassment	5	11.8	4.9	57	50.2	13.1
Common assault	42	46.7	41.2	204	199.3	46.9
Mid-range assaults	27	17.1	26.5	63	72.9	14.5
Major assaults	5	4.2	4.9	17	17.8	3.9
<i>p</i> = .032						

incidental offences (mischief, break & enter with intent, and weapons offence); secondary offences (unlawful confinement, overcoming resistance to the commission of an offence, assaulting a peace officer); criminal harassment and uttering threats; common assault; mid-range assault (assault with a weapon, assault causing bodily harm, and criminal negligence causing harm); and major assault (aggravated assault, sexual assault, attempted murder, manslaughter). For the sake of completeness, the two manslaughter cases were included in the major assaults.

Table 3.4.15 shows that the charging pattern is statistically significant ($p = 0.32$). Men were charged with more offences in the middle of the table than expected, while women were charged with more of the serious offences toward the bottom of the table than expected, on the basis of the null hypothesis. The more critical question is whether this pattern reflects the reality behind the offences. One might suppose that this charging pattern does reflect the reality behind the ECPO sample, given that the women were more likely to have caused a serious injury to their partners than the men were, on average. (Recall the parallel discussion of this issue in relation to the EPS data in *Part A*.) To test this, consider how the charges men and women faced relate to the injuries they had inflicted. From **Table 3.2**, women in the ECPO sample had inflicted medium- or high-level injuries upon their partners in 28 cases; but according to **Table 3.4.15**, women were charged with 32 mid-range or major assaults. Thus women were charged with a mid-range or major assault in only 5 cases where the injury they had inflicted upon their partners was low or none (15.6%). In contrast, men in the ECPO sample had inflicted medium- or high-level injuries upon their partners in 63 cases, but were charged with 80 mid-range or major assaults. Thus men were charged with a mid-range or major assault in 17 cases where the injury they had inflicted upon their partners was low or none (21.3%). Men were more likely than

women in the ECPO sample to have been charged with a mid-range or major assault without having inflicted a major injury upon their partner.

Women in the ECPO sample inflicted low-level injuries upon their partners in 31 cases, but were charged with 42 common assaults. Thus women were charged with common assault in only 11 cases where they had inflicted no injury upon their partners (26.2%). Men on the other hand inflicted low-level injuries upon their partners in 121 cases, but were charged with 204 common assaults. Thus men were charged with common assault in 83 cases where they had inflicted no injury upon their partners (40.7%). Again, men were much more likely than women in the ECPO sample to have been charged with common assault without having inflicted any injury upon their partner. This latter finding is particularly revealing, since there are undoubtedly many more instances where women attack their partners with kicks or punches that do no damage than *vice versa*. In other words, not only is the charging pattern in Table 3.4.15 statistically significant, it almost certainly understates the true degree of disparity in charging faced by men and women in the ECPO sample.

In further support of the hypothesis that men were over-charged relative to women in partner disputes, it bears noting that men faced more charges on average than women. The 75 women in the ECPO sample faced a total of 102 charges, or 1.36 charges per accused; while the 291 men faced a total of 433 charges, or 1.49 charges per accused.[48] This is unexpected given the injury- and weapon-use profile of the male and female cases in the ECPO sample, which indicate that the women were significantly more aggressive than the men, on average. A question deserving of further research, therefore, is whether the police tend to “pile on” charges with male suspects more than with similarly situated female suspects (illustrative case H, *Appendix B*, is indicative of this); or conversely, whether police are more lenient with the laying of charges against female suspects (see cases B and D, *Appendix B*).

After charges are laid, the next decision the police have to make is whether to take the suspect into custody or release him or her on an “undertaking” or a “promise to appear.” Data relating to this decision are not collected by the EPS and are not reported in the *UCR* or *GSS*, so at this point the data from the ECPO launches into previously uncharted territory. **Table 3.5** shows the proportions of male and female suspects who were taken into custody.

<p style="text-align: center;">Table 3.5</p> <p style="text-align: center;">Taken into custody * Gender of the accused</p> <p style="text-align: center;">in incidents of partner violence in Edmonton, first half of 2001</p>						
	female (N = 75)			male (N = 291)		
	Count	Expected count	%N	Count	Expected count	%N
Yes	29	42.0	38.7	176	163.0	60.5
No	46	33.0	61.3	115	128.0	39.5
<i>p</i> = .001						

Three-fifths of men who were charged, but only two-fifths of women, were taken into custody. That is, the proportion of men taken into custody was 50% higher than the proportion of women taken into custody. Gender was highly statistically significant (*p* = .001), which leads to the question whether this can be explained on the basis of sound legal reasons. According to s. 515(10)(a) of the *Criminal Code*, the primary

reason for taking a suspect into custody is to ensure appearance at trial. There were very few cases in the ECPO sample in which suspects were detained on the ground of being at risk to flee the jurisdiction. (These few involved either separated couples where the suspect was living out of the province, or aboriginal suspects who had close ties to bands outside of the province and frequently travelled there.) In addition to flight risk, pre-trial custody might have been ordered on primary grounds where the suspect had a prior record of failing to appear in court or breaching some other court order. However, only 22 of the 291 men who were charged had a prior record for an administrative offence (7.6%), while 4 of the 75 women who were charged had a prior record for an administrative offence (5.3%). Furthermore, according to **Table 3.4.1**, men and women in the ECPO sample were equally likely to have been charged with an administrative offence. It would appear, then, that the much greater likelihood of men being taken into custody cannot be explained on primary grounds.

The secondary grounds for taking a suspect into custody is to ensure public safety, according to s. 515(10)(b) of the *Criminal Code*. In the case of partner-violence incidents, this would mean ensuring the safety of the putative victim. Since women who were charged with an offence were as likely to have been intoxicated at the time of the incident (**Table 3.1.2**), but were significantly more likely to have caused a serious injury (**Table 3.2**), were significantly more likely to have used a weapon (**Table 3.3**), and were significantly more likely to have been charged with certain categories of serious offence (**Table 3.4.4**, **Table 3.4.11**, and **Table 3.4.12**), it stands to reason that they posed a greater risk to public safety (i.e. to their partners) than the men in the sample, and so should tend to be taken into custody proportionately more often. **Table 3.5.1** shows that the opposite is actually the case. Women who were charged in medium- and high-injury cases were less likely to be taken into custody (only 50.0% of the time) than men who were charged in no-injury cases (54.2% of the time). While the proportion of men who were taken into custody rose steadily with the level of injury inflicted (as one would expect), there was no relationship between the likelihood of being taken into custody and the level of injury inflicted by women except at the highest level of injury.

Table 3.5.1					
Level of Injury * Taken into custody * Gender of the accused					
in incidents of partner violence in Edmonton, first half of 2001					
		female (N = 75)		male (N = 291)	
		Count	% within injury level	Count	% within injury level
Injury level	Custody				
None	Yes	6	37.5	58	54.2
	No	10	62.5	49	45.8
Low	Yes	9	29.0	75	62.0
	No	22	71.0	46	38.0
Medium	Yes	6	31.2	32	65.3
	No	13	68.8	17	34.7
High	Yes	8	88.9	11	78.6
	No				

High	Yes	1	11.1	3	21.4
	No				

Perhaps police were influenced by the suspect's prior criminal record in determining whether he or she posed a risk to public safety. To test this hypothesis, a series of binary logistic regressions was performed to determine whether gender was significantly associated with being taken into custody even when level of injury and prior record are taken into account. [49]

Model A: dependent variable = taken into custody
 covariates gender $p < .001$
 injury level $p = .022$

Model B: dependent variable = taken into custody
 covariates gender $p = .002$
 injury level $p = .029$
 personal-injury prior record $p < .001$

Model C: dependent variable = taken into custody
 covariates gender $p = .003$
 injury level $p = .049$
 any prior record $p = .001$

The most significant correlate with being taken into custody is indeed having a prior criminal record, especially a record relating to a personal-injury offence. This suggests that some of the discrepancy in the use of custody between male and female suspects can be accounted for as proper precautionary procedure. Nevertheless, gender remains a highly significant factor even when prior records and level of injury are taken into account – more significant even than the level of injury inflicted upon the victim.

It is, of course, possible that factors not considered in this study might account for this disparity in treatment. Responding to the fear of the putative victim was addressed earlier, in relation to the EPS data. Another possible explanation is that police make their decision whether to take a suspect into custody based on an unofficial history of abuse, developed in the course of responding to incidents at the same address on previous occasions. However, **Table 2.3** suggests that, if anything, the women in this sample are more likely than the men to have been charged at a repeat call; the men were more likely to have been charged at the first call by the police. The many cases in the prosecutor's files resembling to one degree or another Case F, *Appendix B*, suggest that a decision to treat men more harshly in this respect is more likely the explanation for the above findings with respect to pre-trial custody. [50]

Requiring a person to spend a night (or longer) in the remand centre and likely to hire a lawyer to obtain bail is a form of pre-trial punishment, and punishment without the benefit of a trial should be resorted to in only the clearest of cases. Yet in the vast majority of cases when a suspect was taken into custody after a partner dispute, the suspect made bail. This is true whether the suspect was male or female, although female suspects were even more likely than male suspects to have made bail despite the fact that women were less likely to have been taken into custody in the first place. Of the 29 women who were taken into custody, only 2 failed to make bail. (Both of them had committed high-injury offences with a major weapon.) In contrast, 10.3% of the men taken into custody in no-injury cases failed to make bail; 13.2% of the men taken into custody in low-injury cases failed to make bail; 22.5% of the men taken into custody in medium-injury cases failed to make bail; and 71.4% of the men taken into custody in high-injury cases failed to make bail. The fact that three-quarters of the women who were taken into custody for high-injury offences made bail, but fewer than a third of the men did, suggests that Justices of the Peace (J.P.s) who make these decisions are less concerned about the safety of male victims than female victims. It should be noted, however, that just because such a high proportion of detainees is released by J.P.s, it does not follow that there were not sufficient legal grounds for detention in the first place. In many of the cases where a suspect made bail, they did so only on conditions – e.g. to have no contact with the putative victim, to abstain from alcohol consumption, or to post a bond. Still, the question remains why police more readily seek to impose such conditions on male suspects than female suspects, especially given that the profile of female cases in the ECPO sample was more-injurious than that of male cases overall.[\[51\]](#)

While conditions of release might not count as pre-trial punishment in the way that “time served” does, nevertheless they can be a significant burden. No-contact orders are particularly onerous, since they frequently prevent suspects from enjoying the use of their own property and place them in legal jeopardy if they should try to reconcile with their partners.[\[52\]](#) Given that mutual aggression is the most common form of partner violence according to the sociological evidence, there is no justification for depriving men of the enjoyment of their property or placing them in greater legal jeopardy in the majority of cases. In those cases, police should be seeking mutual restraining orders instead of seeking conditions against men only. Given the disparate police treatment with respect to detention, apparently exacerbated by J.P.s, it is not surprising that men end up with longer prior records for administrative offences relating to disputes between partners. While the data in this study show that male suspects were more likely to face the imposition of conditions of release than female suspects, further research needs to be done to determine whether the actual conditions of release imposed on male suspects differ substantially from those imposed on comparable female suspects.

Two “pragmatic” (i.e. non-legal) considerations are sometimes raised to account for the disparity in treatment between men and women with respect to pre-trial custody. First, men may be taken into custody following a dispute with their partners as a means of separating the parties long enough for them to “cool off.” But this fails to explain why men in particular should bear the burden of being deprived of their liberty, albeit temporarily. In fact, women have options not available to men that could be explored before men are taken from their homes and deprived of their liberty. Edmonton, like most cities in North America, has relatively well-funded facilities specifically for women who might be in danger of partner violence, whereas men have nothing comparable available to them. In the modal case of mutual aggression, if the police fear continued violence but do not want to take both the man and the woman into custody, the least they could do by way of mutual accommodation is to allow the man to stay in the home and take the woman to a shelter, where she might even benefit from counselling. The oft-heard excuse that it is simply “easier” to take the man from his home is simply discriminatory.

The other pragmatic consideration sometimes mentioned is that police are understandably reluctant to separate children from their primary care-givers (usually their mothers), even temporarily. But to begin with, the presence of children was not a factor in enough cases to explain the large disparity in detention rates between male and female suspects.[\[53\]](#) More fundamentally, as with the previous rationalization, this one is based on myths and stereotypes. To suppose that fathers who are victims of violence are incapable of looking after their children even for a day or a weekend while the allegedly violent mothers are in custody is insupportable as a general proposition. Much is made in the literature on family violence about the dire

effects upon their children of violence between parents, which is why the presence of children is considered to be a major aggravating factor in sentencing for this kind of crime. To spare violent mothers the natural consequences of their behaviour – being taken into custody – in order that they be able to remain with their children, would be sending precisely the *wrong* message to their children. In short, none of the obvious explanations for the much harsher treatment of men with regard to being taken into custody is satisfactory.

Given what was shown in *Part A* about police practice with respect to partner violence, none of the above should be particularly surprising. The main purpose of *Part B* of the present study, however, is to determine how prosecutors (and, to a lesser extent, judges) respond to the kinds of cases they are presented by the police. Given the profile of these cases as revealed above, do prosecutors tend to mitigate the prior disparities in treatment between men and women, do they tend to process these files through the courts neutrally, or do they tend to exacerbate the pre-existing disparities in treatment? If prosecutors processed the cases they receive from the police neutrally, one would expect them to obtain the same proportion of convictions for male and female accuseds, other things being equal. To test this, the cross-tabulation in **Table 3.6** was performed to see whether a finding of guilt is associated with the

Table 3.6						
Guilty / Not guilty * Gender of the accused						
in incidents of partner violence in Edmonton, first half of 2001						
	female (N = 75)			male (N = 291)		
	Count	Expected count	%N	Count	Expected count	%N
Guilty	33	38.7	44.0	156	150.3	53.6
Not guilty	42	36.3	56.0	135	140.7	46.4
<i>p</i> = .138						

gender of the accused. [54] Note to begin with that 51.6% of all cases where charges were laid resulted in a finding of guilt on at least one count. This is consistent with the findings of Ministry of the Attorney General (1999: 25, Figure 12), which found that 50% of all decided cases had a finding of guilt in the B.C. sample. This suggests that the ECPO sample is broadly representative of the kinds of cases deal with by Canadian prosecutors.

Table 3.6 shows that men were more likely than women to be found guilty (53.6% vs. 44.0%), although the association is not statistically significant (*p* = .138). While the disparity noted here is not large, it does favour women when the opposite might be expected. The reason one might expect a higher proportion of the women in the ECPO sample to have been found guilty is that they were more likely to have been charged with more-serious offences. In those cases, the use of weapons and the presence of major injuries would presumably have provided better objective evidence of an offence than the mere word of the putative victim alone, in cases where there was no injury or weapon used. Moreover, one might expect victims of major assaults, as well as prosecutors dealing with those cases, to be more highly motivated to seek justice and therefore to pursue them more vigorously. Nevertheless, the ECPO data confound any such expectations. The cross-tabulation in **Table 3.6.1** shows a lack of significant association between a finding of guilt and the level of injury sustained by the victim (*p* = .401).

Table 3.6.1**Injury level * Found guilty / not guilty****in incidents of partner violence in Edmonton, first half of 2001**

Injury level	guilty (N = 189)			not guilty (N = 177)		
	Count	Expected count	%N	Count	Expected count	%N
None	71	63.5	57.7	52	59.5	42.3
Low	74	78.5	48.7	78	73.5	51.3
Medium	32	35.1	47.1	36	32.9	52.9
High	12	11.9	52.2	11	11.1	47.8
<i>p</i> = .401						